

Constitution

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MOTORCYCLING VICTORIA LTD

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Corporations Act Company Limited by Guarantee Constitution of Motorcycling Victoria

1. NAME OF COMPANY

The name of the company is Motorcycling Victoria ("Company").

2. OBJECTS OF COMPANY

The Company is established solely for the Objects. The Objects of the Company are to:

- (a) participate as a member of Motorcycling Australia Limited ("MA") so Motorcycle Sport and recreation can be conducted, encouraged, promoted, advanced and administered in Victoria;
- (b) conduct, encourage, promote, advance and administer Motorcycle Sport and recreation throughout Victoria;
- (c) ensure the maintenance and enhancement of the Company, MA, the Members and Motorcycle Sport, its standards, quality and reputation for the benefit of the Members and Motorcycle Sport;
- (d) at all times promote mutual trust and confidence between the Company, MA and the Members in pursuit of these Objects;
- (e) at all times act on behalf of, and in the interest of, the Members and Motorcycle Sport in Victoria;
- (f) promote the economic and community service success, strength and stability of the Company, the Members and Motorcycle Sport in Victoria;
- (g) affiliate and otherwise liaise with MA and adopt its rule and policy framework to further these Objects and Motorcycle Sport;
- (h) use and protect the Intellectual Property;
- (i) apply the property and capacity of the Company towards the fulfilment and achievement of these Objects;
- (j) strive for Government, commercial and public recognition of the Company as the controlling body for Motorcycle Sport in Victoria;
- (k) abide by, promulgate, enforce and secure uniformity in the application of, the rules of Motorcycle Sport as may be determined from time to time by MA or the FIM and as may be necessary for the management and control of Motorcycle Sport and related activities in Victoria;
- (l) advance the operations and activities of the Company throughout Victoria;

- (m) further develop Motorcycle Sport in Victoria and with these Objects in view, to foster, regulate, organise and manage events, meetings, competitions, displays and other activities and to issue badges, medallions and certificates and award trophies (as appropriate or relevant) to successful Members;
- (n) review and/or determine any matters relating to Motorcycle Sport which may arise, or be referred to it, by any Member in Victoria;
- (o) recognise any penalty imposed by any Member;
- (p) act as arbiter (as required) on all matters pertaining to the conduct of Motorcycle Sport in Victoria, including disciplinary matters;
- (q) pursue such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of Motorcycle Sport in Victoria;
- (r) adopt and implement such policies as may be developed by MA, including (as relevant and applicable) member protection, anti-doping, health and safety, junior sport, infectious diseases and such other matters as may arise as issues to be addressed in Motorcycle Sport;
- (s) represent the interests of its Members and of Motorcycle Sport generally in any appropriate forum in Victoria;
- (t) have regard to the public interest in its operations;
- (u) do all that is reasonably necessary to enable these Objects to be achieved and enable Members to receive the benefits which these Objects are intended to achieve;
- (v) promote the health and safety of Members and all other participants in Motorcycle Sport in Victoria;
- (w) seek and obtain improved facilities for the enjoyment of Motorcycle Sport in Victoria; and
- (x) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

3. POWERS OF COMPANY

Solely for furthering the Objects the Company has the legal capacity and powers set out under section 124 of the Act.

4. APPLICATION OF INCOME

- (a) The income and property of the Company shall be applied solely towards the promotion of the Objects.
- (b) Except as prescribed in this Constitution no remuneration or other benefit shall be paid or given by the Company to any Member.
- (c) Nothing contained in Rule 4(b) shall prevent payment in good faith of or to any Member:

- (i) for any services actually rendered to the Company whether as an employee or otherwise;
- (ii) for goods supplied to the Company in the ordinary and usual course of business;
- (iii) of interest on money borrowed from any Member;
- (iv) of rent for premises demised or let by any Member to the Company; or
- (v) for any out-of-pocket expenses incurred by the Member on behalf of the Company;

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

5. LIABILITY OF MEMBERS

- (a) The liability of the Members of the Company is limited.
- (b) No Member shall be required to contribute towards the payment of any liabilities of the Company (whether on dissolution or otherwise) beyond:
 - (i) meeting the obligations to pay the Members' fees, levies or subscriptions laid down by this Constitution and any other specific liabilities to the Company relating to that Member arising in the normal way; plus
 - (ii) \$1.00.

6. DISSOLUTION

- (a) The Company may be wound up in accordance with the provisions of the Act.
- (b) If upon winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members of the Company but shall be given or transferred to some body or bodies having purposes similar to the Objects and which 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 Company by this Constitution. Such body or bodies will be determined by the Members of the Company at or before the time of dissolution, and in default thereof by such judge of a Supreme Court as may have or acquire jurisdiction in the matter.

7. INTERPRETATION

7.1 Definitions

In this Constitution, unless the contrary intention appears, these words shall have the following meanings:

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

"Alternate Delegate" means a person appointed in substitution for a Delegate under Rule 14.

"Annual General Meeting" means the annual General Meeting of the Company required to be held by the Act.

"Associate Member" means any person or entity recognised by the Board under this Constitution as an associate member of the Company and that agrees to be a Member of the Company under this Constitution.

"Board" or "Directors" means the Board of Directors of the Company.

"By-Laws" mean any By-Laws made by the Board under Rule 30.

"Chairman" means the chair for the time being of the Company appointed under Rule 20.2.

