

**CORPORATIONS ACT
A COMPANY LIMITED BY SHARES**

**CONSTITUTION
OF
MOTOR TRADES ASSOCIATION OF AUSTRALIA
SUPERANNUATION FUND PTY LIMITED
ACN 008 650 628**

PRELIMINARY

Definitions

1. In this Constitution:

Business Day means a day which is a business day;

Board means the Directors for the time being of the Company or those of them who are present at a meeting at which there is a quorum;

Company means the entity whose name as at the date hereof is Motor Trades Association of Australia Superannuation Fund Pty. Limited and shall be taken to mean the same entity by whatever name from time to time it may be called;

Constitution means the Constitution of the Company as amended from time to time and includes the provisions of this document;

Corporations Act means the Corporations Act 2001 (Commonwealth) as modified or amended from time to time and includes a reference to the regulations made thereunder;

Director means a person who is a director for the time being of the Company;

Directors means more than one Director, and in relation to rules applying to meetings of the Board and material personal interests, references to Directors include Alternate Directors appointed under Article 62;

Employer Nominating Organisation means the Original Member or, if the Original Member no longer represents the interests of the employers of members of the Fund within the meaning of the definition of 'employer representative' under SIS, the Member Organisation, or such other association, body or organisation as the Member Organisation determines does represent the interests of the employers of members of the Fund;

Fund means the superannuation fund created pursuant to a Trust Deed dated 31st May, 1989 whose name as at the date hereof is the MTAA Superannuation Fund;

Independent Director has the same meaning as that ascribed to that expression in SIS;

Member means a Person whose name is entered for the time being on the Register of Members as the holder of one or more Shares;

Member Organisation means the Australian Motor Industry Federation, being a recognised incorporated association, company or organisation registered as an employer body committed to serving the interests of the motor trade industry in Australia;

New Share means any Share issued by the Company to any Member other than the Original Member;

Original Member means Motor Trades Association of Australia Ltd, ACN 008 643 561, a Company incorporated in the Australian Capital Territory and having its registered office located at 3rd Floor, MTA House, 39 Brisbane Avenue, Barton in the said Territory;

Person and words importing persons include partnerships, associations and corporations, unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals;

Register of Members means the register of the Members of the Company maintained pursuant to the Corporations Act;

Registered Address means the address of a Member specified on a transfer or any other address of which the Member notifies the Company as a place at which the Member is willing to accept service of notices;

Regulator means:

- (1) the Australian Prudential Regulation Authority if the provision is administered by the Authority in respect of the Fund or the Company; or
- (2) the Australian Securities and Investments Commission if the provision is administered by the Commission in respect of the Fund or the Company; or
- (3) the Commissioner of Taxation if the provision is administered by the Commissioner in respect of the Fund or the Company; or
- (4) such other authority having responsibility for the administration of the provisions in respect of the Fund or the Company;

Seal means the common seal of the Company (if any);

Secretary means the secretary for the time being of the Company, and if there are joint secretaries, any one or more of such joint secretaries;

Selling Member means any Member who tenders to the Secretary a Transfer Notice in respect of a Share or Shares held by the Member in the Company;

Shares means shares in the share capital of the Company;

SIS means the Superannuation Industry (Supervision) Act 1993 (Commonwealth) as modified or amended from time to time and includes a reference to the regulations made thereunder;

Writing and **written** includes printing, typing, lithography, facsimile and other modes of reproducing words in a visible form.

Interpretation

2. In this Constitution:

- (1) Each of the provisions of the sections or sub-sections of the Corporations Act which would but for this Article apply to the Company as a replaceable rule within the meaning of the Corporations Act are displaced and do not apply to the Company.
- (2) Section 46(1) of the Acts Interpretation Act, 1901 (Commonwealth) applies in relation to this Constitution as if it were an instrument made under that Act as in force on the day when this Constitution becomes binding on the Company.

- (3) Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.
- (4) Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of SIS, the same meaning as in that provision of SIS.
- (5) Words importing any one gender shall be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.

Sole Purpose

3. The Company has been formed for the purpose of acting solely as the trustee of the Fund and shall not be engaged in any other business or activity.

Proprietary Company Provisions

4.
 - (1) The Company is a proprietary company.
 - (2) The number of Members for the time being of the Company is not to exceed 50, and for the purposes of this Article joint holders of a particular parcel of shares will be counted as one Member.
 - (3) The Company must not engage in any activity that would require the lodgement with the Australian Securities and Investments Commission of a prospectus under Chapter 6D of the Corporations Act, except for an offer of shares to existing Members..

SHARE CAPITAL

Rights Attaching to Shares

5.
 - (1) The capital of the Company is comprised solely of fully paid ordinary shares.
 - (2) Any Member being the holder of an ordinary share shall in respect of such share have the right to attend and vote at all meetings of the Company and on a show of hands to one vote and on every poll to one vote for every share held.
 - (3) No Member being the holder of any share in the capital of the Company shall in respect of such share have the right to participate in any dividends declared on any such share.
 - (4) Any Member being the holder of an ordinary share shall in respect of such a share have the right in the dissolution or a winding up of the Company to repayment of the capital paid upon such a share but no right to participate in the division of surplus assets or profits of the Company.

