

[234V: Incorporates alterations of 06/04/20 [R2019/148 & D2019/22]
(replaces rulebook dated 18/07/2014 [R2013/376])

The Motor Trade Association of South Australia Incorporated

I CERTIFY under section 161 of the *Fair Work (Registered Organisations) Act 2009* that
the pages herein numbered 1 to 40 both inclusive contain a true and correct copy
of the registered rules of The Motor Trade Association of South Australia Incorporated.

DELEGATE OF THE GENERAL MANAGER

FAIR WORK COMMISSION

Rules of The Motor Trade Association of South Australia Incorporated

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RULES OF
THE MOTOR TRADE ASSOCIATION OF SOUTH AUSTRALIA INCORPORATED

1. NAME OF THE ASSOCIATION

1. The name of the association is The Motor Trade Association of South Australia Incorporated (**Association**).

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In these Rules unless the context requires otherwise:

Act means the *Fair Work (Registered Organisations) Act 2009* (Cth).

Annual General Meeting means the annual General Meeting of the Association required to be held by the Association in each calendar year.

Application Fee means the application fee as determined by the Board from time to time.

Associate Member means a member of the Association appointed under rule 5.3.

Associations Act means the *Associations Incorporation Act 1985* (SA).

Bankruptcy Act means the *Bankruptcy Act 1966* (Cth).

Board means the board appointed in accordance with rule 12.

CEO means the Chief Executive Officer of the Association appointed in accordance with rule 21.

Chair means the person elected under rule 14.1.

Committee means a committee established by the Board under rule 22.

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

Declaration Counterfoil means a removable label or flap that has the following details printed on it:

- (a) the name of the Member's Nominated Representative;
- (b) the name and postal address of the Member;
- (c) the membership number of the Member;
- (d) a Voting Declaration; and
- (e) a place for the signature of the Nominated Representative.

Division means a division of the Association whose members are also Members of the Association in accordance with rule 7.1(a).

Electronic Communication means communication via telephone conference, video conference, internet or other electronic means which allows real-time simultaneous communication.

Finance, Audit and Investment Committee means the finance, audit and investment committee established pursuant to clause 23.2 to manage the Association's finances, audits and investments.

General Division means a division comprising of all Members who are not otherwise a member of any Division in existence from time to time.

General Manager means the General Manager of the Fair Work Commission.

General Meeting means a general meeting of Members.

Industry Advisory Council means the body constituted in accordance with rule 20.

Life Member means a Member admitted to the Association under rule 5.8.

Life Membership means membership as a Life Member of the Association.

Member means a member of the Association in accordance with rule 5.

Membership means membership of the Association.

MTA Training and Employment means The MTA Group Training Scheme Inc. ABN 36 459 968 347.

Nominated Representative means an individual appointed by a Member to represent it at General Meetings under rule 5.9.

Objects mean the objects of the Association in rule 3.1.

Office has the same meaning given to it in section 9 of the Act.

Officer has the same meaning given to it in section 6 of the Act.

Office Bearer means a person holding office on the committee or sub-committee of a Division or Zone.

Ordinary Members means a member of the Association appointed under rule 5.2.

Poll means a process for casting votes called and carried out in accordance with rule 10.11.

Public Officer has the same meaning as in the Associations Act.

Registered Office means the registered office of the Association, at 81 Greenhill Road, Wayville or such other place or places as determined by the Board from time to time.

Returning Officers means a person appointed in accordance with rule 13.2 and more specifically:

- (a) in the case of an election for a position on the Board or the positions of Chair or Deputy Chair, a representative from the Australian Electoral Commission; and
- (b) in the case of any other election, a person authorised by the Board from time to time, provided that person is not an employee of the Association or an Officer.

Rules means these rules as amended from time to time, and a reference to a particular rule is a reference to a rule of these rules.

Special General Meeting means a General Meeting called under rule 9.3.

Special Resolution has the same meaning that is given to it in the Associations Act.

Subscription means the subscriptions and fees as determined by the Board from time to time.

Voting Declaration means the declaration on a Declaration Counterfoil which must be in the following format:

“I declare that:

- I am the voter named on the envelope;
- I have voted on the ballot paper contained in the envelope; and
- I have not voted before in this ballot.”

Zone means a zone of the Association established under rule 7.3.

Zone Representative means a Member that has its place of business in a regional area, being at least 100km from the Adelaide General Post Office by public road.

2.2 Interpretation

In these Rules unless the context requires otherwise:

- (a) **(presence of a Member)** a reference to a Member present at a General Meeting means the Member present in person or by proxy, attorney or representative;
- (b) **(document)** a reference to a document or instrument includes any amendments made to it from time to time and, unless the contrary intention appears, includes a replacement;
- (c) **(gender)** words importing any gender include all other genders;
- (d) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (e) **(successors)** a reference to an organisation includes a reference to its successors;
- (f) **(singular includes plural)** the singular includes the plural and vice versa;
- (g) **(instruments)** a reference to a law includes regulations and instruments made under it;
- (h) **(amendments to legislation)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by a State or Territory or the Commonwealth or otherwise;
- (i) **(include)** the words **include, includes, including** and **for example** are not to be interpreted as words of limitation;
- (j) **(signed)** where, by a provision of these Rules, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Territory or Commonwealth law relating to electronic transmissions or in any other manner approved by the Board;
- (k) **(writing)** writing and written includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and

- (l) **(headings)** headings are inserted for convenience and do not affect the interpretation of these Rules.

3. OBJECTS

3.1 Objects

The Objects of the Association are to:

- (a) advance, promote, protect and support the automotive industry and allied or interested trades and businesses in Australia;
- (b) consider and deal with all questions involving the automotive industry and allied or interested trades and businesses;
- (c) collect and circulate statistics and other information relating to the automotive industry and allied or interested trades and businesses;
- (d) form and establish a code of ethical conduct to be observed by persons engaging in the automotive industry or in any allied or interested trade or business and do all things necessary or desirable to achieve and maintain for those persons a high standing in the community and to promote the good name of the Association;
- (e) establish and support and aid in the establishment and support of any other Association formed for all or any of these Objects; and
- (f) do all such other lawful things as are incidental and conducive to the attainment of these Objects.

4. INCOME AND PROPERTY OF THE ASSOCIATION

4.1 Sole Purpose

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

4.2 Payments to Members

No income or property will be paid or transferred directly or indirectly to any Member except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Association;
- (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
- (c) of reasonable rent for premises let by them to the Association.

5. MEMBERSHIP**5.1 Categories of Members**

Members of the Association shall fall into one of the following categories:

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

5.2 Eligibility for Ordinary Member

Subject to rule 5.6, admission to be an Ordinary Member is open to any person that is genuinely, either as an employer or otherwise, engaged in the automotive industry or any allied or interested trade or business. Ordinary Membership includes access to the full range of services offered by the Association.

5.3 Eligibility for Associate Member

Subject to rule 5.6, admission to be an Associate Member is open to any person that is genuinely, either as an employer or otherwise, engaged in any industry which has dealings of any nature with the automotive industry or any allied or interested trade or business. Associate Membership includes access to a limited range of services offered by the Association, as determined by the Board from time to time.

5.4 Form of application

Any person who applies for Membership must make an application in such form as the Board prescribes from time to time.

5.5 Disclosure

The CEO must, in accordance with directions given by the Board, inform all applicants for Membership of:

- (a) the financial obligations arising from Membership; and
- (b) the circumstances and the manner in which a Member may resign from the Association.

5.6 Consideration of applications

- (a) All applications for Membership must be considered by the Board.
- (b) An applicant shall be elected to Membership by a resolution of the Board duly carried by a two-thirds majority of the members of the Board present and voting at such meeting.
- (c) Notwithstanding anything else contained in these Rules, the Board may refuse any application for Membership without giving reasons for so doing.

5.7 Approval of application

- (a) Subject to Board approval in accordance with rule 5.6, any applicant shall, on the date of payment of the Subscription, or the first instalment of the Subscription (as the case may be), become a Member. However, the applicant must not display the Association's logo or signage until the application has been approved by the Board in accordance with rule 5.6.
- (b) The CEO must, following the meeting of the Board, advise all approved applicants of the Board's approval of their respective applications.
- (c) Annual Subscriptions or the first instalment of annual Subscriptions (as the case may be) become due and payable on 31st March each year.