"Chief Executive Officer" means the Chief Executive Officer (if any) of the Company.

"Club" means a Motorcycling Club recognised as a Member by the Company and that agrees to be a Member of the Company under this Constitution.

"Member Club Delegate Meeting" means a meeting held under Rule 18.

"Confidential information" means, subject to Rule 32, all information, forms, specifications, processes, statements, formulae, trade secrets, drawings and data (and copies and extracts made of or from that information and data) concerning:

- (a) the operations and dealings of the Company or a Member;
- (b) the organisation, finance, customers, markets, suppliers, intellectual property and know-how of the Company or a Member; or
- (c) any other information imparted from an Owner to a Recipient (as those terms are defined in Rule 32) in circumstances of confidence.

"Constitution" means this Constitution of the Company.

"Delegates" means the persons who are the representatives appointed by a Club or Associate Member under this Constitution to act for and on behalf of that Member and represent the Member at General Meetings and includes Alternate Delegates (where appointed).

"Director" means a member of the Board appointed in accordance with this Constitution and includes Elected Directors and Independent Directors.

"Elected Director" means a Director elected to the Board under Rule 20.1(a)(i).

"Financial Year" means the year commencing 1 January and ending 31 December in any year.

"General Meeting" means the Annual General Meeting or any Special General Meeting of the Company.

"Independent Director" means a person, not necessarily being or representing a Member, appointed under Rule 23.

"Individual Member" means a natural person who is member of a Club or Associate Member.

“Intellectual Property” means all rights or goodwill subsisting in copyright, business names, names, trade marks (or signs), logos, designs, patents or service marks (all whether registered or not) relating to the Company or any event, meeting, competition or activity of or conducted, promoted or administered by the Company.

“Life Member” means a Life Member of the Company under Rule 9.1(d).

“MA” means Motorcycling Australia Limited.

“Member” means the Member(s) of the Company as set out in Rule 9.

“Motorcycle Sport” means the sport of motorcycling.

“Objects” means the objects of the Company in Rule 2.

“President” means the President of the Company elected annually under Rule 20.2.

“Special General Meeting” means a General Meeting other than an Annual General Meeting.

“Special Resolution” means a special resolution passed in accordance with the Act.

“Virtual Meeting” means a meeting held by telephone, video or any other technology (or any combination of these technologies), that permits each Director at a Board meeting or each Member entitled to vote at a General Meeting to communicate with any other participant.

7.2 Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority or the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations, natural persons, associations, bodies politic and any other legal or commercial entity or undertaking;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction);
- (h) a reference to “writing” shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail;

- (i) headings are for ease of reference only and do not affect interpretation;
- (j) any reference to dollars or "\$" is to Australian currency;
- (k) this Constitution is to be interpreted subject to the Act; and
- (l) a reference to a Rule is a reference to a Rule of this Constitution.

7.3 Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If the provision or phrase cannot be read down it shall be severed to the extent of the invalidity or unenforceability. Such severance shall not affect the remaining provisions of this Constitution or affect the validity or enforceability of any provision in any other jurisdiction.

7.4 Expressions in the Act

Except where the contrary intention appears in this Constitution, an expression that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act.

7.5 Replaceable Rules

The replaceable rules referred to in the Act are replaced by this Constitution.

7.6 Objects

The Company is established solely for the Objects.

8. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Company and that they are bound by this Constitution and the By-Laws;
- (b) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board;
- (c) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of the Company;
- (d) this Constitution is made in pursuit of common objects, namely the mutual and collective benefit of the Company, the Members and Motorcycle Sport;
- (e) they are entitled to all benefits, advantages, privileges and services of Company membership in accordance with Rule 9.

9. MEMBERS

9.1 Categories of Members

The Members of the Company shall consist of:

- (a) Clubs who shall, subject to this Constitution, be entitled to be represented by two Delegates who shall have the right to attend, debate and vote at General Meetings for and on behalf of their Club;
- (b) Associate Members who shall, subject to this Constitution, be entitled to be represented by a Delegate who shall have the right to attend, but not debate or vote at General Meetings for and on behalf of the Associate Members;
- (c) Individual Members who shall, subject to this Constitution, have the right to attend but not debate or vote at General Meetings;
- (d) Life Members who shall have the right to attend, debate and vote:
at General Meetings; and
- (e) such new categories of Members, created under Rule 9.2.

9.2 New Members and creation of new categories of membership

- (a) Subject to Rule 9.2(b) the Board has the right and power from time to time to create new categories of Membership with such rights, privileges and obligations as are determined applicable.
- (b) The Board may not grant voting rights to any new category of Member without approval by Special Resolution at a General Meeting.
- (c) The Board has the right and power from time to time to admit additional Members under Rule 9.1.

9.3 Membership

- (a) The Board may from time to time establish criteria for membership of the Company.
- (b) Any person or entity that wishes to become a Member must apply to the Board on the form (if any) provided for that purpose. The Board shall, in its sole discretion, determine all Membership applications and the class of Membership applicable. If an application for membership is not accepted by the Board, no reasons need be given, but any fees provided shall be returned.
- (c) Subject to this Constitution, in order to remain Members, Members must pay to the Company the fees and subscriptions prescribed by the Company from time to time (if any), and otherwise not breach this Constitution, the By-Laws or any policies or other directives of the Company.

