



Motor Trade Association of WA
Your Business, Your Industry, Your Voice

Constitution

of the Motor Trade Association
of Western Australia Incorporated

May 2013

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CONSTITUTION
OF THE
MOTOR TRADE ASSOCIATION
OF WESTERN AUSTRALIA INCORPORATED

1. Name

The name of the Association shall be MOTOR TRADE ASSOCIATION OF WESTERN AUSTRALIA INCORPORATED.

2. Interpretation

- (a) In this Constitution, unless the context otherwise indicates, the following words shall have the respective meaning indicated:
- (i) **“Act”** means the *Associations Incorporation Act 1987 (WA)*.
 - (ii) **“Annual General Meeting”** has the meaning given to it in Rule 13.1(a).
 - (iii) **“Associate Member”** means a Member under Rule 5.2.
 - (iv) **“Association”** means the Motor Trade Association of Western Australia Incorporated.
 - (v) **“Auditor”** means a person appointed under Rule 10(a).
 - (vi) **“Board of Management”** means the board of management of the Association referred to at Rule 11.2
 - (vii) **“Chief Executive Officer”** means a person appointed under Rule 9.5(a).
 - (viii) **“Chief Operating Officer”** means the chief operating officer of the Association.
 - (ix) **“Conflict of Interest”** means a conflict of interest which arises when a personal interest, fiduciary or otherwise, conflicts with, has the potential to conflict with, or is perceived to conflict with, a person’s duty as a Board of Management member or State Council member.
 - (x) **“Constitution”** means these rules of the Association.
 - (xi) **“Division”** means a division referred to in Rule 8(c).
 - (xii) **“Divisional Committee”** means the committee referred to at Rule 8(e).
 - (xiii) **“Endorsed Representative”** has the meaning given to it in Rule 5.4(c).

- (xiv) **“Financial Member”** has the meaning given to it in Rule 6.5(a).
 - (xv) **“Financial Year”** means the period specified in Rule 15.
 - (xvi) **“General Meeting”** means an Annual General Meeting or Special General Meeting or both.
 - (xvii) **“Life Member”** means a Member under Rule 5.3.
 - (xviii) **“Member”** means any member of the Association as set out in Rule 5.
 - (xix) **“Objects”** means the objects of the Association set out at Rule 3.
 - (xx) **“Officer”** means a person holding one of the positions listed at Rule 9.1(a).
 - (xxi) **“Ordinary Member”** means a Member under Rule 5.1.
 - (xxii) **“Ordinary Financial Member”** means an Ordinary Member who is a Financial Member.
 - (xxiii) **“Ordinary Resolution”** means a resolution of the Members in General Meeting other than a Special Resolution.
 - (xxiv) **“President”** means a person elected under Rule 9.1(c).
 - (xxv) **“Register”** has the meaning given to it Rule 14.
 - (xxvi) **“Rule”** means a rule of this Constitution.
 - (xxvii) **“Special General Meeting”** means a meeting of Members under Rule 13.2.
 - (xxviii) **“Special Resolution”** means a resolution passed by a majority of not less than three-fourths of the Members who are entitled under this Constitution to vote and vote in person at a General Meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with this Constitution.
 - (xxix) **“State Council”** means the committee of management of the Association as set out in Rule 11.1(a).
 - (xxx) **“Trade”** means the retail, service and repair industries of the motor trade.
 - (xxxi) **“Treasurer”** means a person elected to that office under Rule 11.2(e).
 - (xxxii) **“Vice President”** means a person elected to that office under Rule 11.2(e).
 - (xxxiii) **“Zone Branch”** has the meaning given to it in Rule 8(b).
- (b) If any doubt exists as to the interpretation of the provisions of this Constitution, the same shall be determined by a two thirds majority vote of the State Council members present at a properly constituted meeting of the State Council.

- (c) In this Constitution:
- (i) expressions in the masculine include the feminine;
 - (ii) the singular includes the plural;
 - (iii) headings are for convenience only and do not affect interpretation;
 - (iv) “under” includes by, by virtue of, pursuant to and in accordance with;
 - (v) “including” and similar expressions are not words of limitation;
 - (vi) a person includes a corporation, a firm, a body corporate, an unincorporated association or any authority;
 - (vii) if a word or phrase is defined, other grammatical forms of that word or phrase have a corresponding meaning; and
 - (viii) a reference to any statute or to any statutory provision includes any statutory amendment or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) made or issued under it.

3. Objects

- (a) The objects for which the Association is formed are as follows:
- (i) To establish an organisation of persons carrying on in Western Australia a business or businesses, the principal function of which is the dealing in goods or services or both directly associated with the Trade or with any industries allied to the Trade.
 - (ii) To foster, promote, protect and to assist in fostering, promoting and protecting the interests of the Trade on behalf of Members’ businesses and the broader community in Western Australia.
 - (iii) To procure, distribute and diffuse information as to sound principles of trading, best business practice, and other matters of interest to Members and the community in Western Australia.
 - (iv) To cooperate in or promote federation with other organisations or associations for the purpose of mutual interest and to discuss and take united action on matters affecting the Trade, such as disputes between the Members and between Members and other bodies or persons.
 - (v) To consider, originate and support improvements in the commercial laws, and statutes and regulations, and to support or oppose such matters affecting Members or the Trade.
 - (vi) To promote the concept of high quality service and workmanship, and where relevant, encourage the implementation and adherence of minimum industry standards and practices which improves service delivery to the Western Australian community.

