



Company Limited by Guarantee

**CONSTITUTION**  
**OF**  
**AUSTRALIAN TRUCKING ASSOCIATION LIMITED**  
**ACN 055 583 714**

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## Introduction

### 1. Replaceable Rules Excluded

1.1 The replaceable rules contained in the Act do not apply to the Association.

### 2. Definitions and Interpretation

#### 2.1 Definitions

In this constitution:

- (1) "**Act**" means the *Corporations Act* and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
- (2) "**Association**" means Australian Trucking Association Limited ACN 055 583 714;
- (3) "**business day**" means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place where the Association has its registered office;
- (4) "**Board of Management**" means the Board of Management for the time being of the Association or the Board of Management assembled as a board for the implementation of day-to-day activities of policy agreed by General Council;
- (5) examples of the operation of a rule are not exhaustive
- (6) "**corporate member**" means a member which is a body corporate;
- (7) "**General Council**" means all of the members of the Association and sets the industry policy for the Association which is implemented by the Board of Management;
- (8) "**secretary**" means the secretary referred to in rule 59 and any other person appointed to perform the duties of a secretary of the Association; and
- (9) reference to:
  - (a) one gender includes the others;
  - (b) the singular includes the plural and the plural includes the singular; and
  - (c) a person includes a body corporate.
- (10) Except so far as the contrary intention appears in this constitution:
  - (a) an expression has in this constitution the same meaning as in the Act; and
  - (b) if an expression is given different meanings for the purposes of different provisions of the Act, the expression has, in a provision of this constitution

that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

- (11) "Including" and similar expressions are not words of limitation.
- (12) Headings are for convenience only and do not form part of this constitution or affect its interpretation.

### **3. Objects**

3.1 The objects for which the Association is established are:

- (1) to unite the trucking industry behind a national effort and facilitate national representation;
- (2) to develop viable operating conditions for all trucking industry sectors including urban, remote, regional and long distance freight that are conducive to safer, efficient and professional performance on the roads;
- (3) to recognise that the Association represents all parts of the trucking industry including drivers, owner/drivers, all other positions in the trucking industry including management and employees with administrative, operational, supervisory and management positions, companies, sectors and associated responsibilities;
- (4) to provide demonstrable benefits of the positive role of the trucking industry to the community;
- (5) to improve road safety through developing a culture of professional driving standards of performance;
- (6) to be the umbrella group for industry unity on issues of national importance;
- (7) to influence government decision-making so as to achieve improved, safe and efficient practices;
- (8) to encourage active and consistent initiatives in standards, education and behaviour that contribute or provide community benefits from dealing positively with safety and environmental issues;
- (9) to jointly encourage and pursue greater membership of trucking industry associations;
- (10) to seek fair and equitable infrastructure funding including national road funding and appropriate taxes and charges;
- (11) to work in a complementary way with member organisations on issues requiring representation at both state and national level;
- (12) to be a mechanism for governments in dealing with the industry on issues with a national agenda;
- (13) to provide a mechanism for industry participants to raise issues of debate on items of a national nature;

- (14) to work in a co-ordinated way to promote industry accreditation and quality assurance;
- (15) to provide a framework that maximises industry unity;
- (16) to create a working committee structure that inputs at national levels on issues of a technical nature and issues related to effective performance, safety and standards on the road;
- (17) to initiate appropriate national funding, consultation and communication initiatives and review these regularly with members; and
- (18) to facilitate action with other transport modes to address issues of common interest including appropriate transport infrastructure and modal links.

#### **4. Powers**

- 4.1 The Association has all the powers of an individual and a body corporate but does not have the power to issue shares.
- 4.2 Despite rule 4.1 the powers of the Association are ancillary to and exercisable only to pursue the objects of the Association set out in rule 3.

#### **5. Application of Income and Property**

- 5.1 The income and property of the Association, from wherever it is derived, must be applied solely towards the promotion of the objects of the Association set out in rule 3.

#### **6. No Distribution to Members**

- 6.1 No portion of the income or property of the Association may be paid directly or indirectly, by way of dividend, bonus or otherwise to the members of the Association.
- 6.2 Rule 6.1 does not prevent:
  - (1) the payment in good faith of remuneration to any officer, servant or member of the Association in return for any services actually rendered to the Association or for goods supplied in the ordinary and usual way of business;
  - (2) the payment of interest at a rate not exceeding 12% per annum on money borrowed from any member of the Association;
  - (3) the payment of reasonable and proper rent by the Association to a member of the Association for premises leased by the member to the Association; or
  - (4) the reimbursement of expenses incurred by any member on behalf of the Association.

#### **7. Limited Liability**

- 7.1 The liability of the members is limited.



## **8. Guarantee**

8.1 Every member of the Association undertakes to contribute an amount not exceeding \$5,000 to the property of the Association in the event of its being wound up while the member is a member or within 1 year after the member ceases to be a member, if required for payment:

- (1) of the debts and liabilities of the Association (contracted before the member ceases to be a member);
- (2) of the costs, charges and expenses of winding up; and
- (3) for the adjustment of the rights of the contributors among themselves.

## **Membership**

### **9. Number of Members**

9.1 The number of members is unlimited.

### **10. Membership**

10.1 The members of the Association are:

- (1) the members at the date of adoption of this constitution; and
- (2) any other persons the General Council admits to membership in accordance with this constitution.

### **11. Categories of Membership**

11.1 The categories of membership are:

- (1) Category A members being an association:
  - (a) of trucking operators with at least 10 financial members; or
  - (b) with members who own or control at least 100 trucks; or
  - (c) of trucking operators that operate, own or control at least 100 trucks;
- (2) Category B members being an association:
  - (a) of trucking operators with at least 500 members; or
  - (b) with members who own or control at least 5,000 trucks; or
  - (c) of trucking operators that operate, own or control at least 5,000 trucks; and
  - (d) the association has been elected to be a Category B member;

- (3) Category C members being an association of suppliers of goods or services to the trucking industry;
- (4) Category D members being a member of a Category A or Category B member and meets such qualifications as are determined by the General Council;
- (5) Category E members being a company that operates a business that is ancillary to a trucking business or an association of such companies or businesses;
- (6) Category F members being a registered trade union that represents employees engaged in the trucking industry;
- (7) Owner Driver members being such persons that meet the eligibility criteria set out in the regulations of the Association;
- (8) Associate members being:
  - (a) a corporation or an incorporated association of trucking operators with less than 10 financial members and with members who own or control less than 100 trucks; or
  - (b) a person or corporation which is a supplier of goods or services to the trucking industry; or
  - (c) a body that provides support to truck drivers, to the trucking industry or to sectors of the industry; or
  - (d) a body qualified to be a Category A or Category B member and which in the discretion of the General Council may be admitted to associate membership;
- (9) Affiliate members being users, consumer organisations and other bodies which in the opinion of the General Council have an interest in the trucking industry; and
- (10) Honorary members being any person elected as such by the General Council who has given exceptional service to the Association or to the trucking industry or who by his or her position or rank is able to give exceptional service to the industry.