Membership Eligibility

6. No Person shall be entitled to hold a share in the Company unless that Person is:
 - (a) the Original Member; or
 - (b) another person

who has executed a declaration of trust to hold the share on behalf of the members of the Fund..

Issue of New Shares

7. All the Shares of the Company shall be under the control of the Members, subject to the provisions of Article 6 of this Constitution. Any issue of New Shares shall be subject to the approval of the Members who may allot the same to such Persons on such terms and conditions and at such times as the Members may think fit.

Beneficial Ownership of Shares

8. (1) In applying for a share, an applicant must declare that the share to be held by that applicant:
- (a) shall be held beneficially for the members of the Fund from time to time; and
 - (b) shall not be held in trust for any other entity; and
 - (c) shall not be subject to any arrangement of any type which would deny that applicant legal title to the share.
- (2) Subject to Article 8(1), the Company is entitled to treat a Member who is the registered holder of any share as the sole legal owner of that share.
- (3) Subject to the Corporations Act and this Constitution, the Company is not required to recognise any other interest of any other person in respect of any share.

Share Certificate

9. (1) A Person whose name is entered as a member in the Register of Members is entitled without payment to receive a certificate in respect of the share issued in accordance with the Corporations Act under the Seal or executed in such other manner permitted under the Corporations Act as the Directors determine but, in respect of a share or shares held jointly by several Persons, the Company is not bound to issue more than one certificate.
- (2) Delivery of a certificate for a share to one of several joint holders is sufficient delivery to all such holders.

Maintenance of Register of Members

- 9A. (1) The Company must maintain a Register of Members.
- (2) The Register of Members must be kept at the Company's registered office or principal place of business. A Member may inspect the Register of Members at no charge between the hours of 9.00 am and 5.00 pm on any Business Day.

Transfers of Shares

10. Subject to the provisions of Article 6, all transfers of Shares shall be subject to the approval of the Members.
11. In the event where a Member merges with or is succeeded or acquired by another corporation whose objects or purposes are substantially similar to its predecessor, the successor corporation shall be eligible to become a Member of the Company. Under these circumstances a Member shall be permitted to transfer a Share to its successor and the Members will not withhold their approval for a transfer of this type.

12. (1) Subject to the Corporations Act and this Constitution, a Member may transfer all or any part of his shares by instrument in writing in any usual or common form or in any other form that the Directors approve.
- (2) An instrument of transfer referred to in Article 12(1) shall be executed by or on behalf of both the transferor and the transferee.
- (3) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the Register of Members in respect of the shares.
13. The instrument of transfer must be left for registration at the registered office of the Company accompanied by the certificate of the shares to which it relates and such other information as the Directors properly require to show the right of the transferor to make the transfer, and thereupon the Secretary shall, subject to the powers vested in the Directors by this Constitution, register the transferee as the shareholder.
14. (1) The Directors may refuse to register a transfer of shares, without giving any reason for such refusal.
- (2) Notice must be given to the transferee within two months after the date on which the instrument of transfer was left for registration if the Directors refuse to register a transfer of any Share.
- (3) No transfer of shares shall be registered if upon its registration the number of Members would exceed the maximum prescribed by Article 4(2).
15. The registration of transfers may be suspended at such times and for such periods as the Directors from time to time determine not exceeding in the whole thirty (30) days in any one calendar year.
16. (1) Instruments of transfer in respect of transfers that are registered may be retained by the Company for such period of time as the Board may determine.
- (2) Subject to the Corporations Act, the Company may destroy an instrument of transfer or any other title document five years after registration of the transfer.
- (3) The Company is not responsible for any loss in respect of any document destroyed in accordance with the Corporations Act or this Constitution.
17. Any person who ceases to be a Member must return any share certificate or any other title document to the Company as soon as practicable (or, if the certificate or title document is lost, provide a statutory declaration to that effect).

Transmission of Shares

18. In the case of the death of a Member, the survivor where the deceased was a joint holder and the legal personal representative(s) of the deceased where he was a sole holder, shall transfer the Shares held by the deceased person to another Person who is eligible to hold the Shares in accordance with Article 6.
19. Subject to the Bankruptcy Act 1966, a Person becoming entitled to a share in consequence of the bankruptcy of a Member shall transfer the Shares held by the Member to another Person who is eligible to hold the Shares in accordance with Article 6.

Alteration of Capital

20. The Company may by ordinary resolution passed at a meeting of the Company's Members:
 - (1) convert all or any of its existing Shares into a larger or smaller number of Shares;
 - (2) cancel Shares that have been forfeited under this Constitution or the terms on which the Shares are on issue.
21. Subject to the Corporations Act, the Company may reduce its share capital in any manner.

GENERAL MEETINGS

Convening and Holding General Meetings

22. Any Director may convene a general meeting of the Company's Members.
23. The Board must comply with the requirements of the Corporations Act for convening general meetings at the request of Members.
24. A general meeting may be held in two or more places. If a general meeting is held in two or more places, the Company must use technology that gives Members a reasonable opportunity to participate at that general meeting.
25. Subject to this Constitution and the Corporations Act, the Board may change the place (or places) of, or postpone or cancel, a general meeting, but if the general meeting was convened pursuant to a request by Members, the Board may only postpone or cancel the general meeting with the consent of the requesting Members.