- (vii) To provide facilities for social intercourse and cultivation of a spirit of goodwill among Members.
 - (viii) To contribute to the design, interpretation, scheduling, delivery and conduct of relevant training courses and schemes for the Trade and broader Western Australian community.
 - (ix) To secure appropriate terms and conditions where practicable for benefits for Members.
 - (x) To prepare and encourage the adherence to codes of conduct and ethical standard in respect of the Trade or any of its Divisions.
 - (xi) To do all such things that are incidental to or conducive to the interests of the Association, the attainment of the Objects and generally favours the welfare of industries allied to the Trade.
- (b) Each Object is a separate and independent Object and is not subsidiary or ancillary to any of the other Objects.
 - (c) The Association must operate solely for the purpose of promoting and advancing the Objects. However, the Association is not required to promote each of the Objects at the same time or in any particular order and may, in the State Council's absolute discretion, determine the level and amount of promotion, funding or any other support that should be applied to any one or more specific Objects at any given time.
 - (d) The property and income of the Association shall be applied solely toward the promotion of the Objects or purpose of the Association and no part of that property or income may be paid or otherwise distributed directly or indirectly, to Members, except in good faith in the promotion of those Objects or purposes.

4. Powers of Association

The Association has, in addition to the powers conferred on the Association by the Act and elsewhere in this Constitution, power to:

- (a) acquire, hold, deal with and dispose of any real or personal property and erect buildings;
- (b) invest, use and deal with the funds of the Association as the State Council thinks fit;
- (c) retain and employ persons for the purposes of the Association;
- (d) borrow money upon any terms and conditions as the State Council thinks fit;
- (e) raise and obtain money by means of subscriptions, fees, investments and other activities;
- (f) enter into any contract the State Council considers necessary or desirable;
- (g) form or take part in the formation of companies, associations, partnerships, joint ventures, trusts or other arrangements;

- (h) affiliate and work in conjunction with similar organisations;
- (i) raise money on any account and to act as bailee or bailor of property of any description;
- (j) provide guarantees in respect of borrowings or other facilities arranged by any third party, association or other body with similar Objects to the Association or which may benefit the Association either directly or indirectly; and
- (k) provide mortgages, charges and any other securities, which may be deemed appropriate from time to time by the State Council for the operations of the Association.

5. Membership

The Members of the Association shall be:

- (a) Ordinary Members;
- (b) Associate Members; and
- (c) Life Members.

5.1 Ordinary Members

- (a) Any person who carries on a business in the Trade and, where relevant, meets the necessary requirements and standards of the Association's accreditation schemes shall be eligible to become an Ordinary Member.
- (b) If a Division has an accredited scheme developed or endorsed by the Association from time to time, then the person who wishes to join the Association must also meet that Division's criteria before they are eligible to join the Association.
- (c) If a person who carries on business in the Trade is required by law to hold a licence to carry on that business, that person must hold and maintain the relevant licence to be eligible for Ordinary Membership.
- (d) Ordinary Financial Members are permitted to display the Association's approved logo in association with that Member's trade or business in any form, and the State Council may require a Member to refrain from displaying the Association's logo if an Ordinary Financial Member ceases to be a Financial Member, or is in breach of this Constitution or the Association's by-laws.
- (e) An Ordinary Financial Member is:
 - (i) entitled to vote at a General Meeting; and
 - (ii) eligible to be appointed or elected to the State Council or Board of Management.
- (f) An Ordinary Member shall be entitled to attend all General Meetings.

5.2 Associate Members

- (a) Any person:
 - (i) engaged or employed in the Trade or allied industry who is not eligible to be an Ordinary Member; or
 - (ii) engaged in the manufacture of goods which form part of the stock of trade of any other motor industry business, or which is a wholesaler of such goods,shall be eligible to become an Associate Member.
- (b) An Associate Member shall be entitled to attend all General Meetings, but shall not be:
 - (i) eligible to be appointed or elected to the State Council or Board of Management; or
 - (ii) entitled to vote at a General Meeting.
- (c) Associate Members are permitted to display the Association's approved logo in association with that Member's trade or business in any form, and the State Council may require a Member to refrain from displaying the Association's logo if an Associate Member ceases to be a Financial Member, or is in breach of this Constitution or the Association's by-laws.

5.3 Life Members

- (a) Ordinary Financial Members may from time to time in General Meetings on the recommendation of the State Council elect an individual (not necessarily a Member) who in the State Council's opinion has rendered some special service to the Association to be a Life Member.
- (b) A Life Member is:
 - (i) entitled to vote at a General Meeting; and
 - (ii) eligible to be appointed or elected to the State Council or Board of Management.
- (c) Life Members are permitted to display the Association's approved logo in association with that Member's trade or business in any form, and the State Council may require a Member to refrain from displaying the Association's logo if a Life Member is in breach of this Constitution or the Association's by-laws.