5.8 Life Membership

- (a) The Board may nominate and elect by vote an individual (who has been a Member and/or a Nominated Representative), who has given long and meritorious service to the Association as a Life Member of the Association.
- (b) The Members must be advised of the election of the Life Member at the following Annual General Meeting.
- (c) Life Members will be entitled to limited privileges as determined by the Board from time to time, which are designed to keep the Life Member connected to the Association during the Life Member's life without payment.
- (d) For the avoidance of doubt, Life Members will not receive access to the full range of services offered by the Association.
- (e) There must not be more than one Life Member elected in any one year.
- (f) The Board may review the eligibility criteria for Life Membership (regarding what is to constitute "long and meritorious service") annually. However, such review will not be retrospective to existing Life Members.
- (g) At the time of adoption of these Rules, the Life Members of the Association shall be those persons currently recognised by the Association as Life Members.

5.9 Nominated Representative

- (a) Any Member that is not a natural person must appoint one of its partners, directors, members, owners or employees as its Nominated Representative and notify the Board of such appointment.
- (b) The Nominated Representative will represent and act on behalf of the relevant Member at meetings of the Association, including exercising the relevant Member's right to vote and right to nominate.
- (c) The relevant Member may vary the appointment of its Nominated Representative by notifying the Board of the change.
- (d) Any notice of appointment under this rule 5.9 must be validly signed by the Member under its common seal or signed by a partner, director or owner of the Member.

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- (e) Any Nominated Representative will be eligible to hold any Office in the Association in the same manner as if that person was a Member of the Association.

5.10 Assignment or transfer of Member

Within 14 days after:

- (a) the business, or part of the business, of a Member is assigned or transferred to a person who is not a Member; or
- (b) a person who is not a Member succeeds to the business, or part of the business, of a Member,

the Member is required to notify the Association of the assignment, transfer or succession.

5.11 Register of Members

The Board must cause to be kept at the Registered Office of the Association:

- (a) a register of the Members of the Association showing the name and postal address of each Member;
- (b) a register of the members of each Division and Zone, showing the name and postal address of each Division and Zone;
- (c) a list of the Officers of the Association and of the Office Bearers, showing the name, postal address and occupation of each Office Bearer; and
- (d) such other records as are required or prescribed by the Act or the Associations Act.

6. CESSATION OF MEMBERSHIP

6.1 Cessation

A person ceases to be a Member on:

- (a) resignation;
- (b) if an individual, committing an act of bankruptcy within the meaning of section 40 of the Bankruptcy Act;
- (c) if a body corporate, becoming subject to any form of insolvency administration under Chapter 5 of the Corporations Act;
- (d) if an individual, death;
- (e) the termination of their Membership according to these Rules;
- (f) if a body corporate, being dissolved or otherwise ceasing to exist; or
- (g) that Member no longer meeting the requirements or qualifications for Membership according to rule 5.

6.2 Notice of resignation

- (a) A Member may resign from Membership by written notice delivered to the CEO.
- (b) A notice delivered to the CEO will be taken to have been received by the Association when it was delivered.
- (c) A resignation from Membership shall be valid even if it is not effected in accordance with this rule 6.2 if the Member is informed in writing by or on behalf of the Association that the resignation has been accepted.

6.3 Outstanding liabilities

- (a) Any Member that has ceased to be a Member will remain liable for all moneys outstanding to the Association at the time of cessation.
- (b) Any Subscriptions or levies payable but not paid by the former Member in relation to a period before the Member's resignation took effect may be sued for and recovered in the name of the Association in a court of competent jurisdiction as a debt due to the Association.

6.4 Unfinancial

- (a) Subject to rule 11.3, any Member who has not paid a sum payable to the Association, including the Application Fee, Subscription, call or any other sum agreed to be paid to the Association (including any instalment) within three months of its due date shall be regarded as unfinancial and not entitled to any of the privileges of Membership.
- (b) In accordance with directions from the Board, the CEO must provide the Member or Association Member with a notice advising that they have become unfinancial and that they will cease to be a Member if they do not pay the outstanding sums payable within 28 days of the notice.
- (c) If a Member or Association Member fails to pay the outstanding sums payable by them to the Association within 28 days of the notice, they will cease to be a Member but their Membership may be reinstated at the discretion of the Board on payment of all arrears.

6.5 Misconduct

- (a) If any Member:
 - (i) wilfully refuses or neglects to comply with these Rules;
 - (ii) is guilty of a criminal offence;
 - (iii) breaches the Association Code of Conduct; or
 - (iv) breaches any relevant industry code,

that Member may be cautioned, fined a sum not exceeding \$10,000, suspended for a period of not more than 12 months or expelled from the Association in accordance with rule 6.5(b).

- (b) The Board may, by a resolution carried by a two-thirds majority, resolve to expel a Member who has acted in a manner described in rule 6.5(a), provided that:

- (i) the meeting at which the resolution is made was called for the purpose of considering the matter;
 - (ii) the Member is given at least seven days' notice of the meeting of the Board and of the matters to be inquired into at such meeting; and
 - (iii) at the meeting and before the passing of any resolution, the Member has had an opportunity of giving orally or in writing any explanation or defence the Member may think fit and calling before the Board any person having knowledge of the facts of the matters in question to place such facts before the Board.
- (c) Any Member who is dissatisfied with any resolution of the Board passed pursuant to rule 6.5(b) may appeal to a Special General Meeting of the Members of the Association against such resolution. At such Special General Meeting the resolution of the Board may be confirmed, altered or rescinded by the majority of the Members attending and voting at such meeting.

7. DIVISIONS AND ZONES

7.1 Divisions

- (a) The Association may be divided into such Divisions as the Board may from time to time determine and the Board may make, alter and repeal regulations for the purpose of establishing, maintaining or dissolving Divisions.
- (b) Members shall be eligible for membership of Divisions according to the by-laws and regulations of the Division concerned.

7.2 General Division

- (a) Unless otherwise determined by the Board, in addition to the Divisions in existence at any one time, there will be a General Division which comprises of all Members who are not otherwise members of the other Divisions.
- (b) The General Division will be entitled to:
 - (i) appoint two representatives (being the chair and deputy chair of the General Division) to the Industry Advisory Council in accordance with rule 20.1(a);
 - (ii) nominate a candidate for the Board in accordance with rule 14; and
 - (iii) vote in the elections for the Board held in accordance with rule 13.

7.3 Zones

The Board may from time to time alter and repeal regulations, and draw up geographical boundaries, for the purpose of establishing, maintaining or dissolving Zones.

7.4 Governance of Divisions and Zones

- (a) The Board may from time to time make, alter and repeal by-laws and regulations for the conduct of the affairs of the Divisions and Zones, provided that the by-laws and regulations are not inconsistent with these Rules.
- (b) The Board may convene meetings of the members of Divisions and Zones when it deems necessary, provided that each Division and Zone must meet at least twice in each year.
- (c) Any member of a Division or Zone that is a company, partnership, association or other unincorporated body may choose to appoint one of its partners, directors, members or employees as its representative to attend meetings of that Division and Zone in lieu of its Nominated Representative. Where a Member is a member of more than one Division and Zone, separate representatives may be chosen for each Division and Zone. The Board must be notified of any such appointments and such appointments may be varied by similar notice.
- (d) The Chair will, ex officio, and the CEO will, in accordance with directions given by the Board, be entitled to attend any meetings convened by any Division or Zone.
- (e) A copy of the minutes of all meetings of the members of Divisions and Zones must be provided to the CEO.
- (f) The Association will not be responsible for any expenses incurred by any Division or Zone for which the authority has not been first granted by the Board, nor will any Division or Zone call for subscriptions from its members or impose levies on its members without obtaining prior written consent from the Board.

8. FEES AND SUBSCRIPTIONS**8.1 Fees payable by Members**

- (a) The Board may determine from time to time:
 - (i) the Application Fee (if any) payable by an applicant for Membership;
 - (ii) the Subscription payable by each Member annually;
 - (iii) any other amount to be paid by the Member, whether of a recurrent or any other nature; and
 - (iv) the payment method and due date for payment.