Notice of General Meetings

26. At least 21 days' notice of a general meeting must be given to the Members, Directors and auditor. The notice must:
 - (1) state the date, time and place (or places) of the meeting;
 - (2) state the general nature of the business to be conducted at the meeting;
 - (3) state any proposed resolutions; and
 - (4) contain a statement informing the Members of the right to appoint a proxy.
27. Subject to the Corporations Act, shorter notice of a general meeting may be given if the calling of the notice of the general meeting on shorter notice is agreed to by 95% of the Members entitled to attend and vote at the general meeting, and accordingly any such general meeting will be treated as having been duly convened.
28.
 - (1) If the Board changes the place (or places) of a general meeting, notice must be given to each Member (and to each person entitled to receive notice of general meetings) of the new place (or places) of the meeting.
 - (2) If the Board postpones a general meeting, notice must be given to each Member (and to each other person entitled to receive notice of general meetings) of the new date, time and place (or places) of the meeting.
 - (3) If the Board cancels a general meeting, notice must be given to each Member (and each other person entitled to receive notice of general meetings).

29. No resolution passed at or proceedings at any general meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:
- (1) that general meeting;
 - (2) any change of place (or places) of that general meeting;
 - (3) postponement of that general meeting, including the date, time and place (or places) for the postponed meeting; or
 - (4) resumption of any adjourned meeting.

Chairman of General Meetings

30. (1) The Chairman of Directors will chair a meeting of the Company's Members, unless he is not available, in which case the Directors will elect another Director to chair the meeting.
- (2) Where a meeting of the Company's members is held and the Person who is to chair the meeting is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting, the Members present shall elect one of their number to be Chairman of the meeting (or part of it).

Quorum of General Meetings

31. (1) No business shall be transacted at any meeting of the Company's Members unless a quorum of Members is present at the time when the meeting proceeds to business.
- (2) A quorum is constituted by one (1) Person holding or representing by proxy or representing at least seventy-five percent of the issued Shares carrying an entitlement to attend and vote at a meeting of the Company's members
- (3) For the purpose of determining whether a quorum is present, a Person attending as a proxy, or as representing a body corporate that is a Member, shall be deemed to be a Member.
32. If a quorum is not present within half an hour from the time appointed for the meeting:
- (1) where the meeting was convened upon the request of Members - the meeting shall be dissolved; or
 - (2) in any other case:
 - (a) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
 - (b) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting:
 - (i) one (1) Member shall constitute a quorum; or
 - (ii) where one (1) Member is not present, the meeting shall be dissolved.

Adjournment of General Meetings

33. (1) The Chairman shall adjourn a meeting of the Company's Members from time to time and from place to place if the Members present with a majority of votes that may be cast at that meeting agree or direct the Chairman to do so. No business shall be

transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

- (2) When a meeting of the Company's Members is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (3) Except as provided by Article 33(2), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting at General Meetings

34. Any Director who is not a Member of the Company shall be entitled to attend and speak at meetings of the Company's Members but shall not be entitled to vote.
35.
 - (1) At any meeting of the Company's Members a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before a vote is taken or before or immediately after the declaration of the result of the show of hands) demanded:
 - (a) by the Chairman; or
 - (b) by a Member or Members (present in person or by proxy or representative) with at least 5% of the votes that may be cast on the resolution on a poll;
 - (2) Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
 - (3) The demand for a poll may be withdrawn.
36.
 - (1) If a poll is duly demanded, it shall be taken in such manner and (subject to Article 36(2)) either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded.
 - (2) A poll demanded on the election of a Chairman or on a question of adjournment shall be taken immediately.
37. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall not have a casting vote in addition to his deliberative vote (if any).
38. Subject to any rights or restrictions for the time being attached to any class or classes of shares:
 - (1) at meetings of the Company's Members or classes of Members each Member entitled to vote may vote in person or by proxy or attorney or representative; and
 - (2) on a show of hands every Person present who is a Member or a representative of a Member has one vote, and on a poll every Person present in person or by proxy or attorney or representative has one vote for each share he holds.
39. If the share is held jointly and more than one Member votes in respect of the share, only the vote of the Member whose name appears first in the Register of Members counts.
40. If a Member is under any legal disability, its trustee or such other Person as properly has the management of its affairs may exercise any rights of the Member in relation to a meeting of the Company's Members as if the trustee or other Person were the Member.

- 41. A Member is not entitled to vote at a meeting of the Company's Members unless all calls and other sums presently payable by him in respect of Shares in the Company have been paid.
- 42. (1) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- (2) Any such objection shall be referred to the Chairman of the meeting of the Company's Members, whose decision is final.
- (3) A vote not disallowed pursuant to such an objection is valid for all purposes.

Proxies

- 43. (1) A Member who is entitled to attend and cast a vote at a meeting of the Company's Members may appoint a Person (whether or not a Member) as the Member's proxy to attend and vote for the member at the meeting.
- (2) A proxy appointment may specify the proportion or number of votes that the proxy may exercise.
- (3) If a Member is entitled to cast two or more votes at a meeting of the Company's Members, that Member may appoint two proxies.
- (4) If a Member appoints two proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, each proxy may exercise one half of the votes.
- 44. (1) An instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or executed in accordance with the Corporations Act or under the hand of an officer or attorney duly authorised.
- (2) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote in the resolution except as specified in the instrument.
- (3) An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (4) An instrument appointing a proxy shall be in the following form or in a form that is as similar to the following form as the circumstances allow:

MOTOR TRADES ASSOCIATION OF AUSTRALIA SUPERANNUATION FUND PTY. LIMITED

I/We, being a Member/Members of the abovenamed Company, hereby appointOf..... or, in his absence, of as my/our proxy to vote for me/us on my/our behalf at the meeting of the Company's Members to be held on the day of, 20... and at any adjournment of that meeting.