11.2 Additional categories of members, if recommended by the Board of Management, may be created from time to time by the General Council.

## **12. Form of Application**

12.1 An application for membership must be:

- (1) in writing in a form approved by the Board of Management;
- (2) signed by the applicant;
- (3) signed by the proposer and seconder, each of whom must be members; and

- (4) accompanied by any other documents or evidence as to qualification for the type of membership applied for which the Board of Management require.
- 12.2 If the applicant is a body corporate it must nominate 1 person ("**nominated representative**") to represent it in the Association. The application form must:
- (1) state the name and address of the nominated representative; and
  - (2) be signed by the nominated representative.
- 12.3 An application form must be accompanied by:
- (1) an application fee, if any; and
  - (2) the annual subscription.
- 12.4 If a Category A, Category B or Category C member is not incorporated it must be represented by a person nominated in its application form or such other person as it nominates to the secretary from time to time.
- 12.5 A Category A member may elect to be a Category B member by giving written notice of its election to the secretary and paying the difference in the annual subscription fee.
- 13. Admission to Membership**
- 13.1 The General Council must consider an application for membership as soon as practicable after its receipt and determine, in its discretion, the admission or rejection of the applicant.
- 13.2 The General Council need give no reason for the rejection of an application.
- 13.3 If an application for membership is rejected the application fee, if any, and the annual subscription must be refunded to the applicant.
- 13.4 If an applicant is accepted for membership the secretary must:
- (1) notify the applicant in writing; and
  - (2) request payment of:
    - (a) the application fee, if any; and
    - (b) the annual subscription.
- 13.5 The applicant becomes a member upon payment of the application fee, if any, and the annual subscription. The name and details of the member must be entered in the register of members.
- 13.6 If payment of the application fee, if any, and the annual subscription is not received within 2 months after the date of the giving of the notice referred to in rule 13.4 the General Council may revoke their acceptance of the applicant for membership.

## **14. Notification by Members**

- 14.1 Each member must promptly notify the secretary in writing of any change in their qualification to be a member of the Association.
- 14.2 Each corporate member must promptly notify the secretary in writing of any change in the person nominated as its nominated representative under rule 12.2 or 12.4.
- 14.3 A person nominated as a nominated representative must consent to the nomination in writing.

## **15. Register of Members**

- 15.1 A register of members of the Association must be kept in accordance with the Act.
- 15.2 The following must be entered in the register of members in respect of each member:
- (1) the full name of the member;
  - (2) the residential address, facsimile number and electronic mail address, if any, of the member;
  - (3) the category of membership;
  - (4) the date of admission to and cessation of membership;
  - (5) the date of last payment of the member's annual subscription;
  - (6) in the case of a corporate member, the full name, address, facsimile number and electronic mail address, if any, of its nominated representative; and
  - (7) such other information as the Board of Management requires.
- 15.3 Each member and nominated representative must notify the secretary in writing of any change in that person's name, address, facsimile number or electronic mail address within 1 month after the change.

## **Application Fee and Annual Subscription**

### **16. Application Fee**

- 16.1 The application fee payable by each applicant for membership is the sum the Board of Management determines for each category of membership.
- 16.2 No application fee is payable by any honorary member.

### **17. Annual Subscription**

- 17.1 The annual subscription payable by a member of the Association is the sum the Board of Management determines and is approved by the General Council.
- 17.2 All annual subscriptions are due and payable in advance on 1 January in each year.

- 17.3 If a person is admitted to membership of the Association during the months of July to January inclusive the Board of Management may reduce the annual subscription payable by the applicant in any manner they see fit.
- 17.4 No annual subscription is payable by any honorary member.
- 17.5 The General Council from time to time may approve a levy proposed by the Board of Management on such terms as it sees fit.

## **18. Unpaid Annual Subscriptions**

- 18.1 Subject to rule 18.2, if:
- (1) the annual subscription of a member remains unpaid for 2 months after it becomes payable; and
  - (2) a notice of default is given to the member following a resolution of the Board of Management to do this;

the member ceases to be entitled to any of the rights or privileges of membership but these may be reinstated on payment of all arrears if the Board of Management sees fit.

- 18.2 If a member for financial reasons is unable to pay the annual subscription when it is due under rule 17, the Board of Management in its absolute discretion, may agree to vary the timing for payment of the annual subscription for that member.

## **Cessation of Membership**

### **19. Resignation**

- 19.1 A member may resign from membership of the Association by giving written notice to the secretary.
- 19.2 The resignation of a member takes effect on the date of receipt of the notice of resignation or any later date provided in the notice.

### **20. Failure to Pay**

- 20.1 If a member has not paid all arrears of annual subscriptions under rule 18 or, if paid, the member's rights and privileges are not reinstated:
- (1) the member remains liable for all the obligations and liabilities of membership until the expiration of 6 months after the date of notification under rule 18.1(2); and
  - (2) the member ceases to be a member and member's name must be removed from the register of members at the expiration of the 6 month period.

### **21. Cessation of Membership**

- 21.1 A member who is an individual ceases to be a member:
- (1) on the death of the member; or

(2) if the member is expelled under rule 22.

21.2 A corporate member ceases to be a member:

(1) if it is wound up or is otherwise dissolved or deregistered; or

(2) if it is expelled under rule 22.

21.3 An honorary member ceases to be a member:

(1) if the member is an individual, in accordance with rule 21.1;

(2) if the member is a corporate member, in accordance with rule 21.2; or

(3) if the Board of Management, for any reason, request in writing the resignation of the member and the member does not resign within 2 months after the request is sent.

## **22. Disciplining Members**

22.1 If any member:

(1) wilfully refuses or neglects to comply with the provisions of this constitution; or

(2) is guilty of any conduct which, in the opinion of the Board of Management, is unbecoming of a member or prejudicial to the interest of the Association;

the Board of Management may resolve to censure, fine, suspend or expel the member from the Association and, in the case of expulsion, to remove the member's name from the register of members.

22.2 In exercising their powers under rule 22.1 the Board of Management must not fine a member an amount exceeding the annual subscription of an ordinary member, being an individual (whether or not the member is an individual or a body corporate, or is liable to pay an annual subscription).

