



# **Constitution**

**Australian Racing Drivers Club Limited**

**ABN: 85 000 110 609**

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## CONSTITUTION OF THE ARDC

### 1 Preliminary

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#### 1.1 Definitions

In the construction of this Constitution, unless the contrary intention appears:

“**AGM**” means an annual general meeting.

“**Appointed Director**” means a person not elected by Members but appointed to the Board in accordance with **clause 16.3** based on their skills and expertise.

“**ARDC**” means the Australian Racing Drivers Club Limited ACN 000 110 609.

“**Associate Member**” means any natural person admitted to Membership on the basis that they satisfy the requirements of the associate member category set out in **clause 7.2(b)**.

“**Auditor**” means any auditor of ARDC appointed in accordance with the Corporations Act.

“**Board**” means collectively the members of the board of directors of the ARDC for the time being (including any casual appointee), or a quorum of Directors present at a meeting of them.

“**Business Day**” means a day other than a Saturday or Sunday or a public holiday in New South Wales.

“**Chairperson**” means the person acting as chairperson of a meeting under this Constitution.

“**Committee**” means a committee of the ARDC formed by the Board in accordance with **clause 26**.

“**Competition Licence**” means a licence allowing a person to compete in any form of club level motorsport determined by the Board.

“**Competitor Member**” means:

- (a) any person admitted to Membership on the basis that they hold or have held a Competition Licence; or
- (b) the Partner of a person referred to in **sub-clause (a)** who does not or has not held a Competition Licence and who subject to this constitution, may retain membership in this class after the death of the person who holds or has held a Competition Licence.

“**Constitution**” means the Constitution of the ARDC in force for the time being.

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

“**Deputy Vice President**” means the person elected to this position in accordance with **clause 18**.

“**Elected Directors**” means subject to **clause 19.3** and **clause 19.4**, a person elected by Members at a General Meeting.

“**Foundation Member**” means a person who became a Member prior to 19 November 2011 and who has been assigned a member number between 1 and 3200 (inclusive).

“**Full Member**” means a person admitted to Membership on the basis that they satisfy the requirements of the full member category set out in **clause 7.3**.

“**General Meeting**” means a meeting of members duly called and constituted in accordance with this Constitution and any adjourned holding of it and includes the AGM.

“**Honorary Member**” means a person described in **clause 7.3(d)**.

“**Life Member**” means a person described in **clause 7.3(b)**.

“**Member**” means any person entered in the Register as a member for the time being of the ARDC and Membership has a corresponding meaning.

“**Member Present**” means a Member present at any General Meeting.

“**Official**” means a person having this position being such volunteer and administration officials who are approved by ARDC in accordance with criteria determined by the Board.

“**Partner**” means persons who are either legally married to one another or who meet the requirements of the term de-facto relationship in section 4AA of the *Family Law Act 1975* (Cth).

“**President**” means the person elected to this position in accordance with **clause 18**.

“**Register**” means the register of Members kept in accordance with the Corporations Act and includes any branch register.

“**Registered Office**” means the registered office for the time being of the ARDC.

“**Replaceable Rules**” means the replaceable rules applicable to a public company limited by guarantee set out in the Corporations Act.

“**Returning Officer**” means a person selected by the Board in accordance with **clause 17.3** to oversee the conduct of a Board election.

“**Secretary**” means any person appointed to perform the duties of secretary of the ARDC and includes an assistant secretary or any person appointed to act as such temporarily.

“**Special Resolution**” has the meaning given to it by the Corporations Act.

“**Surplus**” has the meaning given to it by **clause 6.2**.

“**Vice President**” means the person elected to this position in accordance with **clause 18**.

“**Voting Member**” means a Full Member who has reached the age of 18 and who has paid all amounts due and payable to ARDC.

### 1.2 Interpretation

In the construction of this Constitution:

- (a) headings are disregarded;
- (b) words importing persons include partnerships, associations, corporations, companies unincorporated and incorporated whether by Act of Parliament or otherwise, as well as individuals;
- (c) singular includes plural and vice versa and words importing any gender include all other genders;

- (d) except for the definitions in the preceding clause, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Law, the same meaning as in that provision of the Law;
- (e) all references to statutory provisions are construed as references to any statutory modification or re-enactment for the time being in force;
- (f) a reference to a day is a reference to a calendar day unless the provision specifically states that the reference is to a Business Day.

### **1.3 Exclusion of Replaceable Rules**

This Constitution displaces the Replaceable Rules to the extent it is inconsistent with the Replaceable Rules.

## **2 Name of the Company**

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The name of the ARDC is “Australian Racing Drivers Club Limited”.

## **3 Objects**

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The objects for which the ARDC is established are:

- (a) to promote and conduct the sports of motor car racing, motorcycle racing, reliability trials and contests and all other games, sports, recreation or pastimes in or with motor cars, motorcycles, motor vehicles of all kinds, whether propelled by mechanical or other means;
- (b) to promote, conduct and hold either alone or jointly with any other association, club, corporation or persons, motor vehicle races and contests, reliabilities and other trials and any other sports or meetings, competitions or matches with motor cars, motorcycles, bicycles and motor vehicles of all kinds whether propelled by mechanical or any other means;
- (c) to undertake such income generating activities as may be determined by the ARDC from time to time to support the objects set out in **sub-clauses 3(a)** and **3(b)**;
- (d) to do anything ancillary for the purpose of carrying out the above objects.

## **4 Limited Liability**

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### **4.1 Members' Liability**

The liability of the Members is limited.

### **4.2 Members' Contributions**

Every Member undertakes to contribute to the assets of the ARDC if it is wound up while they are a Member, or within one year after they cease to be a Member, for:

- (a) the payment of the debts and liabilities of the ARDC, contracted before they ceased to be a Member;
- (b) the expenses of winding up the ARDC; and
- (c) the adjustment of the rights of the contributories amongst themselves.

#### **4.3 Amount of Members' Contributions**

The amount of the contribution under **clause 4.2** must not exceed \$10 in any circumstances.

### **5 Use Of The Property By The Company**

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#### **5.1 Application of ARDC Property**

All income and property of the ARDC must be applied for the objects of the ARDC as set out in **clause 3**. No portion of the income or property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit or return of capital to Members.

#### **5.2 Payments by the ARDC**

Nothing in **clause 5.1** prevents the payment in good faith of reasonable and proper:

- (a) remuneration to any of the officers, employees or contractors of the ARDC or to any member in return for any services actually rendered to the ARDC;
- (b) interest on money borrowed from any member of the ARDC for any of the purposes of the ARDC (provided the interest rate does not exceed the rate charged by the ARDC's bank on similar borrowings);
- (c) rent for premises let by any member to the ARDC; nor
- (d) payment for any goods supplied to the ARDC by any member.