10. SUBSCRIPTIONS AND FEES

10.1 Determination of Subscriptions and Fees

Fees, including annual membership fees, payable by Members (or any category of Member) to the Company, the basis of, the time for and the manner of payment, shall be as determined by the Board from time to time.

10.2 Consequences of Non-Payment

Any Member which or who has not paid all monies due and payable by that Member to the Company shall (subject to the Board's discretion) have all rights under this

Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until such time as the monies are fully paid, again subject to the Board's discretion. This rule does not apply where the monies alleged due and payable are the subject of a legitimate dispute or investigation.

11. REGISTER OF MEMBER CLUBS AND LIFE MEMBERS

11.1 Chief Executive Officer to keep register

The Chief Executive Officer shall keep and maintain a register of Member clubs and Life Members in which shall be entered such information as is required under the Act from time to time.

11.2 Inspection of register

The register of Members shall be available for inspection (but not copying) by Members, upon reasonable request.

12. DISCONTINUANCE OF MEMBERSHIP

12.1 Notice of Resignation

Subject to this Constitution any Member which has paid all monies due and payable to the Company and has no other liability (contingent or otherwise) to the Company may resign from the Company by giving one months' notice in writing to the Company of such intention to withdraw or resign and upon the expiration of that period of notice, the Member shall cease to be a Member.

12.2 Expiration of Notice Period

Upon the expiration of any notice period applicable under Rule 12.1 an entry, recording the date on which the Member who or which gave notice ceased to be a Member shall be recorded in the register.

12.3 Forfeiture of Rights

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon the Company and its property including Intellectual Property. Any Company documents, records or other property in the possession, custody or control of that Member shall be returned to the Company immediately.

12.4 Membership may be reinstated

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Board, on application in accordance with this Constitution and otherwise on such conditions as the Board sees fit.

13. DISCIPLINE

Where the Board is advised, receives a complaint or considers that a Member has allegedly:

- (a) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws, any policy or any resolution or determination of the Board;

- (b) acted in a manner unbecoming a Member or prejudicial to the Objects and interests of the Company; or
- (c) brought himself, another Member, the Company or Motorcycle Sport into disrepute;

the Board may:

- (d) commence or cause to be commenced investigatory or disciplinary proceedings against that Member; or
- (e) refer the matter to MA for determination under an applicable MA policy,

and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms (if any) of the Company or MA as set out in this Constitution and the By-Laws or the applicable MA policy, as the case may be.

14. DELEGATES

14.1 Appointment of Delegates

- (a) Each Club shall appoint two Delegates for such term as is deemed appropriate by such Club. Delegates appointed by Clubs must be appropriately empowered by the appointing Member to consider, make decisions and vote at General Meetings. Member Clubs must have advised the CEO in writing of any change to delegates 24 hours prior to the meeting or they will not be permitted to vote.
- (b) Each Associate Member shall appoint one Delegate for such term as is deemed appropriate by such Associate Member.
- (c) A Club or Associate Member may appoint an Alternate Delegate. Where an Alternate Delegate is appointed the appointing Member shall advise the Company as soon as practicable after the appointment.
- (d) An Alternate Delegate shall only have standing (whether for the purpose of attendance, quorum or voting) in the absence of the primary Delegate of that Member.
- (e) Delegates and Alternate Delegates appointed under this rule must be financial Individual Members of the Club or Associate Member appointing them but must not be a Director of the Company.

14.2 Member to advise of appointment

Members shall advise the Company of their appointed Delegate, including name, address, contact details and position within the Member, within 14 days of appointment.

15. GENERAL MEETINGS

15.1 Annual General Meeting

Annual General Meetings of the Company are to be held:

- (a) according to the Act; and

- (b) otherwise as determined by the Directors (including date and venue).

15.2 Convening General Meetings

The Board may convene a General Meeting when it thinks fit and must do so if requested by the Member clubs when at least 5 member clubs request to do so at a Member Club Delegate Meeting when a matter of significant importance is raised and in accordance with the Act.

15.3 Purpose of Annual General Meeting

The purpose of the Annual General Meeting of the Company is to:

- (a) (as necessary) comply with the Act requirements;
- (b) provide Members with the current financial, strategic and operational status of the Company;
- (c) assist the Board to design or review the organisation's strategic direction;
- (d) give Members the opportunity to inform the Board of significant membership issues;
- (e) discuss State-wide issues;
- (f) provide Members with the opportunity to vote for the composition of the Board and to vote for the removal of any Director in accordance with the Act and/or rule 25.1; and
- (g) provide feedback to the Board on the results of its governance decisions in practice at the Member level.

15.4 Notice of General Meeting

Subject to the provisions of the Act relating to shorter notice, at least 30 days written notice (not including the day on which the notice is served or deemed to be served, but including the day of the General Meeting for which notice is given) must be given of any General Meeting.

The notice must be given to all Clubs, Associate Members, Life Members and Directors, and must:

- (a) set out the place, date and time for the General Meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
- (b) state the general nature of the General Meeting's business as set by the Board; and
- (c) if a Special Resolution is to be proposed at the General Meeting, set out an intention to propose the Special Resolution and state the resolution; and
- (d) be given by any of the means provided by this Constitution and the Act.

The accidental omission to give any notice to any Member or other person entitled to receive such notice shall not invalidate any General Meeting or any resolution passed at any General Meeting.