22.3 At least 1 week before the meeting of the Board of Management at which a resolution of the nature referred to in rule 22.1 is passed the Board of Management must give to the member notice of:

(1) the meeting;

(2) what is alleged against the member; and

(3) the intended resolution.

22.4 At the meeting and before the passing of the resolution, the member must have an opportunity of giving orally or in writing any explanation or defence the member sees fit.

22.5 A member may, by notice in writing lodged with the secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered by the Board of Management, elect to have the question dealt with by the Association in General

Council meeting and in that event, a General Council meeting of the Association must be called for that purpose.

- 22.6 If at the meeting a resolution to the same effect as the resolution which was to be considered by the Board of Management is passed by a majority of 2/3 of those present and voting (and the vote must be taken by secret ballot), the member concerned must be punished in the manner resolved and in the case of a resolution for expulsion the member is expelled and the member's name must be removed from the register of members.
- 22.7 If any member ceases to be a member under rule 22.6, the Board of Management may reinstate the member and restore the name of that member to the register of members upon and subject to any terms and conditions they see fit.

### **23. Effect of Cessation of Membership**

- 23.1 If any member ceases to be a member under this constitution, the member remains liable to pay to the Association for any money which, at the time of the member ceasing to be a member, the member owes to the Association on any account and for any sum not exceeding \$5,000 for which the member is liable under rule 8 of this constitution.

## **Appointment of Board of Management**

### **24. Number of Directors**

- 24.1 The number of members of the Board of Management is 10 plus the Chairperson and the Immediate Past Chairperson.
- 24.2 The General Council may by resolution increase or reduce the number of members of the Board of Management but the number may not be reduced below 3.

### **25. Election of Board of Management**

- 25.1 The General Council may determine each year at its meeting during the annual general meeting of the Association how many of the 10 members of the Board of Management are to be elected by the General Council and how many are to be appointed by the Chairperson being the Chairperson who takes office at that meeting of the General Council.
- 25.2 A member of the Board of Management holds office until the annual general meeting held 2 years after his or her election but is eligible for re-election.
- 25.3 The Board of Management may appoint a person as a special member of the Board of Management with the approval of not less than 75 per cent of those present and entitled to vote at a meeting of the General Council. A special member of the Board of Management holds office until the next Annual General Meeting following the appointment or for any shorter period specified by the General Council. A special member of the Board of Management is entitled to be reappointed by the General Council.

## **26. Nomination for Election**

26.1 The General Council may determine from time to time the requirements for nomination of members standing for election to the Board of Management.

## **27. Office Bearers**

27.1 The office bearers of the Association are:

- (1) the Chairperson;
- (2) the Treasurer/Secretary; and
- (3) 3 Vice Chairpersons;

or as otherwise determined by the General Council at the Annual General Meeting.

27.2 On election of the Chairperson, the member which is represented by the Chairperson may appoint a further representative in place of the Chairperson.

## **28. Election of Office Bearers**

28.1 The Chairperson and the Treasurer/Secretary are elected by the members of the General Council at the Annual General Meeting.

28.2 Two Vice-Chairpersons will be appointed by the General Council on the advice of the Chairperson for such term as directed by the General Council.

28.3 The Chairperson holds office until the earlier of:

- (1) the Annual General Meeting 2 years after his or her election; or
- (2) on ceasing to be a member of the Board of Management.

28.4 The Chairperson may stand for re-election:

- (1) if he or she continues to be a member of the Board of Management; and
- (2) for a maximum of four consecutive terms.

28.5 A former Chairperson may remain a member of the General Council and the Board of Management on such terms as determined by the General Council. While a member of the General Council or the Board of Management the former Chairperson has the right to one vote.

## **29. Eligibility and Nomination**

29.1 The General Council may determine from time to time the procedures for election of the members of the Board of Management.



## **Appointment of Members of Board of Management between AGMs**

### **30. Casual Vacancies and Additional Members of the Board of Management**

- 30.1 The Association in General Council may by resolution and the Board of Management may at any time appoint a person qualified to be a member of the Board of Management, either to fill a casual vacancy or as an addition to the existing Board of Management, but so that the total number of members of the Board of Management does not at any time exceed the number fixed in accordance with this constitution.
- 30.2 Any person appointed under rule 30.1 holds office until the termination of the next Annual General Meeting of the Association and is then eligible for re-election.

### **31. Insufficient Members of the Board of Management**

- 31.1 In the event of a vacancy or vacancies in the office of a member of the Board of Management, the remaining members of the Board of Management may act, but if the number of remaining members of the Board of Management is not sufficient to constitute a quorum at a meeting of Board of Management, they may act only for the purpose of increasing the number of members of the Board of Management to a number sufficient to constitute a quorum or convening a meeting of the General Council.

## **Alternate Members of the Board of Management**

### **32. Appointment**

- 32.1 The General Council may appoint any person who is qualified to be a member of the Board of Management to act as an alternate director in place of an absent director for a meeting or for a specified period.
- 32.2 An alternate director is not taken into account for the purpose of rule 24.

### **33. Rights and Powers of Alternate Director**

- 33.1 An alternate director is entitled to notice of meetings of the Board of Management and, if the director the alternate is substituting for is not present at a meeting, is entitled to attend and vote in his or her stead.
- 33.2 When an alternate director exercises the director's powers, the exercise of the power is just as effective as if the powers were exercised by the director.

### **34. Suspension or Revocation of Appointment**

- 34.1 The General Council may revoke or suspend the appointment of an alternate director.

### **35. Form of Appointment, Suspension or Revocation**

- 35.1 Every appointment, revocation or suspension under rules 33 or 34.1 must be in writing and a copy must be given to the Association. The notice may be given by facsimile.

## **36. Termination of Appointment**

36.1 The appointment of an alternate director automatically terminates:

- (1) if the director for whom the alternate director is substituting ceases to hold office as a member of the Board of Management;
- (2) on the happening in respect of the alternate director of any event which causes a member of the Board of Management to vacate his or her office; or
- (3) if the alternate director resigns from the appointment by written notice left at the registered office of the Association.

## **37. Power to Act as Alternate for More than 1 Member of the Board of Management**

37.1 A member of the Board of Management or any other person may act as alternate director to represent more than 1 member of the Board of Management.

## **Powers of Board of Management**

### **38. Validation of Acts of Directors and Secretaries**

38.1 The acts of a director or secretary of the Association are valid despite any defect that may afterwards be discovered in his or her appointment or qualification.

38.2 Where a person whose office as director of the Association is vacated under a provision of the Act purports to do an act as a director of the Association, that act is as valid, in relation to a person dealing with the Association in good faith and for value and without actual knowledge of the matter because of which the office was vacated, as if the office had not been vacated.