#### **5.3 Remuneration Payments**

No remuneration or other benefit (including, without limitation, salaries, wages, commissions, fees, rewards, allowances, bonuses, incentive schemes or profit-sharing schemes) may be paid or given by the ARDC to any Director except:

- (a) for the reimbursement of out-of-pocket expenses incurred on reasonable commercial terms in carrying out the duties of a Director where the amount does not exceed an amount previously approved by a resolution of the Board;
- (b) for any service rendered to the ARDC in a professional or technical capacity, where the terms of service are on reasonable commercial terms and have been previously approved by a resolution of the Board.

### **6 Winding Up**

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#### **6.1 Winding Up by Resolution**

The ARDC may only be voluntarily wound up if:

- (a) a General Meeting has been convened solely to consider the passing of a resolution to voluntarily wind up the ARDC; and
- (b) a Special Resolution of Full Members present and entitled to cast votes at the meeting is passed;
- (c) the procedure for a voluntary winding up in the Corporations Act is followed.

## 6.2 Surplus

If, on the winding up or dissolution of the ARDC, after the satisfaction of all its debts and liabilities, any property remains, the Surplus must not be paid or distributed among the members of the ARDC.

## 6.3 Transfer of Surplus

The Surplus must be given or transferred to some other institution or institutions having objects similar or in part similar to the objects of the ARDC, and which shall also prohibit the distribution of its or their property among its or the members. Such institution or institutions must be determined by Members at or before the time of dissolution or in default thereof by the Chief Judge of such Court as may have or acquire jurisdiction in the matter.

# 7 Membership

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## 7.1 Eligibility

A natural person who:

- (a) has made an application for membership of the ARDC in accordance with this Constitution or to whom the Board resolves to offer membership of the ARDC; and
- (b) meets such criteria, as may be established by the Board from time to time, for one or more of the membership categories set out in **clause 7.2**; and
- (c) has paid all necessary fees and subscriptions,

is eligible for admission to membership of the ARDC in the appropriate membership category or categories, subject to their application being approved by the Board.

## 7.2 Membership Categories

The membership of the ARDC shall be divided into the following categories:

- (a) Full Members (Voting) comprising:
  - (i) Foundation Members (being full members prior to 19.11.2011);
  - (ii) Life Members;
  - (iii) Competitor Members;
  - (iv) Officials;
  - (v) any other categories of persons that may be determined by the Board;
- (b) Associate Members (Non-Voting); and
- (c) Honorary Members (Non-Voting).

## 7.3 Category Profiles

Category profiles for each class of Membership are as follows:

- (a) **Full Members** must meet the requirements of one of the categories set out in **clause 7.2(a)** and shall have the full privileges of membership. Subject to this Constitution, the criteria for eligibility of Full Members being admitted to the relevant category set out in **clause 7.2(a)** are at the full discretion of the Board.

- (b) **Life Members** shall be those Full Members whose liability for payment of an annual subscription shall have been waived for life by the ARDC. Life Membership may be conferred by the Board upon a Member who has rendered outstanding service to the ARDC or to motor racing in accordance with such procedures as determined by the Board.
- (c) **Associate Members** shall comprise persons having such qualifications for membership and on whom shall be conferred such rights, privileges as shall be determined by the Board from time to time.
- (d) **Honorary Members** shall be those persons who in the opinion of the Board who have rendered outstanding service to the ARDC or to motor racing and should be admitted as an Honorary Member. The Board may at any time waive any fees or subscriptions payable to ARDC by a person who is an Honorary Member.

### 7.4 Voting Rights

Only Full Members (including Life Members) are entitled to take part in the governance of the ARDC and to vote at any General Meeting subject to their satisfying the criteria for being a Voting Member as set out in **clause 1.1**. For the avoidance of doubt, Associate Members and Honorary Members cannot be Voting Members.

### 7.5 Membership Application

- (a) Except for Members in Honorary Member and Life Member classes every candidate for Membership of the ARDC must complete the Membership application procedure determined by the Board from time to time. Any fees or annual subscriptions payable upon being admitted as a Member must be paid to the ARDC at the time of application.
- (b) As soon as practicable after receiving an application for Membership, the Secretary must refer the application to the Board or its delegate which is to determine whether to approve or reject the application.
- (c) For the avoidance of doubt, the Board may delegate the decision-making responsibility in this **clause 7.5** to any person(s).
- (d) As soon as practicable after the Board (or its delegate) makes the determination to approve or reject a Membership Application, the Secretary must:
  - (i) notify the applicant, in writing, that the Board (or its delegate) approved or rejected the application (whichever is applicable); and
  - (ii) if the application was approved, enter the applicant in the Register and, subject to the Corporations Act, the person becomes a member on them being so entered; or
- (e) if an application for Membership is rejected, the Board will not be required to provide the applicant with any reasons for the rejection.

### 7.6 Consequences of Membership

Every person admitted to Membership shall be bound by this Constitution and by the ARDC's By-Laws from time to time in force and the payment by a person of any fees and / or said subscriptions shall be conclusive evidence of that person's agreement.

## **7.7 Register of Members**

ARDC must establish and maintain a Register of Members. The Register must be kept by the Secretary at the Registered Office and must contain:

- (a) for each current Member:
  - (i) their name;
  - (ii) their address;
  - (iii) any alternative address or addresses provided by the Member for the service of notices;
  - (iv) their class of Membership;
  - (v) the date the Member was entered on to the Register; and
- (b) for each person who ceased to be a Member in the last seven (7) years:
  - (i) their name;
  - (ii) their address last listed on the Register, or any alternative address nominated by the Member for the service of notices; and
  - (iii) the dates their Membership started and ended.

## **7.8 Membership Entitlements are not Transferable**

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

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

## **8 Entrance Fees and Annual Subscriptions**

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### **8.1 Determination of fees**

The entrance fees, annual subscriptions and other annual fees or charges payable by any class of Members, the times and manner of payment thereof and all related matters not specifically provided for by this Constitution shall be determined by the Board from time to time. For the avoidance of doubt:

- (a) different fees and charges may be set and payable for different categories of Membership;
- (b) the Board may determine that no entrance fee or annual subscription is payable by a Member or Members (in whole or in part) in a given year;
- (c) the Board may in its discretion extend the time for payment of the entrance fee or annual subscription by any Member;
- (d) no part of any entrance fee, subscription or other annual fee or charge will be refunded to a Member who ceases to be a Member.

### **8.2 Payable in advance**

Entrance fees and annual subscriptions and any other fees or charges payable annually shall be payable in advance.