15.5 Place of meeting

The Company may hold a General Meeting at two or more venues using any technology that gives the Members (entitled to attend) as a whole a reasonable opportunity to participate.

15.6 Entitlement to attend General Meeting

- (a) Subject to Rule 10.2, no Member shall be represented at, or take part in a General Meeting, unless all monies then due and payable to the Company have been paid.
- (b) Directors are entitled to attend and debate at General Meetings.

16. RESOLUTIONS WITHOUT MEETINGS

Subject to the requirements of the Act:

- (a) the Company may pass a resolution without a General Meeting being held if all 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;
- (b) separate copies of the document may be used for signing by Members if the wording of the resolution statement is identical on each copy; and
- (c) the resolution is passed when the last Member signs.

The provisions of this Rule 16 do not apply to a resolution to remove the auditor.

17. PROCEEDINGS AT GENERAL MEETINGS

17.1 Quorum

- (a) The quorum for a General Meeting is five Clubs represented by their Delegates entitled to be present and vote. The quorum must be present at all times during the meeting.
- (b) No business may be transacted at any General Meeting, except the adjournment of the meeting, unless a quorum of Members is present when the General Meeting proceeds to business.

17.2 Alternate Delegates in quorum

In determining whether a quorum is present, individuals attending as Alternate Delegates are counted.

17.3 Adjournment for lack of quorum

If a General Meeting does not have a quorum present within thirty minutes after the time for the meeting set out in the notice of meeting, the meeting is adjourned to the date, time and place the chair of the General Meeting specifies. If the chair of the General Meeting does not specify one or more of these things, then the meeting is adjourned to:

- (a) if the date is not specified – the same day in the next week; and
- (b) if the time is not specified – the same time; and

- (c) if the place is not specified – the same place.

17.4 Lack of quorum at adjourned meeting

If no quorum is present at the resumed meeting within thirty minutes after the time for the General Meeting, then:

- (a) if the meeting was called by the Members, the meeting is dissolved; and
- (b) in all other cases, the voting Members present are a quorum.

17.5 Chairman of General Meeting

The Chairman shall act as chair at every General Meeting of the Company. If:

- (a) there is no such person; or
- (b) the Chairman is not present within 15 minutes after the time appointed for the holding of the meeting; or
- (c) the Chairman is unwilling to act; then

the Directors present may elect one of their number to be chair of the General Meeting.

17.6 Adjournment generally

- (a) At a General Meeting at which a quorum is present, the chair may, with the consent of the meeting (and will if so directed by the meeting), adjourn the meeting to another time and, if the chair thinks fit, to another place.
- (b) No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for one month or more, notice of the adjourned meeting must be given as in the case of an original meeting. Otherwise it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

17.7 Conduct of General Meetings

Any question arising at a General Meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting, whose decision is final.

17.8 Voting at a General Meeting

- (a) All votes must be given personally or by proxy.
- (b) Only Life Members eligible under Rule 9.1(d) and Clubs are entitled to vote at General Meetings.
- (c) Clubs are only entitled to vote through their Delegates. A Director is not entitled to vote at General Meetings unless such Director is an eligible Life Member under rule 9.1(d).

- (d) Subject to rule 10.2, a Member is not entitled to vote at a General Meeting unless all monies due and payable by the Member to the Company have been paid.

17.9 Putting of resolutions

- (a) Except in the case of any resolution which as a matter of law requires a Special Resolution, questions arising at a General Meeting are to be decided by a majority of votes cast by the Delegates and Alternate Delegates and Life Members present (personally or by proxy) and entitled to vote at the General Meeting and any such decision is for all purposes a decision of the Members. In the case of an equality of votes on a question at a General Meeting, the chair is not entitled to a casting vote and the motion will be deemed lost.
- (b) A resolution put to the vote at a General Meeting must be decided on a show of hands unless a poll is demanded.

17.10 Result on show of hands

On a show of hands, a declaration by the chair and entry in the minute book of the Company is conclusive evidence of the result. Neither the chair nor the minutes need state the number of the votes recorded in favour or against the resolution.

17.11 Demand for poll

- (a) A poll may be demanded on any resolution but not regarding the adjournment of a meeting.
- (b) If a poll is demanded on a matter:
 - (i) it must be taken when and in the manner the chair directs;
 - (ii) any other business of the meeting can be transacted before the poll demanded is carried out; and
 - (iii) if directed by the chair of the meeting, there may be an interval or adjournment prior to the poll.
- (c) A poll may be demanded by Delegates or the chair of the meeting.
- (d) A poll may be demanded before a vote is taken or immediately after the voting results on a show of hands are declared.
- (e) A demand for a poll may be withdrawn.

17.12 Disallowance of vote

A challenge to a right to vote at a meeting of Members:

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

17.13 Proxies

Each Delegate is entitled to appoint another member of their respective Club, or may appoint a Delegate of another Club as a proxy, by written notice, given to the Chief

Executive Officer no later than 24 hours before the time of the meeting in respect of which the proxy is appointed. The proxy form shall be in such form as is prescribed by the Board from time to time.

17.14 Minutes

The Chief Executive Officer, or nominated representative, shall ensure that minutes of the resolutions and proceedings of each General Meeting are kept in books provided for that purpose, together with a record of the names of persons present at all meetings.