### **39. General Business Management**

39.1 The business of the Association is to be managed by or under the direction of the Board of Management.

39.2 The Board of Management may exercise all the powers of the Association except any powers that the Act or this constitution requires the Association to exercise in General Council.

39.3 No rule made or resolution passed by the Association in General Council can invalidate any prior act of the Board of Management which would have been valid if that rule or resolution had not been made or passed.

39.4 The Board of Management may pay all expenses incurred in promoting and forming the Association.

### **40. Borrowing Powers**

40.1 Without limiting the generality of rule 40, but subject to rule 6, the Board of Management may exercise all the powers of the Association to borrow money, to charge any property or business of the Association and to issue debentures or give any other security for a debt, liability or obligation of the Association or of any other person.

#### **41. Appointment of Attorney**

- 41.1 The Board of Management may appoint any person or persons to be the attorney or attorneys of the Association for the purposes, with the powers and discretions (being powers and discretions vested in or exercisable by the Board of Management), for the period and subject to the conditions they see fit.
- 41.2 A power of attorney may contain those provisions for the protection and convenience of persons dealing with the attorney that the Board of Management see fit and may also authorise the attorney to delegate all or any of the powers and discretions vested in the attorney.

#### **42. Negotiable Instruments**

- 42.1 Any 2 members of the Board of Management may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- 42.2 The Board of Management may determine that a negotiable instrument, including a class of negotiable instrument, may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

### **Chief Executive Officer**

#### **43. Power to Appoint**

- 43.1 The Board of Management may appoint any person, not being a director, to the position of chief executive officer for the period and on the terms (including as to remuneration) the Board of Management see fit.

#### **44. Not a Member of the Board of Management**

- 44.1 The chief executive officer is not a member of the Board of Management but may attend meetings of the Board of Management except where the Board of Management otherwise requests.

#### **45. Powers**

- 45.1 The Board of Management may, upon terms and conditions and with any restrictions they see fit, confer on a chief executive officer any of the powers that the Board of Management can exercise.
- 45.2 Any powers so conferred may be concurrent with, or to the exclusion of, the powers of the Board of Management.

#### **46. Withdrawal of Appointment or Powers**

- 46.1 The Board of Management may revoke or vary:
- (1) an appointment; or
  - (2) any of the powers conferred on a chief executive officer.

#### **47. Temporary Appointments**

- 47.1 If a chief executive officer becomes incapable of acting in that capacity the Board of Management may appoint any other person, not being a director, to act temporarily as chief executive officer.

### **Committees of Board of Management**

#### **48. Committees of Board of Management**

- 48.1 The Board of Management may delegate any of its powers to a committee of the Board of Management.
- 48.2 A committee must exercise the powers delegated to it in accordance with any directions of the Board of Management. The effect of the committee exercising a power in this way is the same as if the Board of Management exercised it.
- 48.3 The meetings and proceedings of any committee consisting of 2 or more members of the Board of Management are governed by the provisions in this constitution regulating the meetings and proceedings of the Board of Management.

#### **48A. Building Management Committee**

- 48A.1 The Board of Management may establish a Building Management Committee.
- (1) Subject to General Council agreement, the Board of Management may appoint and remove the members of the Building Management Committee from time to time.
  - (2) The purpose of the Building Management Committee is to manage the investment property(s) of the Association. The management of the investment property is governed by the National Headquarters (NHQ) Protocol adopted by the General Council on 24 June 2009 and as amended from time to time.
  - (3) The Board of Management and the General Council must exercise their powers and act in accordance with the NHQ Protocol.
  - (4) The Building Management Committee must exercise the powers delegated to it in accordance with the NHQ Protocol.
  - (5) Amendments to the NHQ Protocol must have approval of 90% of General Council. Any amendments to this subsection (5) will require, in addition to a special resolution, approval by 90% of General Council.

### **Removal and Resignation of Members of the Board of Management**

#### **49. Removal of Members of the Board of Management**

- 49.1 Subject to the Act the General Council may by resolution remove a member of the Board of Management from office.

## **50. Resignation of Member of Board of Management**

50.1 A member of the Board of Management may resign as a director of the Association by giving a written notice of resignation to the Association at its registered office.

## **51. Vacation of Office of Director**

51.1 In addition to any other circumstances in which the office of a director becomes vacant under the Act, the office of a director becomes vacant if the member of the Board of Management:

- (1) becomes bankrupt or suspends payment or compounds with his or her creditors;
- (2) 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;
- (3) is absent from 3 consecutive meetings of the Board of Management without special leave of absence from the Board of Management and the Board of Management declares his or her seat to be vacant;
- (4) becomes prohibited from being a director under or by reason of any order made under the Act;
- (5) is removed by resolution in accordance with rule 49; or
- (6) resigns from office in accordance with rule 50.

## **Directors' Interests**

### **52. Prohibition on Being Present or Voting**

52.1 Except where permitted by the Act a member of the Board of Management who has a material personal interest in a matter that is being considered at a meeting of Board of Management:

- (1) must not be counted in a quorum;
- (2) must not vote on the matter; and
- (3) must not be present while the matter is being considered at the meeting.

52.2 If a member of the Board of Management who has a material personal interest in a matter that is being considered at a meeting of the Board of Management is not prohibited by the Act from being present at the meeting and voting, the member may be present, be counted in the quorum and may be heard but may not vote on the matter.

### **53. Member of Board of Management to Disclose Interests**

53.1 A member of the Board of Management who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Association must, as soon as practicable after the relevant facts have come to the member's knowledge, declare the

nature of the interest at a meeting of the Board of Management or by written notice to the secretary of the Association.

- 53.2 A member of the Board of Management who holds any office or possesses any property by which, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as director must declare at a meeting of the Board of Management or by written notice to the secretary of the Association the fact and the nature, character and extent of the conflict.
- 53.3 For the purposes of rules 53.1 and 53.2, a member of the Board of Management's interest or any conflict must be disregarded if it arises from or relates solely to:
- (1) a guarantee to be given by the director (or by persons including the director or by a body corporate of which the director is a member or officer) in respect of a loan to the Association; or
  - (2) the position of the director as a director of a related body corporate.

#### **54. Effect of Interest in Contract**

- 54.1 If a member of the Board of Management has an interest in a contract or proposed contract with the Association (other than as a member of the Association), or a conflicting interest or duty in relation to any other matter being considered by the Board of Management, and the member of the Board of Management discloses the nature and extent of the interest or duty at a meeting of the Board of Management or by written notice to the secretary of the Association:
- (1) the contract may be entered into; and
  - (2) if the disclosure is made before the contract is entered into:
    - (a) the member may retain benefits under the contract even though the director has an interest in the contract;
    - (b) the Association cannot avoid the contract merely because of the existence of the interest; and
    - (c) the member is not disqualified from the office of director.
- 54.2 For the purposes of rule 54.1 "**contract**" includes an arrangement, dealing or other transaction.

