

CONSTITUTION

- of -

**CONFEDERATION OF AUSTRALIAN
MOTOR SPORT LIMITED
t/as
MOTORSPORT AUSTRALIA**

CONTENTS

1.	Name.....	4
2.	Provenance	4
3.	Interpretation	4
4.	Objects of Motorsport Australia	6
5.	Powers of Motorsport Australia	8
6.	Application of Income.....	8
7.	Addition, Alteration or Amendment	8
8.	Liability of Members	9
9.	Members' contributions	9
10.	Distribution of Property on Winding Up	9
11.	Accounts	9
12.	State Councils	9
13.	Members.....	10
14.	Effect of Membership.....	12
15.	Subscription and Fees.....	14
16.	Discontinuance of Membership.....	14
17.	Discipline of Members	15
18.	Convening General Meetings.....	15
19.	Notice of Meeting	15
20.	Entitlement to Notices	16
21.	Place of General Meeting	16
22.	Written Resolutions	16
23.	Quorum	16
24.	Proxies in Quorum	16
25.	Adjournment for Lack of Quorum	17
26.	Lack of Quorum at Adjourned Meeting.....	17
27.	Chairperson of General Meetings	17
28.	Adjournment Generally	17
29.	Putting of Resolutions.....	17
30.	Result on Show of Hands.....	18
31.	Demand for Poll.....	18
32.	No Casting Vote	18
33.	Voting at General Meetings.....	18
34.	Entitlement to Vote	18
35.	Disallowance of Vote	18
36.	Proxy Voting	19
37.	Composition of the Board	19

38.	Qualifications of Directors	19
39.	Election of Elected Directors	19
40.	President	21
41.	Appointment of Appointed Directors	22
42.	Remuneration of Directors	22
43.	Vacation of Office of Director	23
44.	Management of Motorsport Australia	23
45.	General Powers of the Board	23
46.	Holding of Board Meetings	23
47.	Holding of Other Offices	24
48.	Directors' Interests	24
49.	Disclosure of Interests	24
50.	General Disclosure	24
51.	Recording Disclosures	24
52.	Interested Director Cannot Vote	25
53.	Quorum	25
54.	Chairperson of Board Meetings	25
55.	Delegations	25
56.	Conduct of Commission or Committee Meetings	25
57.	Votes at Board Meetings	26
58.	Validity of Directors' Acts	26
59.	Out of Session Resolution	26
60.	Manner of Holding Meetings	26
61.	Chief Executive Officer	26
62.	Negotiable Instruments	27
63.	Minutes	27
64.	Registers	27
65.	Common Seal	27
66.	Execution under Common Seal	28
67.	Execution without Common Seal	28
68.	Directors' Interests	28
69.	Accounting Records	28
70.	Access to Records	28
71.	Auditor	28
72.	Giving of Notices	29
73.	Extent of Indemnity	29
74.	NCR and Regulations	30

CORPORATIONS ACT
COMPANY LIMITED BY GUARANTEE
CONSTITUTION
of
CONFEDERATION OF AUSTRALIAN MOTOR SPORT LIMITED

PREAMBLE

1. Name

The name of the company is Confederation of Australian Motor Sport Limited trading as Motorsport Australia.

2. Provenance

- (a) The FIA is the sole international sporting authority entitled to make and enforce regulations for the encouragement and control of automobile competitions and records, and to organise FIA International Championships and will be the final international court of appeal for the settlement of disputes arising therefrom.
 - (b) So that the above powers may be exercised in a fair and equitable manner, the FIA has drawn up the Code.
 - (c) Each National Club or Federation belonging to the FIA, will be presumed to acquiesce in and be bound by the Code. Subject to such acquiescence and restraint, one single Club or one single Federation per country, hereafter called ASN, will be recognised by the FIA as sole international sporting power for the enforcement of the present Code and control of motorsport in its own country, dominions, dependencies, protectorates or colonies. Motorsport Australia has been delegated by the FIA with exercising the Sporting Power for Australia.
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3. Interpretation

- (a) In this Constitution unless the contrary intention appears:

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

Affiliated Club means a Club which is recognised by the Board as being eligible to be admitted to membership in Category B or Category C Member as described under clause 13.

Appointed Director means a Director appointed under clause 41.

Board means the Directors of Motorsport Australia acting as a body.

Chief Executive Officer means a chief executive officer appointed by the Board having such functions as are set out under this Constitution.

Claim means any action, suit, proceeding, claim, demand, damage, penalty, cost or expense however arising but does not include any claim made under a relevant Motorsport Australia insurance policy or available to a Member under this Constitution or Regulations.

Club means a body recognised by the Board as being formed primarily for the purposes of participating in, or promoting motorsport or related activities.

Code means the International Sporting Code as published by the FIA and as may be amended from time to time.

Company Secretary means any person appointed to perform the duties of a company secretary of Motorsport Australia.

Constitution means this Constitution of Motorsport Australia.

Director means a member of the Board and includes Elected Directors, Appointed Directors and the President.

Elected Director means a Director elected under clause 39.

FIA means the Federation Internationale de l'Automobile.

Financial Year means the year ending 31 December in each year.

General Meeting means the Annual or General Meeting of the Category E Members of Motorsport Australia.

Intellectual Property means all rights subsisting in copyright, trade names, trade marks, logos, designs, equipment, images (including photographs, videos or films) or service marks (whether registered or registrable) relating to Motorsport Australia, the words "motorsport" or any event or competition or motorsport equipment, product, publication or activity (including all Australian Motorsport Championships and the Motorsport Australia Motorsport Calendar) developed, conducted, promoted or administered by Motorsport Australia.

Member means a member of Motorsport Australia under clause 13.

Motorsport Australia means the Confederation of Australian Motor Sport Limited trading as Motorsport Australia.

Motorsport Australia Administration means, for the purpose of clause 39(g), the authorised Motorsport Australia employee or employees in the respective State.

NCR means the National Competition Rules of Motorsport Australia including all appendices and schedules to them as amended from time to time.

Objects means the Objects of Motorsport Australia in clause 4 of this Constitution.

President means the President for the time being of Motorsport Australia.