8.2 Calls

- (a) The Board may make a call or calls upon the members of a particular Division or Zone to fund a particular project or activity or service, without making any call upon other Members, in circumstances where that Division or Zone has requested the Board to undertake the project, activity or service and the Board has agreed.
- (b) Calls made under rule 8.2(a) must be for an amount or amounts that are necessary to cover the whole (or part, at the discretion of the Board) of the costs and expenses incurred by the Association in undertaking the project or activity or in providing the service.

8.3 Terms of payment

- (a) The Board may determine to accept payment of any Application Fee, Subscription, call or other sum payable by any Member to the Association by way of instalment and upon such other terms and conditions as may be determined by the Board.
- (b) The Board may require that Members who elect to pay amounts by instalment pay an amount that is greater than the Members who elect to pay in a lump sum, with the amount to be determined by the Board at its discretion.

9. GENERAL MEETINGS**9.1 Annual General Meeting**

Annual General Meetings of the Association are to be held:

- (a) before the end of September in each year; and
- (b) otherwise as determined by the Board (including date and venue).

9.2 Business of Annual General Meeting

The business of the Annual General Meeting shall be as follows:

- (a) **(Minutes)** The adoption of the minutes of the preceding Annual General Meeting and of any Special General Meeting(s) held since that meeting.
- (b) **(Financial Statements and Auditor Report)** To receive the financial statements in respect of the preceding year and the report of the auditor or auditors and the report of the Board on the affairs of the Association during the preceding year.
- (c) **(Appointment of Auditor)** The appointment of an auditor or auditors and the fixing of their remuneration.
- (d) **(Declaration of Officers)** The declaration of the result of the elections of Officers.
- (e) **(Life Membership)** The announcement of any Life Members elected by the Board.
- (f) **(Board Business)** The consideration of any business submitted to the meeting by the Board.
- (g) **(Member Business)** The consideration of any business, notice of which has been given in accordance with rule 9.5.
- (h) **(Other Business)** Any other business subject to compliance with rule 9.6.

9.3 Power to convene Special General Meeting

- (a) A Special General Meeting may be convened:
 - (i) by the Chair; or
 - (ii) by 3 members of the Board.

10. PROCEEDINGS AT GENERAL MEETING

- (b) The CEO must convene a Special General Meeting within one month of receipt by the CEO of a requisition signed by at least 25 Members stating the purpose for which the meeting is required.

9.4 Notice of General Meeting

At least 21 days' notice of the time and place of any General Meeting must be given to all Members entitled to attend the General Meeting, together with:

- (a) all information required to be included in accordance with the Associations Act;
- (b) in the case of a proposed Special Resolution, the intention to propose the Special Resolution and the terms of the proposed Special Resolution;
- (c) where applicable, any notice of motion received from any Member or member of the Board; and
- (d) where applicable, a list of all nominations received for positions to be elected at the relevant General Meeting.

9.5 Adding business

If any five Members wishing to bring forward any business for consideration at any General Meeting notify the CEO with at least 30 days' written notice, the CEO must add the business to the agenda for that General Meeting.

9.6 No other business

No business other than that stated in the notice of meeting may be transacted at a General Meeting, except in the case of an Annual General Meeting where other business may be proceeded with if consent is given by three-fourths of the Members present in person or proxy.

9.7 Proxy voting

- (a) Proxy voting shall be permitted at all General Meetings provided a proxy form in the form approved by the Board from time to time, has been duly completed and executed and is lodged with the CEO at least 72 hours before the commencement of the meeting.
- (b) Where a Nominated Representative is unable to attend the General Meeting a proxy may be appointed by the Member in which case the form of proxy must be signed by the Member concerned in the same manner as the appointment of the Nominated Representative.
- (c) The person appointed as proxy must be another Member.

9.8 Postal and electronic voting

Postal voting or voting by Electronic Communication at General Meetings of the Association may be permitted from time to time in such instances as the Board may determine and shall be conducted in accordance with procedures prescribed by the Board.

10. PROCEEDINGS AT GENERAL MEETING

10.1 Number for a quorum

At any General Meeting 25 Members present in person or by duly appointed representative or proxy shall form a quorum.

10.2 Requirement for a quorum

An item of business may not be transacted at a General Meeting unless a quorum is present and remains throughout the General Meeting.

10.3 No quorum

If within 15 minutes of the time appointed for the General Meeting a quorum is not present:

- (a) if the meeting was convened upon the requisition of Members, it shall be dissolved; or
- (b) in any other case, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to another day, time and place determined by the Board. If at the adjourned meeting a quorum is not present within fifteen minutes after the time appointed for the meeting, the Members present shall constitute a quorum.

10.4 Chair to preside over General Meetings

- (a) The Chair is entitled to preside as chair at General Meetings.
- (b) If a General Meeting is convened and there is no chair, or the Chair is not present within 15 minutes after the time appointed for the meeting or is unable or unwilling to act, the following may preside as Chair (in order of entitlement):
 - (i) a member of the Board (or other person) chosen by a majority of the members of the Board present;
 - (ii) the only member of the Board present; or
 - (iii) an authorised representative of a Member that is chosen by a majority of the Members.

10.5 Conduct of General Meetings

- (a) The Chair:
 - (i) has charge of the general conduct of the meeting and of the procedures to be adopted;
 - (ii) may require the adoption of any procedure which in his or her opinion is necessary or desirable for proper and orderly debate or discussion or the proper and orderly casting or recording of votes; and
 - (iii) may, having regard where necessary to the Associations Act, terminate discussion or debate on any matter whenever he or she considers it necessary or desirable for the proper conduct of the meeting.
- (b) A decision by the Chair under this rule 10.5 is final.

10.6 Adjournment of General Meeting

- (a) The Chair may with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.
- (b) The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and place agreed by vote of the Members present.
- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

10.7 Notice of adjourned meeting

- (a) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 30 days or more.
- (b) In that case, at least the same period of notice as was originally required for the meeting must be given for the adjourned meeting.

10.8 Questions decided by majority

Subject to the requirements of the Act and the Associations Act (if any) and except in the case of a Special Resolution, a resolution is carried if a simple majority of the votes cast on the resolution are in favour of it.

10.9 Equality of votes

Where an equal number of votes are cast in favour of and against the resolution, the Chair will have a casting vote in addition to the vote or votes to which the Chair may be entitled as a Member.

10.10 Declaration of results

- (a) At any General Meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a Poll is properly demanded and the demand is not withdrawn.
- (b) A declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the minutes of the meetings of the Association, is conclusive evidence of the fact.
- (c) Neither the Chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded for or against the resolution.

10.11 Poll

- (a) If a Poll is demanded by three Members, it must be taken in the manner and at the date and time directed by the Chair, and the result of the Poll is the resolution of the meeting at which the Poll was demanded. On a Poll each Member will have the number of votes fixed under clause 11.

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- (b) A Poll demanded on the election of a Chair or on a question of adjournment must be taken immediately.
 - (c) A demand for a Poll may be withdrawn.
 - (d) A demand for a Poll does not prevent the General Meeting continuing for the transaction of any business other than the question on which the Poll was demanded.

10.12 Objection to voting qualification

- (a) An objection to the right of a person to attend or vote at a General Meeting (including an adjourned meeting):
 - (i) may not be raised except at that meeting; and
 - (ii) must be referred to the Chair, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

10.13 Chair to determine any Poll dispute

If there is a dispute about the admission or rejection of a vote, the Chair must decide it and the Chair's decision made in good faith is final.

11. VOTING MEMBERS

11.1 Voting at elections

In the case of an election for Officers, only those Members who are included on the register of members of the Association as at 5:00 p.m. on the day seven days before the day on which nominations for such election open shall be entitled to vote.

11.2 Life Members

- (a) If a Life Member ceases to be genuinely engaged in the automotive industry or any allied or interested trade or business for a continuous period of 12 months or more, then that Life Member will not be entitled to vote on any question at any General Meeting or on a Poll or ballot or be counted towards a quorum during the period that the Life Member is not genuinely engaged in the automotive industry or any allied or interested trade or business.
- (b) Life Members who cease to be genuinely engaged in the automotive industry or any allied or interested trade or business for a continuous period of 12 months or more while holding an elected Office may retain that Office until the end of their term, and will be entitled to vote on any question at any General Meeting or on a Poll or ballot and be counted towards a quorum until the end of their term of Office.

11.3 Member in arrears

No Member shall be entitled to be present at, or vote on any question at, any General Meeting or upon a Poll or ballot or be counted towards a quorum whilst that Member's subscription is one month or more in arrears.