#### **55. Other Interests**

- 55.1 Without limiting rule 53 or rule 54 a member of the Board of Management may to the extent permitted by the Act:
- (1) hold any other office or place of profit under the Association (other than the office of auditor) in conjunction with the office of director;
  - (2) be interested in any operation, undertaking or business undertaken or assisted by the Association or in which the Association is or may be interested.

## **56. Extension of Meaning of "Association"**

56.1 For the purposes of rules 53, 54 and 55 "**Association**" includes any subsidiary of the Association and any other company in which the Association or any subsidiary of the Association is or becomes a shareholder or is otherwise interested.

## **57. Other Directorships and Shareholdings**

57.1 A director of the Association may be or become a director, officer, employee or member of any company promoted by the Association or in which the Association may be interested as a vendor, shareholder or otherwise and is not accountable for any reasonable benefits received as a director, officer, employee or member of the other company.

57.2 Subject to the Act:

- (1) the Board of Management of the Association may exercise the voting power conferred by the shares or other interest held by the Association in another company in favour of a resolution appointing the members of the Board of Management or any of them as directors or other officers of the other company;
- (2) any member of the Board of Management may vote at a meeting of Board of Management of the Association in favour of a resolution that the Association exercises its voting power conferred by the shares or other interest held by the Association in the other company to appoint that director as a director or other officer of the other company;
- (3) any member of the Board of Management may be appointed as representative of the Association and may vote at a general meeting of the other company in favour of a resolution appointing that director as a director or other officer of the other company; and
- (4) a member of the Board of Management who is also a director of the other company may vote as a director of the other company in whatever manner he or she sees fit, including voting in favour of a resolution appointing the director to any other office in the other company and a resolution appointing any other directors of the Association as directors or other officers of the other company.

## **Remuneration of Members of the Board of Management**

### **58. No Directors' Remuneration**

58.1 Subject to rule 58.2 and despite rule 6.2 no director may receive any remuneration for his or her services in his or her capacity as a director of the Association.

58.2 The Association may meet the accommodation and travel expenses of:

- (1) the Chairperson; and
- (2) the Owner Driver Representatives

when attending to agreed Association business.

## Secretary

### 59. Terms of Office of Secretary

59.1 A secretary of the Association holds office on the terms and conditions that the Board of Management determines.

## Indemnity and Insurance

### 60. Indemnity

60.1 To the maximum extent permitted by the Act, the Association indemnifies any present or former officer of the Association or a wholly owned subsidiary of the Association out of the property of the Association against:

- (1) any liability incurred by an officer in their capacity as an officer, excluding any liability for legal costs;
- (2) legal costs incurred in:
  - (a) good faith in obtaining legal advice (where previously approved by the Association) on issues relevant to the performance of the officer's functions and duties as an officer of the Association or a wholly owned subsidiary of the Association;
  - (b) defending, resisting or otherwise in connection with proceedings, whether of a civil, criminal, investigatory or administrative nature in which the person has become involved due to their capacity as an officer;
- (3) Subclauses 60.1(1) and 60.1(2) do not operate to the extent that:
  - (a) the Association is forbidden by law to indemnify the person against liability or legal costs;
  - (b) the indemnity against legal costs, if given, would be void by law; or
  - (c) the person is otherwise entitled to be indemnified by another person (including without limitation a subsidiary or an insurer under any insurance policy).
- (4) Additionally, the Association may indemnify (except where prohibited by the above) any present or former officer of a subsidiary not wholly owned by the Association.

### 61. Insurance

61.1 The Association may pay or agree to pay, whether directly or through an interposed entity, a premium in respect of a contract insuring a person who is or has been an officer of the Association or a related body corporate of the Association against liability incurred by the person in that capacity, including liability for legal costs unless:



- (1) the Association is forbidden by law to pay or agree to pay the premium; or
- (2) the contract would (if the Association paid the premium) be void by law.

## **62. Director Voting on Contract of Insurance**

- 62.1 Despite anything in this constitution, a member of the Board of Management is not precluded from voting in respect of any contract or proposed contract of insurance, merely because the contract insures or would insure the director against a liability incurred by the director as an officer of the Association or of a related body corporate.

## **63. Meaning of "Officer"**

- 63.1 For the purposes of rules 60, 61 and 62, "**officer**" means a director, secretary or chief executive officer.

## **Inspection of Records**

### **64. Rights of Inspection**

- 64.1 The Board of Management of the Association, or the Association by a resolution passed at a meeting of the General Council, may authorise a member to inspect books of the Association.
- 64.2 A member other than a director does not have the right to inspect any document of the Association, other than the minute books for the meetings of its members and for resolution of members passed without meetings, except as provided by law or authorised by the Board of Management or by the Association meeting in General Council.

### **65. Confidential Information**

- 65.1 Except as provided by the Act, no member (not being a director) is entitled to require or receive any information concerning the business, trading or customers of the Association or any trade secret, secret process or other confidential information of or used by the Association.

## **Meetings of the Board of Management**

### **66. Circulating Resolutions**

- 66.1 The Board of Management may pass a resolution without a meeting being held if all the members of the Board of Management entitled to vote on the resolution, except a director absent from Australia who has not left a facsimile number at which he or she may be given notice, sign a document containing a statement that he or she is in favour of the resolution set out in the document.
- 66.2 Separate copies of a document may be used for signing by a member of the Board of Management if the wording of the resolution and statement is identical in each copy.
- 66.3 The resolution is passed when the last member of the Board of Management signs.

66.4 A facsimile addressed to or received by the Association and purporting to be signed or sent by a member of the Board of Management for the purpose of this rule 66 must be treated as a document in writing signed by that director.

## **67. Meetings of Board of Management**

67.1 The Board of Management may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they see fit.

67.2 The minutes of any meeting of the Board of Management must state the method of meeting and the persons present.

## **68. Calling Meetings of the Board of Management**

68.1 A member of the Board of Management may at any time, and a secretary must on the requisition of a member of the Board of Management, call a meeting of the Board of Management.

## **69. Notice of Meeting**

69.1 Reasonable notice of every Board of Management meeting must be given to each member of the Board of Management and each alternate member except that it is not necessary to give notice of a meeting of Board of Management to any member who:

- (1) has been given special leave of absence; or
- (2) is absent from Australia and has not left a facsimile number at which he or she may be given notice.

69.2 Any notice of a meeting of Board of Management may be given in writing or orally, and whether by facsimile, telephone, electronic mail or any other means of communication.