5.4 Firms and Companies

- (a) If a firm consisting of more than one partner is accepted as an Ordinary Member, or an Associate Member, it shall be registered as such in the Register in its firm's name and not in the name of its partners.
- (b) If a company is accepted as an Ordinary Member, or an Associate Member, it shall be registered as such in the Register in the name of the company.

- (c) A firm or company which is an Ordinary Member or Associate Member must notify the Association in writing of the individual who will represent the firm or company at meetings of the Association (“**Endorsed Representative**”). The Endorsed Representative will have the rights associated with the class of Membership of the Member, including, if applicable, an Ordinary Member’s entitlement to vote at General Meetings and be appointed or elected a member of the State Council and Board of Management.
- (d) A firm or company must immediately notify the Association in writing of a change in the Endorsed Representative. If the Endorsed Representative is a member of State Council or the Board of Management or both on the date of the change, the position held by the Endorsed Representative will become vacant under Rule 12(a)(iii).

6. Application for Membership

6.1 Application

- (a) Any person wishing to become an Ordinary Member or an Associate Member must complete a written application for Membership in a form determined by the Board of Management from time to time.
- (b) An application for Membership must be submitted to the Chief Executive Officer.
- (c) The Chief Executive Officer must, where relevant, refer the application for membership to the appropriate Divisional Committee.
- (d) If the Chief Executive Officer has any doubt as to the eligibility of an applicant for membership of a Division to which the person seeks admission, the Chief Executive Officer must submit particulars to the Divisional Committee.
- (e) The Divisional Committee must within thirty days after particulars of the application are submitted to it by the Chief Executive Officer under Rule 6.1(c), notify the Chief Executive Officer in writing, whether it approves or rejects the admission of the applicant to Membership of that Division, and in so notifying, the Divisional Committee may, but is not obliged to, state reasons for rejecting the application.
- (f) The Chief Executive Officer must, where relevant, communicate the decision of the Divisional Committee with respect to the application for Membership to the Board of Management. The Board of Management is not bound by the decision of the Divisional Committee.
- (g) The Chief Executive Officer must submit the application for Membership to the Board of Management for assessment and either acceptance or refusal.
- (h) On approval by the Board of Management, the person is deemed to have been duly elected as an Ordinary Member or Associate Member and shall thereupon become bound by this Constitution.
- (i) Should an applicant for Membership of the Association be rejected under the terms of this clause 6.1, the Chief Executive Officer shall, in writing, notify the applicant accordingly. The Chief Executive Officer is not obliged to give reasons for rejecting the application for Membership.

6.2 Subscriptions

- (a) The annual subscription shall be such amount as shall from time to time be determined by the Board of Management. The Board of Management shall have the power to determine the manner of payment of annual subscription and such other terms and conditions as the Board of Management may determine in respect thereof, including the power to require payment of annual subscriptions by a lump sum, or such instalments as may be acceptable to the Board of Management but which instalments may in sum exceed that payable by a Member paying an annual lump sum subscription in consideration of the Board of Management permitting annual subscriptions to be paid by designated instalments.
- (b) A Life Member shall not be required to pay any subscription and is deemed to be a Financial Member.
- (c) The first subscription payable by a new Member shall be payable on application for Membership. Should such application be rejected by the Board of Management, the subscription will be refunded in full forthwith. All subsequent subscriptions shall become due and payable on the first day of July in each year and every year during such time as the Member shall continue to be a Member.
- (d) If a person becomes a Member after the first day of July in any year, the subscription payable by him to the 30th day of June in the next succeeding year shall be one twelfth of the annual subscription for each completed month prior to the 30th day of June in the next succeeding year.
- (e) Any Ordinary Member or Associate Member who may be obliged to resign as a Member by reason of the fact that such Member ceases to carry on a qualifying business and is no longer eligible to be a Member, shall be entitled on acceptance of that Member's resignation, to receive a refund of the subscription paid by that Member for the year in which the Member resigns being a proportionate part thereof equivalent to 1/12th of the annual subscription for each complete calendar month prior to the ensuing 30th day of June.

6.3 Levies

If the Board of Management considers it expedient or necessary to provide additional funds for the proper administration of the Association, or for any particular purpose or that it is in the interests of the Association to do so, it may impose on the Ordinary Members and Associate Members a levy of such amount as they think fit. Such levy shall be payable at such time and in such manner as shall be fixed by the resolution imposing the same.

6.4 Recovery of Subscriptions and Levies

All subscriptions and levies payable by Members pursuant to this Constitution may be recovered by the Association in any court of competent jurisdiction in Western Australia.

6.5 Financial Members

- (a) A Financial Member is a Member which has paid:

- (i) the Member's subscription or any due instalment of the Member's subscription; and
- (ii) any levy due and payable,

within three calendar months of the date on which the respective subscription or levy became due and payable.

- (b) Members who are not Financial Members must remove upon the Association's request, all signage and logos relating to the Association and any reference to the Member's association with the Association.

