

CONSTITUTION

**AUSTRALIAN FERTILISER SERVICES ASSOCIATION
LIMITED**

ACN 603 301 266

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CONSTITUTION

PRELIMINARY

1. NAME AND TYPE

The name of the Company is Australian Fertiliser Services Association Limited, A8126. The Company is a public company limited by guarantee.

2. DEFINITIONS

In this Constitution:

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| AGM | means the annual general meeting of the Company; |
| Annual Membership Fee | means the fee referred to in clause 14.2; |
| Auditor | means the auditor of the Company appointed pursuant to clause 20.2; |
| Board | means the board of Directors and includes the Executive Directors and the Non-executive Directors; |
| Business Day | means a day except a Saturday, Sunday or public holiday in the state or territory in which the Company is taken to be registered for the purposes of the Corporations Act; |
| Chairperson | means any person appointed to perform the duties of a chairperson of the Company pursuant to clause 17.2(b)(i); |
| Company | means Australian Fertiliser Services Association Limited [A8126]; |
| Constitution | means this constitution as amended from time to time; |
| Corporations Act | means the <i>Corporations Act 2001</i> (Cth); |
| Deputy Chairperson | means any person appointed to perform the duties of a Deputy Chairperson of the Company pursuant to clause 17.2(b)(ii); |
| Director | means a member of the Board appointed pursuant to clause 17.2; |
| Financial Year | means the period defined in clause 20.3; |
| Joining Fee | means the fee referred to in clause 14.1; |
| Legal Costs | of a person means legal costs calculated on a solicitor-and-client basis incurred by that person in defending or resisting any proceedings (whether criminal, civil, administrative or judicial), appearing before or responding to actions taken by any court, |

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| | tribunal, government authority or agency, other body or commission, a liquidator, an administrator, a trustee in bankruptcy or other authorised official, where that proceeding, appearance or response relates to a Liability of that person; |
| Liability | of a person means any liability including negligence (except a liability for Legal Costs) incurred by that person in or arising out of the discharge in good faith of duties as an officer of the Company or in or arising out of the conduct of the business of the Company, including as result of appointment or nomination by the Company or a subsidiary as a trustee or as a director, officer or employee of another body corporate; |
| Life Member | means a person admitted to life membership of the Company in accordance with clause 12.3; |
| Member | means a member of the Company who is admitted to the Company pursuant to clause 12; |
| Membership | means membership of the Company; |
| Membership Application Form | means an application form for membership of the Company as approved by the Board and amended from time to time. |
| Ordinary Member | means a member of the Company who is admitted to the Company pursuant to clause 12.2; |
| Register | means the register of Members established and maintained in accordance with clause 13.6; |
| Relevant Officer | means a Director, Auditor, Secretary and other officer of the Company; |
| Seal | means the common seal of the Company; |
| Secretary | means any person appointed to perform the duties of the Secretary of the Company pursuant to clause 17.2(b)(iii) and clause 22; |
| Year | means the Financial Year; |

3. INTERPRETATION

- (a) Headings are for convenience and do not affect interpretation;
- (b) Unless the context indicates a contrary intention, in this Constitution:
 - (i) a word importing the singular includes the plural (and vice versa);
 - (ii) a word indicating a gender includes every other gender;

- (iii) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (iv) the word "includes" in any form is not a word of limitation;
- (v) a reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form;
- (vi) a notice or document required by this Constitution to be signed may be authenticated by any other manner permitted by the Corporations Act or any other law;
- (vii) a reference to a statute includes its delegated legislation and a reference to a statute, delegated legislation or a guideline or a provision of any of them includes consolidations, amendments, re-enactments and replacements; and
- (viii) a person (if the context is appropriate) includes a corporation.

4. APPLICATION OF CORPORATIONS ACT

Unless the context indicates a contrary intention, in this Constitution:

- (a) a reference to the Corporations Act is to the Corporations Act 2001 in force in relation to the Company after taking into account any waiver, modification or exemption which is in force either generally or in relation to the Company;
- (b) a word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the Corporations Act, unless that word or phrase is otherwise defined in this Constitution; and
- (c) The replaceable rules in the Corporations Act do not apply to the Company.

5. ENFORCEMENT

- (a) Each Member submits to the non-exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this Constitution.
- (b) If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect pursuant to the law of any jurisdiction, then that 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 pursuant to the law of any other jurisdiction of that or any other provision of this Constitution.