This form is to be used * in favour of/* against the resolution.

SIGNED this day of, 20...

*Strike out whichever is not desired.

To be inserted if desired.

- 45. An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially

certified copy of that power or authority, is or are deposited, not less than forty eight (48) hours before the time for holding the meeting or adjourned meeting at which the Person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty four (24) hours before the time appointed for the taking of the poll, at the registered office of the Company or at such other place in Australia as is specified for that purpose in the notice convening the meeting.

46. A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, or the transfer of the share in respect of which the instrument or power is given, if no intimation in writing of the death, unsoundness of mind, revocation or transfer has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

Body Corporate Representative

47. (1) If a Member is a body corporate, it may appoint a natural person as its representative to exercise on its behalf any or all of the powers it may exercise:
- (a) at meetings of the Members;
 - (b) at meetings of creditors or debenture holders; or
 - (c) relating to resolutions to be passed without meetings.

The appointment of a corporate representative may be a standing one.

- (2) An appointment of a representative must be in writing and be signed by the body corporate appointing the representative and state:
- (a) the Member's name and address;
 - (b) the representative's name (or the name of the office held by the representative); and
 - (c) the general meeting at which the representative may act, or if the appointment is a standing one, a clear statement to this effect.

The instrument appointing the representative may restrict the exercise of any right or power.

- (3) An instrument purporting to appoint a representative is not valid unless it is received by the Company at least 48 hours before the general meeting or, in the case of an adjourned meeting, at least 48 hours before the resumption of an adjourned general meeting.
- (4) An instrument appointing a representative must be received by the Company at any of the following:
- (a) the registered office;
 - (b) a facsimile number at the registered office; or
 - (c) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.
- (5) The appointment of a representative may be revoked by the Member who appointed the representative by notice to the Company from the Member stating that the appointment of the representative is revoked or by appointing a new representative.

- (6) A vote cast by a representative will be valid unless before the start of the general meeting (or, in the case on an adjourned general meeting, before the resumption of the adjourned general meeting) at which a representative votes:
- (a) the Member who appointed the representative ceases to be a Member;
 - (b) the Company has received notice of:
 - (i) the revocation of the instrument appointing the representative; or
 - (ii) the appointment of a new representative.
- (7) The Company is not responsible for ensuring that the terms of appointment of a representative are complied with, and accordingly is not liable if those terms are not complied with.

Circulating Resolutions

48. (1) The Company may pass a resolution without a meeting of the Company's Members being held if all of the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of a resolution of the Members in terms set out in the document. The resolution in those terms is passed on the day on which the document is signed and at the time at which the document is last signed by a Member or, if the Members sign the document on different days, on the day on which, and at the time at which the document is last signed by a Member.
- (2) For the purposes of this Article:
- (a) two or more separate documents containing statements in identical terms each of which is signed by one or more Members will together be deemed to constitute one document containing a statement in those terms signed by the Members;
 - (b) if a share is held jointly, each of the joint Members must sign; and
 - (c) any document so signed by a member may be received by the Company at the registered office of the Company (or other place agreed by the Directors) by post, by facsimile or other electronic means or by being delivered personally by that Member.

DIRECTORS

Composition of Board

49. The number of the Directors shall be not less than five (5), of whom not less than three (3) shall ordinarily be resident in Australia.
50. Subject to Article 60(2), the Board of Directors shall at all times be comprised of:
- (1) three (3) directors nominated in accordance with Article 55 by the Employer Nominating Organisation (the "Employer Representative Directors"); and
 - (2) three (3) directors representing the interests of members of the Fund (the "Member Representative Directors") who shall be comprised of:
 - (a) two (2) directors nominated on behalf of the members of the Fund (the "Member Nominated Directors") in accordance with Article 56; and

- (b) one (1) director determined in accordance with Article 57 by the Vehicle Division of the Australian Manufacturing Workers' Union (or its successor) or such other union as nominated by the Australian Council of Trade Unions (the "Relevant Union") PROVIDED THAT the Relevant Union is a trade union, or other organisation, representing the interests of members of the Fund ("the Union Nominee Director"); and
- (3) subject to the provisions of SIS, three (3) Independent Directors appointed in accordance with Article 58,

provided that the number of Employer Representative Directors shall be equal to the number of Member Representative Directors.

51. Subject to Article 49, the Company may by resolution, increase or reduce the number of directors provided that at all times it shall ensure that the composition of the Board of Directors complies with the relevant requirements of SIS.