18. MEMBER CLUB DELEGATE MEETINGS

18.1 Power to convene Member Club Delegate Meetings

- (a) The Board must convene a minimum of 5 Member Club Delegate meetings per calendar year.

18.2 Notice of Member Club Delegate Meeting

Where a Member Club Delegate Meeting is convened:

- (a) Notice of a Member Club Delegate Meeting must be given to all Clubs and Directors. Other parties may be invited to attend or speak at the Member Club Delegate Meeting by the Board.
- (b) At least 30 days prior to the proposed date of the Member Club Delegate Meeting, the Chief Executive Officer will request from Members notice of any matters they wish to be discussed at the meeting, which must be received no less than 14 days prior to the meeting.
- (c) At least 14 days' notice of the time and place of a Member Club Delegate Meeting must be given, together with any items for discussion proposed by the Directors or a Member Club.

18.3 Conduct of a Member Club Delegate Meeting

- (a) The format of proceedings at a Member Club Delegate Meeting shall be at the discretion of the Board.
- (b) The Board shall determine the chair of Member Club Delegate Meetings.
- (c) There shall be a quorum of 5 member clubs for a Member Club Delegate Meeting
- (d) Items for discussion which were not included in the notice issued under Rule 18.2(c) may, with the permission of the chair, be raised for discussion.

18.4 Consensus at Member Club Delegate Meetings

A resolution may be passed by Clubs at a Member Club Delegate Meeting. The Board must consider but is not bound by any resolution passed at a Member Club Delegate Meeting unless a special meeting is called by at least 5 member clubs present at a Member Club Delegate Meeting to discuss and vote on a resolution and once the resolution is passed the Board must be bound by this resolution.

19. POWERS AND ROLE OF THE BOARD

- (a) The development, agreement and enforcement of the strategic direction, business, constitution, laws and rules and regulations of the Company are to be under the direction of the Board.
- (b) The Board shall oversee the financial, administrative and operational status of the Company, through the reporting mechanisms enacted through the Chief Executive Officer.
- (c) The Directors may exercise all powers of the Company except any powers that under the Act or this Constitution (if any) are required to be exercised in General Meeting.
- (d) The Directors must:
 - (i) adopt a code of conduct for Directors; and
 - (ii) periodically review the code of conduct in light of the general principles of good corporate governance.

20. COMPOSITION OF THE BOARD

20.1 Board composition

- (a) The Board shall comprise the following Directors:
 - (i) up to six Elected Directors elected by the Members entitled to vote at General Meeting; and
 - (ii) up to Three Independent Directors appointed by the Elected Directors.
- (b) There must be at least four Directors of the Company at any time and no more than 1 Elected Director from the same Member club..
- (c) The organisation will always strive to provide fair gender representation and equality.
- (d) In addition to the Elected Director limit in Rule 20.1(b), there must not be more than two Directors from the same Member Club.

20.2 President and Chairman

- (a) Subject to Rule 20.2(b), the Directors must at the first Board meeting after each relevant Annual General Meeting elect by majority vote one of their number to the office of President.
- (b) The Director elected to the office of President under Rule 20.2(a) will remain President for 1 year from the date of their election until the conclusion of the next Annual General Meeting after their election. The Board will review the performance of the President each year and reappoint or not. A President can hold that position for up to 3 consecutive years. On completion of a 3 year term that person cannot hold that post again for 3 years from that final 3 year period. A director is required to spend 1 year as a Director before they can become President.
- (c) The President will be appointed as the Chairman.

- (d) The Chairman shall be entitled to:
 - (i) chair all meetings of the Board; and
 - (ii) attend and chair all meetings of the Company.
- (e) The Board may appoint a Vice President from amongst the Directors, to fulfil the duties of the President, in his or her absence.

20.3 Eligibility of Directors

- (a) The Board can recommend the necessary experience and qualifications for eligibility of any Directors from time to time.
- (b) The Board may require at least 1 Director to hold a current Chartered Accountant or Certified Practicing Accountant qualifications or equivalent.

21. ELECTION OF ELECTED DIRECTORS

21.1 Election of Elected Directors

The Chief Executive Officer, or nominated representative, will call for nominations from Members for persons to be considered for election as Elected Directors at least 30 days prior to each Annual General Meeting. Nominations must be received by the Chief Executive Officer, or nominated representative, at least 30 days before that Annual General Meeting.

21.2 Nominations

- (a) Nominations must be:
 - (i) in writing;
 - (ii) on the prescribed form (if any) provided for that purpose; and
 - (iii) certified by the nominee expressing a willingness to accept the position as an Elected Director.
- (b) Nominees for positions as Elected Directors must be Individual Members of a Club and nominated by the President and Secretary of the Member club.
- (c) Nominees for positions as Elected Directors must declare any position they hold as a Delegate. If the nominee is elected as an Elected Director, they must, within 7 days, resign from their position as Delegate declared under this Rule 21.2(c).
- (d) Subject to Rule 20.1(b), if insufficient nominations are received, the Board must nominate a sufficient number of candidates.
- (e) If the number of candidates nominated for election as Elected Directors does not exceed the number of vacancies, the candidates nominated must, at the Annual General Meeting, be declared elected.
- (f) If the number of candidates nominated exceeds the number required to be elected, a secret ballot must be taken in such usual and proper manner as the Chairman directs.