6. OBJECTS

- (a) The objects for which the Company is established are:

- (i) Operate as the industry body for businesses and people who spread, distribute, sell, store, transport, manufacture or provide advice on the use of fertilisers or soil ameliorant products;
- (ii) Represent the interests of its member organisations in respect to government, the environment and the fertiliser industry in general;
- (iii) Encourage the investment of funds in education, research and development in the fertiliser industry;
- (iv) Develop strong and effective relationships with agricultural agencies to promote the sustainable use of fertilisers and soil ameliorants;
- (v) Develop strong and effective relationships with key suppliers to the fertiliser industry to be able to negotiate significant benefits for members;
- (vi) Work toward improving the operating standards within the fertiliser industry;
- (vii) Engage in any other activities in the interests of the members and the fertiliser industry

7. POWERS

Solely for the purpose of carrying out the aforesaid objects, the Company shall have the power to do all such lawful things that a natural person may do as are incidental or conducive to the attainment of any or all of the objects.

8. CHANGING THE CONSTITUTION

Subject to law, a special resolution passed by at least 75% of votes cast by members entitled to vote on the resolution, is required to change or repeal this Constitution.

9. APPLICATION OF INCOME AND PROPERTY

- (a) Subject to clause 9(b) and 9(c), any income, property or profits of the Company, however derived, shall be applied solely towards the promotion of the objects of the Company set out in clause 6, and no portion of that income, property or profits shall be paid or transferred, directly or indirectly, by way of dividend, bonus, income or otherwise to any Member or Director.
- (b) Nothing in clause 9(a) prevents the Company making any payment in good faith of:
 - (i) reasonable and proper remuneration to any officers or servants of the Company or to a Member in return for any services actually rendered to the Company or for goods supplied to the Company in the ordinary and usual course of business of the Company;
 - (ii) the payment or reimbursement of out-of-pocket expenses incurred by any Director in carrying out his or her duties as a Director where the amount payable does not exceed an amount previously approved by the Board;
 - (iii) reasonable and proper rent or fees to a Member for premises leased or licensed by any Member to the Company;

- (iv) money to any Member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (v) interest to a Member at a rate not exceeding a rate approved by the Board on money borrowed by the Company from the Member; or
 - (vi) an amount pursuant to clause 11;
- (c) The Company may make payments to a Director or Secretary in good faith for:
- (i) any salary or wage due to the Director or Secretary as an employee of the Company where the terms of employment have been approved by the Board;
 - (ii) an insurance premium in respect of a contract insuring a Director or Secretary for a liability incurred as an officer of the Company where the Board has approved the payment of the premium;
 - (iii) any payment pursuant to clauses 26(a), (c) or (d) or a payment pursuant to any agreement or deed referred to in clause 26(e).

10. LIABILITY OF MEMBERS

The liability of a Member to contribute towards the payment of the debts and liabilities of the Company or the costs, charges and expenses of the winding up of the Company is limited to the amount, if any, unpaid by the Member in respect of Membership as required by clause 12 and \$10.00.

11. DISTRIBUTION OF ASSETS ON WINDING UP

If, upon the winding up or dissolution of the Company, there remains, after satisfaction of all debts and liabilities, any property whatsoever, such property shall not be paid to or distributed among the Members, but shall be given or transferred to an institution or institutions having objects similar to the objects of the Company and which shall prohibit the distribution of its income and property among Members to an extent at least as great as is imposed on the Company under or by virtue of sub-clause 9(a) of this Constitution, such institution to be determined by the Members at or before the time of the dissolution and in default thereof by the Supreme Court of Victoria, and if and so far as effect cannot be given to the aforesaid provision to some charitable object.

12. TYPES OF MEMBERSHIP

12.1 Prerequisite to Membership

A person (including natural persons, partnerships and incorporations) is qualified to be a Member if the person:

- (a) has applied for Membership pursuant to clause 13.1; and
- (b) has been approved for Membership by the Board.

12.2 Ordinary Member

- (a) Without limiting this Constitution, and in particular clause 12.4, there shall be a category of Membership known as "Ordinary Member". An Ordinary Member is any person (including natural persons, partnerships and incorporations):
 - (i) who contributes to the Company such sum per annum as the Company may from time to time determine; and
 - (ii) who is elected to Membership by the Board.
- (b) An Ordinary Member shall be a Member with the right to vote at all general meetings of the Company.

12.3 Life Member

- a) Without limiting this Constitution, and in particular clause 12.4, there shall be a category of Membership known as "Life Member". A Life Member is any natural person:
 - (i) who is nominated by the Board; and
 - (ii) whose membership as a Life Member is approved at an AGM of the Company
- b) A Life Member may attend and participate in General Meetings of the Company without the entitlement to vote.
- c) Life Membership entitlements are not transferable to another person, partnership or incorporation
- d) Nominations, accompanied by an outline of the case supporting life membership, shall be submitted to the Board by a person nominating the proposed Life Member and a person, not being the nominee, who supports the nomination.