Eligibility for Directorship

52. (1) A Director must be a natural person who:
- (a) is not disqualified from acting as a director under the Corporations Act or SIS;
 - (b) is eligible under this Constitution to hold office as a Director; and
 - (c) has consented to act as a Director.
- (2) A Director is not required to have any share qualification.
53. No person shall be eligible to be nominated or appointed as a Director unless that person is:
- (1) either to be appointed as an Independent Director or a Union Nominee Director or is a member of the Fund and, in the latter case:
 - (a) has been a member of the Fund for a continuous period of not less than twelve (12) months prior to being nominated to act as a Director; or
 - (b) has not been a member of the Fund for a continuous period of twelve (12) months prior to being nominated to act as a Director but the Directors decide in accordance with Article 72 that the period of membership set out in Article 53(1)(a) is not material to the nomination; and
 - (2) able to satisfy the Directors that he or she has:
 - (a) a direct substantial and relevant connection to the retail motor trades in Australia by virtue of either employment, business interest or membership of an organisation that represents the interests of members of the Fund; or
 - (b) another connection or qualification that the Directors decide in accordance with Article 72 is significant, meritorious and valuable to the Fund. and
 - (3) able to satisfy the Company's and the Regulator's fit and proper standard.

Tenure of Office

54. (1) Save for an Independent Director and the Union Nominee Director, all other Directors shall be appointed to office for a term of three (3) years' duration. At the conclusion of each term of office, a Director shall be entitled to seek re-appointment. There shall be no restriction upon the number of terms of office for which a Director may seek re-appointment.

- (2) The Independent Director or Directors shall continue to hold office until:
 - (a) removed from office pursuant to Article 58; or
 - (b) any one or more of the provisions of Article 59 apply.
- (3) The Union Nominee Director shall continue to hold office until
 - (a) removed from office pursuant to Article 57; or
 - (b) any one or more of the provisions of Article 59 apply.

Appointment and Removal of Employer Representative Directors

55. (1) No later than six (6) months prior to the expiration of the then current term of office of an Employer Representative Director, the Secretary must inquire of that Employer Representative Director whether he or she, if eligible, is willing to serve another term.
- (2) If the existing Employer Representative Director is willing and eligible to serve another term, and the Employer Nominating Organisation is prepared to re-nominate him or her and does so, the Directors may re-appoint that person as an Employer Representative Director, such appointment to be effective from the date of expiration of that Director's previous term of office or such other date as the Directors may determine. If the Directors decline to re-appoint that person, the Directors must ask the Employer Nominating Organisation to nominate another person in accordance with Article 55(3).
- (3) If :
- (a) the existing Employer Representative Director is not willing or eligible to serve another term of office,
 - (b) the Employer Nominating Organisation is not prepared to re-nominate the existing Employer Representative Director; or
 - (c) the Directors decline to appoint a person nominated as an Employer Representative Director,
- the Employer Nominating Organisation must seek and nominate another person who satisfies the provisions of Article 53 and is willing to serve as an Employer Representative Director. The Employer Representative Directors shall report the nomination made by the Employer Nominating Organisation to all of the Directors of the Company and the Directors may appoint the nominee as an Employer Representative Director, such appointment to be effective from the date of expiration of the retiring Director's term of office or such other date as the Directors may determine. If the Directors decline to appoint that person, the Directors must ask the Employer Nominating Organisation to nominate another person in accordance with this Article 55(3).
- (4) An Employer Representative Director may be removed by notice in writing from the Employer Nominating Organisation, a copy of which notice would be delivered to the Company Secretary.

Appointment and Removal of Member Nominated Directors

56. (1) No later than six (6) months prior to the expiration of the then current term of office of a Member Nominated Director, the Secretary shall inquire of that Member Nominated Director whether he or she, if eligible, is willing to serve another term.
- (2) The Secretary must cause notice to be posted on the Fund's website or otherwise given to all members of the Fund of the impending vacancy (including, if applicable,

notice that the existing Member Nominated Director is eligible and willing to serve another term) and request all interested parties to notify the Secretary of their willingness to serve as a Member Nominated Director by notice in writing, including a brief history and evidence that they can satisfy the provisions of Article 53.

- (3) The Secretary must arrange for all candidates, including any Member Nominated Director who wishes to serve another term, to be independently assessed and ranked according to their ability to satisfy the provisions of Article 53 and any other skills and experience they may bring to the Board.
- (4) The remaining Member Nominated Directors together with the Union Nominee Director shall determine the nominee for the position to be left vacant by the retiring Member Nominated Director, taking into account the independent assessment under Article 56(3). Their decision shall be reported to all of the Directors and the Directors may appoint the nominee as a Member Nominated Director, such appointment to be effective from the date of expiration of the retiring Director's term of office or such other date as the Directors may determine. If the Directors decline to appoint that person, the Directors must ask the remaining Member Nominated Director and the Union Nominee Director to nominate another person in accordance with Article 56(4).
- (5) A majority of the Member Nominated Directors and the Union Nominee Director may, by notice in writing to the Secretary, indicate that they wish to remove a Member Nominated Director (with a copy of that notice to be given to the affected Member Nominated Director). Upon receipt, of such notice, the Board may remove the Member Nominated Director.