## **9 Cessation of Membership and Disciplinary Proceedings**

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### **9.1 Cessation of Membership**

A person immediately ceases to be a Member if the person:

- (a) dies;
- (b) resigns by notice in writing to the Secretary;
- (c) is expelled in accordance with this Constitution;
- (d) becomes bankrupt or insolvent or makes an arrangement or compromise with creditors of the person's joint or separate estate;
- (e) has not responded within three months to a written request from the Secretary asking the person to confirm in writing that the person wants to remain a Member;
- (f) has their Membership terminated by resolution of the Board as a result of the person ceasing to satisfy the eligibility criteria for Membership, provided that the Member was given reasonable notice of the proposed resolution and an opportunity to address the Board on the issue prior to the resolution being passed.

### **9.2 Continuation of Liability**

A Member remains liable for any monies due by the Member to ARDC under this Constitution, despite Membership ending.

### **9.3 Initial resolution of the Board**

Where the Board is of the opinion that a Member:

- (a) has refused or neglected to comply with a provision of this Constitution; or
- (b) has acted in a manner prejudicial to the interests of the ARDC; or
- (c) has been guilty of conduct unbecoming a Member,

the Board may, by passing a resolution at the meeting ("**the initial resolution**"):

- (d) reprimand the Member.
- (e) suspend the Member from Membership for a specified period; or
- (f) expel the Member from the ARDC

### **9.4 Suspended operation**

An initial resolution is of no effect unless the Board, at a meeting held not earlier than 10 Business Days and not later than twenty (20) Business Days after service on the Member of a notice under the next clause, confirms the initial resolution in accordance with the following provisions of this **clause 9**.

### **9.5 Notice to member**

The Secretary must, as soon as practicable following the passing of the initial resolution, cause a notice in writing to be served on the Member, that notice:

- (a) setting out the initial resolution of the Board and the grounds on which it is based;

- (b) stating that the Member may personally address the Board at a meeting of the Board to be held not earlier than ten (10) Business Days and not later than twenty (20) Business Days after service of the notice;
- (c) stating the date, place and time of that meeting of the Board; and
- (d) informing the Member that the Member may do either or both of the following:
  - (i) personally attend and speak at that meeting of the Board;
  - (ii) submit to the Board at or prior to the date of that meeting written representations relating to that resolution.

#### **9.6 Confirming resolution of the Board**

At a meeting of the Board held as referred to in the preceding clause, the Board must:

- (a) give the Member an opportunity to make personal oral representations;
- (b) give due consideration to any written representations submitted to the Board by the Member at or prior to the meeting; and
- (c) by resolution passed by at least two-thirds (2/3) of the Board present at the meeting (“**the confirming resolution**”) confirm or revoke the initial resolution.

#### **9.7 Natural Justice**

Natural justice must be applied during every disciplinary process, requiring the Board to act fairly, in good faith and without bias or conflict of interest when passing the initial resolution or the confirming resolution.

#### **9.8 Notice to member**

The Secretary must, within five (5) Business Days of the passing of the confirming resolution, by notice in writing, inform the Member of the outcome of the resolution and of the Member’s right of appeal under this Constitution.

#### **9.9 Suspended operation**

A confirming resolution does not take effect:

- (a) until the expiration of the period within which the Member is entitled to appeal against the confirming resolution (if the Member does not exercise the right of appeal within that period); or
- (b) if within that period the Member exercises the right of appeal, unless and until a General Meeting confirms the resolution pursuant to **clause 9.13**.

#### **9.10 Right of appeal**

A Member may appeal against a confirming resolution, within five (5) Business Days after notice of the confirming resolution is served on the Member, by lodging with the Secretary a notice to that effect.

#### **9.11 Calling of meeting of members**

Upon receipt of a notice from a Member under **clause 9.10**, the Secretary must immediately notify the Board of the receipt of the notice of appeal. Within fifteen (15) Business Days after the date on which the Secretary received the notice, the Board must convene a General Meeting. The provisions in this Constitution for the conduct of a General Meeting apply subject to the provisions of this **clause 9**.

**9.12 Business of meeting**

At a General Meeting called under the preceding clause:

- (a) no business other than the question of the appeal may be transacted;
- (b) the Board and the Member must be given the opportunity to state their respective cases orally or in writing, or both; and
- (c) the Full Members present may vote by secret ballot on the question of whether the confirming resolution should be confirmed or revoked.

**9.13 Confirmation by Members**

If the General Meeting passes a resolution by an ordinary resolution of those Full Members present in favour of the confirming resolution, the resolution is confirmed.

**9.14 Legal Representation**

A Member the subject of any disciplinary proceeding under this section is not entitled to have any legal representation present at any Board meeting or General Meeting at which disciplinary proceedings are conducted.

**9.15 Cessation of Membership**

Every person ceasing to be a Member of the ARDC whether by retirement, expulsion, death, neglecting to pay the entrance fee or the subscription or otherwise shall forfeit all rights to or claim upon the ARDC or its property or assets and their name shall be amended on the Register as required by **clause 7.7(b)**.

**10 DISPUTE RESOLUTION**

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- (a) Disputes between Members (in their capacity as Members) shall be referred to the Board which must take steps to resolve the dispute. The Board's steps under this clause may include requesting the parties to refer the dispute to mediation.
- (b) If a dispute so referred is not resolved to the satisfaction of any party to the dispute within thirty (30) days of its being referred or the Board requests that the matter be referred directly to mediation, then the parties to the dispute must refer the dispute to mediation before a mediator appointed by mutual agreement of the parties.
- (c) Failing agreement by the parties to the appointment of a mediator within fourteen (14) days of a party notifying the other party of its intention to refer the dispute to mediation, the appointment of the mediator shall be made by the president of the Law Society of New South Wales.
- (d) The costs of any mediator appointed shall be shared equally between the Members party to the dispute.
- (e) At least seven (7) days before a mediation session established by a mediator appointed pursuant to this **clause 10** is to commence, the parties to the dispute are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.

## **11 General Meetings**

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### **11.1 Annual General Meeting**

The Board must convene an AGM at least once in every calendar year and any AGM which is convened must be so called in accordance with the requirements of the Corporations Act. The business of an AGM is:

- (a) to receive the ARDC's financial statements, the Board's statement and report and the Auditor's report on the financial statements;
- (b) to declare the result of the ballot for the election of directors; and
- (c) to transact any other business which under this Constitution or the Corporations Act ought to be transacted at an Annual General Meeting.

### **11.2 Convening General Meetings**

- (a) Any three (3) Directors may at any time call a General Meeting or a category of them.
- (b) Except as provided in Division 2 of Part 2G.2 of the Corporations Act, no Member or Members may call a General Meeting.