7. Cessation of Membership

7.1 Disqualification of Members

A Member shall cease to be a Member:

- (a) if the Member fails to pay any subscription or levy within a period of twelve months after the same shall be due and payable;
- (b) if the Member resigns or is expelled from Membership;
- (c) if a sequestration order is made against the Member or if the Member is a company, if it is wound up either voluntarily or under order of the Court;
- (d) if the Member ceases to carry on business which is necessary for the Member to be eligible for Membership;
- (e) if the Member is of unsound mind or otherwise incapable of managing his or her affairs; or
- (f) subject to Rule 7.2(a), if the Member fails to comply with the code of ethics, by-laws or code of practice of the Association or Division.

7.2 Expulsion and suspension of Members

- (a) If complaints are received regarding the conduct of a Member, the Member against whom complaints have been lodged will be advised that those complaints will be discussed at a Board of Management meeting and the Member will be invited to attend and respond to those complaints.
- (b) If the Board of Management considers there is merit in the complaint, the Board of Management shall provide the Member with written notice of the changes required to the Member's method of operation to ensure that no further complaints are forthcoming. The Member will have 30 days within which to make the required changes. Should the Member not be prepared to make the required changes, the Board of Management will consider the matter in accordance with this Rule.
- (c) If the Board of Management considers that a Member should be expelled or suspended from Membership of the Association because the Member's conduct is detrimental to the interests of the Association, the Board of Management shall communicate in writing by certified mail to the Member:

- (i) notice of the hearing with respect to the proposed suspension or expulsion and of the time, date and place of the Board of Management meeting at which the question will be decided;
 - (ii) a request for particulars of the conduct relating to the proposed suspension or expulsion, not less than 30 days before the date of the hearing.
- (d) At the hearing, having afforded the Member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Board of Management, the Board of Management may expel or suspend that Member from Membership and shall, forthwith after making its determination, communicate that decision in writing to that Member.
- (e) Subject to Rule 7.2(g), a Member who is expelled under Rule 7.2(d) from Membership of the Association, ceases to be a Member fourteen (14) days after the day on which the determination is communicated to the Member under Rule 7.2(d).
- (f) A Member may appeal the Board of Management's decision under Rule 7.2(d), by giving notice to the Chief Executive Officer of his or her intention to do so within fourteen days of the date on which the determination is communicated to the Member under Rule 7.2(d) .
- (g) When notice is given under Rule 7.2(f):
- (i) the Association in a General Meeting may, after having afforded the Member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the General Meeting, confirm or set aside the decision of the State Council to expel or suspend that Member; and
 - (ii) the Member who gave that notice does not cease to be a Member and is not suspended unless and until the decision of the Board of Management is confirmed by the Members in General Meeting.

7.3 Suspension of Membership

- (a) The Board of Management may suspend a Member in accordance with Rule 7.2 on terms and conditions it determines in its absolute discretion, provided that a suspended Member:
- (i) is not eligible to vote at a General Meeting held during the period during which the Member is suspended;
 - (ii) must vacate his or her position on the State Council or Board of Management for the period during which the Member is suspended.
- (b) A suspended Member must not use the name or logo of the Association in any form whatsoever on any advertising, signs, stickers or stationery for the period during which the Member is suspended.

7.4 Cessation of Membership

- (a) On ceasing to be a Member of the Association, that person must not use the name or logo of the Association in any form whatsoever on any advertising, signs, stickers or stationery.
- (b) Any Member who has been expelled under Rule 7.2 shall forfeit all subscriptions paid and shall remain liable for any subscriptions or levies which are unpaid at the date of expulsion.

8. Divisions and Branches

- (a) The State Council may from time to time by resolution authorise a group of Members to form either:
 - (i) Zone Branches; or
 - (ii) Divisions,according to the composition of their membership.
- (b) A Zone Branch shall be a group of Members who reside or carry on business in a particular district. Each Zone Branch shall be designated by the name of the geographical district in respect of which it is formed.
- (c) A Division shall be a group of Members who are interested in a particular sector of the Trade. Each Division shall be designated by the name of the sector of the Trade in respect of which it is formed.
- (d) Each Zone Branch or Division shall be entitled to:
 - (i) meet at such time and place from time to time as the members of the Zone Branch or Division may consider necessary;
 - (ii) regulate its own proceedings;
 - (iii) impose on its members such additional subscriptions and levies as the members of the Zone Branch or Division may consider expedient subject to the consent of the Board of Management.
- (e) Each Division of the Association will be operated by a Divisional Committee comprising a chairperson and such other ordinary members of the Division as may be appropriate, all of whom must be Ordinary Financial Members.
- (f) The chairperson of each Division will:
 - (i) be elected by a poll of the ordinary members of the relevant Division held prior to the Annual General Meeting of the Association. The chairperson will hold office for one year but will be eligible for re-election;
 - (ii) automatically be a member of the State Council pursuant to Rule 11.1;