Regulations means any policy, rule, procedure, regulation or other instrument (including but not limited to the NCRs) made or passed by the Board under clause 74.

Special Resolution means a Special Resolution as defined under the Act.

Sporting Power means that power delegated to Motorsport Australia by the FIA for the exclusive control and management of motorsport in Australia.

Standing Nominations Committee means the Committee established by the Board to ensure that the Board and Motorsport Australia controlled subsidiaries and entities comprise individuals best able to discharge their responsibilities as directors.

State Council means a body established by Motorsport Australia and to which certain powers and functions of Motorsport Australia may be delegated under clause 12.

- (b) Expressions referring to “writing” will 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.
- (c) In this Constitution:
 - (i) a reference to a function includes a reference to a power, authority and duty;
 - (ii) 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 of the performance of the duty;
 - (iii) a word importing the singular includes the plural and vice versa;
 - (iv) a word importing any gender includes all other genders;
 - (v) a reference to persons includes corporations and bodies politic;
 - (vi) a reference to a person includes the legal personal representatives, successors and permitted assigns of that person; and
 - (vii) 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).
- (d) If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, that phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be read down, the phrase or provision will be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of the Constitution or affecting the validity or enforceability of that provision in any other jurisdiction.
- (e) Except where the contrary intention appears in this Constitution, an expression in a provision of this Constitution, that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act.
- (f) The replaceable rules referred to in the Act are displaced by this Constitution to the extent of any inconsistency.

4. Objects of Motorsport Australia

Motorsport Australia is established solely to:

- (a) adopt and exercise the Sporting Power as the ASN for motorsport in Australia and administer, promote, manage, encourage, conduct and exercise control of and over motorsport in Australia and its territories in accordance with the Code and such instructions and directions as may from time to time be received from the FIA and at all times in accordance with and in the spirit of the traditions of true competitive sport;

- (b) conduct, encourage, administer, promote, advance and manage motorsport in Australia through competition and commercial means;
- (c) ensure that all motorsport in Australia is carried out in a manner which secures and enhances the safety of participants, officials, spectators and the public and which allows the sport to be competitive and fair;
- (d) establish and regulate a State Council in each State;
- (e) formulate, issue, interpret, implement and amend from time to time the Regulations as are necessary for the control and conduct of motorsport in Australia;
- (f) enforce the Regulations and, where applicable, the Code;
- (g) issue licences and permits in accordance with the Code and the Regulations;
- (h) determine, arrange and publish an annual Australian motorsport calendar of events;
- (i) maintain a central registry of Members;
- (j) establish and maintain an Australian motorsport judicial system in accordance with the Regulations;
- (k) pursue through itself or other entities commercial arrangements including sponsorship and marketing opportunities as are appropriate to further these Objects;
- (l) promote and be engaged in road safety;
- (m) develop a culture of safety, training and education;
- (n) formulate or adopt and implement appropriate policies, including in relation to harassment, equal opportunity, equity, drugs in sport, health, safety, infectious diseases and such other matters as arise from time to time as issues to be addressed in motorsport;
- (o) arbitrate disputes between State Councils or between Affiliated Clubs in different States;
- (p) compile, and amend as required, a list of national records;
- (q) do all that is reasonably necessary to enable these Objects to be achieved and to enable the Members to receive the benefits which these objects are intended to achieve;
- (r) cooperate or join with or support any Club, association, organisation, society or individual which:
 - (i) undertakes activities, or has purposes which are similar to those of Motorsport Australia, or which advance motorsport in Australia; and
 - (ii) has not acted, and / or will not act, in the opinion of the Board, contrary to the interests of Motorsport Australia, the Members or Motorsport; and

where such co-operation and / or joinder is in the best interests of Motorsport Australia and / or motorsport
- (s) have regard to the public interest in its operations; and
- (t) undertake and / or do all such things or activities as are necessary, incidental or conducive to the advancement of these Objects.

5. Powers of Motorsport Australia

Solely for furthering the Objects Motorsport Australia has:

- (a) the legal capacity and powers set out under section 124 of the Act;¹ and
- (b) the Sporting Power.

6. Application of Income

- (a) The income and property of Motorsport Australia will be applied solely towards the promotion of the Objects.
- (b) No portion of the income or property of Motorsport Australia will be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member.
- (c) No remuneration or other financial benefit will be paid or given by Motorsport Australia to any Director or any Member who holds any office of Motorsport Australia.
- (d) Nothing contained in clauses 6(b) or (c) will prevent payment in good faith of or to any Member:
 - (i) for any services actually rendered to Motorsport Australia whether as an employee or otherwise;
 - (ii) for goods supplied to Motorsport Australia 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 Motorsport Australia; or
 - (v) for any out-of-pocket expenses incurred by any Member on behalf of Motorsport Australia,

provided that any such payment will not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction. Any such payments must be first approved by the Board.

7. Addition, Alteration or Amendment

- (a) Subject to clause 7(b) no addition, alteration or amendment will be made to this Constitution unless the same has been approved in accordance with the Act.
- (b) Clauses 23, 37, 39 and 53 will not be amended unless the notice of motion proposing the amendment has been approved by at least 4 State Councils.

¹ Section 124 (1) states that a company has the legal capacity and powers of an individual both in and out of Australia.

8. Liability of Members

The liability of the Members of Motorsport Australia is limited.

9. Members' contributions

Each Member undertakes to contribute to the assets of Motorsport Australia in the event of it being wound up while a Member, or within one year after ceasing to be a Member for payment of the debts and liabilities of Motorsport Australia contracted before the time at which it or they ceases or cease to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding one dollar (\$1).

10. Distribution of Property on Winding Up

If upon winding up or dissolution of Motorsport Australia there remains after satisfaction of all its debts and liabilities any assets or property, the same will not be paid to or distributed amongst the Members of Motorsport Australia but will be paid to or distributed to an organisation or organisations having objects similar to the objects of Motorsport Australia and which requires its income and profits to be applied solely in promoting its 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 Motorsport Australia by clause 6 of this Constitution. Such organisation to be determined by Category B, C and E Members of Motorsport Australia at or before the time of dissolution, and in default thereof by such Judge of the Supreme Court of Victoria as may have or acquire jurisdiction in the matter.