### **11.3 Notice of Meeting**

- (a) Subject to consent to shorter notice being given in accordance with the Corporations Act, at least twenty-one (21) days notice of any general meeting must be given specifying:
  - (i) the place, day and time of meeting;
  - (ii) the general nature of any business to be transacted at the meeting;
  - (iii) if a Special Resolution is to be proposed, the details of and the intention to propose it;
  - (iv) if the meeting is to be held virtually or in two or more places, the technology that will be used to facilitate this;
  - (v) in the case of an election for Directors, the names of the candidates for election; and
  - (vi) any other information required by the Corporations Act.
- (b) No business may be transacted at any General Meeting other than that stated in the notice calling the meeting unless it is a matter that is required by this Constitution or the Corporations Act to be transacted at such meeting.
- (c) For the avoidance of doubt, the notice period referred to in clause **11.3(a)** comprises calendar days and not Business Days.

### **11.4 Entitlement to Notice**

Subject to **clause 11.2(b)**, notice of a General Meeting must be given to:

- (a) each Full Member, apart from any Full Member who under this Constitution or by the terms of issue of any Membership is not entitled to the notice;
- (b) the Auditor; and
- (c) each Director.

### **11.5 Use of Technology at meetings**

- (a) A General Meeting may be held at two or more venues using any technology approved by the Board that gives each of the Voting Members attending reasonable opportunity to participate.
- (b) A Voting Member who participates in a meeting using that technology is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

### **11.6 Proxy Voting by Members**

- (a) A Voting Member or a Voting Member's attorney may appoint a proxy, who must also be a Voting Member to attend and vote at any meeting at which the Voting Member is entitled to attend and vote.
- (b) If a Voting Member fails to appoint another Voting Member as a proxy, then the Chairperson will perform the role on the appointing Member's behalf.
- (c) To be valid, a proxy must be in such form as may be determined by the Board, must be in writing, signed by the appointing Voting Member and delivered to the place nominated by the Board in the Notice of Meeting (or, if no place is nominated, the registered office) at least two (2) Business Days before the scheduled commencement of the meeting.
- (d) A proxy may be delivered by electronic transmission.

### **11.7 Omission to Give Notice**

The accidental omission to give notice of a General Meeting to, or the non-receipt of any such notice by, a person entitled to receive it, or the accidental omission to advertise (if necessary) such meeting, does not invalidate the proceedings at, or any resolution passed at, any such meeting.

### **11.8 Cancellation or Postponement of Meeting**

The Board may cancel or postpone the holding of any General Meeting. If the meeting was called by requisitioning Members in accordance with part 2G.2 of the Corporations Act or in response to a requisition by Members, the Board may only cancel or postpone the holding of it with the consent of all of the requisitioning Members.

### **11.9 Notice of Cancellation or Postponement**

The Board may notify the Members of a cancellation or postponement of a General Meeting by such means as they see fit. If any General Meeting is postponed for twenty (20) Business Days or more, then no less than five (5) Business Days' notice must be sent to the Members of the postponed meeting. It is not necessary to specify in such notice the nature of the business to be transacted at the postponed meeting.

## **12 Representation at Meetings**

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### **12.1 Persons entitled to attend**

The right to attend a General Meeting is as follows:

- (a) each Member may attend;
- (b) each Director, Secretary, CEO and Auditor may attend;
- (c) each person, who is a proxy or attorney of a Voting Member may attend;

(d) any other persons may attend with the consent of the Chairperson.

#### **12.2 Attendance subject to the powers of the Chairperson**

The right of a person to attend a meeting is subject to the powers of the Chairperson of the meeting, both at law and under this Constitution.

### **13 QUORUM**

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#### **13.1 Quorum**

No business may be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Except as provided in **clause 13.2**, twenty (20) Voting Members present are a quorum.

#### **13.2 Failure of Quorum**

If a quorum is not present within thirty (30) minutes from the time appointed for a General Meeting:

- (a) where the meeting was called by, or in response to, the requisition of Members in accordance with the Corporations Act, the meeting is dissolved; or
- (b) in any other case the meeting stands adjourned to such day, and at such time and place, as the Board may determine.

If no determination of an adjourned meeting is made by the Board, the meeting stands adjourned to the same day in the second week following, at the same time and place. If at the adjourned meeting a quorum is not present within fifteen (15) minutes from the time appointed for the meeting, five (5) Voting Members constitute a quorum, or where five (5) Voting Members are not present, the meeting is dissolved.

### **14 Chairperson**

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#### **14.1 Chairperson of Meeting**

- (a) The President of the Board, or in the President's absence the Vice President of the Board, or in the absence of both the President and the Vice President, the Deputy Vice President, is entitled to take the chair at each General Meeting.
- (b) If none of those persons are present at any General Meeting within thirty (30) minutes after the time appointed for holding such meeting, or none of them is willing to take the chair, the Directors present may choose one of their number as a Chairperson.
- (c) If no Director present is willing to take the chair, the Directors present may choose a person, whether a Member or not, as chairperson of the meeting. If the Board fails to choose a person to take the chair, the Members Present must elect a person, whether a Member or not, to be chairperson of the meeting.

#### **14.2 Passing the Chair**

If the Chairperson of a General Meeting is unwilling or unable to be the Chairperson for any part of the business of the meeting:

- (a) that Chairperson may withdraw as Chairperson for that part of the business and may nominate any person who would be entitled under the preceding clause to chair the meeting for that part of the business; and
- (b) after that part of the business is completed, the person so nominated must cease to chair the meeting upon the request of the prior Chairperson. The prior Chairperson is then entitled to resume as the Chairperson of the meeting.

#### **14.3 Responsibilities of Chairperson**

The Chairperson of a General Meeting is responsible for the general conduct of the meeting and to ascertain the sense of the meeting concerning any item of business which is properly before the meeting. For these purposes the Chairperson of the meeting may, without limitation:

- (a) delay the commencement of the meeting if that person determines it is desirable for the better conduct of the meeting;
- (b) make, vary or rescind rulings;
- (c) prescribe, vary or revoke procedures;
- (d) in addition to other powers to adjourn, adjourn the meeting, or any item of business of the meeting, without the consent of the meeting if that person determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and
- (e) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

#### **14.4 Admission to Meetings**

The Chairperson of a General Meeting may refuse admission, require to leave or exclude from a meeting any person:

- (a) undertaking unauthorised pictorial-recording or sound-recording;
- (b) in possession of a placard or banner;
- (c) in possession of an article considered by the Chairperson to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (f) who is not entitled under this Constitution to attend the meeting.

#### **14.5 Adjournment of Meeting**

The Chairperson of a General Meeting at which a quorum is present may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place as the Chairperson determines.

#### **14.6 Business at Adjourned Meeting**

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment, or of the business to be transacted at an adjourned meeting.

However, if any meeting is adjourned for twenty (20) Business Days or more, notice of the adjourned meeting must be given as in the case of an original meeting.

## **15 Voting at General Meeting**

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### **15.1 Entitlement to Vote**

- (a) Every Voting Member has one (1) vote on a resolution to be considered at a General Meeting.
- (b) No person other than a Voting Member or a proxy of the Voting Member shall be entitled to vote at a General Meeting.

