

**CORPORATIONS ACT 2001**

**COMPANY LIMITED BY GUARANTEE**

**CONSTITUTION OF  
AUSTRALIAN ROAD SAFETY FOUNDATION LIMITED  
ACN 145 026 928**

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**1. PRELIMINARY**

(1) In this Constitution unless the contrary intention appears:

**'Act'** means the Corporations Act 2001;

**'Alternate Director'** means a person appointed as an alternate director under clause 43;

**'Auditor'** means the Company's auditor;

**'Board'** means the Directors acting as a board;

**'Board Meeting'** means a meeting of the Board howsoever convened;

**'Chief Executive Officer'** means a person appointed by the Board to carry out and control the executive functions of the Company;

**'Company'** means Australian Road Safety Foundation Limited, a company limited by guarantee;

**'Constitution'** means the constitution of the Company as amended from time to time;

**'Delegate'** means a person appointed as such under clause 7(1);

**'Director'** means any person occupying the position of director of the Company, including where appropriate an Alternate Director;

**'Founding Member'** is a Member referred to in clause 5(2);

**'General Meeting'** means a meeting of the Voting Members of the Company and any other Members entitled to be present;

**'Initial Board'** means the Board referred to in clause 5(2);

**'Member'** means a natural person or Organisation admitted as a Member under the Constitution and includes a Founding Member;

**'Objects'** means the objects of the Company set out in clause 2;

**'Office'** means the Company's registered office;

**'Organisation'** means a body, authority, entity, institution, foundation or other organisation, whether incorporated or not;

**'Patron'** means a person suitably qualified to act as patron of the Company, as appointed by the Board;

**'Person'** means and includes natural persons and Organisations unless the contrary intention appears;

**'Register'** means the register of Members of the Company;

**'Registered address'** means the last known address of a Member as noted in the Register;

**'Seal'** means the Company's common seal (if any);

**'Secretary'** means any person appointed by the Directors to perform any of the duties of a secretary of the Company;

**'Treasurer'** means any person appointed by the Directors to perform any of the duties of a treasurer of the Company;

**'Voting Member'** means a Founding Member and any other Member entitled to vote at a General Meeting under this Constitution.

- (2) In this Constitution, unless the contrary intention appears:
- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (b) words and expressions defined in the Act have the same meaning in this Constitution;
  - (c) headings are for ease of reference only and do not affect the construction of this Constitution; and
  - (d) a reference to the Act is a reference to the Act as modified, amended or re-enacted from time to time.
- (3) An expression in a provision of this Constitution has the same meaning as in a provision of the Act that deals with the same matter as the provision, unless the contrary intention appears in this Constitution.
- (4) To the extent permitted by law, the replaceable rules in the Act do not apply to the Company.

## **2. OBJECTS AND POWERS**

- (1) The Objects for which the Company is established are to:
- (a) as its principal object and activity, promote, encourage and support the prevention of both physical and mental illness and disease arising from death and injury caused by road crashes, by all means but in particular those activities set out in the following subclauses;
  - (b) conduct, sponsor and promote activities to make road users aware of the physical and mental health effects arising from death and injury caused by road crashes, thereby seeking to reduce the incidence of those crashes;
  - (c) provide support, education, training, counselling and other direct relief for persons suffering from the effects of unsafe driving, anti-social behaviour on the roads and road accidents including but not limited to psychological trauma;
  - (d) promote road safety and safe driving in Australia;
  - (e) conduct Fatality Free Friday and other road safety initiatives;
  - (f) establish, contribute to and promote research into and public advocacy for road safety and safe driving;
  - (g) conduct driver training programs, and road safety education programs, including free programs for schools and other youth establishments;
  - (h) preparation, publication and promotion of books and other media on road safety issues;
  - (i) forming alliances with companies, media outlets, institutions and others involved in road safety;
  - (j) coordination of road safety and safe driving programs throughout Australia;
  - (k) provision of funds or other assets to any person by way of grant, loan, gift or otherwise for the encouragement of or in connection with the

promotion of public awareness and public discussion of road safety and safe driving.

- (2) (a) Subject to this Constitution, the Company has the legal capacity and powers of a Company limited by guarantee under the Act in furtherance of its Objects;
- (b) The Company may do all such acts, deeds, matters and things and enter into and make such arrangements as are necessary for, incidental or conducive to the attainment of the Objects of the Company or any of them;
- (c) The Company may make, promulgate and enforce rules, regulations, and by-laws to attain its Objects; and
- (d) In furtherance of its Objects the Company may establish, promote or assist in establishing or promoting and to subscribe to, become a Member of, co-operate with or amalgamate with any other association or organisation, whether incorporated or not, the objects of which are similar in whole or in part to those of the Company PROVIDED THAT the Company must not subscribe to or support with its funds or amalgamate with any association or organisation which does not prohibit the distribution of its income and property among its Members to an extent at least as great as those imposed on the Company pursuant to this Constitution.