## **70. Technology Meeting of Board of Management**

70.1 A meeting of the Board of Management may be held using any technology consented to by all the Board of Management. The consent may be a standing one. A director may only withdraw the consent within a reasonable period before the meeting.

70.2 If a Board of Management meeting is held using any technology and all the members of the Board of Management take part in the meeting, they must be treated as having consented to the use of the technology for that meeting.

70.3 The following provisions apply to a technology meeting:

- (1) each member of the Board of Management taking part in the meeting must be able to hear and be heard by each of the other members of the Board of Management taking part in the meeting; and
- (2) at the commencement of the meeting each member of the Board of Management must announce his or her presence to all the other members taking part in the meeting.

70.4 If the secretary is not present at a technology meeting one of the members of the Board of Management present must take minutes of the meeting.

70.5 A member of the Board of Management may not leave a technology meeting by disconnecting his or her link to the meeting unless that person has previously notified the chair of the meeting.

70.6 A member of the Board of Management is conclusively presumed to have been present and to have formed part of a quorum at all times during a technology meeting unless that person has previously obtained the express consent of the chair to leave the meeting.

## **71. Chairing Meetings of the Board of Management**

71.1 The Chairperson is the chair of all meetings of the Board of Management.

71.2 At a meeting of Board of Management if:

- (1) no Chairperson has been elected; or
- (2) the Chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;

A Vice Chair will chair the meeting.

71.3 In the event a Vice Chair is not present in accordance with rule 71.2, then the Immediate Past Chair will chair the meeting.

71.4 In the event the Chair, a Vice Chair or the Immediate Past Chair are not present in accordance with rules 71.2 and 71.3 then the Board will appoint a Director present to chair the meeting.

## **72. Quorum**

72.1 The quorum for a Board of Management meeting is a majority of the members of the Board of Management entitled to vote or a greater number determined by the Board of Management (not including special members of the Board of Management). The quorum must be present at all times during the meeting.

72.2 An alternate director is counted in a quorum at a meeting at which the member of the Board of Management who appointed the alternate is not present (so long as the alternate is, under the Act, entitled to vote).

## **73. Passing of Directors' Resolutions**

73.1 A resolution of the Board of Management must be passed by a majority of the votes cast by members of the Board of Management entitled to vote on the resolution.

73.2 The chair has a casting vote if necessary in addition to any vote he or she has as a director. The chair has a discretion both as to whether or not to use the casting vote and as to the way in which it is used.

73.3 A person who is an alternate director is entitled (in addition to his or her own vote if he or she is a director) to 1 vote on behalf of each director whom he or she represents as an alternate director at the meeting and who is not present at the meeting.

## Meetings of Members of the Association (General Council)

### 74. Role of General Council

- 74.1 Meetings of members of the Association are known as General Council Meetings. Where this constitution or the Act requires or permits actions to be undertaken at a general meeting, those actions are undertaken in General Council Meetings.
- 74.2 General Council and General Council Committee meetings held under rule 89A set industry policy for the Association, which is implemented by the Board of Management

### 75. Circulating Resolutions

- 75.1 This rule 75 applies to resolutions which the Act, or this constitution, requires or permits to be passed at a General Council meeting, except a resolution under section 329 of the Act to remove an auditor.
- 75.2 The Association may pass a resolution without a General Council meeting being held if all the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 75.3 Separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- 75.4 The resolution is passed when the last member signs.
- 75.5 If the Association receives by facsimile transmission a copy of a document referred to in this rule 75 it is entitled to assume that the copy is a true copy.

### 76. Calling of Meeting of General Council

- 76.1 A majority of the Board of Management may call a meeting of the General Council whenever it sees fit.
- 76.2 Except as permitted by law, a General Council meeting must be held at least twice in every calendar year, at least one of which is called the "**Annual General Meeting**".
- 76.3 Except as provided in the Act, no member or members may call a General Council meeting.

### 77. Amount of Notice of Meeting

- 77.1 Subject to the provisions of the Act as to short notice, at least 21 days' notice of a General Council meeting must be given in writing to those persons who are entitled to receive notices from the Association.

### 78. Persons Entitled to Notice of General Council Meeting

- 78.1 Written notice of a meeting of the Association's members must be given individually to:
- (1) each member entitled to vote at the meeting;

- (2) each member of the Board of Management;
- (3) the chief executive officer; and
- (4) the Association's auditor.

78.2 No other person is entitled to receive notice of General Council meetings.

## **79. How Notice is Given**

79.1 The Association may give the notice of meeting to a member:

- (1) personally;
- (2) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member; or
- (3) by sending it to the facsimile number or electronic address (if any) nominated by the member.

## **80. When Notice is Given**

80.1 A notice of meeting sent by post is taken to be given 3 days after it is posted.

80.2 Except as provided by rule 80.3, a notice of meeting sent by facsimile, or other electronic means, is taken to be given on the business day after it is sent.

80.3 Service by facsimile or electronic mail is not effective if:

- (1) in the case of service by facsimile, the Association's facsimile machine fails to issue a transmission report which shows that the transmission was unsuccessful;
- (2) in the case of service by electronic mail, the Association's computer reports that delivery has failed; or
- (3) in either case the addressee notifies the Association immediately that the notice was not fully received in a legible form.

## **81. Contents of Notice**

81.1 A notice of a General Council meeting must:

- (1) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
- (2) state the general nature of the meeting's business; and
- (3) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution.

## **82. Notice of Adjourned Meeting**

82.1 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

## **83. Accidental Omission to Give Notice**

83.1 The accidental omission to give notice of any General Council meeting to or the non-receipt of the notice by any person entitled to receive notice of a General Council meeting under this constitution does not invalidate the proceedings at or any resolution passed at the meeting.

## **84. Postponement of Meeting of General Council**

84.1 The Board of Management may postpone the holding of any meeting of the General Council whenever it sees fit (other than a meeting requisitioned by members as provided by the Act) for not more than 42 days after the date for which it was originally called.

84.2 Whenever any meeting is postponed (as distinct from being adjourned under rule 82.1 or rule 86.3) the same period of notice of the meeting must be given to persons entitled to receive notice of a meeting as if a new meeting were being called for the date to which the original meeting is postponed.

## **85. Technology**

85.1 The Association may hold a meeting of its members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

## **86. Quorum**

86.1 The quorum for a meeting of the Association's members is 3 persons entitled to vote and the quorum must be present at all times during the meeting.

86.2 In determining whether a quorum is present, individuals attending as body corporate representatives are counted. If an individual is attending both as a member and as a body corporate representative, the individual is counted only once.