21.3 Rotational terms

- (a) Subject to the provisions in this Constitution and the Act relating to the earlier retirement or removal of a Director and restrictions on re-election, Elected Directors shall hold office for a term of three years from the conclusion of the Annual General Meeting at which they were elected until the conclusion of the third Annual General Meeting thereafter.
- (b) In each three year cycle:
 - (i) Two Elected Directors shall be elected in the first year;
 - (ii) Two Elected Directors shall be elected in the second year; and
 - (iii) Two Elected Directors shall be elected in the third year.
- (c) Notwithstanding any other clause, should any adjustment to the term of Elected Directors elected under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. If the Board cannot agree, retirements will be determined by lot. For the avoidance of doubt any part of a term shall be deemed a full term for the purposes of this Rule 21.3(c).
- (d) Subject to Rule 21.3(e), Elected Directors are eligible for re-election.
- (e) Following the adoption of this Constitution, no person who has served as an Elected Director for a period of 2 consecutive full terms (6 years) shall be eligible for re-election as a Director until the third Annual General Meeting following the date of conclusion of their last term as a Director.

22. REMUNERATION AND EXPENSES OF DIRECTORS

- (a) The Board may make payment of expenses incurred or to be incurred by Directors in performing duties as officers of the Company.
- (b) A Director must not be paid for services as a Director.

23. INDEPENDENT DIRECTORS

23.1 Appointment of Independent Director

The Elected Directors may appoint up to Three Independent Directors.

23.2 Qualifications for Independent Directors

The Independent Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition, but need not have experience in or exposure to Motorcycle Sport and must not be Delegates or Alternate Delegates.

23.3 Term of Appointment

- (a) Subject to the restriction in Rule 20.1(d), the Independent Directors may be appointed by the Board in accordance with this Constitution for a term of up to three years, which shall commence and conclude on dates as determined by the Elected Directors.

- (b) Following the adoption of this Constitution, no person who has served as an Independent Director for a period of up to 2 consecutive full terms (6 years) shall be eligible for re-appointment or election as a Director for at least 3 years following the date of conclusion of their last term as a Director.
- (c) Independent Directors should be appointed to ensure rotational terms coincide with the rotational terms determined under Rule 21.3(b).

24. INDEMNITY AND INSURANCE

24.1 Extent of indemnity

The Company will indemnify, out of the funds of the Company, any person who is or has been a Director, Chief Executive Officer or officer of the Company in relation to their action(s) on behalf and with the authority, express or implied, of the Company against the following:

- (a) any liability to another person (other than the Company or a related body corporate) unless the liability arises out of conduct involving a lack of good faith;
- (b) any liability for costs and expenses incurred by that person:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; and
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the Act.

24.2 GST Payable

The amount of any indemnity payable under Rule 24.1 will include an additional amount (GST Amount) equal to any GST payable by the officer being indemnified (Indemnified Officer) in connection with the indemnity (less the amount of any input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Director, Chief Executive Officer or officer of the Company providing the Company with a GST tax invoice for the GST Amount.

25. VACANCIES OF DIRECTORS

25.1 Grounds for termination of Director

In addition to the circumstances (if any) in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his/her creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns his/her office by providing notice in writing to the Company;
- (e) is absent without the consent of the Board from:

- (i) meetings of the Board held during a period of six months; or
- (ii) three consecutive Board meetings;
- (f) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of his/her interest;
- (g) is subject to disciplinary action under the rules of MA;
- (h) is removed from office under the Act; or
- (i) would otherwise be prohibited from being a Director under the Act.

25.2 Casual vacancies

Any casual vacancy occurring in the office of a Director may be filled on the vote of the remaining Directors from among persons with the necessary experience and qualifications and complying with the job description under this Constitution and as otherwise determined by the Board. Any such vacancy may only be filled until the next Annual General Meeting.

25.3 Remaining Directors may act

In the event of a casual vacancy or vacancies in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a Board meeting, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

26. MEETINGS OF THE BOARD

26.1 Board to meet

The Board shall meet as often as is deemed necessary, in every calendar year for the dispatch of business and may adjourn and, subject to this Constitution, otherwise regulate, its meetings as it thinks fit. Any Director may at any time requisition the Chief Executive Officer, or nominated representative, to convene a meeting of the Board within a reasonable time. The Chief Executive Officer, or nominated representative, shall comply with such requisition.

26.2 Monthly Board meetings

The Board shall meet with the Chief Executive Officer each calendar month, to receive a formal report outlining the financial, strategic and operational status of the Company. This meeting will allow the Board to review the current financial, administrative, strategic and operational status of the Company and to allow the opportunity to outline changes to the Company business requirements, where required.

26.3 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors present and entitled to vote shall for all purposes be deemed a determination of the Board. All Directors shall have one deliberative vote on any question and any tied poll on any question shall result in the motion lapsing.

26.4 Resolutions not in meeting

- (a) A resolution in writing, signed or assented to by facsimile or other form of visible or other electronic communication by all the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Directors.
- (b) Without limiting the power of the Board to regulate their meetings as it thinks fit, a meeting of the Board may be held where one or more of the Directors is not present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board;
 - (iii) if a failure in communications prevents Rule 26.4(b) from being satisfied by a quorum of Directors, the meeting shall be suspended until Rule 26.4(b)(i) is satisfied again. If not satisfied within 15 minutes from the interruption, the meeting shall be deemed to have terminated; and
 - (iv) no meeting shall be invalidated merely because no Director is physically present at the place for the meeting specified in the notice of meeting.