11.4 Votes of Members

At a General Meeting, on a show of hands and on a Poll, each Member shall have one vote. A Member's vote will be exercised by its Nominated Representative.

12. BOARD

12.1 Composition of the Board

The Association will have a Board of seven, at least one of which must be a Zone Representative, all of whom will be elected under rules 13 and 14 (as applicable) and hold office as members of the Board for two calendar years or until others are elected in accordance with these rules.

12.2 Term of Appointment

- (a) Members of the Board shall be elected in accordance with these Rules for a term of two years, which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the second Annual General Meeting following.
- (b) There is no cap on the number of terms a Member can be elected as a member of the Board.
- (c) Three members of the Board shall retire after the first year after election. The remaining four members of the Board shall retire after the second year after election, after which the members of the Board elected to the vacancies after the first year shall retire and so on. The members of the Board to retire and the year in which they retire will be determined by the Board, provided that the Chair must not retire after the first year. If the Board cannot agree, retirements will be determined by lot.

12.3 Remuneration of Board Members

A member of the Board may not be paid for services as a member of the Board but, with the approval of the Board and subject to the Associations Act, may be:

- (a) paid by the Association for services rendered to it other than as a member of the Board; and
- (b) reimbursed by the Association for their reasonable travelling, accommodation and other expenses when:
 - (i) travelling to or from meetings of the Board or the Association; or
 - (ii) otherwise engaged on the affairs of the Association.

12.4 Honorarium

The Association may in General Meeting by ordinary resolution determine to pay a member of the Board an ex-gratia payment.

13. ELECTION OF BOARD**13.1 Nominations**

- (a) Each Division and Zone is entitled to one nomination for the seven positions on the Board.
- (b) Each Division or Zone's nomination shall be elected by ballot by the members of that Division or Zone, and nomination is open to any member of that Division or Zone.
- (c) If the positions on the Board not up for election do not include a Board member who is a Zone Representative, there must be at least one nomination from a Zone Representative.

13.2 Returning Officer

The Board must, at least seven weeks prior to the date of the Annual General Meeting in each year, appoint a Returning Officer for the election.

13.3 Notifying Members

At least seven weeks prior to the date of the Annual General Meeting in each year the Board must notify Members of the vacancies occurring in the positions of Officers which are required to be filled at the Annual General Meeting.

13.4 Returning nominations

Nominations to fill vacancies must be returned to the Returning Officer at least five weeks prior to the Annual General Meeting. Nominations shall be in writing proposed by one Member entitled to vote on the election for which the nomination is made and seconded by another Member and shall be assented to by the nominee provided however that a retiring officer shall be deemed to have been duly nominated if the retiring officer assents in writing to stand for re-election.

13.5 Checking nominations

The Returning Officer shall check all nominations received to ensure they comply with these Rules and, subject to rule 13.6, reject any nominations that do not comply.

13.6 Nominated more than once

No person may be nominated by more than one Division or Zone. If a person is nominated by more than one Division and/or Zone, that person must give up all but one of the positions and each vacant position will be filled by someone appointed by the relevant Division or Zone.

13.7 Defective nominations

If the Returning Officer finds that a nomination is defective, the Returning Officer must, before rejecting the nomination, notify the person concerned of the defect and where practicable, give the person the opportunity of remedying the defect within a period no less than seven days after the person is notified.

13.8 Withdrawal of nomination

A person nominated for any Office may at any time prior to the closing of nominations withdraw their nomination which will render that person's nomination null and void.

13.9 Less candidates than vacancies

If on the closing of nominations the number of candidates does not exceed the number of vacancies to be filled, no vote shall be taken and the candidate or candidates shall be declared elected by the Returning Officer at the Annual General Meeting.

13.10 More candidates than vacancies

If at the closing of nominations more candidates are nominated for any Office than are necessary to fill such office, a ballot shall be held for such Office in accordance with rule 15.

14. ELECTION OF CHAIR AND DEPUTY CHAIR**14.1 Election process**

- (a) At the first meeting of the Board following the Annual General Meeting in each year, the Board will elect from among its members a Chair and Deputy Chair in accordance with this clause 14.1.
- (b) To be qualified for the Office of Chair, the candidate must have served as a member of the Board for a preceding term of at least one year.
- (c) The Returning Officer shall commence the election by calling for nominations for the positions of Chair and Deputy Chair.
- (d) Members of the Board will nominate for the position of Chair or Deputy Chair by filling out a nomination form and returning it to the Returning Officer. For the avoidance of doubt, members of the Board may self-nominate for the position of Chair or Deputy Chair. An individual member of the Board may not simultaneously hold the positions of Chair and Deputy Chair.
- (e) If no nominations are received for the positions of either Chair or Deputy Chair, the Returning Officer shall call for nominations for the particular position a second time.
- (f) Where the Returning Officer finds a nomination to be defective, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and give the person a reasonable amount of time to remedy the defect.
- (g) If the number of valid nominations for the positions of either Chair and Deputy Chair does not exceed the number of positions to be filled, the Returning Officer shall forthwith declare the person so nominated elected unopposed.
- (h) Where there is more than one nomination for the position of Chair or Deputy Chair, there shall be an election by secret ballot and the result ascertained on the basis of preferential voting.
- (i) The Returning Officer shall declare the result of the election after the conclusion of the ballot.

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- (j) The Returning Officer may make arrangements for the participation of a member of the Board in the ballot who will be absent from the meeting referred to in clause 14.1(a).
 - (k) If the result of an election conducted in accordance with clause 14.1(d) is a tie between two Officers, the winner will be decided by a second secret ballot to be undertaken when all seven members of the Board are present at a Board meeting, which must be within one month of the first election. If the Board does not convene with seven members within that time, the winner will be decided by the flip of a coin and declared elected by the Returning Officer.
 - (l) Each candidate shall have the right to appoint, before the close of the ballot, a scrutineer to represent them at the ballot and shall give notice of any such appointment to the Returning Officer. The role and duties of such scrutineers will be the same as those set out in clause 15.15(d).
 - (m) Each person elected to the positions of Chair and Deputy Chair will commence their term of office immediately upon being declared elected.
 - (n) Subject to this clause 14.1, the Chair and Deputy Chair will preside for one year or until his or her successor is elected.

14.2 Vacancy

- (a) If the position of Chair or Deputy Chair becomes vacant, the Board must appoint a person to the position within 14 days after the vacancy arises until the retiring officer's term of Office has expired, in accordance with section 146 of the Act.
- (b) If the person holding the positions of Chair or Deputy Chair ceases to be a member of the Board in accordance with clause 16, they shall also immediately cease to hold the position of Chair or Deputy Chair and the particular position shall be considered vacant for the purposes of this clause 14.2.

14.3 Interim chair of meetings

Until the positions of Chair and Deputy Chair have been filled in accordance with clause 14.1, any meetings of the Board shall be chaired by such person as the Board determines by way of a show of hands.

15. BALLOT

15.1 Secret ballot

Any ballot required for the election of Officers shall be a secret ballot and conducted in accordance with this rule 15.

15.2 Ballot papers

- (a) The Returning Officer must cause ballot papers to be printed setting out the names of the candidates for each office in alphabetical order indicating the number to be elected to each office, the manner in which votes are to be recorded and the date and time for closing of the ballot.
- (b) The Returning Officer must obtain from the printer a certificate of the number of ballot papers printed and shall initial each ballot paper prior to distribution.

15.3 Certified list of Members

The Returning Officer must obtain from the CEO a list of the Members entitled to vote on the ballot, which is certified as correct by the CEO. The list must contain the names of the Members numbered consecutively, including the names of all Nominated Representatives, and any further information the Returning Officer may reasonably require for the conduct of the ballot.

15.4 Setting date and posting ballot papers

The Returning Officer must:

- (a) determine the date of commencement of issuing ballot papers, which must not be less than 7 days prior to the date determined for the Annual General Meeting, and the time and date of the close of the ballot; and
- (b) cause to be posted by prepaid post to each Member entitled to vote a ballot paper initialled by the Returning Officer together with an envelope in which the ballot paper is to be sealed and which contains a Declaration Counterfoil and a reply paid envelope addressed to the private box stipulated by the Returning Officer.