86.3 If a quorum is not present within 30 minutes after the time for the meeting set out in the notice of meeting:

- (1) where the meeting was called by the members or upon the requisition of members, the meeting is dissolved; or
- (2) in any other case, the meeting is adjourned to the date, time and place the Board of Management specifies. If the Board of Management does not specify 1 or more of those things, the meeting is adjourned to:
  - (a) if the date is not specified - the same day in the next week;
  - (b) if the time is not specified - the same time; and
  - (c) if the place is not specified - the same place.

86.4 If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

## **87. Chair at Meetings of General Council**

87.1 The Chairperson of the Association, if present, presides as chair at every General Council meeting.

87.2 Where a General Council meeting is held and:

- (1) there is no Chairperson of the Association; or
- (2) the Chairperson is not present within 30 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the members present will appoint a Vice Chair to be chair of the meeting.

87.2A In the event a Vice Chair is not present in accordance with rule 87.2, the Immediate Past Chair will chair the meeting.

87.2B In the event the Chair, a Vice Chair or Immediate Past Chair are not present in accordance with rule 87.2 and 87.2A, Council will appoint a representative of a Category A or Category B member present to chair the meeting.

87.3 The chair must adjourn a meeting of the Association's members if the members present with a majority of votes at the meeting agree or direct that the chair must do so.

## **88. Business at Adjourned Meetings**

88.1 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

## **89. Observers at General Council Meetings**

89.1 Executive directors of members or of the associations represented by members may attend meetings of the General Council on such terms as may be approved by the Board of Management or the General Council if they are not otherwise entitled to attend as representative of that member.

## **89A. Meetings of the General Council Committee**

89A.1 The Chair may call committee meetings of all members, including former Chairs who are members under rule 28.5, to consider urgent matters affecting the industry's viability, safety or professionalism.

- (1) Notice of committee meetings will be in accordance with rules 79.1(1) or 79.1(3).
- (2) The Chair is the chair of all meetings of the Committee.
- (3) For the avoidance of doubt, rule 77.1 does not apply to meetings of the Committee; however, reasonable notice must be given.
- (4) The Committee may meet at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

- (5) The quorum for a Committee meeting is 3 persons entitled to vote at General Council meetings and the quorum must be present at all times during the meeting.

89A.2 At a meeting under rule 89A.1, if:

- (1) no Chair has been elected; or
- (2) the Chair is not present within 10 minutes after the time appointed for holding the meeting or is unwilling to act;

a Vice Chair will chair the meeting.

89A.3 In the event the Chair or a Vice Chair are not present, the Committee will appoint a member to chair the meeting.

## **89B. Establishment of Working Committees**

89B.1 The General Council may establish working committees to consider the details of policy issues for consideration under rule 74.2.

89B.2 The Chair will appoint the chairs of the working committees established under this rule.

## **Body Corporate Representatives**

### **90. Body Corporate Representative**

90.1 A body corporate may appoint an individual as a representative to exercise all or any of the powers the body corporate may exercise:

- (1) at meetings of the Association's members;
- (2) at meetings of creditors or debenture holders; or
- (3) relating to resolutions to be passed without meetings.

The appointment may be a standing one.

90.2 The appointment may set out restrictions on the representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.

90.3 A body corporate may appoint more than 1 representative but only 1 representative may exercise the body's powers at any one time.

90.4 Unless otherwise specified in the appointment, the representative may exercise, on the body corporate's behalf, all of the powers that the body could exercise at a meeting or in voting on a resolution.

### **91. Attorney of Member**

91.1 An attorney for a member may do whatever the member could do personally as a member, but if the attorney is to vote at a meeting of members or a class of members



the instrument conferring the power of attorney or a certified copy of the authority must be produced to the Association at least 24 hours before the meeting, in the same way as the appointment of a proxy.

## **92. Qualifications of Member Organisation Voting Representative**

92.1 A voting representative, other than one nominated by a corporate Member, an Ancillary Member, a trade union Member, an Honorary Member or a special member must be the president or an elected office holder of a member of the of the General Council and hold a position of interest in a trucking business.

## **Voting at General Council Meetings**

### **93. How Vote May Be Exercised**

93.1 Subject to rules 92 and 93 at any General Council meeting of members except the Annual General Meeting:

- (1) each Category A, C, D, E and F member present has 1 vote on a show of hands and on a poll and at the Annual General Meeting 5 votes;
- (2) each Category B member present has 2 votes on a show of hands and on a poll and at the Annual General Meeting 10 votes; and
- (3) each Owner/Driver member present has 1 vote on a show of hands and no poll including at the Annual General Meeting.

93.2 The vote may be exercised in person or by body corporate representative acting as a delegate for the member.

93.3 No other member or body corporate representative is entitled to vote.

### **94. Voting Disqualification**

94.1 A member is not entitled to vote at a General Council meeting if:

- (1) the annual subscription of the member; or
- (2) in the case of a person who is a nominated representative, the annual subscription of the corporate member for which he or she is the nominated representative;

is more than 1 month in arrears at the date of the meeting or the postponed or adjourned meeting.

## **95. Objections to Right to Vote**

95.1 A challenge to a right to vote at a meeting of members:

- (1) may only be made at the meeting; and
- (2) must be determined by the chair, whose decision is final.

95.2 A vote not disallowed following the challenge is valid for all purposes.

## **96. How Voting is Carried Out**

96.1 A resolution put to the vote at a meeting of the Association's members must be decided on a show of hands unless a poll is demanded.

96.2 On a show of hands, a declaration by the chair is conclusive evidence of the result. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.

## **97. Matters on Which a Poll May Be Demanded**

97.1 A poll may be demanded on any resolution.

97.2 A demand for a poll may be withdrawn.

## **98. When a Poll is Effectively Demanded**

98.1 At a meeting of the Association's members, a poll may be demanded by:

- (1) at least 3 members entitled to vote on the resolution; or
- (2) the chair.

98.2 The poll may be demanded:

- (1) before a vote is taken;
- (2) before the voting results on a show of hands are declared; or
- (3) immediately after the voting results on a show of hands are declared.

## **99. When and How Polls Must Be Taken**

99.1 A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.

99.2 A poll on the election of a chair or on the question of an adjournment must be taken immediately.

99.3 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

99.4 The result of the poll is the resolution of the meeting at which the poll was demanded.

## **100. Chair's Casting Vote**

- 100.1 In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting has a casting vote in addition to any vote he or she may have in his or her capacity as a member.
- 100.2 The chair has a discretion both as to use of the casting vote and as to the way in which it is used.