11. Accounts

- (a) True accounts will be kept of the sums of money received and expended by Motorsport Australia and the manner in respect of which such receipt and expenditure takes place and of the property, assets and liabilities of Motorsport Australia.
 - (b) Once at least in every year the accounts of Motorsport Australia will be examined by one or more properly qualified auditor or auditors who will report to the Members in accordance with the provisions of the Act.
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STATE COUNCILS AND MEMBERS

12. State Councils

- (a) The Board authorises the establishment of a State Council in each State and delegates to that State Council the responsibility to assist with the efficient administration and development of motorsport in that State Council's area strictly in accordance with the Objects. Such delegation will not be deemed to derogate or diminish or lessen in any way the absolute authority of Motorsport Australia in respect of motorsport in Australia, which absolute authority will be subject only to the FIA. Such delegation may be revoked or varied at any time by written notice from the Board.

- (b) The composition, operation, duties and functions of State Councils will be in accordance with this Constitution and as determined by the Board of Motorsport Australia from time to time in consultation with State Councils and prescribed in Standing Orders.
- (c) Each State Council will:
 - (i) act at all times in compliance with all requirements that may be imposed on it by any relevant Federal, State or Local government;
 - (ii) at all times act for and on behalf of the interests of Motorsport Australia, the Members, and motorsport;
 - (iii) elect an Elected Director;
 - (iv) do all that is reasonably necessary to enable the Objects to be achieved;
 - (v) act in good faith and loyalty to ensure the maintenance and enhancement of Motorsport Australia and motorsport, its standards, quality and reputation for the collective and mutual benefit of the Members and motorsport;
 - (vi) at all times operate with, and promote, mutual trust and confidence between Motorsport Australia and the Members in pursuit of the Objects;
 - (vii) not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Motorsport Australia and motorsport, its maintenance and enhancement;
 - (viii) make full and proper disclosure to each other of all matters of importance to a State Council, Motorsport Australia and motorsport;
 - (ix) not acquire an advantage at the expense of any of Motorsport Australia or other State Council or motorsport;
 - (x) operate with mutual trust and confidence in pursuit of the Objects; and
 - (xi) promote the economic and sporting success, strength and stability of Motorsport Australia and act interdependently with each other in pursuit of the Objects.

13. Members

- (a) Membership of Motorsport Australia is divided into the following categories:
 - (i) Category A Members;
 - (ii) Category B Members;
 - (iii) Category C Members;
 - (iv) Category D Members;
 - (v) Category E Members;
 - (vi) Category O Members; and
 - (vii) such other categories as are created from time to time under clause 13(i).

- (b) Category A Members: All financial members of Affiliated Clubs be they individuals or organisations. Category A Members (unless also a current Category E Member) are not entitled to notice of General Meetings or to attend or vote or debate at General Meetings.
- (c) Category B Members: Clubs which are affiliated with Motorsport Australia by the recommendation of a State Council and the decision by the Board and which may be represented at State Council meetings by a nominee nominated from time to time in writing by that Club. The nominee will have the right to be present, vote, debate and move and second motions at State Council meetings only. Category B Members (or their nominees) are not entitled to notice of General Meetings or to attend or vote or debate at General Meetings. Motorsport Australia will be entitled to rely on such nomination as being conclusive of that nominee's standing.
- (d) Category C Members: Clubs which are affiliated with Motorsport Australia by the recommendation of a State Council and the decision by the Board and which may be represented at State Council meetings by a nominee nominated from time to time in writing by that Club. The nominee will have the right to be present, debate and move and second motions at State Council meetings only, but will have no voting rights. Category C Members (or their nominees) are not entitled to notice of General Meetings or to attend or vote or debate at the General Meetings. Motorsport Australia will be entitled to rely on such nomination as being conclusive of that nominee's standing.
- (e) Category D Members: All persons determined from time to time by the Board to be Life Members, Members of Honour or holders of the Award of Merit. Category D Members (unless also a current Category E Member) are not entitled to notice of General Meetings or to attend or vote or debate at General Meetings.
- (f) Category E Members: The Directors. Category E Members have the right to notice of General Meetings and to be present, vote and debate and move and second motions at General Meetings.
- (g) Category O Members: All persons who volunteer to be officials and are licensed by Motorsport Australia to be officials at Motorsport Australia events. Category O Members (unless they are also currently Category E Members) are not entitled to notice of General Meetings or to attend or vote or debate at General Meetings.
- (h) Where an Affiliated Club is unincorporated, that is, it has no legal status separate from its individual members, the nominated representative of the Affiliated Club will be deemed to represent the Club for all membership purposes under this Constitution.
- (i) The Board has power from time to time to create new categories of membership so long as the effect of this is not to alter the rights, privileges or obligations of any existing category of Members.
- (j) Affiliation of Clubs will be governed by the procedures set out in Standing Orders determined by the Board from time to time. Notwithstanding anything in this Constitution or any Standing Orders the Board may reject or veto an application by:
 - (i) a Club seeking affiliation; and / or
 - (ii) an Affiliated Club seeking re-affiliation;

in its absolute discretion. No reasons need to be given for such decision and there is no appeal against such decision. Where an application is rejected or vetoed any affiliation or re-affiliation fees paid (as the case may be) should be refunded.