15.5 Absentee vote

- (a) Any Member who will be absent from that Member's postal address, as shown in the register of members, may lodge with the Returning Officer a request for an absentee vote together with an address where they can receive communications.
- (b) If any Member has done so the Returning Officer must not declare the result of the ballot until the relevant Member has been given a reasonable opportunity to vote.

15.6 Notice to scrutineers

The Returning Officer must, at the same time as the ballot papers are posted to the Members entitled to vote under these Rules, notify the scrutineers (if any) of the time and place at which the Returning Officer proposes to conduct the ballot.

15.7 Managing ballot box

The Returning Officer must:

- (a) at all times control the ballot box;
- (b) inspect the ballot box to see that it is empty immediately prior to the opening of the ballot; and
- (c) seal the ballot box and ensure that it remains sealed until the time of the closing of the ballot.

15.8 Placing ballot papers in ballot box

The Returning Officer must, as the addressed return envelopes are delivered to the Returning Officer, open the envelopes and check the names of the Members on the ballot papers against the names

contained in the certified list obtained under rule 15.3 and place each envelope marked "Ballot Paper" in the ballot box.

15.9 Counting the votes

The Returning Officer must:

- (a) after the close of the ballot, open the ballot box and count all the votes cast, in accordance with clause 15.10;
- (b) after all the votes have been counted, place all the used and unused ballot papers in a strong parcel and then seal the parcel and hand it to the CEO.

15.10 Preferential counting for Zone Representative

- (a) If the positions on the Board not up for election do not include a Board member who is a Zone Representative, if after the votes have been counted there is no Zone Representative with enough votes to be elected, the Zone Representative with the most votes will be deemed to have one vote more than the nominee who would have the lowest number of votes needed to be elected were it not for this clause 15.10.
- (b) For the avoidance of doubt, if clause 15.10(a) is triggered, the Zone Representative with the highest number of votes will be elected and the nominee who would have the lowest number of votes needed to be elected were it not for this clause 15.10 will not be elected.

15.11 Declaring the results

- (a) A member of the Board must, at the Annual General Meeting, declare the results of the election.
- (b) The Returning Officer must, at the Annual General Meeting or before, submit a full report on the ballot indicating the number of ballot papers printed, the number distributed, the number on hand and any other relevant matters.

15.12 Completing and returning the ballot paper

- (a) Ballot papers shall be completed by the Member placing a cross in the square opposite the name of each candidate for whom the Member desires to vote, placing the ballot paper in the ballot paper envelope and sealing the envelope.
- (b) The Member or the Nominated Representative (as the case may be) must then sign the envelope and place it in the return envelope.
- (c) The Member will post or cause to be delivered to the Returning Officer the addressed return envelope not later than 4 p.m. on the day preceding the Annual General Meeting.

15.13 Defective ballot paper

If any ballot paper has been marked with some symbol other than a cross but which in the opinion of the Returning Officer clearly indicates the intention of the Member voting, the Returning Officer may, in the absence of any other defect, accept the ballot paper as formal.

15.14 Equality of votes

In the case of an equality of votes:

- (a) if only one of those who tie was an Officer in the preceding year, that candidate shall be elected;
- (b) if two or more of those who tie have been Officers in the preceding year, the Returning Officer shall decide by lot which of them shall be elected; or
- (c) if none of those who tie was an Officer in the preceding year, the Returning Officer shall decide by lot.

15.15 Scrutineers

- (a) Any candidate may appoint a scrutineer who shall be a Member to represent the candidate's interests at all stages, or at any stage, of the conduct of the ballot.
- (b) A candidate appointing a scrutineer must notify the Returning Officer of the appointment and the name of the scrutineer before the commencement of the ballot.
- (c) The Board may appoint a scrutineer or scrutineers in respect of any ballot.
- (d) The conduct and duties of scrutineers shall be as follows:
 - (i) a scrutineer shall be entitled to be present throughout a ballot and may query the inclusion or exclusion of any vote in the count, but the Returning Officer shall have final determination of any queried votes;
 - (ii) a scrutineer shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election;
 - (iii) a scrutineer must not interfere with, or attempt to influence, the casting of any Member's vote; and
 - (iv) in every case the scrutineer must observe any direction given by the Returning Officer and the Returning Officer must take all reasonable steps by notification or otherwise to enable each scrutineer to exercise the rights of a scrutineer, but no election shall be vitiated because a scrutineer does not exercise any or all such rights if the scrutineer has had reasonable opportunity so to do.

16. CESSATION OF OFFICE**16.1 Grounds for cessation of Office**

In addition to the circumstances in which the office of a member of the Board becomes vacant by virtue of the Act or the Associations Act, the office of a member of the Board becomes vacant if the member:

- (a) dies;
- (b) becomes bankrupt or insolvent under administration or makes any arrangement or composition with their creditors generally;

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- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
 - (d) resigns their Office in writing to the Association;
 - (e) is absent without the consent of the Board from three consecutive meetings of the Board such that it constitutes misconduct for the purposes of, and will be determined in accordance with, rule 16.1(g);
 - (f) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his or her interest such that it constitutes misconduct for the purposes of, and will be determined in accordance with, rule 16.1(g);
 - (g) is found guilty by a two-thirds majority of Members present at a Special General Meeting called for that purpose of:
 - (i) misappropriation of the funds of the Association;
 - (ii) a substantial breach of these Rules; or
 - (iii) gross misbehaviour or gross neglect of duty,

provided that the person has been afforded a reasonable opportunity to make written or oral submissions in their defence at the Special General Meeting; or
 - (h) would otherwise be prohibited from being a director of an association under the Associations Act.

16.2 Ceases to be eligible

If a person holding a position on the Board:

- (a) ceases to be eligible to hold the position of Nominated Representative of the Member they have been appointed by in accordance with rule 5.9; or
- (b) the Member to which the person has been appointed as Nominated Representative ceases to be eligible to be a Member of the Association;
- (c) is prohibited from being a director of an association under the Associations Act;
- (d) becomes bankrupt or insolvent under administration or makes any arrangement or composition with their creditors generally; or
- (e) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health,

a meeting of the Board must be held within 14 days to consider whether that person has ceased to be eligible to hold office of a member of the Board. If it is found that any of rules 16.2(a) to 16.2(e) is satisfied, the Board may, by a resolution carried by a two-thirds majority of the Board, resolve to remove the person from Office, whereby their position on the Board will become vacant.

17. CASUAL VACANCIES**17.1 Office of Chair becomes vacant**

In the event that the Office of Chair becomes vacant, the Board must fill the position from among its members by election in accordance with rule 14.1, with the necessary changes. Once the new Chair has been elected, his or her previously held Office will become vacant and dealt with under rule 17.2.

17.2 Office of member of the Board becomes vacant

- (a) In the event that a position on the Board, other than the position of Chair, becomes vacant, the Board may appoint the Nominated Representative of an appropriate Member to the vacant Office and the person will continue in Office up to the end of the term of the person they are replacing provided that:
 - (i) the unexpired portion of the term of Office in which the vacancy occurs does not exceed 12 months of the term; and
 - (ii) if the Board does not include a Zone Representative, the vacancy must be filled by a Zone Representative.
- (b) Where the unexpired portion of the term of Office in which the vacancy occurs exceeds 12 months of the term, then the position will be filled by election in accordance with rule 13, with the necessary changes, subject to the following rules:
 - (i) each of the Divisions and Zones that does not currently have a nominee on the Board (including the Division or Zone that nominated the individual in the position that has become vacant) may nominate one person to fill the vacant position on the Board; and
 - (ii) all Office Bearers are entitled to vote on the appointment from the selected nominees.

17.3 Term of Office

Any Member elected or appointed to a position in accordance with rules 17.1 or 17.2(b) will hold Office for the unexpired portion of their predecessor's term of Office.

17.4 Board may act

The continuing members of the Board may act notwithstanding any vacancy in its body.

18. POWERS AND DUTIES OF BOARD**18.1 Board to manage the Association**

The members of the Board are to manage the Association's business and may exercise those of the Association's powers that are not required, by the Act, the Associations Act or these Rules, to be exercised by the Association in General Meeting.