12.4 Categories of Membership

The Board may create and/or vary categories of Membership and entitlements. At the date of incorporation of the Company, the categories of membership, membership fees and entitlements (including member benefits and voting rights) shall be in accordance with Appendix 1, as amended from time to time by the Board.

13. MEMBERSHIP

13.1 Application for Membership

- (a) An application of a person for Membership:
 - (i) must be made by completing a Membership Application Form in writing and
 - (ii) must be lodged with the Secretary or at the office of the Company
- (b) As soon as practicable after receiving an application for Membership, the Secretary must refer the application to the Board, which is to determine whether to approve or to reject the application.

- (c) As soon as practicable after the Board makes that determination under clause 13.1(b), the Secretary must notify the applicant, in writing, that the Board approved or rejected the application (whichever is applicable).
- (d) If the Board makes the determination under clause 13.1(b) to approve the application, the Secretary must, on payment by the applicant of the relevant fees, enter the applicant's name in the Register.
- (e) The applicant is deemed to be a Member when the applicant's name is in the Register.
- (f) A Member is not eligible for nomination as a Director during their first two (2) years of Membership.
- (g) A Member, once admitted to Membership, is immediately eligible for membership of a sub-committee or special interest group but is not eligible for appointment as Chairperson of such committee or group until they have completed 1 year of membership.

13.2 Cessation of Membership

A person ceases to be a Member if that person:

- (a) (if a natural person) dies, commits an act of bankruptcy, is served with a bankruptcy notice or petition, is bankrupt within the meaning of the Bankruptcy Act 1966 or has entered into any arrangement or composition; or
- (b) (if a company) becomes insolvent or under external administration; or
- (c) resigns Membership in accordance with clause 13.5; or
- (d) is expelled from the Company in accordance with clause 16.1.

13.3 Effect of Cessation

A person who ceases to be a Member under clause 13.2:

- (a) remains liable to pay, and must immediately pay, to the Company all amounts that at date of cessation were payable by the person to the Company as a Member; and
- (b) must pay to the Company interest at the rate the Board resolves on those amounts from the date of cessation until and including the date of payment of those amounts.

The Company may by resolution of the Board waive any or all of its rights pursuant to this clause 13.3.

13.4 Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a Member:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates on cessation of the person's Membership.

13.5 Resignation of Membership

- (a) A Member is not entitled to resign that Membership except in accordance

with this clause 13.5.

- (b) A Member who has paid all fees payable by the Member pursuant to clause 14 may resign from Membership by first giving to the Secretary written notice of at least one (1) month (or such other period as the Board may determine) of the Member's intention to resign and, on the expiration of the period of notice, the Member ceases to be a Member.
- (c) If a Member ceases to be a Member under sub-clause 13.5(b) of this Constitution, and in every other case where a Member ceases to hold Membership, the Secretary must make an appropriate entry in the Register recording the date on which the Member ceased to be a Member.

13.6 Register of Members

- (a) The Company shall establish and maintain a Register specifying the name and address of each person who is a Member together with the date on which the person became a Member.
- (b) The Register must be kept at the principal place of administration of the Company and must be open for inspection free of charge, by any Member at any reasonable hour and with reasonable notice.

14. FEES AND SUBSCRIPTIONS

14.1 Joining Fee

- (a) Subject to clause 14.1(b), a Member must, on admission to Membership, pay to the Company a Joining Fee in such amount as determined by the Board.
- (b) A Life Member is not required to pay a Joining Fee.

14.2 Annual Membership Fee

- (a) Subject to clause 14.2(b), all Members must pay to the Company, in addition to the amount payable by new Members under clause 14.1, an Annual Membership Fee in such amount as determined by the Board;
- (b) A Life Member is not required to pay an annual membership fee referred to in clause 14.2(a);

14.3 Timely payment of fees

- (a) The Joining Fee is due on admission to Membership.
- (b) The Annual Membership Fee is due and payable on the first day of July each Year.
- (c) A Member who is more than three (3) months in arrears of the payment of fees under this clause 14 shall lose all Membership rights.

15. INTEREST

- (a) If an amount payable to the Company as a fee under clause 14 is not paid before or on the time for payment, the person who owes the amount must pay to the Company:

- (i) interest on the unpaid part of the amount from the date payment is due to the date of payment at the rate that the Board resolves; and
 - (ii) all costs and expenses that the Company incurs due to the failure to pay or the late payment.
- (b) Interest accrues daily and may be capitalised at any interval that the Board resolves.
- (c) The Company may, by resolution of the Board, waive payment of some or all of the interest, costs or expenses payable pursuant to this clause.