14. Effect of Membership

- (a) All Members acknowledge and agree that:
- (i) the Constitution that applies to Motorsport Australia has effect as a contract between:
 - (A) Motorsport Australia and each Member;
 - (B) Motorsport Australia and each Director and company secretary; and
 - (C) a Member and each other Member,under which each person agrees to observe and perform the Constitution and the Regulations so far as they apply to that person;
 - (ii) they will comply with and observe the Constitution and the Regulations and any determination or resolution which may be made or passed by the Board;
 - (iii) by becoming and remaining a Member of Motorsport Australia they submit to the Constitution and the Regulations they are subject to the jurisdiction of Motorsport Australia;
 - (iv) the Constitution is made in the pursuit of a common object, namely the mutual and collective benefit of Motorsport Australia, the Members and motorsport;
 - (v) the Constitution and Regulations are necessary and reasonable for promoting the Objects and particularly the advancement and protection of motorsport;
 - (vi) they release and discharge Motorsport Australia from all Claims that they had or may have had but for this release arising from or in connection with their membership of Motorsport Australia and / or participation in any Motorsport Australia authorised or recognised activity;
 - (vii) they indemnify Motorsport Australia to the extent permitted by law in respect of any Claims arising as a result of or in connection with their membership of Motorsport Australia and / or participation in any Motorsport Australia authorised or recognised activity whether caused or contributed to, directly or indirectly, by any act or omission (including negligence) on the part of Motorsport Australia;
 - (viii) neither membership of Motorsport Australia nor this Constitution gives rise to:
 - (A) any proprietary right of Members in, to or over Motorsport Australia or its property or assets;
 - (B) any automatic right of a Member to the renewal of their membership of Motorsport Australia; or
 - (C) subject to Motorsport Australia acting in good faith, the right of Members to natural justice, unless expressly provided for in this Constitution;
- (b) Pursuant to Motorsport Australia's obligations under the Code and despite any other provision of this Constitution, any person who is:
- (i) the President or an elected director, appointed director or secretary of Motorsport Australia;
 - (ii) a member of any State Council executive committee; or

- (iii) a member of any commission or committee delegated power by the Board under this Constitution,

must not:

- (iv) be a director or committee member of;
- (v) act in the position of a director or committee member (even if not formally appointed) of;
- (vi) be a person whose instructions or wishes are usually acted in accordance with by the directors or committee members of;
- (vii) be the or one of the principal controlling minds of;
- (viii) be an event official (whether or not formally appointed to that role) including any official role equivalent to those under NCR 160 at an event, permitted or approved by; or
- (ix) otherwise enter, drive or participate in any competition (but does not include private practice, test, tuning events, spectating and the like) which is permitted or approved by,

any incorporated or unincorporated body which permits, approves or purports to permit or approve any type of automobile competition which is not permitted or approved by the Board of Motorsport Australia or a body exercising a power delegated by Motorsport Australia or the FIA;

- (c) Pursuant to Motorsport Australia's obligations under the Code and despite any other provision of this Constitution, any person who is or at any time in the previous 24 months:

- (i) a director or committee member of;
- (ii) acting in the position of a director or committee member (even if not formally appointed) of;
- (iii) a person whose instructions or wishes are usually acted in accordance with by the directors or committee members of;
- (iv) the or one of the principal controlling minds of; or
- (v) an event official (whether or not formally appointed to that role) including any official role equivalent to those under NCR 160 at an event permitted or approved by,

any incorporated or unincorporated body which permits, approves or purports to permit or approve any type of automobile competition which is not permitted or approved by the Board of Motorsport Australia or a body exercising a power delegated by Motorsport Australia or the FIA, is ineligible to and will be immediately disqualified from holding any of the following offices of Motorsport Australia:

- (vi) President, Elected Director, Appointed Director or secretary of Motorsport Australia; or
- (vii) member of any State Council executive committee; or

- (viii) member of any commission or committee delegated power by the Board under this Constitution;
- (d) Upon the written application of any person to whom clause 14(b) or 14(c) applies which makes full disclosure of their conflicts of interest, Motorsport Australia's Board may (but is not obliged to) resolve to permit the person to occupy a role from which they would otherwise be ineligible or disqualified under clause 14(b) or 14(c);
- (e) Notwithstanding clause 17, where a Member fails to comply with their financial or other obligations under this Constitution or any Regulations, the Board may determine that Member to be not of good standing. On determination that a Member is not of good standing, the Board may give notice to the Member of the:
 - (i) Board's determination; and
 - (ii) grounds for the Board's determination;and request that the Member show cause within such time as is determined by the Board as to why further action should not be taken against the Member. The Member's failure to respond or act to the Board's satisfaction (including assurances or compliance with their obligations) may result in the Board suspending the Member's membership of Motorsport Australia or otherwise imposing such conditions on membership, as the Board sees fit; and
- (f) The Board may in its absolute discretion summon any Member it considers to be in breach of any provision of this Constitution or the Regulations to present themselves to a special meeting of the Board to show cause as to why the Board should not consider suspending the membership of the Member in accordance with clause 14(e) above.

15. Subscription and Fees

- (a) Members must renew their membership each year, or for such longer period specified by the Board.
- (b) The annual subscription (if any) and fees payable (if any) by Members to Motorsport Australia and the time for and manner of payment will be as determined by the Board from time to time.
- (c) The Chief Executive Officer may extend the time for payment of subscriptions or fees either generally or in any particular case.
- (d) Subject to clause 15(b), Members whose subscriptions and / or fees have not been paid and received by the time set by the Board in any year will not be entitled to receive any of the benefits, advantages, privileges or services of Motorsport Australia membership unless otherwise approved in writing by the Chief Executive Officer.

16. Discontinuance of Membership

- (a) An Affiliated Club, may withdraw from membership by giving notice in writing of such withdrawal to the relevant State Council and to Motorsport Australia, and having paid all arrears of subscriptions and fees payable by it to Motorsport Australia.
- (b) Where a Club ceases to be affiliated with Motorsport Australia the Category A Members of that Club also cease to be Members unless also an individual member of another Affiliated Club.

- (c) A Member, who ceases to be a Member, will forfeit all right in and claim upon Motorsport Australia and its property including Intellectual Property and will make no claim for a refund of any membership and related fees paid by the member.

17. Discipline of Members

- (a) The Board in its sole discretion may consider any of the following matters for investigation or determination either under the procedures set down in the Regulations or by such other procedure or persons as the Board considers appropriate:
 - (i) an allegation (which in the opinion of the Board is not vexatious, trifling or frivolous) by a complainant (including but not only a Director, the Chief Executive Officer or a State Council) that a Member has:
 - (A) breached, failed, refused or neglected to comply with a provision of this Constitution or any Regulations or any other resolution or determination of the Board or duly authorised commission or committee; or
 - (B) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of Motorsport Australia and / or motorsport; or
 - (C) prejudiced Motorsport Australia or motorsport or brought Motorsport Australia or motorsport into disrepute.
- (b) All Members are subject to, and submit unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of Motorsport Australia whether under the Regulations or as otherwise prescribed by the Board from time to time.