### **15.2 Declaring Result of Vote**

In respect of any General Meeting (unless a poll is so demanded):

- (a) a declaration by the Chairperson of the meeting that a resolution has been carried, or carried by a particular majority, or lost, or has not been carried by a particular majority; and
- (b) an entry made in the minutes of proceedings of the ARDC,

is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

### **15.3 Conduct of Poll**

- (a) A poll may be demanded:
  - (i) before a vote on a resolution is taken;
  - (ii) before the voting results on a show of hands is declared; or
  - (iii) immediately after the voting results on a show of hands is declared.
- (b) The demand for a poll may be withdrawn.
- (c) If a poll is duly demanded (and the demand not withdrawn) it must be taken in such manner and at such time (either at once or after an interval or adjournment or otherwise) as the chairperson of the meeting directs.
- (d) The result of the poll is the resolution of the meeting at which the poll was demanded.
- (e) A poll demanded on any question of adjournment must be taken at the meeting and without an adjournment.
- (f) The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

### **15.4 Postal or Electronic Ballot**

ARDC may hold a postal or electronic ballot or a partly postal and partly electronic ballot (as the Board determines) to determine any issue, proposal or resolution to be considered by Members in a General Meeting except for the passing of a resolution relating to an appeal passed under **clause 9.13** or a resolution that must be considered at a General Meeting by operation of the Corporations Act. The procedure for a postal or electronic ballot must reflect as far as possible the procedure set out in **clause 17**.

### **15.5 Casting Vote of Chairperson**

If, on a show of hands or on a poll, the votes are equal the Chairperson of the meeting has a casting vote in addition to the deliberative vote, if any, of the Chairperson.

### **15.6 Objections to Qualification to Vote**

- (a) No objection may be made to the validity of any vote except at the meeting or adjourned meeting or poll at which such vote is tendered. Every vote allowed by the Chairperson in accordance with **clause 15.7** at any such meeting or in such poll is treated as valid.
- (b) In recording votes the latest copy of the Register held in the Registered Office must be adopted and acted on as the voting roll.

### **15.7 Ruling on Votes**

The Chairperson of the meeting is the sole judge of the validity of every vote tendered at the meeting or the qualification of a person's right to vote and the determination of the Chairperson is final and conclusive.

## **16 Board of Directors**

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### **16.1 Composition**

- (a) The Board must, subject to this Constitution, comprise no more than ten (10) Directors and less than six (6) Directors. Of those Directors:
  - (i) up to nine (9) must be Directors elected in accordance with **clause 16.2**; and
  - (ii) up to three (3) may be Directors appointed under **clause 16.3**.
- (b) All Directors:
  - (i) must be Australian permanent residents;
  - (ii) must have given ARDC written consent to act as a Director;
  - (iii) must not be disqualified under the Corporations Act from being a Director; and
  - (iv) must meet the eligibility criteria applicable to whether they are an Appointed Director or Elected Director.

### **16.2 Elected Directors**

- (a) At any General Meeting where there will be an election for Elected Directors, the Board will, before calling for nominations for the election of Elected Directors, determine the number of Elected Director positions to be filled in the election (subject to the requirements of **clause 16.1(a)(i)** and **clause 16.3(d)**) and notify Members of the number of positions available to be filled by election at the time the call for nominations is made.
- (b) A person is only eligible for nomination as an Elected Director if:
  - (i) they have been a Full Member of ARDC for at least two (2) consecutive years immediately prior to the date of nomination; and
  - (ii) their nomination is signed by two (2) Full Members of the ARDC and by the nominee who shall so signify their consent to the nomination.

- (c) The procedure for nomination and election of an Elected Director will be conducted in accordance with **clause 17**.

### **16.3 Appointed Directors**

- (a) The Board may appoint Appointed Directors at any time to fill the positions provided for in **clause 16.1(a)(ii)**.
- (b) An Appointed Director is not required to be a Member at the time of nomination but must be a person with specific skills in commerce, finance, marketing, technology, law, business or other disciplines relevant to ARDC. An Appointed Director need not have experience in or exposure to motor sport.
- (c) If a person nominated to be an Appointed Director is not a Member at the time of nomination, the person must become a Full Member within seven (7) days of their appointment.
- (d) The number of Appointed Directors must not at any time represent more than 30% of the total number of Directors on the Board. If, because of the creation of a casual vacancy on the Board, the number of Appointed Directors represents more than 30% of the total number of Directors, the Board must promptly fill the vacant position in accordance with **clause 19.4(a)(i)**.

### **16.4 Director Term of Office**

- (a) Subject to **clause 16.4(c)**:
  - (i) an Elected Director's term will end at the conclusion of the second Annual General Meeting following their election.
  - (ii) an Appointed Director's term will end on the second anniversary of their appointment.
- (b) Notwithstanding anything in this Constitution, any term served by a Director filling a casual vacancy does not count to any term limit applying to Directors under this **clause 16.4**.
- (c) At the end of a Director's term, the Director is eligible for re-election or re-appointment in accordance with this Constitution except that a Director may not serve more than five (5) consecutive terms without a period of two (2) years expiring since the expiry of the Director's previous term on the Board unless:
  - (i) at the time their term ends they are the President, in which case they are eligible to be elected for one (1) further term of two (2) years; or
  - (ii) the Board extends a Director's term by unanimous resolution for a period not exceeding one further term of two (2) years as determined by the Board on the basis that the Director, whether an Appointed or Elected Director, has particular skills or experience and that it is in the best interests of ARDC that the Director's term is extended for an additional period; and
  - (iii) Members approve the extended term proposed by the Board in **clause 16.4(c)(ii)** by passing a resolution at a General Meeting.

## **17 Ballot Procedure and Board Elections**

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### **17.1 Conduct of Board Election**

- (a) The election of Elected Directors must be by a ballot of eligible nominees unless there are only sufficient nominations to fill vacant positions in which case the Returning Officer may declare the vacancies filled.
- (b) The procedure to be followed at the election of the Board shall as nearly as practicable be conducted in accordance with this **clause 17**.

### **17.2 General Ballot Procedure**

In addition to ballots conducted for a Board election, the procedure set out in this clause applies to a postal or electronic ballot required under **clause 15.4** adjusted as the Board may determine suitable for the relevant ballot.

### **17.3 Returning Officer**

The Secretary or such other person as may be selected by the Board shall act as Returning Officer. Members of the Board may not be appointed as Returning Officers.

### **17.4 Nominations of Candidates for Election**

- (a) Nominations of candidates for election must be in writing, in such form as may be determined by the Board, addressed to the Secretary and must satisfy the criteria set out in **clause 16.2(b)**.
- (b) Nominations will close on a date to be fixed by the Board, not being later than twenty (20) Business Days before the date fixed for the holding of the relevant General Meeting.