16. COMPLAINTS AND DISPUTES

16.1 Disciplining of Members

- (a) A complaint may be made to the Board in writing by any person that a Member:
- (i) has persistently refused or neglected to comply with a provision or provisions of this Constitution; or
 - (ii) has persistently and wilfully acted in a manner prejudicial to the interests of the Company.
- (b) On receiving a complaint under clause 16.1(a), the Board:
- (i) must cause a copy of the complaint to be served on the Member concerned;
 - (ii) must give the Member at least fourteen (14) days from the time the notice is served within which to make submissions to the Board in connection with the complaint; and
 - (iii) must take into account any submissions made by the Member in connection with the complaint.
- (c) The Board may, by resolution, expel the Member from the Company or suspend the Member from Membership if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.
- (d) If the Board expels or suspends a Member, the Secretary must, within seven (7) days after the action is taken, cause written notice to be given to the Member of the action taken, of the reasons given by the Board for having taken that action and of the Member's right of appeal under clause 16.2.
- (e) The expulsion or suspension does not take effect:
- (i) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned; or
 - (ii) if within that period the Member exercises the right of appeal, unless and until the Company confirms the resolution under clause 16.1(c) -
- whichever is the later.

16.2 Right of appeal of disciplined Member

- (a) A Member who is the subject of a resolution under clause 16.1(c) may appeal to the Board, within seven (7) days after notice of the resolution is served on that Member, by lodging with the Secretary a notice to that effect.
- (b) The notice may, but need not, be accompanied by a statement of the grounds on which that Member intends to rely for the purposes of the appeal.
- (c) On receipt of a notice from a Member under clause 16.2(a), the Secretary must notify the Board which will provide the opportunity for the Member to address the Board highlighting any new or additional factors which may not have been previously considered.
- (d) If after due consideration, the Board dismisses the appeal, the Member may, within 14 days of being notified of such decision, request appointment of a mediator to review and attempt to resolve the matter. In the event of the mediation process failing to resolve the matter within 14 days following the appointment of the mediator, the Board's decision will stand.

17. THE BOARD

17.1 Managerial functions

The Board is to act as the board of management of the Company and, subject to the Corporations Act and the Constitution and to any resolution passed by the Company in a general meeting:

- (a) is to control and manage the affairs of the Company;
- (b) may exercise all such functions as may be exercised by the Company, other than those functions that are required by the Constitution to be exercised by a general meeting of Members;
- (c) has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company;

17.2 Board Constitution

- (a) The Board is to consist of between five (5) and seven (7) Directors to be elected at the AGM of the Company under clause 17.3 and 17.4.
- (b) As soon as practicable following each AGM, the Board will:
 - (i) Elect the Chairperson.
 - (ii) Elect the Deputy Chairperson
 - (iii) Appoint the Company Secretary
 - (iv) Form those committees it deems necessary for the effective and efficient functioning of the Board.
- (c) Each Director:
 - (i) is subject to this Constitution;
 - (ii) will, subject to clause 17.4, hold office until the conclusion of the AGM two (2) years after the AGM at which that Director was elected; and

- (iii) is eligible for re-election at the following AGM.
- (d) In the event of a vacancy occurring on the Board, the Board may appoint a Member to fill the vacancy and the Member so appointed is to hold office, with full voting rights subject to this Constitution, until the conclusion of the AGM immediately following the casual appointment.
- (e) A Member is not eligible to hold the position of Chairperson unless and until the Member has been a Director for at least one (1) year.
- (f) The Chairperson shall not hold office for longer than four (4) consecutive years, but is eligible for office again after a period of four (4) years has elapsed.
- (g) The Board may second any Member to advise it in relation to any such matter as the Board shall deem appropriate. Such seconded Members shall not vote at Board meetings.
- (h) If a state committee is not represented on the Board, the Board may second a member representing that state subcommittee to the board, which representative will be allowed to vote at Board meetings.
- (i) The Chairperson is entitled to chair every general meeting of the Company and every Board meeting ensuring the orderly conduct of those meetings. The Chairperson shall sign the minutes of General and Board meetings, and, in conjunction with the Board, shall interpret the Constitution and regulate all the proceedings of the Company and the Board.. In the absence of the Chairperson, the Deputy Chairperson shall chair such meetings and undertake the responsibilities of chairperson.