GENERAL MEETINGS

18. Convening General Meetings

- (a) Any Director may call a General Meeting.
- (b) The Board must call a General Meeting if requested by the Category E Members in accordance with the Act.

19. Notice of Meeting

Subject to the provisions of the Act relating to agreements for shorter notice, not less than twenty one days' written notice (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) must be given of any General Meeting. The notice must:

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

- (d) if a Category E Member is entitled to appoint a proxy, contain a statement setting out the following information:
 - (i) that the Category E Member has a right to appoint a proxy; and
 - (ii) that in accordance with clause 36 the proxy needs to be a Category E Member.

20. Entitlement to Notices

Notice of every General Meeting will be given in any manner authorised by this Constitution to:

- (a) every Category E Member;
- (b) the auditor for the time being of Motorsport Australia; and
- (c) State Council chairpersons and State Council secretaries.

21. Place of General Meeting

Motorsport Australia may hold a General Meeting at one or more venues using any technology that gives the Category E Members as a whole a reasonable opportunity to participate.

22. Written Resolutions

- (a) Motorsport Australia may pass a resolution without a General Meeting being held if a majority of all Category E Members sign a document containing a statement that they are in favour of the resolution set out in the document. All Category E Members must be served with any document to be considered under this clause. The provisions of this clause do not apply to a resolution to remove the auditor.
- (b) Separate copies of the document may be used for signing by Category E Members if the wording of the resolution statement is identical on each copy. The resolution is passed when the last Category E Member of the majority in favour signs.

23. Quorum

The quorum for a General Meeting is six (6) Category E Members. The quorum must be present (including by the use of technology) at all times during the meeting.

24. Proxies in Quorum

In determining whether a quorum is present, individuals attending as proxies are counted. If an individual is attending, both as a Category E Member and as a proxy, the individual is counted only once.

25. 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 will be adjourned to the date, time and place the Board specifies. If the Board does not specify one or more of these things, then the meeting will be 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.

26. Lack of Quorum at Adjourned Meeting

If no quorum is present at the resumed meeting within thirty minutes after the time specified for the meeting, then the meeting is dissolved.

27. Chairperson of General Meetings

The President will be entitled to act as chairperson at every General Meeting. If the President is not available within ten minutes after the time appointed for holding the meeting or declines to act for the meeting or part of the meeting, either of the two Vice-Presidents will be entitled to act as chairperson of the meeting or part of it.

28. Adjournment Generally

The chairperson may, with the consent of any General Meeting at which a quorum is present (and will if so directed by the meeting), adjourn the meeting from time to time and from place to place. No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. 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.

29. Putting of Resolutions

A resolution put to the vote at a General Meeting must be decided on a show of hands unless a poll is demanded. Before a vote is taken the chairperson must inform the meeting whether proxies have been received and how those proxies are to be cast. A poll may be demanded by:

- (a) at least 3 Category E Members; or
- (b) the chairperson.

The poll may be demanded before a vote is taken or before the voting results on a show of hands are declared or immediately after the voting results on a show of hands are declared.

30. Result on Show of Hands

On a show of hands, a declaration by the chairperson is conclusive evidence of the result provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairperson nor the minutes need state the number or proportion of the votes recorded in favour or against.

31. Demand for Poll

A poll may be demanded on any resolution including the election of the chairperson or the adjournment of a meeting. A poll demanded on a matter other than the election of the chairperson or the question of adjournment must be taken when and in the manner the chairperson directs. A poll on the election of the chairperson or on the question of an adjournment must be taken immediately. A demand for a poll may be withdrawn.

32. No Casting Vote

In the case of an equality of votes, whether on a show of hands or on a poll, there will be no casting vote and the resolution will lapse for want of a majority. An abstaining vote will be taken as a vote against the resolution.

33. Voting at General Meetings

Subject to any rights or restrictions attached to any category of membership, at a General Meeting:

- (a) on a show of hands, each person present who is a Category E Member has one vote; and
- (b) on a poll, each Category E Member present in person or by proxy has one vote.

A resolution must be supported by a majority of votes cast by those present and entitled to vote on the resolution, provided not less than four votes are cast in favour. In the case of an equality of votes cast the resolution will fail for the want of a majority. There will be no casting vote. Abstentions will not be counted when determining the question, but may be recorded.

34. Entitlement to Vote

No Category E Member is entitled to vote at any General Meeting unless all sums presently payable by that Member in respect of membership in Motorsport Australia have been paid.

35. Disallowance of Vote

A challenge to a right to vote at a General Meeting:

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

Every vote not so disallowed is valid for all purposes.

36. Proxy Voting

Proxy voting is permitted at General Meetings. A proxy vote can only be held and exercised by a Category E Member. Each Category E Member can only hold one (1) proxy vote.

THE BOARD

37. Composition of the Board

The Board will, subject to this Constitution, comprise no more than ten Directors (being six Elected Directors elected under clause 39 plus the President elected under clause 40 plus up to three Appointed Directors appointed under clause 41). All Directors must be Australian residents.

38. Qualifications of Directors

- (a) Any person who wishes to be nominated for a Director position on the Board or is nominated by a State Council as a temporary replacement Elected Director must demonstrate, to the satisfaction of the Standing Nominations Committee, that they meet the following qualifications:
 - (i) have a commitment to the role and the ability to devote sufficient time and energy to the position;
 - (ii) commit to successfully completing the AICD Director's Course (or other relevant course as approved by the Motorsport Australia Board from time to time) on the role and duties of a director prior to nomination or commit to do so within 18 months of election or appointment; and
 - (iii) have an ability to understand a wide scope of community issues, including the requirements and objectives of governing not for profit bodies.
- (b) A Director, who is a member of a State Council Executive and / or the Committee or Board of an Affiliated Club, must resign from those positions immediately should they be elected to the Board, but they may continue to attend any meetings of the State Council Executive as an observer.