### **3. INCOME AND PROPERTY OF COMPANY**

- (1) The income and property of the Company will solely be applied towards the promotion and achievement of the Objects of the Company.
- (2) No income or property of the Company will be paid or transferred directly or indirectly in any manner to any Member or associated or related entity except for payments in good faith:
  - (a) in return for any services rendered or goods supplied to the Company in the ordinary and usual course of business; or
  - (b) of principal or interest at a rate not exceeding current bank overdraft rates for moneys lent by a Member to the Company including pre-incorporation expenses; or
  - (c) at proper commercial rental or similar payment for premises, plant or equipment let to the Company; or
  - (d) for fees charged for professional, business or technical work done for the Company by or through a Member at proper commercial rates; or
  - (e) pursuant to clause 4 to or for a Director.

### **4. PAYMENTS TO DIRECTORS**

No payment will be made to any Director of the Company other than the payment of:

- (1) out of pocket expenses incurred by the Director in the performance of any duty as Director where the amount payable does not exceed an amount previously approved by the Board;
- (2) any service rendered to the Company by the Director in a professional, business or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which would be commercially reasonable payment for the service;

- (3) any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Board and are commercially reasonable in the circumstances; and
- (4) an insurance premium in respect of a contract insuring a Director to which subsection 212(1) of the Act refers or the provision of a financial benefit to a Director to which subsection 212(2) of the Act refers.

## **5. MEMBERSHIP**

The Members of the Company shall consist of:

- (1) Founding Members and such other categories or sub-categories of Members as the Board may determine from time to time.
- (2) The initial membership of the Company shall consist of the Founding Members set out in Schedule 1 to this Constitution.
- (3) The Secretary must maintain the Register which must contain a separate list of Members in each category together with the relevant voting rights of those Members for the current financial year.
- (4) Founding Members and Voting Members have the right to attend and vote at General Meetings and all other rights and powers set out in this Constitution.
- (5) The Board may from time to time determine what categories of membership should be created, the rights and powers thereof and qualifications for membership (if any).
- (6) The Board may from time to time vary the categories of membership and the rights, powers and qualifications thereof provided that Members of a category so varied must not be materially disadvantaged.
- (7) Unless the Board resolves otherwise, membership may not be held jointly.

## **6. ADMISSION AS A MEMBER**

- (1) Application for admission to membership of the Company may only be made in such written, electronic or other form bearing the applicant's signature or other authentication and providing such information as the Board may determine from time to time.
- (2) Each application for admission as a Member must be lodged with the Secretary.
- (3) Subject to clause 6(4), each application for admission as a Member must be considered by the Board as soon as it can reasonably do so after receipt of such application by the Secretary.
- (4) The Board may in its discretion require an applicant to supply any evidence of suitability or eligibility that it considers necessary, such evidence to be put before the Board meeting at which the application will be determined. If the Board requires further evidence of eligibility from an applicant, determination of the application will be deferred until such evidence has been supplied.
- (5) The admission of an applicant will be decided by the Board in its absolute discretion and will be final and binding.
- (6)
  - (a) As soon as practicable following the determination of an application for admission as a Member, the Secretary must send the applicant written notice of the decision and, if the application has been successful, the Secretary will request payment of the applicant's entrance fee (if any) and first annual subscription.
  - (b) Subject to clause 6(7), an applicant will become a Member subject to

payment of the amounts due under clause 6(6)(a).

- (7) If an amount due under clause 6(6)(a) is not paid within thirty (30) days after the date the applicant is notified of acceptance, the Board may cancel the acceptance of the applicant as a Member.
- (8) The rights and privileges of each Member are personal to such Member and are not transferable by the act of any Member or by operation of law.

## **7. DELEGATES OF MEMBERS**

- (1) Each Member which is not a natural person must by written notice to the Secretary nominate a Delegate to attend General Meetings of the Company on behalf of such Member, to vote on resolutions at General Meetings on behalf of such Member, to speak on behalf of such Member and to act as its representative in all matters connected with the Company.
- (2) A Member may remove or replace its Delegate by written notice to the Secretary.
- (3) Subject to clause 7(4), each Delegate is entitled to:
  - (a) exercise at a General Meeting all the powers which the Member which appointed such Delegate could exercise if it were a natural person;
  - (b) stand for election as or be appointed as a Director; and
  - (c) be counted towards a quorum for the purposes of clause 16.
- (4) If a Delegate is elected or appointed as a Director, that Delegate's position will not become vacant and that Delegate may still exercise the powers set out in clause 7(3) unless the relevant Member replaces the Delegate under clause 7(2).
- (5) The chairperson of a General Meeting may allow a person to vote as a Delegate on a resolution of the General Meeting on the condition that such person establishes his or her status as a Delegate within a period prescribed by and to the satisfaction of the chairperson.