18.2 Specific powers of the Board

- (a) Without limiting rule 18.1, members of the Board may exercise all the Association's powers to borrow or raise money, to charge any property or business or give any other security for a debt, liability or obligation of the Association or of any other person.
- (b) Each member of the Board will have the power to perform any and all duties and functions required to be performed by an Officer as defined in the Act. Sole responsibility for the functions set out under the Act will rest with the Board.
- (c) A loan, grant or donation of an amount exceeding \$1,000 shall not be made by the Association unless the Board:
 - (i) has satisfied itself:
 - (A) that the making of the loan, grant or donation would be in accordance with these Rules; and
 - (B) in relation to a loan, that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
 - (ii) has approved the making of the loan, grant or donation.

18.3 Time, etc.

Subject to the Act, where these Rules requires that something be done by a particular time, or within a particular period, or that an event is to occur or a circumstance is to change on or by a particular date, the members of the Board may in their absolute discretion extend that time, period or date as they think fit.

18.4 Delegation of powers

- (a) The members of the Board may, by resolution or by power of attorney or writing under seal, delegate any of their powers to the CEO or any employee of the Association or any other person as they think fit.
- (b) Any delegation by the members of the Board of their powers:
 - (i) must specify the powers delegated, any restrictions on, and conditions attaching to, the exercise of those powers and the period during which that delegation is to be in force;
 - (ii) may be either general or limited in any way provided in the terms of the delegation;
 - (iii) need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position; and
 - (iv) may include the power to delegate.
- (c) If exercising a power depends on a person's opinion, belief or state of mind, then that power may be exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.
- (d) Any power exercised by a delegate is as effective as if it had been exercised by the members of the Board.

- (e) Any persons delegated powers of the Board can only act in accordance with the directions of the Board.

18.5 MTA Training and Employment

The members of the Board from time to time will sit as board members of MTA Training and Employment, in accordance with the constitution of MTA Training and Employment dated 21 May 2013. If a member of the Board ceases to be a member of the Board for any reason, they will also cease to be a board member of MTA Training and Employment.

19. PROCEEDINGS AT BOARD MEETINGS

19.1 Board meetings

- (a) Subject to rule 19.1(b), the Board may meet for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Board must meet at least six times in each calendar year.
- (c) At the discretion of the Board, members of the Industry Advisory Council may be permitted to attend and observe meetings of the Board, however they will not have a vote.

19.2 Questions decided by majority

A question arising at a meeting of the Board is to be decided by a majority of votes of the members of the Board present in person and entitled to vote. Each member of the Board present has one vote on a matter arising for decision by the Board.

19.3 Chair's casting vote

Where an equal number of votes are cast in favour of and against a question, the Chair will have a discretionary casting vote in addition to the vote or votes to which the Chair may be entitled as a member of the Board.

19.4 Quorum

Four members of the Board present in person constitutes a quorum.

19.5 Proxy voting

- (a) Proxy voting shall be permitted at meetings of the Board provided a proxy form in the form approved by the Board from time to time has been duly completed and executed and is lodged with the Board at or before the meeting.
- (b) The person appointed as proxy must be another member of the Board who is present at the relevant meeting.

19.6 Convening meetings

- (a) The CEO must convene a meeting of the Board on:
 - (i) the request of the Chair; or
 - (ii) a written requisition signed by two members of the Board (such request must state the purpose for which the meeting is to be convened).
- (b) Notice of a meeting of the Board must be given individually to each member of the Board (except a member on leave of absence approved by the Board). Notice of a meeting of the Board may be given in person, or by post or by telephone, facsimile or other electronic means.
- (c) A member of the Board may waive notice of a meeting of the Board by giving notice to that effect to the Association in person or by post or by telephone, facsimile or other electronic means.
- (d) A person who attends a meeting of the Board waives any objection that person may have in relation to a failure to give notice of the meeting.
- (e) The non-receipt of a notice of a meeting of the Board or the accidental omission to give notice of a meeting to a person entitled to receive notice does not invalidate anything done (including the passing of a resolution) at that meeting of the Board.

19.7 Chair

- (a) The Chair shall chair any Board meeting during their tenure as Chair.
- (b) Despite rule 19.7(a), if:
 - (i) there is no person elected as Chair; or
 - (ii) the Chair is not present within 15 minutes after the time appointed for the holding of the meeting; or
 - (iii) the Chair is unwilling to act,

the Deputy Chair will act as chair of the meeting. If the Deputy Chair is not present within 15 minutes after the time appointed for the holding of the meeting, the members of the Board present may elect one of their number to be chair of the meeting.

19.8 Written resolutions

- (a) The Board may pass a resolution without a meeting of the Board being held if all the members of the Board who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document may be used for signing by the members of the Board if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last member of the Board entitled to vote signs.
- (d) Any document referred to in rules 19.8(a) and 19.8(b) may be in the form of a facsimile transaction or electronic notification and is taken to be signed by a member of the Board if the document:

- (i) has been physically signed;
 - (ii) includes the Board member's electronic signature; or
 - (iii) the Association receives written confirmation from the member of the Board by email stating that the member of the Board is in favour of the resolution (and the Association has no reason to believe that the email was not sent by the member of the Board).
- (e) If a resolution is taken to have been passed in accordance with this rule 19.8, the Board must record the resolution in the Association's minute books.

19.9 Validity of acts of the Board

Everything done at a meeting of the Board, or by a person acting as a member of the Board, is valid even if it is discovered later that there was some defect in the appointment, election or qualification of any of them or that any of them was disqualified or had vacated office.

20. INDUSTRY ADVISORY COUNCIL

20.1 Composition and election of Industry Advisory Council

- (a) The Association will have an Industry Advisory Council consisting of two members from each Division (including the General Division), and the chair of each Zone.
- (b) The two representatives from each Division (including the General Division) must hold the position of chair and deputy-chair of their respective Divisions.
- (c) The Industry Advisory Council may from time to time invite third parties to attend some or all meetings of the Industry Advisory Council provided that those third parties are not entitled to vote.
- (d) The Chair shall act as chair of the Industry Advisory Council.
- (e) Any Division formed during the currency of any year may upon such formation appoint two representatives to the Industry Advisory Council and such representatives may hold office until the next regular Industry Advisory Council elections.
- (f) A member of a Division who already holds a position on the Board may also represent the Division on the Industry Advisory Council.
- (g) A person must not represent more than one Division and/or Zone on the Industry Advisory Council. If a person is appointed to the Industry Advisory Council by more than one Division and/or Zone that person must give up all but one of the positions and each vacant position will be filled by someone appointed by the relevant Division or Zone.
- (h) Where there is a change in chair or deputy chair of a Division or Zone, a casual vacancy will occur in the Industry Advisory Council and such vacancy will be filled by the new chair or deputy chair of that Division or Zone and notice of such appointment must be given to the CEO. This does not apply to positions filled in accordance with clause 20.1(g).
- (i) Notwithstanding any other provision of these Rules, the transitional arrangements set out in rule 33 will apply from the date of approval of these Rules.

20.2 Meetings of the Industry Advisory Council

- (a) The Industry Advisory Council must meet at least three times in each calendar year but may meet more regularly as it sees fit. At least 21 days' notice of a meeting must be given unless at least four members of the Industry Advisory Council representing at least two Divisions or Zones request a meeting at short notice.
- (b) Where a meeting is called at short notice at least seven days' notice must be given.
- (c) A member of the Industry Advisory Council may be represented by a proxy, provided the proxy is another member of the same Division or Zone.
- (d) 50% of the members of the Industry Advisory Council plus one additional member of the Industry Advisory Council will constitute a quorum for a meeting of the Industry Advisory Council.
- (e) Subject to the prior consent of the Chair, or in the Chair's absence the chair of the relevant meeting, a person entitled to attend a meeting of the Industry Advisory Council may attend the meeting via Electronic Communication.