39. Election of Elected Directors

- (a) Subject to clause 39(g), each State Council will elect an Elected Director. Persons seeking election for these positions must be:
 - (i) Category A Members;
 - (ii) in the case of Elected Directors, not previously elected to that position on three or more occasions after 1 January 2015; and

- (iii) otherwise permitted to be elected to and to hold those positions by this Constitution.
- (b) Subject to provisions in this Constitution relating to the earlier death, resignation, disqualification, retirement or removal of Directors, Elected Directors will remain in office from 1 January in the calendar year following that of their election until 31 December in the third calendar year following that of their election. Two Elected Directors will retire in each year until, after three years the six original Elected Directors have retired after which, those Elected Directors (or their replacements) who first retired, will retire and so on will hold office for a period of 12 months from 1 January in the year following that of his or her election until 31 December in that year unless removed from office by a resolution of his or her State Council.
- (c) Subject to clause 39(g) each Elected Director will be elected at a meeting of the relevant State Council to be held by 31 October in a State Council election year.
- (d) Subject to clause 39(g) Elected Directors will, upon the expiration of their respective terms of office, be eligible for re-election unless they have been previously elected to that position on three occasions after 1 January 2015.
- (e) In the event of the death, removal, resignation or disqualification from office of an Elected Director during their term:
 - (i) in the case of an Elected Director only, the relevant State Council will fill the casual vacancy. The newly appointed Elected Director will hold office for the later of the:
 - (A) date of the end of the term of the original Elected Director; and
 - (B) the date on which a new Elected Director is appointed by the relevant State Council; and
 - (ii) in either case, the relevant State Council may hold a vote for the election of a replacement Elected Director in accordance with clause 39(g) at any time until the end of the original term of the relevant dead, removed, resigned or disqualified Elected Director.
- (f) Any temporary or permanent vacancy occurring in Board membership due to the absence or unavailability of an Elected Director will be filled by the relevant State Council subject to Clause 39(e) and that replacement Director will have all the rights, privileges and powers of an Elected Director when acting as an Elected Director at Board meetings and otherwise.
- (g) Nominations for the position of Elected Director must be received by Motorsport Australia Administration no later than 28 days before the opening of the State Council meeting at which those elections are to be held. Nominations must be:
 - (i) in writing;
 - (ii) on the prescribed form provided for that purpose (if any);
 - (iii) signed by a nominator and a seconder, who must each be individual Category A Members; and
 - (iv) certified by the nominee expressing their willingness to accept the position for which the nominee is nominated.
- (h) Notwithstanding Elected Directors are elected directly by State Councils, they are:

- (i) not representative directors and are independent of and do not represent or act on behalf of the State Council which elected them; and
- (ii) bound by and recognise their duties under the Act.

40. President

- (a) The Board will at a meeting of the Board held after 31 October in an election year elect a President. A person seeking election for the position of President must be a Category A Member.
- (b) The Chief Executive Officer will call for nominations for President at least 28 days prior to the meeting at which the President is to be elected.
- (c) Nominations must be:
 - (i) in writing;
 - (ii) on the prescribed form provided for that purpose (if any);
 - (iii) signed by a nominator and a seconder, who must be individual Category E Members or by a resolution of the nominating State Council; and
 - (iv) certified by the nominee expressing their willingness to accept the position for which the person is nominated.
- (d) Nominations must be received by the Chief Executive Officer at least 14 days prior to the Board meeting at which the election is to be held and will be sent to the Directors with the agenda for that meeting.
- (e) Even if there is only one nominee that person must be elected by a majority vote of the Directors. Where there are 2 or more nominees an election will be held by preferential ballot. The election will be by secret ballot on papers prepared by the Chief Executive Officer. The nominee with the highest number of votes (which must be at least 50% of the votes of Directors present) will be declared elected.
- (f) Where the Board elects a chairperson who is already a Director, that Director must resign from that position on the Board before assuming the position of chairperson and President. The resulting vacancy on the Board will be filled in accordance with this Constitution.
- (g) The President will hold office for three years from 1 January in the year following that of their election to 31 December in the third calendar year following or until their earlier death, resignation, disqualification or removal by resolution of the Board in accordance with sub-clause 40(k) below. Subject to clause 40(l), the President may upon the expiration of their term of office be re-elected.
- (h) In the event of the death, removal, resignation or disqualification from office of the President, the Board will elect a new President to fill the vacancy. The new President will hold office for the balance of the term of the President who has vacated the Board.
- (i) The Board will at a meeting held after 31 October in each year elect two Directors as Vice-Presidents.
- (j) The Vice-Presidents will hold office from 1 January in the year following that of their appointments to 31 December following or until their earlier death, resignation, disqualification or removal by resolution of the Board which may in its sole discretion so

resolve. The removal of either Vice-President from office by such resolution will not affect their rights or responsibilities as a Director.

- (k) The President will immediately resign from office as President and Director during their term should a vote of no confidence be passed at a meeting of the Board at which a majority of Directors votes in favour of such resolution.
- (l) Notwithstanding anything else stated in this clause 40, no person who is appointed President after 1 January 2015 (the date) will:
 - (i) serve as President for more than three terms or 9 years from the date;
 - (ii) serve for more than an aggregate of 12 years as Director then President or Appointed Director then President from the date; or
 - (iii) serve as a Director or Appointed Director after having been served as President regardless of the number of terms or years served as President in accordance with 40(l)(i) above.

41. Appointment of Appointed Directors

- (a) The Board may appoint up to three persons as Appointed Directors. Appointed Directors may have specific skills in commerce, finance, marketing, law or business generally but need not have experience in or exposure to motorsport. They do not need to be Category A Members of Motorsport Australia.
- (b) Subject to provisions in this Constitution relating to the earlier retirement or removal of Directors and particularly clause 41(c), Appointed Directors will remain in office for three years following their appointment. One Appointed Director will retire in each year until, after three years the three original Appointed Directors have retired after which, those Appointed Directors (or their replacements) who first retired, will retire and so on. An Appointed Director may upon the expiration of their term of office be reappointed unless they have previously been appointed as an Appointed Director on more than two occasions after 1 January 2015.
- (c) To enable the rotational terms under clause 41(b) to commence a sequence in which one Appointed Director will retire at the end of each calendar year, the Board will in its absolute discretion determine the date of retirement of each of the first three Appointed Directors at the time of their respective appointments.
- (d) In the event of the death, removal, resignation or disqualification from office of an Appointed Director, the Board may appoint a new Appointed Director to fill the casual vacancy. The new Appointed Director will hold office for the balance of the term of the Appointed Director who has vacated the Board.