17.3 Election of Directors

- (a) Nominations of candidates for election as Directors:
 - (i) must be made in writing, signed by two (2) Members (which may include the candidate) and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
 - (ii) must be delivered to the Secretary at least thirty (30) days before the date fixed for the holding of the AGM at which the election is to take place.
- (b) If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated are taken to be elected and further nominations are to be received at the AGM.
- (c) If further insufficient nominations are received, any vacant positions remaining on the Board are taken to be casual vacancies.
- (d) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (e) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held at the AGM.
- (f) The Board may permit postal voting and voting via electronic transmission (including email and facsimile) provided all such votes are received by the Board (or its delegate) at least 48 hours prior to the AGM. The ballot for the election of Directors is to be conducted at the AGM in such usual and proper manner as the Board may direct.

17.4 Rolling Terms

- (a) The terms for which Directors are elected will be staggered so that no more than four (4) Directors leave the Board each year, and at least three (3) Directors are eligible for re-election each year.
- (b) At the first AGM after this Constitution is adopted, following the election of the Directors, the newly elected Directors will agree between them which (approximately) half of them will serve for two (2) years as per clause 17.2(c) and which half will only serve for one (1) year.
- (c) If an agreement cannot be reached, the names of the directors who will only serve one (1) year will be drawn at random.
- (d) Subject to any clause in this constitution to the contrary, those directors who serve for only one (1) year will be eligible to stand for re-election for a two (2) year term at the next AGM.

17.5 Removal of Directors

For the purposes of this Constitution, a Director will cease to hold office forthwith and a casual vacancy in the office will be deemed to have occurred if that person:

- (a) dies; or
 - (b) ceases to be a Member; or
 - (c) becomes a bankrupt or makes any arrangement or composition with his or her creditors generally; or
 - (d) resigns office by notice in writing given to the Secretary; or
 - (e) is removed from office under clause 17.6; or
 - (f) becomes a mentally incapacitated person; or
 - (g) is absent without the consent of the Board from all meetings of the Board held during a period of six (6) months.
- (a) becomes prohibited from being a director or secretary of a company by reason of any order made under the Corporations Act;
 - (b) ceases to be a director or secretary by operation of the Corporations Act;
 - (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) resigns his or her office by notice in writing to the Company;
 - (e) is absent without permission of the Board from three consecutive meetings of the Board; or
 - (f) ceases to be a Director under clause 17.6 or 17.8.

17.6 Removal of a Director by resolution

- (a) The Company, in a general meeting, may by resolution remove any Director from the Board before the expiration of the Director's term of appointment and may, by resolution, appoint another person to hold office until the expiration of

the term of appointment of the Director so removed.

- (b) If a Director to whom a proposed resolution referred to in clause 17.6(a) relates, makes representations in writing to the Secretary or Chairperson (not exceeding a reasonable length) and requests that the representation be notified to the Members, the Secretary or the Chairperson may send a copy of the representations to each Member or, if the representations are not so sent, the Member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

17.7 Signed consent

- (a) Before a person is appointed as a Director, that person must give the Company a signed consent to occupy the position on the Board to which that person has been appointed and the Company must retain that consent.

17.8 Resignation by a Director

A Director may resign his or her position as Director by giving a written notice of resignation to the Company at its registered office.

17.9 Notification of appointment or removal to be in writing

Any removal or appointment of any Director under this Constitution shall be made by notice in writing lodged with the Secretary.

17.10 Meetings and quorum

- (a) The Board will meet at least two (2) times in each year and otherwise at such place and time as the Board may determine
- (b) Meetings of the Board may be convened by the Chairperson, by any Director or by the Company Secretary.
- (c) Oral or written notice of a meeting of the Board must be given by the Secretary to each Director at least forty-eight (48) hours (or such other period as may be unanimously agreed to by the Directors) before the time appointed for the holding of the meeting.
- (d) Notice of a meeting given under clause 17.10(c) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Directors present at the meeting unanimously agree to treat as urgent business.
- (e) Any four (4) Directors constitute a quorum for the transaction of the business of a meeting of the Board.
- (f) No business is to be transacted by the Board unless a quorum is present and if, within half an hour of the time appointed for the meeting (or such additional time as determined by the Chairperson acting reasonably), a quorum is not present, the meeting is to stand adjourned to the same place at the same hour of the same day in the following week.
- (g) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (h) At a meeting of the Board:

- (i) the Chairperson or, in the Chairperson's absence, the Deputy Chairperson is to preside; or
- (ii) if the Chairperson and the Deputy Chairperson are absent or unwilling to act, one of the remaining Directors may be chosen by the Directors present at the meeting to preside.