Appointment and Removal of Union Nominee Director

57. (1) The Relevant Union is entitled to nominate one person as the Union Nominee Director and must notify the Secretary in writing of their nomination. Upon such nomination, subject to Article 57(2) the Directors of the Company may appoint the nominee as the Union Nominee Director. If the Directors decline to appoint that person, the Directors must ask the Relevant Union to nominate another person in accordance with this Article 57(1).
- (2) The Union Nominee Director shall be required to satisfy the provisions of Article 53 .
- (3) Subject to the provisions of Article 59, the Union Nominee Director shall continue to hold office until he dies, resigns or is removed from office.
- (4) If the Relevant Union or the Australian Council of Trade Unions wishes to remove the Union Nominee Director, written notice of such removal must be given to the Secretary of the Company no less than one (1) month prior to the removal becoming effective. Subject to Article 57(5), if such notice is given to the Company Secretary, he must communicate the same to the Board and the Board may remove that Union Nominee Director, such removal to be effective on the expiration of such one (1) month period of notice.
- (5) The removal of a Union Nominee Director cannot become effective unless and until:
 - (a) a replacement Union Nominee Director has been nominated by the Relevant Union or the Australian Council of Trade Unions;
 - (b) the written consent to act from the replacement Union Nominee Director has been tendered to the Company Secretary;
 - (c) the Board has resolved to appoint the replacement Union Nominee Director as a Director of the Company.

Appointment and Removal of Independent Directors

58. (1) An Independent Director may be appointed by mutual consent between the Employer Representative Directors and the Member Representative Directors and shall be independent of the Employer Representative Directors and the Member Representative Directors.
- (2) An Independent Director shall be required to satisfy the provisions of Article 53 .
- (3) Subject to the provisions of Article 59, an Independent Director shall continue to hold office until he dies, resigns or is removed from office by a resolution passed by a majority of the non-Independent Directors of the Company and notified in writing to the Director being removed by the Secretary.

Loss of Office

59. (1) In addition to the circumstances in which the office of a Director becomes vacant by virtue of this Constitution, SIS or the Corporations Act, the office of a Director becomes vacant if the Director:
- (a) is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Director;
 - (b) resigns his office by notice in writing to the Company;
 - (c) is prohibited or disqualified from being a Director under SIS;
 - (d) is removed from office by a Regulator; or
 - (e) the terms of the appointment of the Director pursuant to Articles 55 or 56 has expired (and he is not re-appointed).
- (2) Further to Article 59(1), the Board may declare the office of a Director to be vacant if, in the reasonable opinion of the Board, the Director:
- (a) is directly or indirectly interested in a contract or proposed contract with the Company and fails to declare the nature of his interest as required by law; or
 - (b) ceases to satisfy the Company's or the Regulator's fit and proper standard.

Casual Vacancies

60. (1) In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a meeting of the Company's Members.
- (2) The Board may fill any casual vacancy among the Directors and must do so within ninety (90) days or such time and in such manner as is required to ensure compliance with SIS. The term of the casual Director shall be as determined by the Board and indicated in writing to the casual Director.

Alteration of Procedures

61. (1) No variation, amendment or alteration shall be permitted to the provisions contained in Articles 55 to 58 except where such variation, amendment or alteration is required:
- (a) in order for the Company or the Fund to comply with SIS; or

- (b) to reflect changes in the procedure for the appointment and removal of Directors subject to such changes not being inconsistent with SIS.
- (2) One (1) months' notice of any proposed amendment of Article 61(1) must be given to all members of the Fund and the Original Member.

Alternate Directors

- 62.
- (1) A Director may, with the approval of the other Directors, appoint a person (whether a Member or not) to be an Alternate Director in his place during such period as he thinks fit.
 - (2) An Alternate Director is entitled to notice of meetings of the Directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in his stead.
 - (3) An Alternate Director may exercise any powers that the appointor may exercise and the exercise of any such power by the Alternate Director shall be deemed to be the exercise of the power by the appointor.
 - (4) An Alternate Director is not required to have any share qualifications.
 - (5) The appointment of an Alternate Director may be terminated at any time by the appointor notwithstanding that the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to hold office as a Director or if the Alternate Director becomes disqualified from continuing to act as an Alternate Director under SIS.
 - (6) An appointment, or the termination of an appointment, of an Alternate Director shall be effected by a notice in writing signed by the Director who makes or made the appointment and served on the Secretary.

Notification to Members

63. The Company shall publish Articles 50 to 62 in such a way as will make members of the Fund aware of the procedure for appointment and removal of Member Nominated Directors.

Remuneration of Directors

- 64.
- (1) The Directors shall be paid by way of remuneration for their services such sums and in such manner as the Board shall determine.
 - (2) That remuneration shall be deemed to accrue from day to day.
 - (3) The Directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or meeting of the Company's Members or otherwise in connection with the business of the Company.

Powers and Duties of Directors

- 65.
- (1) Subject to the Corporations Act and to any other provision of this Constitution, the business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and forming the Company, and may exercise all such powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in meeting of the Company's members.
 - (2) Without limiting the generality of Article 65(1), the Directors may exercise all the powers of the Company that are not required to be exercised by the Company in general meeting, including the power to borrow or otherwise raise money, to charge any property or business of the Company or all or any of its uncalled capital and to

issue debentures or give any other security for a debt, liability or obligation of the Company or of any other Person.

66. (1) The Directors may, by power of attorney, appoint any Person or Persons (either by name or by reference to position or office held) to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (2) Any such power of attorney may contain such provisions for the protection and convenience of Persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.
67. All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be in such manner as the Directors determine.