42. Remuneration of Directors

Directors are not entitled to be paid remuneration. The Directors may be paid travelling and other expenses that they properly incur in connection with Motorsport Australia's business.

43. Vacation of Office of Director

- (a) The office of a Director (including the President) will be automatically vacated if the Director:
- (i) becomes bankrupt;
 - (ii) 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;
 - (iii) resigns from office by written notice to Motorsport Australia at its registered office;
 - (iv) becomes prohibited from being a director by virtue of the Act;
 - (v) accepts remuneration, payment or other benefits, other than prize money from Motorsport Australia, other than in accordance with this Constitution;
 - (vi) is disqualified or suspended under the Regulations (for the period of such disqualification or suspension);
 - (vii) is directly or indirectly interested in any contract or proposed contract with Motorsport Australia and fails to declare the nature of the interest in the manner required by this Constitution;
 - (viii) is removed by Special Resolution; or
 - (ix) dies.
- (b) The position of Elected Director may be declared vacant by a meeting of the State Council which elected that person, subject to notice of intention to so move having been presented to an ordinary meeting of that State Council and having subsequently been promulgated to all Affiliated Clubs at least four weeks prior to the next State Council meeting at which the motion is to be considered and subject to a resolution being passed by at least 75% of the Affiliated Clubs in that State Council area represented in person at that meeting by their nominated representative entitled to vote.

44. Management of Motorsport Australia

Subject to this Constitution the business of Motorsport Australia is to be managed by or under direction of the Board.

45. General Powers of the Board

The Board may exercise all of the powers of Motorsport Australia except any powers that the Act or this Constitution requires Motorsport Australia to exercise in General Meeting.

46. Holding of Board Meetings

- (a) The Board will meet for the despatch of business at least five times in each Financial Year, but may otherwise adjourn and regulate its meetings as it thinks fit. A Director may at any time and the Chief Executive Officer will on the request of a Director call a meeting of the Board by reasonable notice individually to each Director. A Director who is for the time being out of Australia is only entitled to receive notice of a meeting of the

Board if the Director has given written notice to Motorsport Australia of an address for the giving of notices of meetings.

- (b) The Motorsport Australia FIA International Representative may attend all Board meetings and participate in debate on relevant matters but will not, unless also a Director, be entitled to vote.
- (c) A Director must act personally and may not appoint a proxy in respect of Board meetings.

47. Holding of Other Offices

- (a) A Director will not hold any position of profit or employment in Motorsport Australia in conjunction with the office of Director.
- (b) No person who is employed in a stipendiary capacity for gain by any of Motorsport Australia, any State Council, any Affiliated Club or any other corporation or entity engaged in the promotion or organisation of any motorsport activity will be eligible as a Director other than as provided for by this Constitution.

48. Directors' Interests

A Director is disqualified by holding any position of profit or paid employment in Motorsport Australia, any State Council or Affiliated Club or in any company in which Motorsport Australia is a shareholder or otherwise interested or from contracting with Motorsport Australia either as vendor, purchaser or otherwise. Any such contract or any contract or arrangement entered into by or on behalf of Motorsport Australia in which any Director is in any way interested will be voided for such reason.

49. 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 arrangement 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 arrangement 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.

50. 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 clause 49 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.

51. Recording Disclosures

The Company Secretary will record in the minutes any declaration made or any general notice given by a Director under clauses 49 and 50.

52. Interested Director Cannot Vote

A Director, notwithstanding the interest, may be counted in the quorum present at any meeting but cannot vote in respect of any contract or arrangement in which the director is interested. If the Director does vote their vote will not be counted.

53. Quorum

- (a) The quorum for a Board meeting is six Elected and / or Appointed Directors. The quorum must be present at all times during the meeting.
- (b) In the event of a vacancy or vacancies in the office of Director or Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a Board meeting, they can act only for the purpose of ensuring the number of Directors is a number sufficient to constitute a quorum. Vacancies will be filled in accordance with this Constitution.

54. Chairperson of Board Meetings

The President will act as chairperson at all Board meetings. If the President is not available within ten minutes after the time appointed for holding the meeting or declines to act for the meeting or part of the meeting, either of the Vice-Presidents will chair the meeting or part of it.

55. Delegations

- (a) Other than its power of delegation under this clause and powers under clause 74 the Board may delegate any of its powers to commissions and / or committees consisting of such persons as the Board thinks fit. Any such commission or committee will conform to this Constitution where applicable and / or any Regulations that may be imposed on it by the Board in the exercise of the powers so delegated. Any such commission or committee must exercise the powers delegated to it in accordance with any directions of the Board. The effect of the commission or committee exercising a delegated power in this way is the same as if the Board exercised the power.
- (b) The Board may delegate the whole or part of the powers granted by the Code including the Sporting Power, provided the consent of the FIA is first obtained and may revoke such delegation subject again to notification to the FIA. Any delegation under this clause must be in accordance with the Code.

56. Conduct of Commission or Committee Meetings

The Board will appoint the chairpersons and members of all commissions and committees. If at any meeting the chairperson is not present within ten minutes after the time appointed for holding the meeting, the members present may elect one of their number to be chair of the meeting. A commission or committee may meet and adjourn, as it thinks proper.

57. Votes at Board Meetings

- (a) Subject to clause 57(b) each Director will be entitled to one vote on each resolution at Board meetings. A resolution of the Board must be supported by a majority of votes cast by those present and entitled to vote on the resolution, provided not less than four votes are cast in favour. In the case of an equality of votes cast the resolution will fail for the want of a majority. There will be no casting vote. Abstentions will not be counted when determining the question, but may be recorded.
- (b) An Appointed Director will not be entitled to vote on their reappointment.