20.3 Role of the Industry Advisory Council

- (a) The role of the Industry Advisory Council is to develop the industry policy position for the Association and for the interests of Members. The members of the Industry Advisory Council have a key role in bringing forward the industry policy positions from their various Divisions and Zones for broader consultation and development through the Industry Advisory Council.
- (b) The Industry Advisory Council may make decisions relating to industry policy development, the Association's approach to policy advocacy and the development of policy materials.
- (c) Any decisions that might impact on the governance of the Association (being the mechanisms, relations, and processes by which the Association is controlled and directed) must be referred to the Board.
- (d) The Industry Advisory Council must work within the existing budgets and strategic planning of the Association as set by the Board and may not work beyond these boundaries without the prior consent of the Board.
- (e) Where the Industry Advisory Council requires resources that are beyond the annual budgeted expenses of the Association or the Association's industry policy objectives, the Industry Advisory Council may make submissions to the Board to extend these resources or scope.
- (f) Where the Industry Advisory Council determines that an industry policy direction needs to extend beyond the existing strategic plans of the Association, the Industry Advisory Council may resolve to make submissions to the Board.
- (g) Submissions to the Board for resourcing, beyond that which has been budgeted for, or for significant changes to Association's industry policy direction, may be made, subject to a resolution of the Industry Advisory Council, through the CEO or the Chair at a meeting of the Board.
- (h) The Industry Advisory Council has no power to establish sub-committees.
- (i) For the avoidance of doubt:
 - (i) the Board is not bound by any decisions of the Industry Advisory Council;

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- (ii) the Industry Advisory Council does not determine the Association's operational policy; and
 - (iii) the Industry Advisory Council is not a committee of management.

20.4 Remuneration of Industry Advisory Council members

A member of the Industry Advisory Council may not be paid for services as a member of the Industry Advisory Council but, with the approval of the Board and subject to the Associations Act, may be:

- (a) paid by the Association for services rendered to it other than as a member of the Industry Advisory Council; and
- (b) reimbursed by the Association for their reasonable travelling, accommodation and other expenses when:
 - (i) travelling to or from meetings of the Industry Advisory Council or the Association; or
 - (ii) otherwise engaged on the affairs of the Association.

20.5 Structural relationships

- (a) The Industry Advisory Council is an advisory council to the Board and will report its minutes to the Board and the Office Bearers of each Division and Zone.
- (b) The CEO will report the actions of the Industry Advisory Council to the Board.

21. CHIEF EXECUTIVE OFFICER

21.1 Appointment of CEO

The Board may appoint a CEO.

21.2 Powers, duties and authorities of CEO

- (a) If appointed the CEO holds office (a) on the terms and conditions (including any remuneration) and with the powers, duties and authorities, determined by the Board.
- (b) The exercise of those powers and authorities, and the performance of those duties, by the CEO are subject at all times to the control of the Board.
- (c) The Board may appoint the CEO as the Public Officer of the Association. However, in accordance with rule 18.2(b), all obligations, responsibilities and functions required by the Act are vested in the Board.

21.3 Suspension and removal of CEO

Subject to the terms and conditions of the appointment, the Board may suspend or remove the CEO from that office.

21.4 Delegation by Board to CEO

- (a) Subject to clause 21.4(b), the Board may delegate to the CEO the power (subject to such reservations on the power as are decided by the Board) to conduct the day-to-day management and control of the business and affairs of the Association. The delegation will include the power and responsibility to:
- (i) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the Board and to implement them to the extent approved by the Board;
 - (ii) manage the financial and other reporting mechanisms of the Association;
 - (iii) approve and incur expenditure subject to specified expenditure limits;
 - (iv) sub-delegate his or her powers and responsibilities to employees or internal management committees of the Association; and
 - (v) any other powers and responsibilities which the Board considers appropriate to delegate to the CEO.
- (b) The CEO can only act in accordance with the directions of the Board.

21.5 CEO to attend meetings

If appointed the CEO is entitled, subject to a determination otherwise by the Board, to attend all meetings of the Association, all meeting of the Board and any committees and may speak on any matter, but does not have a vote.

22. COMMITTEES**22.1 Committees**

The Board may by written instrument delegate any of their powers to Committees consisting of such persons they think fit (including members of the Board, individuals and consultants), and may vary or revoke any delegation.

22.2 Powers delegated to Committees

- (a) A Committee must exercise the powers delegated to it according to the terms of the delegation and any directions of the Board. A Committee is responsible to and reports to the Board.
- (b) Powers delegated to and exercised by a Committee are taken to have been exercised by the Board.
- (c) A Committee can only act in accordance with the directions of the Board.

22.3 Committee meetings

Committee meetings are governed by the provisions of these Rules dealing with Board meetings, as far as they are capable of application.

23. EXPENDITURE OF THE ASSOCIATION

23.1 Policies and procedures

The Association shall develop and implement policies and procedures relating to the expenditure of the Association.

23.2 Finance, Audit and Investment Committee

- (a) The Board is responsible for the investment of funds of the Association, and capital investments may only be made by motion of the Board.
- (b) The Board may delegate day-to-day management of the Association's finance, audit and investment functions to a Finance, Audit and Investment Committee.
- (c) The Finance, Audit and Investment Committee must provide to the Board as required, and not less than quarterly, a statement of invested funds and income.
- (d) The Finance, Audit and Investment Committee will comprise of:
 - (i) two members of the Board, appointed by the Board as required for terms not exceeding four years, but may be re-appointed provided that a person so appointed or re-appointed will cease to be a member of the Finance, Audit and Investment Committee on ceasing to be a member of the Board;
 - (ii) the Financial Controller of the Association;
 - (iii) the CEO;
 - (iv) the Audit Partner and Audit Manager of the Association's external accountants; and
 - (v) an independent advisor with relevant financial expertise.
- (e) The Finance, Audit and Investment Committee may as required appoint one of its members to be chair of the Finance, Audit and Investment Committee.
- (f) Subject to this clause 23.2, and any general directions from the Board, the Finance, Audit and Investment Committee shall broadly carry out the following functions:
 - (i) managing the investment of the funds of the Association which may include engaging brokers, bankers, agents and consultants to act as advisors, dealers and generally on their behalf in relation to the funds of the Association;
 - (ii) discuss the financial position of the Association and the Automotive Training and Employment Centre;
 - (iii) manage financial controls for the Association; and
 - (iv) oversee the audit of the Association in accordance with clause 27.

23.3 Financial training

Any Officer of the Association whose duties include duties that relate to the financial management of the Association must, within six months after that person begins to hold Office, complete a training program which covers each of the Officer's financial duties and has been approved by the General Manager of the Fair Work Commission.

24. TELECOMMUNICATION MEETINGS OF THE ASSOCIATION**24.1 Telecommunication meeting**

- (a) A General Meeting or a meeting of the Board may be held by means of a telecommunication meeting, provided that:
 - (i) the number of Members or members of the Board (as applicable) participating is not less than a quorum required for a General Meeting or meeting of the Board (as applicable); and
 - (ii) the meeting is convened and held in accordance with the Act and the Associations Act.
- (b) All provisions of these Rules relating to a meeting apply to a telecommunication meeting in so far as they are not inconsistent with the provisions of this clause 24.

24.2 Conduct of telecommunication meeting

The following provisions apply to a telecommunication meeting of the Association:

- (a) all persons participating in the meeting must be linked by telephone, audiovisual or other instantaneous means for the purpose of the meeting;
- (b) each of the persons taking part in the meeting must be able to hear and be heard by each of the other persons taking part at the commencement of the meeting and each person so taking part is deemed for the purposes of these Rules to be present at the meeting;
- (c) at the commencement of the meeting each person must announce his or her presence to all other persons taking part in the meeting;
- (d) a person may not leave a telecommunication meeting by disconnecting his or her telephone, audio-visual or other communication equipment unless that person has previously notified the Chair;
- (e) a person may conclusively be presumed to have been present and to have formed part of a quorum at all times during a telecommunication meeting unless that person has previously notified the Chair of leaving the meeting; and
- (f) a minute of proceedings of a telecommunication meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the Chair.

25. RECORDS, ACCOUNTS AND ADMINISTRATION**25.1 Minutes**

- (a) The CEO shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board and produce those records and minutes as appropriate at each Board meeting or General Meeting.
- (b) Minutes of meetings of the Board and General Meetings must record:
 - (i) the business considered at the meeting;
 - (ii) any resolution on which a vote is taken and the result of the vote; and
 - (iii) the names of persons present at all meetings.
- (c) Minutes of meetings shall be confirmed by the members present at the next meeting and shall be signed by:
 - (i) the chair who presided at the meeting at which the minutes were taken; or
 - (ii) the chair presiding at the meeting at which the minutes are confirmed.
- (d) Minutes must be entered in books kept for that purpose and stored at the Registered Office of the Association and not be removed from the Registered Office without the consent of the Board.