26.5 Quorum

At meetings of the Board the quorum shall be four Directors.

26.6 Notice of Board meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence), not less than 14 days written notice of the meeting of the Board shall be given to each Director unless all Directors agree, the agenda shall be forwarded to each Director not less than seven days prior to such meeting.

26.7 Validity of Board decisions

A procedural defect in decisions taken by the Board shall not result in such decision being invalidated.

26.8 Chairman of Directors meetings

The Chairman shall chair meetings of Directors. The Directors must elect a Director present at the meeting to chair a meeting, or part of it, if the Chairman is not available for holding the meeting or declines to act for the meeting or the part of the meeting.

27. CONFLICTS

27.1 Conflict of interest

A Director shall declare his interest in any matter (including any contractual or financial matter) in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Board, absent himself from discussions of such matter and shall not be entitled to vote in respect of such matter. In the event of any uncertainty as to whether it is necessary for a Director to absent him or herself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

27.2 Disclosure of Interests

The nature of the interest of such Director must be declared by the Director at the meeting of the Board at which the contract or other matter is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a contract or other matter after it is made or entered into the declaration of the interest must be made at the first meeting of the Board held after the Director becomes so interested.

27.3 General Disclosure

A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under Rule 27.2 as regards such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

27.4 Recording Disclosures

The chair of the relevant meeting or the Chief Executive Officer shall ensure that the minutes record any declaration made or any general notice given by a Director in accordance with Rule 27.2 and Rule 27.3.

28. DELEGATIONS

28.1 Committees

- (a) Subject to Rule 28.1(c) the Directors may by instrument in writing create, establish or appoint committees consisting of such persons as the Directors think fit.
- (b) A committee created under Rule 28.1(a) must:
 - (i) comply with the terms of the instrument of delegation in exercising the powers delegated by the Directors; and
 - (ii) exercise the powers delegated to it in accordance with any directions of the Directors.
- (c) The Board in establishing such committees must not delegate a function imposed on the Board or any officer of the Company by the Act or any other law, or this Constitution, or by resolution of a General Meeting.

28.2 Conduct of committee meetings

- (a) A committee created under Rule 28.1 may elect a person to chair its meetings unless otherwise directed by the Board. If no such person is elected, or if at any meeting the committee chairman is not present within 15 minutes after the time appointed for holding the meeting, the committee members present at the meeting may elect one of their number to chair the meeting.
- (b) Subject always to the direction of the Board, a committee created under Rule 28.1 may meet and adjourn as it thinks proper.

28.3 Votes at committee meetings

A resolution of a committee must be passed by a majority of votes of the committee members present and entitled to vote on the resolution.

28.4 Delegation to individual Directors

- (a) The Board may delegate any of its powers to one Director.
- (b) A Director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board.

28.5 Validity of Directors' acts

An act done by a person acting as a Director or by a meeting of Directors or a committee attended by a person acting as a Director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified to be a Director or having vacated office; or
- (c) the person not being entitled to vote;

if that circumstance was not known by the person or the Directors or the committee as the case may be when the act was done.

29. CHIEF EXECUTIVE OFFICER

29.1 Appointment of Chief Executive Officer

The Chief Executive Officer may be appointed by the Board for such terms and on such conditions as the Board thinks fit.

29.2 Chief Executive Officer

If appointed, the Chief Executive Officer shall administer and manage the Company in accordance with this Constitution.

29.3 Specific duties

The Chief Executive Officer shall:

- (a) as far as practicable, attend all Board meetings and General Meetings;

- (b) prepare the notice of and agenda for all Board meetings and all General Meetings;
- (c) ensure that minutes of the proceedings of all meetings of the Board and all General Meetings are recorded and prepared; and
- (d) regularly report to the Board (and if required, to the General Meeting) on the strategic, administrative, financial and operational activities of, and issues relating to, the Company.

29.4 Chief Executive Officer may employ

The Chief Executive Officer, in consultation with the Board, may, on behalf of the Company, employ such office personnel as are deemed necessary from time to time. Such appointments shall be for such period and on such conditions as the Chief Executive Officer and the Board determine.

30. BY-LAWS

30.1 Board to formulate by-laws

The Board may in consultation with member club delegates, formulate, approve, issue, adopt, interpret and amend such By- Laws which in its opinion are necessary or desirable for the control, administration and management of the Company's affairs and the Motorcycle Sport in Victoria and may repeal and replace those By-Laws. Such By-Laws must be consistent with this Constitution.

30.2 By-laws binding

All By-Laws made under this Rule shall be binding on the Company and Members.

30.3 Existing By-laws

Any by-laws in existence at the time of adoption of this Constitution and which are not replaced or repealed by this Constitution shall continue in force until such time as they are repealed and/or varied by the Board.

30.4 Notices binding on Members

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Members by means of notices approved by the Board and prepared and issued by the Chief Executive Officer. Notices are binding upon all Members.

31. RECORDS AND ACCOUNTS

31.1 Chief Executive Officer to keep records

The Chief Executive Officer shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Board and shall produce these as appropriate at each Board meeting or General Meeting.

31.2 Records kept in accordance with the Act

Proper accounting and other records shall be kept in accordance with the Act. All books, documents and securities of the Company shall be kept in the care and control of the Chief Executive Officer.