- (iii) report directly to the Board of Management on the activities of the Division and any other matters that may be required by the Board from time to time.
- (g) Each Division shall as soon as practicable after its meetings (whether of meetings of members or Divisional Committee meetings) provide to the Chief Executive Officer minutes of such meeting and copy of all resolutions passed at the meetings.
- (h) The chairperson of each Zone Branch will:
 - (i) be elected by a poll of the ordinary members of the relevant Zone Branch held prior to the Annual General Meeting of the Association. The chairperson will hold office for one year but will be eligible for re-election;
 - (ii) automatically be a member of the State Council pursuant to Rule 11.1;
- (i) No resolution of the members of a Division or of any Divisional Committee is binding on the Association unless such resolution is confirmed by the Board of Management and no Division constitution or by-laws shall be adopted by any Division unless approved by the Board of Management.
- (j) The Association is not responsible for any commitments made, or expenses incurred by any Zone Branch or Division for which authority has not been first granted by the Board of Management.
- (k) If at any time the State Council is of the opinion that any Zone Branch or Division should, in the interests of the Association, be dissolved it may resolve to revoke the authority previously given and resolve that the Zone Branch or Division be dissolved. Upon passage of such resolution, the relevant Zone Branch or Division will be dissolved and all monies or property held by the Zone Branch or Division shall be vested in the Association.

9. Officers

9.1 Officers

- (a) The Officers of the Association shall consist of the following:
 - (i) President;
 - (ii) Vice President;
 - (iii) Treasurer; and
 - (iv) immediate past President.
- (b) No person shall be eligible to be elected as an Officer of the Association unless such a Member is a Life Member, an Ordinary Financial Member or the Endorsed Representative of a business which is an Ordinary Financial Member.
- (c) The President shall be elected each year by the Board of Management in accordance with Rule 11.2(e) at the first meeting of the Board of Management

following the Annual General Meeting of the Association and shall hold office until the next succeeding Annual General Meeting when the President shall retire, but shall be eligible for re-election.

- (d) To be eligible to hold the position of President, the candidate must have served in the preceding 12 months:
 - (i) as a member of the State Council; and
 - (ii) on the Board of Management.
- (e) A person nominating for the position of President must forward the nomination to the Chief Executive Officer at least seven days prior to the first meeting of the Board of Management following the Annual General Meeting.

9.2 **President**

- (a) The duties of the President are to:
 - (i) preside at all General Meetings, meetings of the State Council and Board of Management and all meetings of any subcommittee of which he or she is a member;
 - (ii) regulate and keep order at the proceedings of meetings at which the President is chairman; and
 - (iii) carry into effect this Constitution of the Association and any by-laws.
- (b) If the President is absent from three consecutive meetings of the State Council or Board of Management without leave of absence or without excuse acceptable by the majority of the members of the State Council, the Board of Management may by resolution expel the President from office, and thereupon the office of the President shall be deemed to be vacant.

9.3 **Vice President**

The duties of the Vice President are to:

- (a) assist the President to regulate and keep order at General Meetings and at State Council meetings; and
- (b) preside at General Meetings, State Council and Board of Management meetings in the absence of the President or in the event of the President vacating the chair.

9.4 **Treasurer**

- (a) It is the duty of the Treasurer to:
 - (i) procure from the Chief Executive Officer from time to time such information as to the financial transactions of the Association, as shall enable him or her at all times to be cognisant of the true financial position of the Association;
 - (ii) present to the State Council or Board of Management, as required, written statements showing the financial position of the Association;

- (iii) whenever possible, act as one of the signatories to cheques drawn on the Association's bank account; and
- (iv) prepare and present at each Annual General Meeting of the Association, a report on the financial position of the Association for the preceding year.

9.5 Chief Executive Officer

- (a) The Board of Management must appoint a Chief Executive Officer and may terminate that appointment at its discretion.
- (b) The Chief Executive Officer shall be paid such remuneration and other benefits (if any) for his services as the Board of Management may determine from time to time.
- (c) The Chief Executive Officer must:
 - (i) manage the affairs of the Association, in liaison with the Board of Management and the State Council;
 - (ii) devote his whole time and attention to the affairs of the Association;
 - (iii) attend :
 - A. all meetings of the State Council and Board of Management;
 - B. meetings of any sub committees appointed by the State Council or Board of Management as required from time to time;
 - C. meetings of the Association, including General Meetings;
 - D. all other meetings of the Association where practicable, including a Divisional Committee or Zone Branch meeting where requested to do so by the Divisional Committee or Zone Branch.
 - (iv) record and enter, or cause to be recorded or entered, in the form of minutes, all business transacted at all meetings of the set out at Rule 9.5(c)(iii);
 - (v) issue, or cause to be issued, all notices required by this Constitution;
 - (vi) prepare under instructions from the Board of Management or the State Council, all reports to be submitted to the General Meetings, the State Council or Board of Management;
 - (vii) receive all monies payable to the Association and to pay same as soon as practicable after receipt to the credit of the Association's bank account;
 - (viii) receive and answer under the direction of the State Council and Board of Management all correspondence of the Association;

- (ix) submit to the State Council before each Annual General Meeting, an annual report of the activities of the Association during the previous year;
- (x) keep all accounts of the Association and to prepare and present to the Annual General Meeting a duly audited and certified balance sheet;
- (xi) keep custody of all records, books, documents and securities of the Association and keep and maintain an up to date version of this Constitution;
- (xii) maintain a record of the names and residential or postal addresses of State Council members and Board of Management members;
- (xiii) carry out the directions of the State Council, the Board of Management and the resolutions passed at General Meetings.