## **8. FOUNDING MEMBERS**

- (1) Each Founding Member has the rights and powers set out below and otherwise in this Constitution which must be read subject to them accordingly.
- (2) Each Founding Member has the right to be or appoint a Director, to appoint a person in his or her place as a Director, remove and replace a Director appointed by him or her including by the Founding Member again acting as a Director.
- (3) The firstnamed Founding Member in Schedule 1 shall be the chairperson of all General Meetings and Board Meetings while he remains a Director and a Member.
- (4) If the firstnamed Founding Member is unable or unwilling to be the chairperson under clause 5(3)5(3), the secondnamed Founding Member will be the chairperson on the same basis.

## **9. MEMBERSHIP - SUBSCRIPTIONS**

- (1) The Board may determine the entrance fee and annual subscription payable by each category of Member.
- (2) The annual subscription period will commence annually on the 1st day of the Company's financial year and will be due in advance within thirty (30) days of that date.

- (3) The Board may determine that any Member admitted to membership in the second half of any subscription period will pay only one-half of the annual subscription until that Member's next annual subscription fails due.
- (4) If a Member does not pay a subscription within thirty (30) days after it becomes due, the Board:
  - (a) must give the Member written notice of that fact; and
  - (b) if the subscription remains unpaid twenty-one (21) days from the date of that notice, the Board may notify the Member in writing that the Member's membership is suspended until the Member's subscription arrears have been repaid, and that the Member's voting rights have been suspended pursuant to clause 24.

#### **10. MEMBERSHIP – VOTING RIGHTS**

Each Founding Member and Voting Member shall be entitled to be present and to cast one vote on each resolution at a General Meeting.

#### **11. MEMBERSHIP - CEASING TO BE A MEMBER**

- (1) A Member will cease to be a Member of the Company:
  - (a) if the Member gives the Secretary written notice of its intention to resign from membership of the Company, from the date of receipt of that notice by the Secretary;
  - (b) if the Board by resolution in its absolute determination resolves to terminate the membership of a Member:
    - (i) whose conduct in the opinion of the Board renders it undesirable that the Member continue to be a Member of the Company; or
    - (ii) on other good and proper grounds relating to conduct or circumstances which in the opinion of the Board may be detrimental to the Company;

PROVIDED THAT the Member has been given at least twenty-one (21) days' notice of such proposed resolution and the grounds for termination and has had the opportunity to be heard at the meeting at which the resolution is proposed;

  - (c) if the Member's annual subscription is in arrears for more than sixty (60) days;
  - (d) if the Member dies.
- (2) Any Member that ceases to be a Member pursuant to this clause:
  - (a) will not be entitled to any refund (or part refund) of a subscription; and
  - (b) will remain liable for and will pay to the Company all subscriptions and moneys which were due at the date of ceasing to be a Member.
- (3) Any decision of the Board under this clause 11 shall be final and binding.

#### **12. MEMBERSHIP - SUSPENSION AND OTHER SANCTIONS**

When considering termination of a Member's membership under clause 11(1)(b), the Board may upon considering all of the facts resolve not to terminate such membership but as an alternative to:

- (1) suspend the Member for a specified period;
- (2) reprimand or caution the Member; or

- (3) suspend termination of the membership subject to compliance with conditions imposed on the Member by the Board.

**13. MEMBERSHIP - POWERS OF ATTORNEY**

- (1) If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the attorney to the Company for notation.
- (2) If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- (3) The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

**14. GENERAL MEETINGS - CONVENING GENERAL MEETING**

- (1) The Board or a Director in accordance with s.249C of the Act may, at any time, call a General Meeting.
- (2) A Member may request the Directors to call a General Meeting in accordance with s.249D of the Act.

**15. GENERAL MEETINGS - NOTICE OF GENERAL MEETING**

- (1) Subject to the provisions of the Act allowing General Meetings to be held with shorter notice, at least twenty-one (21) days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any General Meeting.
- (2) A notice convening a General Meeting:
  - (a) must specify the place, date and time of the 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) must state the general nature of the business to be transacted at the meeting; and
  - (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.
- (3) A notice of an Annual General Meeting need not state that the business to be transacted at the meeting includes:
  - (a) the consideration of the annual financial report, Directors' reports and the Auditor's report;
  - (b) the election of Directors; or
  - (c) the appointment and fixing of the remuneration of the Auditor.
- (4)
  - (a) The Board may postpone or cancel any General Meeting whenever they think fit (other than for a meeting convened as the result of a request by or at the request of Members.
  - (b) The Board must give notice of the postponement or cancellation to all persons entitled to receive notices of meetings from the Company.
- (5) The failure or accidental omission to send a notice of a General Meeting to any Member or the non-receipt of a notice by any Member does not invalidate the proceedings at or any resolution passed at the General Meeting.
- (6) The Board is not required to give notice of a General Meeting to a Member not entitled to attend a General Meeting.