### **17.5 Preparation of Election Ballot**

- (a) After nominations have closed the Returning Officer will prepare a ballot paper bearing the names of the eligible candidates.
- (b) The order of the names on the ballot paper shall be determined by a ballot conducted by the Returning Officer in the presence of at least six (6) Directors and any of the candidates who wish to be present, and, as nearly as practicable in the following manner:
  - (i) the names of the candidates shall be placed in a receptacle and drawn from that receptacle by the Returning Officer;
  - (ii) the order in which each name is drawn from the receptacle shall be recorded by the Returning Officer on the ballot paper.

### **17.6 Preparation and Dispatch of All Ballots**

- (a) The ballot paper must state the date of the closure of the ballot, and shall also contain other information and directions in respect of the method of recording votes, the return of ballot papers and such other information as the Board from time to time determines.
- (b) The ballot paper shall be dispatched, given or made accessible by electronic means and/or by post to Full Members at their notified address within five (5) Business Days of the settling of the ballot paper in accordance with **clause 17.6(a)** and the ballot shall be open for at least ten (10) Business Days.

**17.7 Closure of Ballot**

The ballot shall close no earlier than three (3) Business Days before the General Meeting at which the matter dealt with by the ballot is to be considered.

**17.8 Mechanisms for Voting**

A ballot may be conducted by post following the procedure set out in **clause 17.9** or by electronic vote following the procedure set out in **clause 17.10** or by post and by electronic vote in combination.

**17.9 Postal Ballots**

The Returning Officer shall send by post to each Full Member, at their notified address, a properly prepared official marked ballot paper. Accompanying the ballot paper there shall be an envelope re-addressed to the Returning Officer. When the Member has marked their ballot paper they shall seal the same in the accompanying envelope and write their name and membership number on the flap. The Member shall forward the envelope containing the ballot paper to the Returning Officer.

**17.10 Electronic Voting**

- (a) Electronic voting is to be by means of email or other electronic means determined by Board.
- (b) Without limiting **clause 17.10(a)**, the other electronic means of voting may include requiring voters to access a voting website and to vote in accordance with directions contained on that website.
- (c) The Returning Officer must ensure that the form for the electronic ballot paper contains:
  - (i) instructions for completing the voting paper, and
  - (ii) the candidates for election; and
  - (iii) the means of indicating the voter's choice on the question to be determined.
- (d) Each person entitled to vote must vote in accordance with the instructions contained in the ballot paper and any accompanying information.
- (e) If the ballot is a secret ballot, the Returning Officer must ensure that the identity of the voter cannot be ascertained from the form of the electronic ballot paper.
- (f) An electronic ballot paper must be sent to the Returning Officer no later than the close of the ballot.
- (g) The Returning Officer must ensure that all electronic ballot papers are stored securely until the counting of the votes begins.

**17.11 Ascertaining Result of Ballot including an Election Ballot**

- (a) After the polling is closed, the Returning Officer shall open the envelopes containing the postal ballot papers and review the information and reports about the electronic ballot, in the presence of two independent scrutineers appointed by the Board.

- (b) For any election ballot, a candidate for election may appoint no more than one further scrutineer and provide the scrutineer with a notice of authority in writing which must be produced to the Returning Officer.
- (c) Having counted the votes cast, the Returning Officer shall certify to the result of voting. This certificate shall be countersigned by the scrutineers.
- (d) If there is a tie amongst the candidates for any remaining positions on the Board and there are fewer positions on the Board than tied candidates, the Returning Officer shall determine the successful candidate by placing the names of the tied candidates in a receptacle and shall draw so many names therefrom as is necessary to fill the positions being filled and the candidates whose names are drawn therefrom shall be the successful candidates.
- (e) The Returning Officer at each General Meeting shall declare the poll.
- (f) The non-receipt of any ballot paper by a Member or the non-receipt of the vote of any Member shall not invalidate the matter being considered or the resolution being passed.

### 18 Office Bearers

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- (a) The President, Vice President and Deputy Vice President are elected by the Board of directors each year from amongst the Elected Directors at their first meeting after:
  - (i) the Annual General Meeting which meeting must be held not later than one (1) week after the Annual General Meeting; or
  - (ii) an office bearer has retired.
- (b) Office bearers will be appointed for one (1) year and are eligible for reappointment for further terms with no term limits except that they must not hold office beyond their retirement or removal from the Board.

### 19 Vacation of Office

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#### 19.1 Resignation of Director

Any Director may resign from office by giving notice in writing to the ARDC of the director's intention to do so. Such resignation takes effect immediately unless the resignation is stated in the notice to take effect at some future time. A resignation must take effect within three (3) months from the date of the giving of the notice.

#### 19.2 Vacation of Office of director

The office of a Director is vacated if the Director:

- (a) becomes bankrupt;
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
- (c) resigns from office in accordance with **clause 19.1**;
- (d) becomes prohibited from being a director by virtue of the Corporations Act;
- (e) accepts remuneration, payment or other benefits, other than prize money from the ARDC other than in accordance with **clause 5.3**;

- (f) is absent from more than three consecutive meetings of the Board without the prior leave of the Board;
- (g) Is directly or indirectly interested in any contract or proposed contract with the ARDC and fails to declare the nature of the interest in the manner required by this Constitution;
- (h) is removed by Special Resolution;
- (i) ceases to be a Full Member of the ARDC or in the case of an Appointed Director, the person does not become a Full Member within seven (7) days of their appointment (including where they are appointed to fill a casual vacancy pursuant to **clause 19.4**); or
- (j) dies.

### **19.3 Less than Minimum Number of Directors**

The Directors may act despite any vacancy on the Board. If the number falls below the minimum number fixed in accordance with this Constitution, the Board may act only:

- (a) to appoint Directors up to that minimum number;
- (b) to call a General Meeting; or
- (c) in emergencies

### **19.4 Casual Vacancies**

- (a) If a casual vacancy occurs on the Board by virtue of the death, removal, resignation disqualification from office of a Director or other reason:
  - (i) in relation to an Elected Director, the Board may appoint any Full Member to fill that vacancy subject to that person satisfying the requirement set out in **clause 16.2(b)(i)**;
  - (ii) in relation to an Appointed Director, the Board may appoint any person to fill that vacancy subject to that person satisfying the requirement set out in **clause 16.3(b)**.
- (b) A Director appointed pursuant to **clause 19.4(a)** shall hold office for the remainder of the term of the director whose vacancy they are filling (subject to satisfying any other conditions attached to being an Elected Director or Appointed Director).
- (c) For the avoidance of doubt, the term served by a person filling a casual vacancy does not count to the term limits applying to directors in this Constitution.

## **20 Alternate Directors**

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Alternate Directors are not allowed.