10. Auditors

- (a) At each Annual General Meeting the Members shall appoint an auditor for the Association and such Auditor shall hold office until the next Annual General Meeting.
- (b) The Auditor shall receive such remuneration as the State Council may from time to time determine.
- (c) It shall be the duty of the Auditor:
 - (i) to audit the books of the Association at least once in every Financial Year and to satisfy himself as to the correctness thereof;
 - (ii) to certify the correctness of all financial statements and balance sheets prepared by the Chief Executive Officer; and
 - (iii) prior to the Annual General Meeting, provide such certification on the Association's financial position for the preceding Financial Year.

11. State Council

11.1 State Council

- (a) The management of the Association shall be vested in a State Council which shall consist of:
 - (i) the President;
 - (ii) all past Presidents of the Association, as long as they remain Ordinary Financial Members;
 - (iii) the chairman (or the chairman's nominee) of each Zone Branch;
 - (iv) divisional representatives as follows:
 - A. the chairman of each Divisional Committee; and

- B. one further representative for every one hundred members (or part thereof) of that Division.
- (b) All members of the State Council shall at all times be Financial Members.
- (c) The State Council shall also have the power to co-opt such Ordinary Financial Members to the State Council as it may consider desirable.
- (d) The term of office of each member of the State Council is from the date of appointment until the next Annual General Meeting but that person shall be eligible for re-appointment.

11.2 Board of Management

- (a) The State Council may vest all of its powers and authority in a Board of Management to be responsible for the day to day management of the Association.
- (b) Subject to Rule 12, all members of the Board of Management shall be elected by the State Council.
- (c) The Board of Management shall be comprised of:
 - (i) President;
 - (ii) Vice President;
 - (iii) Treasurer;
 - (iv) immediate past President;
 - (v) Chief Executive Officer; and
 - (vi) six other members of the State Council.
- (d) Nominations for positions on the Board of Management and a position as an Officer shall be forwarded to the Chief Executive Officer at least seven days prior to the Annual General Meeting.
- (e) The Board of Management shall elect from amongst its members the positions of President, Vice President, and Treasurer. The outgoing President will then become the immediate past President.
- (f) If there is more than one nomination for the positions of President, Vice President and Treasurer then a secret ballot of all Board of Management members shall be conducted. The Chief Executive Officer shall be the returning officer and will conduct and communicate the results of the ballot immediately following the voting process being conducted.
- (g) The Chief Executive Officer shall serve on the Board of Management in an ex-officio capacity. The Chief Executive Officer shall not be not entitled to vote at meetings of the Board of Management.
- (h) The term of office of each member of the Board of Management is from the date of election until the next Annual General Meeting but that person shall be eligible for re-election.

- (i) The Board of Management shall, subject to any restrictions the State Council may impose from time to time be competent to exercise all or any of the powers, authorities and discretions vested in or exercised by the State Council.
- (j) The Board of Management has the power, subject to Rule 12, to fill casual vacancies on its committee which arise during the term. A person appointed to fill a casual vacancy has full voting rights on the Board of Management.
- (k) Five members of the Board of Management (excluding the Chief Executive Officer) shall constitute a quorum.
- (l) All members of the Board of Management (except the Chief Executive Officer) present at any of its meetings and entitled to vote shall have one vote, but in the event of an equality of votes the chairman shall be entitled to a casting vote in addition to his own vote as a member of the Board of Management.

11.3 Conflict of Interest

- (a) A Board of Management member or State Council member who has a Conflict of Interest in a contract or arrangement, or proposed contract or arrangement, in a matter being considered or about to be considered by the Board of Management or State Council respectively, must disclose the nature of that interest at a meeting of the Board of Management or State Council as soon as possible after the relevant facts have come to the Board of Management or State Council member's knowledge and record of such disclosure must be made in the minutes of that meeting.
- (b) A Board of Management or State Council member who has disclosed a Conflict of Interest must not:
 - (i) be present during any deliberation about that matter;
 - (ii) receive the relevant Board of Management or State Council papers in relation to that matter; or
 - (iii) cast any vote in relation to that matter,without the prior approval of the Board of Management or State Council as the case may be.
- (c) The Board of Management may make by-laws requiring the disclosure of Conflicts of Interest that a Board of Management or State Council member, and any person considered by the Board of Management to be related to or associated with a Board of Management or State Council member, may have in any matter concerning the Association or a related entity. Any by-laws made under this Rule bind all Board of Management and State Council members.

11.4 State Council Meetings

- (a) The State Council shall meet as often as it may deem necessary, and may otherwise regulate its meetings and proceedings as it may think fit.

- (b) Seven members of the State Council shall constitute a quorum.
- (c) The State Council may act notwithstanding any vacancy in its number and its proceedings shall not be invalidated by reason of any such vacancy.
- (d) The President may at any time if he or she thinks fit and shall upon the request of seven members of the State Council convene a meeting of the State Council.
- (e) The President shall be the chairman of all meetings of the State Council unless he or she desires to vacate the chair, in which case or in the case of the President's absence, the Vice President shall be the chairman.
- (f) All members of the State Council present at any of its meetings and entitled to vote shall have one vote, but in the event of an equality of votes the chairman shall be entitled to a casting vote in addition to his own vote as a member of the State Council.