MEETINGS OF DIRECTORS

Convening Meetings of Directors

68. (1) The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (2) Without limiting the generality of Article 68(1), a meeting of Directors may be called or held using any technology consented to by all the Directors. A consent of a Director for the purposes of this Article may be a standing one. A Director may only withdraw his consent within a reasonable time before the meeting of Directors.
- (3) A Director may at any time, and the Secretary shall on the requisition of a Director, convene a meeting of the Directors.

Electronic Meetings of Directors

69. (1) For the purposes of this Constitution, the contemporaneous linking together by an instantaneous communication device of a number of Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, shall be deemed to constitute a meeting of the Directors and all the provisions of this Constitution as to meetings of the Directors shall apply to any such meeting held by an instantaneous communication device so long as the following conditions are met:
- (a) All the Directors for the time being entitled to receive notice of the meeting of Directors (including any alternate for any Director) shall be entitled to notice of a meeting held by an instantaneous communication device and to be linked by an instantaneous communication device for the purpose of such meeting. Notice of any such meeting shall be given on the instantaneous communication device or in any other manner permitted by this Constitution; and
- (b) Each of the Directors taking part in the meeting by an instantaneous communication device must be able to hear each other of the Directors taking part at the commencement of the meeting.
- (2) A Director may not leave a meeting held by an instantaneous communication device by disconnecting his instantaneous communication device unless he has previously expressly notified the Chairman of the meeting of his intention to leave the meeting and a Director shall be conclusively presumed to have been present and to have

formed part of the quorum at all times during such a meeting until such notified time of his leaving the meeting.

- (3) A minute of the proceedings at meetings held by an instantaneous communication device shall be sufficient evidence of such proceeding and of the observance of all necessary formalities if certified as a correct minute by the Chairman of the meeting.
- (4) For the purpose of this Article “instantaneous communication device” shall include telephone, television or any other audio and/or visual device which permits instantaneous communication.

Chairman of Directors’ Meetings

70. (1) An Independent Director shall be elected by the Directors to act as Chairman of meetings of the Directors.
- (2) The Chairman has conduct of Board meeting, of the procedures to be adopted and the application of those procedures at the meeting.
- (3) Where a meeting of Directors is held and the elected Chairman is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting, the Directors present shall elect another Independent Director, or if none, one of their number to be Chairman of that meeting (or part of it).
- (4) By two-thirds majority, the Directors may remove any Chairman and appoint another in his or her stead.

Quorum for Directors’ Meetings

71. At a meeting of the Directors, the number of Directors whose presence is necessary to constitute a quorum shall be five (5) Persons, provided that each such Person is a Director or an Alternate Director and is entitled under the Corporations Act (notwithstanding any interest the Director or Alternate Director may have in the matter for consideration by the Directors) to vote on a motion that may be moved at that meeting.

Voting at Directors’ Meetings

72. (1) Subject to this Constitution, resolutions put to a meeting of Directors shall be passed if not less than two-thirds of the total number of Directors present and voting have voted in favour of the resolution and any such decision shall for all purposes be deemed a decision of the Directors.
- (2) The Chairman of any meeting of the Directors shall be entitled to cast a deliberative but not a casting vote.
- (3) Each Director present in person or by alternate is entitled to vote and has one vote.

Circulating Resolutions

73. (1) If not less than two thirds of those Directors entitled to vote on a resolution have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Directors held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Director.
- (2) For the purposes of Article 73(1), two or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall

together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

Directors' Conflict of Interest

74. (1) No Director shall be disqualified by his office from contracting or entering into any arrangement with the Company either as vendor, purchaser, or otherwise, nor shall any such contract or arrangement or any contract or arrangement entered into by or on behalf of the Company in which any Director shall be in any way interested be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or agreement, by reason of such Director holding that office or of the fiduciary relation thereby established, but every Director shall observe the provisions of Section 191 of the Corporations Act relating to the disclosure of the interest of Directors in contracts or proposed contracts with the Company or of any office or property held by Directors which might create duties or interests in conflict with their duties or interests as Directors.
- (2) A Director may vote in respect of any contract or arrangement in which he is so interested as aforesaid and may be counted in a quorum at any meeting of Directors at which such contract or arrangement is considered, and may attest the affixing of the Seal to any deed, contract or document entered into by the Company relating thereto.
- (3) A general notice given to the Directors of the Company by a Director to the effect that he is an officer or member of a specified company or a member of a specified firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made, but no notice is of effect unless it is given at a meeting of Directors or the Director takes reasonable steps to ensure that it is brought up and read at the next meeting of directors after it is given. The Secretary shall record every notice of declaration in the minutes of the meeting at which it is made.
- (4) A Director may hold any other office or place of profit (except that of Auditor) under the Company in conjunction with the office of Director and on such terms as to remuneration and otherwise as the Members in general meeting may arrange.

Delegation of Powers

75. (1) The Board may delegate any of its powers to a Director, a committee of Directors, an employee of the Company or any other person.
- (2) A committee to which any powers have been so delegated shall exercise the powers delegated in accordance with any directions of the Directors and a power so exercised shall (subject to SIS) be deemed to have been exercised by the Directors.
- (3) The members of such a committee may elect one of their number as Chairman of their meetings.
- (4) Where a meeting of a committee is held and:
- (a) a Chairman has not been elected as provided by Article 75(3); or
 - (b) the Person so elected is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,

the members present shall elect one of their number to be Chairman of the meeting (or part of it).