## **21 Patron**

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The Board may from time to time invite some distinguished person to be Patron of the ARDC for the ensuing year, and upon such person giving his or her consent to act as Patron, his or her name shall be included in the list of officer-bearers of the ARDC for the year, but the Patron shall not take any part in the management of the ARDC.

## **22 Chief Executive Officer**

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### **22.1 Appointment of Chief Executive Officer**

- (a) The Board may at any time appoint a person or persons to be the Chief Executive Officer or to some other executive office of the ARDC. Such person or persons do not have to be a Member or Director of the ARDC but may be.
- (b) A person may only be appointed to a position under **clause 22.1(a)** if they have been selected through a formal recruitment process conducted by an independent recruitment agency engaged by ARDC.
- (c) The Board may in its discretion:
  - (i) define, limit and restrict that person's powers;
  - (ii) fix that person's remuneration and duties;
  - (iii) vary any of the powers so conferred; and
  - (iv) remove that person from that office and appoint another (or others) in that person's place or places.

### **22.2 Acting Chief Executive Officer**

If the Chief Executive Officer becomes at any time in any way through sickness, accident, infirmity or through extended leave incapable of acting as such, the Board may appoint any other person to act temporarily as Chief Executive Officer.

## **23 Proceedings of the Board**

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### **23.1 Number of Meetings**

The Board must meet not less than six (6) times each calendar year. The Board may meet more frequently if required.

### **23.2 Quorum**

A quorum for a meeting of the Board is a simple majority of Directors.

### **23.3 President Calling a Meeting**

The President may at any time call a meeting of the Board to be held at such time and place as the President shall nominate.

### **23.4 Secretary Calling a Meeting**

The Secretary, if requested by at least three (3) Directors, must call a meeting of the Board to be held by giving at least twenty-four (24) hours' notice of the meeting to all Directors.

### **23.5 Notice of Meeting**

Notice of each meeting of the Board:

- (a) may be given by such means as is convenient, including by telephone, email or electronic transmission; and
- (b) must be given to each Director.

**23.6 Recipients of notice**

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

**23.7 Meetings by Technology**

- (a) Subject to **clause 23.7(b)**, a Board meeting may be convened or held using any technology consented to by a majority of Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.
- (b) The particular technology used to convene or hold a Board meeting, pursuant to **clause 23.7(a)**, must be available and accessible to all Directors who wish to attend the Board meeting.

**23.8 Appointment of Chairperson**

- (a) In the absence of the President, the Vice President will be the chairperson of the meeting and in the absence of the President or the Vice President, the Deputy Vice President will be the chairperson of the meeting.
- (b) In the absence of the President, the Vice President or the Deputy Vice President, the Board may elect one of their number to be chairperson of that meeting.

**23.9 Votes of Board**

Questions arising at any meeting of the Board must be decided by a majority of votes cast. Each Director has one vote. If there is an equality of votes, the Chairperson has a second or casting vote in addition to a deliberative vote.

**23.10 Circular Resolution of the Board**

- (a) The Board may pass a resolution without a Board meeting being held if the majority of Directors sign a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document.
- (b) A resolution in those terms is treated as having been passed at a meeting of the Board held on the day on which the document was signed. If Directors sign the documents on different days, then a resolution is treated as having been passed on the day on which the document was last signed by a Director thereby constituting a majority in number of the Directors unless the document, by its terms, is said to take effect from an earlier date.

**23.11 Signing of Circular Resolution**

For the purposes of the preceding clause:

- (a) an electronic transmission purporting to be signed by a Director is treated as being in writing signed by such person; and
- (b) Two (2) or more separate documents containing statements in identical terms each of which is signed by one or more Directors are together treated as constituting one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

### **23.12 Deemed Minute**

The document or documents referred to in **clause 23.10** and **clause 23.11** are treated as constituting a minute of that meeting and must be entered in records kept for that purpose.

### **23.13 Validity of Acts of the Board**

All acts done in respect of any meeting of:

- (a) the Board; or
- (b) a committee of Board; or
- (c) other persons or by any person acting as a Director; or
- (d) any person purporting to act as an attorney under power of the ARDC,

are, despite the fact that later it is discovered that there was some defect in the appointment or continuance in office of such Director, person or attorney so acting or that they or any of them were disqualified or were not entitled to vote, as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a director or attorney and was entitled to vote.

## **24 Management of Conflicts of Interest**

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### **24.1 Contracts and Conflicts of Interest**

In relation to a Director's contracts and conflicts of interest, but subject to this Constitution:

- (a) despite any rule of law or equity to the contrary, no Director is disqualified by that office from contracting with the ARDC;
- (b) subject to **clause 5.3(b)** no Director (other than the Chief Executive Officer) may be an employee of the ARDC;
- (c) any contract, or any contract entered into by or on behalf of the ARDC in which any Director is in any way interested, is not avoided;
- (d) any Director so contracting or being so interested is not liable to account to the ARDC for any profit realised by any such contract by reason only of such Director holding that office or of the fiduciary relationship thereby established;
- (e) the nature of the Director's interests must be disclosed by that Director at the meeting of the Board at which the contract is considered if that interest then exists and has not previously been disclosed. In any other case it must be disclosed at the first meeting of the Board after the acquisition of those interests; and
- (f) a Director may not vote in that capacity in respect of any contract or arrangements in which that Director is interested;
- (g) a Director not voting in respect of any contract or arrangement in which that Director is interested:
  - (i) may be counted for the purpose of any resolution regarding it, in the quorum present at the meeting;
  - (ii) unless otherwise resolved by the Board, the Director may be present when the matter is being considered at the meeting;

- (iii) may, despite that interest, participate in the execution of any instrument by or on behalf of the ARDC.

#### **24.2 Requirement to Leave the Meeting**

Despite anything in the preceding clause, a director's entitlement to vote, or be present, at a meeting of the Board to consider if any Director who has a material personal interest in a matter that is being considered at the meeting is subject to the Corporations Act.

#### **24.3 Notice of Interest**

A general notice given to the Board by any Director that they are:

- (a) an officer or a member of, or interested in, any specified firm or body corporate; and
- (b) to be regarded as interested in all transaction with such firm or body.

Is sufficient disclosure as required by the Law as regards such Director and those transactions. After such general notice it is not necessary for such Director to give any special notice relating to any transaction with such firm or body.

### **25 Powers and Duties of the Board**

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#### **25.1 Powers Generally**

Subject to the law and to any other provisions of this Constitution, the management and control of the ARDC and of the business and affairs of the ARDC is vested in the Board who may exercise all such powers of the ARDC and do all such acts or things not expressly required by this Constitution or by the Law to be exercised or done by Members in General Meeting. No clause adopted or resolution passed at a General Meeting invalidates any prior act of the Board which would have been valid if that clause or resolution had not been adopted or passed.