11.5 Powers of State Council

In addition to and without prejudice to any other rights, powers and authorities vested in it by this Constitution and the Act, the State Council has power to:

- (a) rent premises at such rent and upon such terms as they may consider most expedient;
- (b) obtain legal service on any matter within the Objects;
- (c) appoint such sub committees for such purposes as they may think fit and to delegate to such sub committees such of their powers as they may think fit; and
- (d) make by-laws to regulate the affairs and proceedings of the Association provided such by-laws are not inconsistent with this Constitution.

11.6 Duties of State Council

The State Council has a duty to:

- (a) uphold and advance the Objects;
- (b) ensure the proper exercise of the powers of the Association;
- (c) manage all of the services the Association provides; and
- (d) monitor the financial management of the Association including the financial management of any service the Association provides.

12. Casual Vacancies

- (a) A casual vacancy occurs on the Board of Management or State Council if the member:
 - (i) dies;

- (ii) resigns by notice in writing delivered to the Chief Executive Officer;
 - (iii) is no longer an Endorsed Representative;
 - (iv) is convicted of an offence under the Act;
 - (v) is permanently incapacitated by mental or physical ill health;
 - (vi) is convicted of an indictable offence which allows for a term of imprisonment;
 - (vii) is absent from more than three (3) consecutive meetings of the Board of Management or the State Council (as applicable) of which he or she has received notice, without tendering an apology to the person presiding at each such meeting; or
 - (viii) ceases to be an Ordinary Financial Member or Life Member.
- (b) Any person appointed to fill a casual vacancy which occurs on the Board of Management or on the State Council must be an Ordinary Financial Member and shall hold office only until the next Annual General Meeting or the first meeting of the State Council subsequent to the Annual General Meeting depending on the vacancy in question, at which time the person shall retire but shall be eligible for re-election.
- (c) Any casual vacancy for a position on the Board of Management shall be filled by an ordinary resolution of the members of the Board of Management. Any casual vacancy for a position on the State Council shall be filled by the election or appointment process under Rule 11.1.

13. General Meeting of Members

13.1 Annual General Meeting

- (a) A General Meeting of the Members shall be held at least once in every calendar year within four months after the close of the Financial Year, at such time and place as may from time to time be fixed by the State Council. Such meetings shall be called "Annual General Meetings".
- (b) The business to be transacted at the Annual General Meeting shall include the following:
- (i) receiving of the annual report of the President;
 - (ii) receiving the balance sheet for the preceding Financial Year and the Treasurer's report thereon;
 - (iii) appointment of the Auditor; and
 - (iv) considering any business of which seven days' notice to the Members has been given.

13.2 Special General Meetings

- (a) The State Council may whenever it thinks fit and shall when required on the requisition of at least thirty Ordinary Financial Members, convene a Special General Meeting.
- (b) A requirement for a Special General Meeting shall be in writing and signed by the requisitionists and shall be deposited with the Chief Executive Officer and shall also specify the purpose for which the meeting is required to be called and the resolution to be considered by the Members.
- (c) If within 28 days after the deposit of a requisition for a Special General Meeting, the State Council fails to convene such a meeting for a date not more than 28 days or less than 7 days from the date of the requisitioning of such a meeting, the requisitionists may themselves convene a Special General Meeting, but any meeting so convened shall not be held after the expiration of three months from the date of the deposit of the requisition.
- (d) A Special General Meeting convened by the requisitionists shall be convened in the same manner as nearly as possible as such meetings are convened by the State Council.

13.3 Convening of General Meetings

- (a) All General Meetings by whomsoever convened shall be convened by giving at least seven days written notice of the General Meeting, specifying:
 - (i) the date, place and hour of the meeting; and
 - (ii) the nature of the business to be considered.
- (b) Such notice shall be sent to all Members entitled to be present at such meeting, but any accidental omission to send any such notice to any Member shall not invalidate the proceedings in such meeting.

13.4 Proceedings at General Meetings

- (a) Twenty Ordinary Financial Members that are personally present shall constitute a quorum at a General Meeting. Save as hereinafter provided, no business shall proceed at any General Meeting unless a quorum of Ordinary Financial Members are present.
- (b) If within fifteen minutes after the time appointed for the holding of a General Meeting (or within such extended time not exceeding 30 minutes as the chairman may allow) a quorum is not present the chairman may, with the consent of the Members present at the General Meeting, adjourn the General Meeting from time to time and from place to place and every adjourned meeting shall be treated as a prolongation only of the original meeting and shall only be competent to transact business which may properly have been transacted at the original meeting. Any resolution passed at an adjourned meeting shall be treated as having been passed on the day on which it was in fact passed.
- (c) The President shall be the chairman of all General Meetings. In the event of the President being absent or vacating the chair, the Vice President shall be

chairman. In the event that the Vice President is absent, unwilling or unable to chair the General Meeting, the Members may elect one of the Ordinary Financial Members to be chairman.