31.3 Company to retain records

The Company shall retain such records for not less than seven years after the completion of the transactions or operations to which they relate.

31.4 Board to submit accounts

The Board shall submit to the Annual General Meeting the accounts of the Company in accordance with this Constitution and the Act.

31.5 Accounts conclusive

The accounts when approved or adopted by the Annual General Meeting shall be conclusive except as regards any error discovered in them within three months after such approval or adoption.

31.6 Accounts to be sent to Members

The Chief Executive Officer shall cause to be sent to all persons entitled to receive notice of Annual General Meetings of the Company in accordance with this Constitution, a copy of such documents (including, but not limited to, the Company's accounts, the Board's report and the auditor's report) as the Board determines is appropriate or as are required under the Act (if any).

32. CONFIDENTIALITY

- (a) Each Member, Delegate and Director (where the context requires, the "Recipient") agrees in relation to Confidential Information of another Member or the Company ("Owner"):
 - (i) to use the Confidential Information only for the purposes of the Company; and
 - (ii) to keep the Confidential Information confidential and not disclose it or allow it to be disclosed to any third party except:
 - (A) with the consent of the Owner;
 - (B) with the consent of the Board with respect to Confidential Information of the Company; or
 - (C) to disclose to officers, employees and consultants or advisers of the Recipient only where they have a need to know (and only to the extent that each has a need to know) and are aware that the Confidential Information must be kept confidential,and the Members must take or cause to be taken reasonable precautions necessary to maintain the secrecy and confidentiality of the Confidential Information;
 - (iii) to be responsible and liable for any breach of confidentiality by any of its Delegates (but not if such Delegate is acting in his/her capacity as a Director), employees, agents or representatives.
- (b) The obligations of confidentiality under this Constitution do not extend to information that (whether before or after this Constitution is adopted):

- (i) is disclosed to a Recipient, but at the time of disclosure is rightfully known to or in the possession or control of the Recipient and not subject to an obligation of confidentiality on the Recipient;
 - (ii) is public knowledge (otherwise than as a result of a breach of this Rule 32); or
 - (iii) is required by law to be disclosed and the Recipient required to make the disclosure has taken all reasonable steps to oppose or prevent the disclosure and to limit, as far as reasonably possible, the extent of the disclosure.
- (c) On ceasing to be a Member, such former Member must:
- (i) continue to keep confidential all Confidential Information of each other Member and the Company; and
 - (ii) at each Owner's option, return to that Owner or destroy and certify the destruction of that Owner's Confidential Information.
- (d) For the avoidance of doubt, the rights and obligations of the Members and Recipients set out in this Constitution with respect to Confidential Information will survive:
- (i) termination of the membership of any Member; and/or
 - (ii) the removal of this Rule 32 from this Constitution; and/or
 - (iii) the non-application of the Constitution generally, for example, upon winding up of the Company.

33. AUDITOR

- (a) A properly qualified auditor or auditors shall be appointed by the Company and the remuneration of such auditor or auditors fixed by the Board. The auditor's duties shall be regulated in accordance with the Act.
- (b) The accounts of the Company including the profit and loss accounts and balance sheets shall be examined by the auditor or auditors at least once in every Financial Year.

34. NOTICES

34.1 Manner of notice

- (a) Notices may be given by the Chief Executive Officer (or nominated representative) to any Member and Director by any means provided for by the Act including but not only serving it on the person or by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address or the address of the Director as notified. Notices may also be given by being posted on the Company's website.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected four business days after posting.

- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected unless an electronic report is received back advising that the electronic mail message was not received at, or was undeliverable to, the electronic mail address to which it was sent.

35. EXECUTION OF DOCUMENTS

35.1 Execution without common seal

A document is validly executed by the Company if the document is signed by:

- (a) two Directors; or
- (b) a Director and the Chief Executive Officer; or
- (c) except for deeds, a Director nominated for that purpose by the Directors.

35.2 Directors' interests

A Director may not sign a document if the Director is interested in the contract or arrangement to which the document relates.

36. ACCESS TO RECORDS

- (a) The Directors will from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of Members.
- (b) No Member (other than a Director) has any right to inspect any accounting or other records of the Company except as conferred by statute or as authorised by the Directors or by a resolution passed at a General Meeting.

37. FUNDS

37.1 Funds

The funds of the Company shall be derived from Members' fees, levies and subscriptions, donations, grants, sponsorship and such other sources as are determined by the Board.

37.2 Deposit and receipt of funds

All money received by the Company shall be deposited as soon as practicable and without deduction to the credit of the Company's bank account.

37.3 Management

The income and property of the Company shall be applied solely towards the promotion of the Objects.

38. ALTERATION OF RULES

This Constitution shall not be altered except by Special Resolution.

39. VIRTUAL MEETINGS OF THE COMPANY

39.1 Virtual Meeting

- (a) A General Meeting or a Board meeting may be held by means of a Virtual Meeting, provided that:
 - (i) the number of Members or Directors (as applicable) participating is not less than a quorum required for a General Meeting or Board meeting (as applicable); and
 - (ii) the meeting is convened and held in accordance with the Act.
- (b) All provisions of this Constitution relating to a meeting apply to a Virtual Meeting in so far as they are not inconsistent with the provisions of this Rule 39.

39.2 Conduct of Virtual Meeting

The following provisions apply to a Virtual Meeting of the Company:

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