25.2 Records

Books, documents, securities and proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct. All such records and the books of account shall, in accordance with directions given by the Board, be kept in the care and control of the CEO at the Registered Office of the Association and not be removed from the Registered Office without the consent of the Board.

25.3 Financial report

The CEO must, in accordance with directions given by the Board, at the end of each month prepare a financial report which includes a statement of the revenue and expenditure of the Association for the preceding month and a balance sheet of the assets and liabilities of the Association. The statement of revenue and expenditure and the balance sheet prepared as at the end of the month of March in each year shall be presented to the Board at its last meeting prior to the Annual General Meeting.

25.4 Submitting accounts

The Board will submit to the Annual General Meeting the accounts of the Association in accordance with the Associations Act and will distribute copies of financial statements as required by the Associations Act.

25.5 Transactions

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association, shall be signed, drawn, accepted, endorsed or

otherwise executed, as the case may be, in such manner and at such time as the Board determine from time to time.

26. INSPECTION OF RECORDS

26.1 Records for inspection

- (a) Members may on request inspect free of charge the minutes of General Meetings and any other documents permitted by the Associations Act.
- (b) The minutes of meetings of the Board shall not be available for inspection or copying by the Members.

26.2 Refusal of inspection

Subject to section 39D of the Associations Act, the Board may refuse to permit a member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.

26.3 Copies of these Rules

The Board must on request make copies of these Rules available to Members and applicants for membership free of charge.

26.4 Copies of records

Subject to rule 26.1(b), a Member may make a copy of any of the other records of the Association referred to in this clause and the Association may charge a reasonable fee for provision of a copy of such a record.

26.5 Definitions for this clause

For the purposes of this clause relevant documents means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following:

- (a) its financial statements;
- (b) its financial records; and
- (c) records and documents relating to transactions, dealings, business or property of the Association.

27. AUDIT**27.1 Auditor appointment**

A properly qualified auditor or auditors will be appointed by the Association at each Annual General Meeting and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Corporations Act.

27.2 Removal of auditor

Members may remove an auditor from office by resolution made at a General Meeting in accordance with the Associations Act.

27.3 Power of auditor

The auditor or auditors will for audit purposes only have power at any time to call for the production of all books accounts and documents relating to the financial affairs of the Association.

27.4 Yearly audit

The auditor or auditors will audit the yearly accounts of the Association prior to their submission to the Annual General Meeting and if correct the auditor or auditors will certify the accounts accordingly.

27.5 Tenure of auditor

The auditor or auditors will hold office from the time of the appointment until the next Annual General Meeting of the Association unless the auditor or auditors have died or retired. Any casual vacancy occurring in the office of auditor may be filled by resolution of the Board.

27.6 Retiring auditor

A retiring auditor will be eligible for reappointment.

27.7 Remuneration of auditor

The remuneration of any auditor or auditors will be fixed by the Association at the Annual General Meeting except that if the Association at the Annual General Meeting so determines the remuneration may be fixed by the Board.

28. INDUSTRIAL AND LEGAL MATTERS**28.1 Power to submit disputes**

The power of submitting industrial disputes to conciliation and arbitration in the name of the Association to Fair Work Australia shall be vested in the Board.

28.2 Execution of documents

Industrial agreements and other documents may be executed by and on behalf of the Association under its seal.

28.3 Limitation of liability

- (a) Neither the Association nor any Member, officer, servant, employee or agent of the Association shall be liable to any Member for any loss or any damage, injury or death of the person or property of that Member, arising directly or indirectly from any advice or information given or any omission to give advice or information by the Association or any other Member or Members of the Association or its officers, servants, agents or employees acting on behalf of the Association.
- (b) Nothing in this rule 28 shall or shall be deemed to limit or exclude the liability of the Association, if any, to any Member whether as a Member, officer, servant, agent or employee of the Association or otherwise, if that liability may not by reason of any relevant statute legislation regulation or common law be excluded or limited by these Rules.
- (c) The Association shall act, and shall be deemed to act, for all matters arising from this rule 28 and the exemptions from liability, as the agent of each of its Members, officers, servants, employees and agents respectively.

28.4 Representation in legal proceedings

The Board may from time to time authorise and appoint any Officer or Member to represent the Association or any Member in any proceedings before any court or commission or other legal conciliation or arbitration tribunal or authority if such proceedings appear to be of concern to the Association.

29. NOTICE AND SERVICE**29.1 Document includes notice**

In this rule 29, document includes a notice.

29.2 Methods of service on a Member

The Association may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the register of Members or an alternative address nominated by the Member; or
- (c) by sending it to a fax number or email address nominated by the Member.

29.3 Methods of service on the Association

A Member may give a document to the Association:

31. COMMON SEAL

- (a) by delivering it to the Registered Office;
- (b) by sending it by post to the Registered Office; or
- (c) by sending it to a fax number or email address nominated by the Association.

29.4 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, or sent from an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the second business day after the date of its posting.

29.5 Electronic transmission

If a document is sent by any form of electronic transmission, delivery of the document is taken to:

- (a) be effected by properly addressing and transmitting the electronic transmission; and
- (b) have been delivered on the business day following its transmission.

29.6 Failure to give notice

Accidental failure to give notice to any Member of any proceedings shall not invalidate such proceedings.

30. WINDING UP

- (a) If on the winding up or dissolution of the Association, and after satisfaction of all its debts and liabilities, any property remains, that property must be given or transferred to another body or bodies:
 - (i) having objects similar to the Objects of the Association; and
 - (ii) whose constitution prohibits (or each of whose constitutions prohibit) the distribution of its or their income and property among its or their members to an extent at least as great as is imposed under these Rules.
- (b) That body is, or those bodies are, to be determined by the Members at or before the time of dissolution or, failing that determination, by a judge who has or acquires jurisdiction in the matter.

31. COMMON SEAL

- (a) The seal of the Association must:
 - (i) be used by the authority of the Board only:

33. TRANSITIONAL ARRANGEMENTS

- (ii) be kept in the custody of the CEO; and
 - (iii) not be affixed to any instrument except by the CEO or some other person under the authority of the Board who must sign every document to which the seal is affixed and the affixing of the common seal shall be attested by the signatures of two members of the Board.
- (b) A member of the Board may not sign a document to which the seal of the Association is fixed where the member of the Board is interested in the contract or arrangement to which the document relates.

32. ALTERATION OF RULES

These Rules may be altered, added to or rescinded and new rules may be made only at a General Meeting of the Association called for that purpose; provided that such alterations, additions or rescissions or new rules are agreed to by not less than twothirds of the Members present in person or by proxy at such meeting.

33. TRANSITIONAL ARRANGEMENTS

- (a) Notwithstanding any other provisions of these Rules, the transitional arrangements set out in this rule 33 shall apply from the date of adoption of these Rules under the Act.
- (b) On and from the date of adoption of these Rules under the Act:
 - (i) the members of the executive board will resign as members of the executive board and be appointed as members of the Board; and
 - (ii) the members of the board of management will resign as members of the board of management and be appointed as members of the Industry Advisory Council.
- (c) The members of the Board and the Industry Advisory Council in place from the date of approval of these Rules under the Act shall continue in those positions until the next Annual General Meeting following such approval, at which time all Board and Industry Advisory Council members will resign and thereafter the positions on the Board and Industry Advisory Council shall be filled by an inaugural election in accordance with these Rules (provided that half of the Board shall be elected for a one year term and the other half shall be elected for a two year term, to allow for alternate elections of the Board), and thereafter filled, vacated and otherwise dealt with in accordance with these Rules.
- (d) For the avoidance of doubt, from the date of approval of these Rules under the Act, the executive board and the board of management in place immediately prior to approval of these Rules under the Act shall be replaced by the Board and the Industry Advisory Council and the executive board and the board of management shall cease to exist in their current form.
- (e) For the avoidance of doubt, any terms served on the executive board in place prior to the approval of these Rules under the Act shall count for the purposes of rule 14.1.
- (f) All by-laws and regulations of the Association in force at the date of the approval of these Rules under the Act insofar as such by-laws and regulations are not inconsistent with, or have been replaced by these Rules, shall remain as by-laws and regulations of the Association.
- (g) All individuals who are, prior to the approval of these Rules under the Act, members of the Association shall be deemed Members of the Association from the time of approval of these Rules under the Act.

*****END OF RULES*****