17.11 Delegation by Board to committees, special interest groups and officers

- (a) The Board may, by instrument in writing, delegate to one or more committees (consisting of such Members as the Board thinks fit) special interest groups (representing different industry sectors established for long term representation) or officers the exercise of such of the functions of the Board as are specified in the instrument, other than:
 - (i) the power of delegation; and
 - (ii) a function which is a duty imposed on the Board by the Corporations Act or by any other law.
- (b) The Chairperson or a nominee is ex-officio on all committees or special interest groups.
- (c) A function the exercise of which has been delegated to a committee, special interest group or officer under this clause may, while the delegation remains unrevoked, be exercised from time to time by the committee, special interest group or officer in accordance with the terms of the delegation.
- (d) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (e) Despite any delegation under this clause, the Board may continue to exercise any function so delegated.
- (f) Any act or thing done or suffered by a committee, special interest group or officer acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Board.
- (g) The Board may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (h) A committee or special interest group may meet and adjourn as it thinks proper.
- (i) A quorum for committees or special interest groups shall be five (5) or 20% of financial Members.
- (j) Where practicable, all instruments of delegation shall include a sunset clause.
- (k) Actions inconsistent with this Constitution will result in dissolution of the committee or special interest group.

17.12 Voting and decisions

- (a) Questions arising at a meeting of the Board or of any committee or special interest group appointed by the Board are to be determined by a majority of the votes of the Directors or committee or special interest group present at the

meeting.

- (b) Each Director or Member present at a meeting of the Board or of any committee or special interest group appointed by the Board (including the person presiding at the meeting) is entitled to one (1) vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (c) Subject to this clause, the Board may act despite any vacancy on the Board.
- (d) Any act or anything done or suffered, or purporting to have been done or suffered, by the Board, by a committee(s) or special interest group(s) or officer appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any Director, committee, special interest group or officer.

18. STATE COMMITTEES (BRANCHES)

- 18.1 Members from each State and/or Territory may form a State Committee Branch) to address State based issues which relate to the objects of the Company.
- 18.2 All financial and other governance practices applicable to the Company will apply to the State Committees
- 18.3 State Committees will operate under the direction and guidance of the Board
- 18.4 State Committees will report annually to the Board.

19. GENERAL MEETING

19.1 Annual general meeting – holding of

- (a) With the exception of the first AGM of the Company, the Company must, at least once in each calendar year and within the period of six (6) months after the expiration of each Financial Year of the Company, convene an AGM of its Members.
- (b) An AGM of the Company shall be held in accordance with the provisions of the Corporations Act.

19.2 Annual general meeting - calling of and business at

- (a) The AGM of the Company is, subject to the Corporations Act and to clause 19.1, to be convened on such date and at such place and time as the Board thinks fit.
- (b) In addition to any other business which may be transacted at an AGM, the business of an AGM is to include the following:
 - (i) to confirm the minutes of the last preceding AGM and of any special general meeting held since that meeting;
 - (ii) to receive from the Board reports on the activities of the Company during the last preceding financial year and of planned future activities; and
 - (iii) to elect the Board.

- (c) An AGM must be specified as such in the notice convening it.

19.3 Special General Meetings - calling of

- (a) The Board may, whenever it thinks fit, convene a special general meeting of the Company.
- (b) The Board must, on the requisition in writing of at least five (5) per cent of the total number of Members, convene a special general meeting of the Company.
- (c) A requisition of Members for a special general meeting:
 - (i) must state the purpose or purposes of the meeting;
 - (ii) must be signed by the Members making the requisition;
 - (iii) must be lodged with the Secretary; and
 - (iv) may consist of several documents in a similar form, each signed by one (1) or more of the Members making the requisition.
- (d) If the Board fails to convene a special general meeting to be held within thirty (30) days after the date on which a requisition of Members for the meeting is lodged with the Secretary, any one (1) or more of the Members who made the requisition may convene a special general meeting to be held not later than ninety (90) days after that date.
- (e) A special general meeting convened by a Member or Members as referred in sub- clause 19.3(d) must be convened as nearly as is practicable in the same manner as general meetings are convened by the Board and any Member who consequently incurs expense is entitled to be reimbursed by the Company for any expense incurred as approved by the Board.

19.4 Method of holding Meetings

Any meeting of the Company may be held at two or more venues using any technology approved by the Board.

19.5 Notice

- (a) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Company, the Secretary must, at least twenty eight (28) days before the date fixed for the holding of the general meeting, give a notice to each Member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (b) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Company, the Secretary must, at least twenty-one (21) days before the date fixed for the holding of the general meeting, cause notice to be given to each Member specifying, in addition to the matter required under clause 19.5(a), the intention to propose the resolution as a special resolution.
- (c) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 19.2(b).