58. Validity of Directors' Acts

All acts done by any meeting of the Board or of any commission or committee or by any person acting as a Director will be considered valid even if it is afterwards discovered that:

- (a) there was some defect in the appointment of any such Director or commission or committee or person; or
- (b) they or any of them were disqualified.

59. Out of Session Resolution

The Board may pass an out of session resolution without a Board meeting being held if eight (8) out of ten (10) Directors, or 75% if there are fewer than ten (10), Directors eligible to vote are in favour of the out of session resolution. All Directors must be served with any document to be considered under this clause. The out of session resolution is passed when the last Director eligible to vote votes.

60. Manner of Holding Meetings

A Board meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director will only withdraw the Director's consent within a reasonable period before the meeting.

61. Chief Executive Officer

- (a) The Chief Executive Officer will be appointed by the Board in accordance with the Act, but otherwise for such term, and upon such conditions as the Board thinks fit.
- (b) Motorsport Australia will be managed by the Chief Executive Officer who may exercise such powers of Motorsport Australia as are delegated to him or her from time to time by the Board in its absolute discretion and which are not retained by the Board by the Act or by this Constitution.
- (c) The Chief Executive Officer will administer motorsport in Australia in accordance with the Code, the Regulations, this Constitution, and all policy directions of the Board.
- (d) The Chief Executive Officer will attend all Board meetings and General Meetings at the invitation of the Board.

- (e) The Chief Executive Officer may be removed by the Board.
- (f) The Chief Executive Officer may not be (and may not apply to be) a Director for a period of three years following the date of ceasing to act as the Chief Executive Officer.

MISCELLANEOUS

62. Negotiable Instruments

Any two Directors of Motorsport Australia or any Director and the Chief Executive Officer may sign, draw, accept, endorse or otherwise execute a negotiable instrument. This provision is subject to the Board determining that a negotiable instrument will be signed, drawn, accepted, endorsed or otherwise executed in a different way.

63. Minutes

The Board will cause minute books to be kept in which Motorsport Australia records within one month:

- (a) proceedings and resolutions of all General Meetings; and
- (b) proceedings and resolutions of Board meetings (including meetings of all committees and commissions); and
- (c) resolutions passed by Category E Members without a meeting; and
- (d) resolutions passed by the Board without a meeting.

The Board must ensure that minutes of a meeting are signed within a reasonable time after the meeting by the chairperson of the meeting or the chairperson of the next meeting. The Board 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 was passed.

64. Registers

The Board will cause the following registers to be kept:

- (a) a register of Members;
- (b) where debentures are issued, a register of debenture holders.

65. Common Seal

Motorsport Australia may have a common seal. If it does then:

- (a) the common seal must comply with the Act;
- (b) the Board will provide for the safe custody of the common seal; and

- (c) the seal will only be used by the authority of the Board or of a committee of the Board authorised by the Board.

66. Execution under Common Seal

If Motorsport Australia does have a common seal then it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:

- (a) two Directors of Motorsport Australia; or
(b) any Director and the Chief Executive Officer.

67. Execution without Common Seal

Motorsport Australia may execute a document without using a common seal if the document is signed by:

- (a) two Directors of Motorsport Australia; or
(b) the Chief Executive Officer and any Director.

68. Directors' Interests

A Director will not sign a document to which the seal of Motorsport Australia is fixed where the Director has an interest in the contract or arrangement to which the document relates.

69. Accounting Records

The Board will cause proper accounting and other records to be kept and will distribute copies of financial statements as required by the Act.

70. Access to Records

The Board 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 Motorsport Australia or any of them will be open to the inspection of Members not being Directors. No Member (not being a Director) has any right to inspect any accounting or other records of Motorsport Australia except as conferred by the Act or this Constitution or authorised by the Board or by a resolution passed at a General Meeting.

71. Auditor

A properly qualified auditor or auditors will be appointed and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Act.

72. Giving of Notices

A notice or other communication given under this Constitution may be given:

- (a) personally; or
- (b) by sending it by post to the address of:
 - (i) the Director as notified to the Board,
 - (ii) the address for the Member in the register of members;
 - (iii) Motorsport Australia at its registered office,or the alternative address (if any) nominated by the Director or Member; or
- (c) by sending it to the facsimile number or electronic address (if any) nominated by the Director, the Member or Motorsport Australia.

Any notice sent by post is taken to have been given five days after it is posted. Any notice sent by facsimile or other electronic means is taken to be given on the business day after it is sent.

73. Extent of Indemnity

Motorsport Australia will indemnify (either directly or through one or more interposed entities) any person who is or has been a Director, Company Secretary or Chief Executive Officer of Motorsport Australia and, if so resolved by the Board, the auditor of Motorsport Australia, out of the funds of Motorsport Australia against the following:

- (a) any liability to another person (other than Motorsport Australia or a related body corporate) unless the liability arises out of conduct involving a lack of good faith or negligence;
- (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; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the Act save for any liability that arises from the negligence of that person.

74. NCR and Regulations

- (a) The NCR are the key sporting regulatory instrument of Motorsport Australia and as such they are the sole responsibility of the Board. The Board may from time to time as circumstances dictate, formulate, interpret, adopt, make, alter and amend the NCR for the proper advancement, management and administration of Motorsport Australia, the advancement of the Objects and motorsport as it thinks necessary or desirable. The NCR must be in conformity with the Code and must be consistent with this Constitution. The NCR are binding on all Members and State Councils.
- (b) The Board may from time to time as circumstances dictate, formulate, interpret, adopt, make, alter and amend the Regulations for the proper advancement, management and administration of Motorsport Australia, the advancement of the Objects and motorsport as it thinks necessary or desirable. Such Regulations must be consistent with this Constitution and the NCR. Such Regulations are binding on all Members and State Councils.
- (c) The Chief Executive Officer will bring to the notice of the Board, Members and State Councils all Regulations and any formulation, interpretation, amendment, alteration and repeal of them. State Councils will be obliged to draw such notices to the attention of Members in their State Council areas. Notices are binding upon all Members.
- (d) All Regulations of Motorsport Australia in force at the date of the approval of this Constitution will continue in force under this Constitution until amended or repealed by the Board. All such Regulations are subject to, and are to be interpreted in accordance with, this Constitution.