#### **25.2 Delegation**

The Board may at any time delegate the powers it has under this Constitution as it sees fit. Any delegation may at any time be revoked, withdrawn, altered, varied or be subject to conditions.

#### **25.3 Validity of Acts**

Despite anything contained in this Constitution, if it is found that some formality required by this Constitution to be done has been inadvertently omitted or has not been carried out, such omission does not invalidate any resolution, act, matter or thing which but for such omission would have been valid.

### **26 Committees**

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#### **26.1 Delegation to Committees**

The Board may form such committees consisting of such persons (whether Directors or not) and for such purposes as the Board may see fit.

#### **26.2 Committees' Powers**

Any committees formed or persons appointed must, in the exercise of the functions entrusted to them conform to any regulations, resolutions or restrictions that may at

any time be imposed by the Board. The Board will require any committee to have all decisions made by that committee ratified by the Board.

### **26.3 Committees' Meetings**

The meetings and proceedings of any committees consisting of two (2) or more persons are governed by the provisions in this Constitution for regulating the meetings and proceedings of the Board so far as those provisions are applicable and not affected by any resolution, restriction or regulation made by the Board under the preceding clause.

### **26.4 Committees' Members are Officers**

Each person appointed to a committee under this **clause 26**, if not otherwise an Officer of the ARDC, is, when exercising the powers so delegated or functions entrusted, an Officer of the ARDC.

## **27 Secretary**

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### **27.1 Appointment of Secretary**

The Secretary must be appointed by the Board and holds office until the Secretary's services are terminated by the Board.

### **27.2 Duties of Secretary**

The Secretary must perform such duties as are required of that person by the Law and this Constitution. The Secretary must also perform such duties and exercise such powers as may at any time be directed by the Board.

### **27.3 Assistant Secretary**

The Board may also appoint an assistant secretary or assistant secretaries and temporary substitutes for the Secretary. Any such assistant secretary or temporary substitute is, for the purposes of this Constitution, treated as and may fulfil the duty of the Secretary subject to any limitation prescribed by the Board.

## **28 Minutes**

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- (a) The Board must cause minutes to be kept in such a manner as is required by the Corporations Act for the purposes of recording:
  - (i) the names of the Directors present at each meeting of the Board and of Directors present at each meeting of any Committee;
  - (ii) all orders, resolutions and proceedings of meetings of the Board and of Committees; and
  - (iii) such matters as are required by the Corporations Act to be recorded by ARDC including without limitation all declarations made or notices given by any Director of their interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Such minutes shall be signed by the Chairperson of the meeting, or the Chairperson of the next succeeding meeting and minutes which purport to be signed accordingly shall be received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such

matters and things and that the same took place at a meeting duly convened and held.

## **29 Accounts and Inspection**

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- (a) The Board shall:
  - (i) cause proper financial records to be kept and must, if required by the Corporations Act, prepare and distribute copies of the financial reports of ARDC and a Directors' report;
  - (ii) where required by the Corporations Act cause the financial records to be audited or reviewed by a properly qualified auditor or other entity authorised by the Corporations Act; and
  - (iii) from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of ARDC or any of them will be open to the inspection of the Members.

## **30 Execution of Documents**

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- (a) Without limiting the manner in which ARDC may execute any contract, including as permitted under section 126 of the Corporations Act, ARDC may execute any agreement, deed or other document by:
  - (i) two (2) Directors signing the same; or
  - (ii) one (1) Director and one (1) Secretary signing the same.
- (b) Nothing in this Constitution requires ARDC to execute any agreement, deed or other document under common seal for the same to be effectively executed by ARDC.

## **31 Notices**

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- (a) A notice may be given by ARDC to any Member by:
  - (i) serving it on the Member personally;
  - (ii) sending it by post to the Member or leaving it at the Member's address shown in the Register or otherwise the address supplied by the Member to ARDC for the giving of notices; or
  - (iii) sending it to the electronic address supplied by the Member to ARDC for the giving of notices.
- (b) A Member may elect to be sent documents in a physical form or electronic form by notifying ARDC of the election, in accordance with the Corporations Act. ARDC must take reasonable steps to comply.
- (c) Any Member who has not left at or sent to the Office his or her place of address for inclusion in the Register as the place at which notices may be given to the Member shall not be entitled to receive any notice.
- (d) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the third (3rd) Business Day after the date of posting. Service of a notice to a Member outside

Australia shall be deemed to have been made in the ordinary course of the post.

- (e) Where a notice is sent by electronic means, service of the notice shall be taken to be effected by properly addressing and sending the notice and in such case shall be taken to have been effected on the Business Day after it is sent.
- (f) Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a certificate given by any Officer of ARDC to that effect shall be conclusive evidence of service.
- (g) ARDC must send the Members, at least once in each financial year, a notice setting out the following or make such a notice readily available on a website:
  - (i) that they have a right to elect and to request to be sent documents in physical form under sections 110E and 110J of the Corporations Act;
  - (ii) that they have a right to elect and to request to be sent documents in electronic form under sections 110E and 110J of the Corporations Act; and
  - (iii) that they have a right to elect not to be sent annual financial reports under section 314 of the Corporations Act.
- (h) This **clause 31** does not limit the way in which notice may be given, including under Division 2 of Part 1.2AA of the Corporations Act.
- (i) Notwithstanding anything in this Constitution, it is not necessary to give a notice to any Member where that Member's address in the register is outside Australia. Such a Member may give notice to the ARDC specifying an address within Australia which is to be treated as the address of the Member for the giving of notices.

## **32 Indemnity**

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### **32.1 Indemnity for Officers**

To the extent permitted by law every Officer of ARDC shall be indemnified by ARDC against all costs, expenses and liabilities incurred by the Officer acting in this capacity. However, ARDC will not indemnify a person under this clause where:

- (a) ARDC is prohibited by the Corporations Act or any other statute from indemnifying the Officer; or
- (b) an indemnity would otherwise be illegal, void, unenforceable or not permitted by law.

### **32.2 Payment of Indemnity Policy Premium**

- (a) To the extent permitted by law ARDC may at the discretion of the Board enter into and/or pay a premium for a contract insuring the Officer for a liability incurred by that person acting in their capacity as an Officer. The indemnity may include a payment for a liability for legal costs. The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.
- (b) ARDC must not agree to pay a premium under this clause where:

- (i) ARDC is prohibited by the Corporations Act or any other statute from indemnifying the Officer; or
- (ii) Payment of the premium would otherwise be illegal, void, unenforceable or not permitted by law.

**32.3 Continuing Indemnity**

The indemnity in this **clause 32** is a continuing obligation and is enforceable by an Officer even though that person is no longer an Officer of ARDC.

Dated: November 29, 1999

Constitution amended in 2006, 2011, 2022, 2026