- (d) A Member desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the Member.

19.6 Procedure

- (a) No item of business is to be transacted at a general meeting unless a quorum of Members entitled under this Constitution to vote is present during the time the meeting is considering that item.
- (b) Ten (10) per cent of Membership present in person (being Members entitled under this Constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (c) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
 - (i) if convened on the requisition of Members, is to be dissolved; and
 - (ii) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.
- (d) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being at least five (5) per cent of Membership) is to constitute a quorum.

19.7 Presiding Member

- (a) The Chairperson or, in the Chairperson's absence, the Deputy Chairperson, is to preside as chairperson at each general meeting of the Company.
- (b) If the Chairperson and the Deputy Chairperson are absent or unwilling to act, the Members present must elect one of their number to preside as chairperson at the meeting.

19.8 Adjournment

- (a) The Chairperson of a general meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (b) If a general meeting is adjourned for fourteen (14) days or more, the Secretary must give written or oral notice of the adjourned meeting to each Member stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (c) Except as provided in clauses 19.8(a) and 19.8(b), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

19.9 Making of decisions

- (a) A question arising at a general meeting of the Company is to be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minutes of the meeting, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (b) At general meeting of the Company, a poll may be demanded by the chairperson or by at least three (3) Members present in person or by proxy at the meeting.
- (c) If a poll is demanded at a general meeting, the poll must be taken:
 - (i) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment, or
 - (ii) in any such case, in such manner and at such time before the close of the meeting as the chairperson directs and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

19.10 Special resolution

A resolution of the Company is a special resolution if it is passed by a majority which comprises at least seventy-five (75) percent of such Members as, being entitled under this Constitution so to do, vote in person or by proxy at a general meeting of which at least twenty-one (21) days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with this Constitution.

19.11 General resolution

A resolution of the Company is a general resolution if it is passed by a majority which comprises at least fifty (50) percent of such Members as, being entitled under this Constitution so to do, vote in person or by proxy at a general meeting of which at least twenty-one (21) days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with this Constitution.

19.12 Voting

- (a) On any question arising at any general meeting of the Company a Member has one (1) vote only.
- (b) All votes can be given personally or by proxy but no Member may hold more than five (5) proxies.
- (c) Postal votes and votes via electronic transmission (including email and facsimile) are available to Members in relation to all motions put at any general meeting, including the election of the Board at the annual general meeting. Postal votes and votes via electronic transmission (including email and facsimile) must be lodged or sent to the Secretary no later than fourteen (14) days prior to the date of the meeting.
- (d) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (e) A Member or proxy is not entitled to vote at any general meeting of the Company unless all money due and payable by the Member or proxy to the Company has been paid, other than the amount of the annual subscription

payable in respect of the then current year.

- (f) Appointment of proxies:
- (i) Each Member is to be entitled to appoint another Member as proxy by notice given to the Secretary no later than twenty-four (24) hours before the time of the meeting in respect of which the proxy is appointed.
 - (ii) The notice appointing the proxy is to be in the form set out in Appendix 2 to this Constitution.

20. ACCOUNTS

20.1 Keeping and distribution of records

The Board shall cause proper accounting and other records to be kept and shall distribute copies of every profit and Loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of any Auditor's report required by the Corporations Act provided, however, that the Board shall cause to be made out and laid before each AGM a balance sheet and profit and loss account made up to date not more than one (1) month before the date of the meeting.

20.2 Audit

Once at least in every Year, the accounts of the Company shall be examined by one (1) or more properly qualified auditor or auditors appointed each Year by the Company in general meeting who shall report to the Members in accordance with the provisions of the Act.

20.3 Financial year

The Financial Year of the Company will be from 1 July to 30 June.

21. NOTICES

21.1 Notices to Members

The Company may give notice to a Member by any of the following means in the Board's discretion:

- (a) delivering it to that Member;
- (b) delivering it or sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member for that purpose;
- (c) sending it to the fax number or electronic address (if any) nominated by that Member for that purpose;
- (d) if permitted by the Corporations Act, notifying that Member of the notice's availability by an electronic means nominated by the Member for that purpose; or
- (e) any other means permitted by the Corporations Act.

The Company must send all documents to a Member whose address for notices is not

within Australia by air-mail, air courier, fax or electronic transmission.

Any Notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

21.2 Notice to Directors

The Company may give Notice to a Director by:

- (a) delivering it to that person;
- (b) sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person for that purpose;
- (c) sending it to the fax number or electronic address (if any) nominated by that person for that purpose; or
- (d) any other means agreed between the Company and that person.