- (5) A committee may meet and adjourn as it thinks proper.
- (6) Questions arising at a meeting of a committee shall be determined by not less than two-thirds of the total number of votes of the committee members present and voting.
- (7) Any Chairman appointed under this Article shall be entitled to cast a deliberative vote but not a casting vote.

Defects in Appointment of Directors

76. All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of the committee, or to act as, a Director, or that a person so appointed was disqualified, but subject always to SIS as valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

ADMINISTRATION

Secretary

77. A Secretary holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine. The office of Secretary is vacated upon the Secretary becoming disqualified from continuing to act as a Secretary under SIS.

Minutes

78. The Directors will cause minutes of:
- (1) all proceedings and resolutions of meetings of the Company's Members;
 - (2) all proceedings and resolutions of meetings of the Directors, including meetings of a committee of Directors;
 - (3) resolutions passed by Members without a meeting;
 - (4) resolutions passed by Directors without a meeting; and
 - (5) if the Company has only one Director, the making of declarations by that Director,
- to be duly entered into the books kept for that purpose in accordance with the Corporations Act.
79. A minute recorded and signed in accordance with the Corporations Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.
80. Books containing the minutes of the Company's Members and resolutions passed by members without a meeting will be open for inspection by any Member free of charge.

Execution of Documents

81. (1) The Company may have a Seal, known as the common seal, on which its name, its Australian Company Number and the words "Common Seal" are engraved.
- (2) If the Company has a Seal the Directors shall provide for the safe custody of the Seal.

- (3) The Seal shall be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.
- (4) The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by:
 - (a) two Directors; or
 - (b) one Director and one Secretary; or
 - (c) if the Company has a sole Director who is also the sole Secretary, that Director.The signature of such Persons may be affixed to the document by manual, autographic or mechanical means.
- (5) The Company may execute a document without using a seal if the document is signed by:
 - (a) two Directors; or
 - (b) one Director and one Secretary; or
 - (c) if the Company has a sole Director who is also the sole Secretary, that Director.

Inspection of Records

82. Subject to the Corporations Act and SIS, the Directors shall determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of members other than Directors, and a member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in meeting of the Company's Members.

Application of Income and Property

83. (1) The income and property of the Company however derived will be applied solely towards the promotion of the objects of the Company as set out in Article 3 of this Constitution, and no portion of the income or the property of the Company will be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to members of the Company.
- (2) Nothing in this Constitution shall prevent the payment in good faith:
- (a) of remuneration to any Director, officer or servant of the Company or to any member of the Company in return for any services actually rendered to the Company (including, in the case of a Directors, services as a Director) or for goods supplied in the ordinary and usual way of business;
 - (b) the payment of interest at a rate not exceeding the rate for the time being fixed for the purposes of this Article by the Constitution on money borrowed from any members of the Company or reasonable and proper rent for premises demised or let by any member to the Company;
 - (c) the payment to any Member in its capacity as an employer-sponsor of the Fund within the meaning of, and as permitted by, SIS;
 - (d) the payment to any Member by way of reimbursement for costs and expenses incurred in the maintenance and administration of the Company or of the Fund; and

- (e) indemnification of any officer, auditor or agent of the Company in respect of his or her defending any proceedings against a party other than the Company where he or she is acquitted or judgement is given in his or her favour or in respect of any application in relation to any proceedings against a party other than the Company where relief is granted to him or her, to the extent permitted by law and this Constitution.

Notices

84. (1) A notice may be given by the Company to any Member either:
- (a) by serving it on the Member personally;
 - (b) by sending it by post to the Member at its address as shown in the Register of Members or the address supplied by the Member to the Company for the giving of notices to that Member;
 - (c) by sending it by electronic transmission to a facsimile number or email address supplied by the Member to the Company for the giving of notices to the Member.
- (2) Where a notice is sent by post, service of the notice shall be deemed to be effective by properly addressing, prepaying and posting a letter containing the notice, and to have been effected, in the case of a notice of a Member, on the day after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (3) Where a notice is sent by electronically, service of the notice shall be deemed to be effected on receipt by the Company of a transmission report confirming successful transmission.
- (4) A notice may be given by the Company to the joint holders of a share by giving the notice to the joint holder first named in the Register of Members in respect of the share.

Winding Up

85. If the Company is dissolved or wound up, and there remains, after satisfaction of all its debts and liabilities any property, such property shall not be paid to or distributed among the Members but shall be given or transferred to some other corporation or corporations having objects similar to the objects of this Company and whose Constitution shall 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 on the Company under or by virtue of Article 83(1) of the Constitution of the Company, such corporation or corporations to be determined by the Members at or before the time of the dissolution or winding up and , if and so far as effect cannot be given to the above provision, then to some charitable object.

CONSTITUTION

MOTOR TRADES ASSOCIATION OF AUSTRALIA SUPERANNUATION FUND PTY. LIMITED

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A COMPANY LIMITED BY SHARES

**CONSTITUTION
OF
MOTOR TRADES ASSOCIATION OF AUSTRALIA
SUPERANNUATION FUND PTY LIMITED
ACN 008 650 628**

PREPARED FOR

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(INCORPORATING ALL AMENDMENTS UP TO AND INCLUDING 31 JULY 2012)