## **Annual General Meeting**

### **101. Business of an Annual General Meeting**

101.1 The business of an Annual General Meeting may include any of the following, even it not referred to in the notice of meeting:

- (1) the consideration of the annual financial report, Board of Management's report and auditor's report;
- (2) the election of Board of Management;
- (3) the appointment of the auditor; and
- (4) the fixing of the auditor's remuneration.

All other business transacted at an Annual General Meeting and all other business transacted at any other General Council meeting is special business.

101.2 The business of the Annual General Meeting also includes any other business which under this constitution or the Act ought to be transacted at an Annual General Meeting.

101.3 The chair of the Annual General Meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask questions about or make comments on the management of the Association.

101.4 If the Association's auditor or the auditor's representative is at the meeting, the chair of an Annual General Meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or that representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.

### **102. Resolutions Proposed by Members**

102.1 No member may at any meeting move any resolution relating to special business unless:

- (1) the member has given not less than 30 business days' previous notice in writing of the member's intention to move an ordinary resolution or 2 months' notice in writing of the member's intention to move a special resolution at the meeting by leaving the notice and a signed copy of the resolution at the registered office of the Association; or
- (2) the resolution has previously been approved by the Board of Management.

102.2 Upon receiving a notice referred to in rule 101.1(1) the secretary must:

- (1) if the notice convening the meeting has already been dispatched, immediately notify the members of the proposed resolution; or
- (2) otherwise include notice of the proposed resolution in the notice convening the meeting.

## **Minutes**

### **103. Minutes to be Kept**

103.1 The Board of Management must keep minute books in which is recorded within 1 month:

- (1) proceedings and resolutions of meetings of the Association's members;
- (2) proceedings and resolutions of Board of Management meetings (including meetings of a committee of the Board of Management);
- (3) resolutions passed by members without a meeting; and
- (4) resolutions passed by the Board of Management without a meeting.

103.2 The Board of Management must ensure that minutes of a meeting are signed within a reasonable time after the meeting by 1 of the following:

- (1) the chair of the meeting; or
- (2) the chair of the next meeting.

103.3 The Board of Management must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.

103.4 Without limiting rule 103.1 the Board of Management must record in the minute books:

- (1) all appointments of officers and executive employees;
- (2) the names of the members of the Board of Management and alternate members of the Board of Management present at all meetings of Board of Management and the Association; and
- (3) the method by which a meeting of Board of Management was held.

## **Accounts, Audit and Records**

### **104. Accounts**

104.1 The Board of Management must cause proper accounting and other records to be kept in accordance with the Act.

104.2 The Board of Management must distribute copies of every profit and loss account, balance sheet and statement of cash flows (including every document required by law to be attached to them) as required by the Act.

## **105. Audit**

105.1 A registered company auditor must be appointed.

The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

## **105A. Amendment of this Constitution**

105A.1 General Council may amend this Constitution, with the exception of rule 48A.5, by resolution.

105A.2 In this Constitution, special resolution means:

- (1) A resolution that meets the notice requirements for special resolutions in the Act; and
- (2) Is supported by a 75 per cent voting outcome, worked out using the formula:

Voting outcome = (votes by members for the resolution plus votes by Past Chairs for the resolution)

Divided by:

(the total number of votes held by all members plus the total number of votes cast by Past Chairs in person or by proxy).

*Example: The ATA Council has 17 member votes and 9 Past Chairs. 15 voting members and 4 Past Chairs vote for the amendment. 2 voting members and 1 Past Chair vote against. 4 Past Chairs choose not to vote. The voting outcome would be  $(15+4)/(17+5)=86\%$ . The vote would be carried.*

## **Execution of Documents**

### **106. Common Seal**

106.1 The Association may, but need not, have a common seal.

### **107. Use of Common Seal**

107.1 If the Association has a common seal the Board of Management must provide for its safe custody.

107.2 The common seal may not be fixed to any document except by the authority of a resolution of the Board of Management or of a committee of the Board of Management duly authorised by the Board of Management.

107.3 The Association executes a document with its common seal if the fixing of the seal is witnessed by:

- (1) 2 members of the Board of Management; or
- (2) a member of the Board of Management and the secretary of the Association.

#### **108. Execution of Document as a Deed**

108.1 The Association may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with rule 107.

#### **109. Execution - General**

109.1 The same person may not sign in the dual capacities of director and secretary.

109.2 A director may sign any document as director, with or without the common seal, although the document relates to a contract, arrangement, dealing or other transaction in which he or she is interested and his or her signature complies with the requirements of this constitution as to execution despite his or her interest.

109.3 Rules 107 and 108 do not limit the ways in which the Board of Management may authorise documents (including deeds) to be executed on behalf of the Association.

## **Regulations**

#### **110. Power**

110.1 The General Council may make regulations for all matters required or permitted or convenient to be done for the purpose of this constitution and in particular:

- (1) for the purpose of carrying out the objects of the Association; and
- (2) to establish the benefits, rights and obligations of associate, affiliate and honorary membership.

## **Inadvertent Omissions**

#### **111. Formalities Omitted**

111.1 If some formality required by this constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the Board of Management that the omission has directly prejudiced any member financially. The decision of the Board of Management is final and binding on all members.

## Winding Up

### 112. Winding Up

- 112.1 If upon the winding up or dissolution of the Association any property remains, after satisfaction of all its debts and liabilities, that property must not be paid to or distributed among the members of the Association but must be given or transferred to some other institution or institutions determined by the members of the Association at or before the time of dissolution.
- 112.2 If the members do not make the necessary determination under rule 112.1, the Association may apply to the Supreme Court to determine the institution or institutions.
- 112.3 No institution is eligible to receive property under this rule 112 unless:
- (1) it has objects similar to the objects of the Association;
  - (2) its constitution prohibits 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 Association under rules 5 and 6 and this rule 112; and
  - (3) its income is exempt from income tax under the *Income Tax Assessment Act 1997*.

## Signing

### 113. Signing

- 113.1 The persons whose names are written below agree to this constitution and to be members of the Association.

**Name and Signature of  
Subscriber**

**Signature and name,  
address and  
occupation of  
Witness to  
signature**

Signature

Full Name (BLOCK  
LETTERS)

Address (BLOCK  
LETTERS)

Occupation (BLOCK  
LETTERS)

Signature

Full Name (BLOCK  
LETTERS)

Address (BLOCK  
LETTERS)

Occupation (BLOCK  
LETTERS)



Signature

Full Name (BLOCK LETTERS)

Address (BLOCK LETTERS)

Occupation (BLOCK LETTERS)

Signature

Full Name (BLOCK LETTERS)

Address (BLOCK LETTERS)

Occupation (BLOCK LETTERS)

Signature

Full Name (BLOCK LETTERS)

Address (BLOCK LETTERS)

Occupation (BLOCK LETTERS)