21.3 Notice to the Company

A person may give Notice to the Company by:

- (a) delivering it or sending it by post to the registered office of the Company;
- (b) delivering it or sending it by post to a place nominated by the Company for that purpose;
- (c) sending it to the fax number at the registered office of the Company nominated by the Company for that purpose;
- (d) sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) any other means permitted by the Corporations Act.

21.4 Time of Service

For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee;
- (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post; and
- (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent, or if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

22. SECRETARY

- (a) The Secretary shall be the Secretary of the Company within the meaning of, and having the rights and duties imposed by, the Act and be appointed by the Board for such term and upon such conditions as it thinks fit, and any Secretary so

appointed may be removed by it.

- (b) It is the duty of the Secretary to keep minutes of all appointments of office bearers and Directors, the names of Directors present at a Board meeting or a general meeting, and all proceedings at Board meetings and general meetings. Minutes of proceedings at a meeting must be signed by the Chairperson of the meeting or by the Chairperson of the next succeeding meeting. The Board has the right to delegate these roles to either an external provider (or an employee) to act as a secretariat for the Company.
- (c) The Secretary must, as soon as practicable after being appointed as Secretary, lodge notice with the Company of his or her address. Except as otherwise provided by this Constitution, the Secretary must keep in his or her custody or under his or her control all records, books and other documents relating to the Company.

23. EXECUTION OF DOCUMENTS

- (a) If the Company has a common seal, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by one Director and either another Director, the Chairperson, a Secretary, or another person appointed by the Board for that purpose.
- (b) The Company may execute a document without a common seal if the document is signed by one Director and either another Director, the Chairperson, a Secretary, or another person appointed by the Board for that purpose.

24. MISCELLANEOUS

24.1 Common seal

- (a) The common seal of the Company must be kept in the custody of the Board.
- (b) The common seal must not be affixed to any instrument except by the authority of the Board and the affixing of the common seal must be attested by the signatures either of two (2) Directors or of one (1) Director and of the Secretary.

24.2 Custody of books

Except as otherwise provided by this Constitution, all records, books and other documents relating to the Company must be kept at the principal place of business of the Company.

24.3 Inspection of books

The records, books and other documents of the Company must be open to inspection, free of charge, by a Member at any reasonable hour and with reasonable notice.

25. ATTORNEY OR AGENT

- (a) The Board may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) as the Board resolves. Subject to the terms of appointment of an attorney or agent of the Company, the Board may revoke or vary that appointment at any time, with or without cause.

- (b) The Board may delegate any of their powers (including the power to delegate) to an attorney or agent. The Board may revoke or vary any power delegated to an attorney or agent.

26. INDEMNITY AND INSURANCE

- (a) To the extent permitted by law, the Company may indemnify each Relevant Officer against a Liability of that person and the Legal Costs of that person out of the assets of the Company.
- (b) The indemnity pursuant to clause 26(a):
 - (i) is enforceable without the Relevant Officer having first to incur any expense or make any payment;
 - (ii) is a continuing obligation and is enforceable by the Relevant Officer even though the Relevant Officer may have ceased to be an officer of the Company; and
 - (iii) applies to Liabilities and Legal Costs incurred both before and after this Article became effective.
- (c) To the extent permitted by law, the Company may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (d) To the extent permitted by law, the Company may:
 - (i) enter into, or agree to enter into; or
 - (ii) pay, or agree to pay, a premium for, a contract insuring a Relevant Officer against a Liability of that person and the Legal Costs of that person.
- (e) To the extent permitted by law, the Company may enter into an agreement or deed with a Relevant Officer or a person who is, or has been, an officer of the Company or a subsidiary of the Company, pursuant to which the Company must do all or any of the following:
 - (i) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
 - (ii) indemnify that person against any Liability and Legal Costs of that person;
 - (iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
 - (iv) keep that person insured in respect of any act or omission by that person while a Relevant Officer or an officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

APPENDIX 1

APPENDIX 2

FORM OF APPOINTMENT OF PROXY

I
of
being a Member of Australian Fertiliser Services Association Limited
hereby appoint
of
as my proxy on my behalf at the General Meeting to be held on the
.....day of.....
and any adjournment of that meeting.

(if a special proxy add the words "to vote for" or the words "to vote against" and the particular resolution).

.....
(Signature/Seal)

.....
Dated

Noted: Unless the Member is a Corporation the proxy vote may not be given to a person who is not a Member of the Association entitled to vote pursuant to the Rules of the Association at the General meeting.