- (d) The order of business at General Meetings shall be as follows:
- (i) At Annual General Meetings:
 - A. acceptance of minutes of previous Annual General Meetings and any Special General Meetings held subsequently;
 - B. business arising out of the minutes;
 - C. consideration of motions of which 7 days' notice has been given to Members;
 - D. reception of the President's annual report;
 - E. reception of financial statements and report;
 - F. correspondence affecting Members generally (if any);
 - G. appointment of the Auditor; and
 - H. general business.
 - (ii) At Special General Meetings:
 - A. reading of notice convening meeting;
 - B. consideration of business of which notice has been given.
- (e) Each Ordinary Financial Member and Life Member who is present at a General Meeting shall be entitled to one vote but in the event of an equality of votes, the chairman shall be entitled to a casting vote in addition to his own as an Ordinary Financial Member or Life Member.
- (f) At any General Meeting a resolution put to the vote of the meeting shall be decided on the show of hands unless a poll is before or immediately upon the declaration of the result of the show of hands demanded by five or more Ordinary Financial Members. Unless a poll is so demanded, a declaration by the chairman that a resolution has on the show of hands:
- (i) been carried or carried unanimously;
 - (ii) carried by a particular majority; or
 - (iii) lost,
- shall be conclusive evidence of the fact without proof of the number or the proportion of the votes recorded in favour or against the resolution, and an entry to that effect shall be made in the minute book of the Association.
- (g) If at any General Meeting a poll is demanded the same shall be taken in such manner as the chairman may direct and may be either by way of ballot or otherwise.

14. Register of Members

- (a) The Chief Executive Officer shall keep or cause to be kept a register of Members (“**Register**”) in which shall be entered the full name and postal or residential address of the Members and any change thereof.
- (b) The Chief Executive Officer shall keep or cause to be kept a further register of additional Member information in which may be entered the following particulars:
 - (i) whether each Member is an Ordinary Member, Associate Member or Life Member;
 - (ii) the date the person became a Member;
 - (iii) the date a person ceases to be a Member;
 - (iv) the amount owing by a Member for subscription and levies;
 - (v) any other such particulars that from time to time are relevant.

15. Financial Year

The financial year of the Association means on and from 1 July in any year up to and including 30 June in the following year.

16. Common Seal

- (a) The Common Seal of the Association shall remain in the custody of the Chief Executive Officer and shall not be affixed to any document except by the authority of the Board of Management duly recorded in the minute book of the Board of Management.
- (b) All documents to which the Common Seal of the Association shall be affixed shall be signed by the:
 - (i) the President or Vice President; and
 - (ii) Chief Executive Officer or other delegated officer of the Association.
- (c) The present device of the Common Seal or any device subsequently adopted shall not be altered except by the resolution of the Members in General Meeting.

17. Inspection of Books

- (a) Ordinary Members and Life Members are entitled to inspect the:
 - (i) Register;
 - (ii) record of Board of Management members;
 - (iii) Constitution; and

(iv) minutes of a General Meeting,
in accordance with the requirements of the Act.

- (b) The documents listed under Rule 17(a) shall be open to inspection by Members during the Association's head office opening times and shall be carried out in the presence of the Chief Executive Officer or the President or both.
- (c) The Board of Management meeting minutes are the property of the Board of Management, confidential and not available for inspection by Members.

18. Bank Accounts

- (a) The bank accounts of the Association shall be with such banks as the State Council may from time to time appoint.
- (b) The bank accounts shall be opened in the name of the Association and all cheques drawn thereon shall be so drawn in the name of the Association and signed by the President or the Treasurer and countersigned by the Chief Executive Officer. In the absence of the President and the Treasurer, the Vice President shall sign such cheques in the place of the President and Treasurer so absent. In the absence of the Chief Executive Officer the Board of Management may authorise another officer to counter sign in his place.

19. Alteration of Rules

- (a) The name of the Association may be amended and any of the Rules of this Constitution may be amended, added or repealed by Special Resolution passed at a General Meeting.
- (b) Only Ordinary Financial Members and Life Members who are present in person are entitled to vote with respect to a Special Resolution under Rule 19(a).

20. Indemnity

Every State Council member, Board of Management member, Chief Executive Officer and Chief Operating Officer ("**indemnified person**") will be indemnified by the Association against any loss, expense or liability incurred by reason of any act or deed done by the indemnified person in good faith in their capacity as a State Council member, Board of Management member or officer and the State Council will use the funds of the Association for such purpose when required.

21. Dissolution

- (a) The Association may be dissolved upon the passing of a Special Resolution of the Members at a General Meeting.
- (b) If on the winding up of the Association, any property of the Association remains after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of that winding up, that property must not be

paid to or distributed among Members or former Members and shall be distributed:

- (i) to another incorporated association having objects similar to those of the Association which is not carried out for the purposes of profit or gain to the individual members of that association; or
 - (ii) for charitable or benevolent purposes.
- (c) The Members shall determine by Special Resolution the incorporated association or charitable or benevolent purpose to which the surplus property of the Association shall be distributed, when authorising and directing the State Council under Section 33(3) of the Act to prepare a distribution plan for the distribution of the surplus property of the Association.

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