**16. PROCEEDINGS AT GENERAL MEETINGS - VOTING**

- (1) Each Founding Member and Voting Member is entitled to one vote on each resolution of the Company in General Meeting provided all fees and subscriptions due to the Company have been paid at least one (1) business day before the meeting.
- (2) Directors are not entitled to vote on resolutions of the Company except as Members or Delegates or pursuant to clause 22.

**17. PROCEEDINGS AT GENERAL MEETINGS - QUORUM**

- (1) No business may be transacted at a General Meeting unless a quorum of Voting Members is present when the meeting proceeds to business.
- (2) A quorum of Voting Members consists of one quarter (1/4) of Members entitled to be present and vote plus at least one of the Founding Members or their Attorney or Proxy (unless the Founding Members have ceased to hold membership in the Company).
- (3) If a quorum is not present within thirty (30) minutes after the time appointed for a meeting:
  - (a) if the meeting was convened on the requisition of one or more Members or Directors, it is automatically dissolved; or
  - (b) in any other case:
    - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Board; and
    - (ii) if at the adjourned meeting a quorum is not present within thirty (30) minutes after the time appointed for the meeting, the meeting is automatically dissolved.

**18. PROCEEDINGS AT GENERAL MEETINGS - CHAIRPERSON**

- (1) The person referred to in clause 5(3) will be the chairperson at every General Meeting failing which the person referred to in clause 5(4) will be the chairperson.
- (2) If neither of the persons referred to above are present, willing or able to act as chairperson, the Directors present may elect a chairperson.
- (3) If no election is made pursuant to clause 18(2), then:
  - (a) the Voting Members may elect one of the Directors present as chairperson; or
  - (b) if no Director is present or is willing to take the chair, the Voting Members may elect one of the Voting Members present as chairperson.
- (4) If there is a dispute at a General Meeting about a question of procedure, the chairperson may determine the question.

**19. PROCEEDINGS AT GENERAL MEETINGS - ADJOURNMENT**

- (1) The chairperson of a General Meeting at which a quorum is present in his or her discretion may adjourn the meeting with or without the consent of the Voting Members present
- (2) An adjourned General Meeting may take place at a different venue to the initial General Meeting.

- (3) The only business that can be transacted at an adjourned General Meeting is the unfinished business of the initial General Meeting.
- (4) Notice of an adjourned General Meeting must only be given in accordance with clause 15(1) if a General Meeting has been adjourned for more than twenty-one (21) days.

**20. PROCEEDINGS AT GENERAL MEETINGS - DECISION OF QUESTIONS**

- (1) Subject to the Act in relation to special resolutions, a resolution is carried if a majority of the votes cast are in favour of the resolution and provided that no Founding Member has cast a vote against the resolution (including a special resolution).
- (2) A resolution put to the vote of a General Meeting is decided on a show of hands unless a poll is demanded, before or on the declaration of the result of the show of hands, by:
  - (a) the chairperson; or
  - (b) at least two Members entitled to vote on the resolution.
- (3) Unless a poll is demanded:
  - (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (b) an entry to that effect in the minutes of the General Meeting,are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
- (4) The demand for a poll may be withdrawn.
- (5) A decision of a General Meeting may not be impeached or invalidated on the ground solely that a person voting at the meeting was not entitled to do so.

**21. PROCEEDINGS AT GENERAL MEETINGS - TAKING A POLL**

- (1) A poll will be taken when and in the manner that the chairperson directs.
- (2) The result of the poll will be the resolution of the General Meeting at which the poll was demanded.
- (3) The chairperson may determine any dispute about the admission or rejection of a vote.
- (4) The chairperson's determination will be final and conclusive.
- (5) A poll demanded on the election of the chairperson or the adjournment of a meeting must be taken immediately.
- (6) After a poll has been demanded at a General Meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.

**22. PROCEEDINGS AT GENERAL MEETINGS - CASTING VOTE**

In the event of a deadlock of Members on a resolution at a General Meeting, the chairperson of the General Meeting shall have a casting vote.

**23. PROCEEDINGS AT GENERAL MEETINGS - OFFENSIVE MATERIAL**

A person may be refused admission to, or required to leave and not return to, a General Meeting by the chairperson in his or her discretion if the person:

- (1) refuses to permit examination of any article in the person's possession; or
- (2) is in possession of any:

- (a) electronic or recording device;
- (b) placard or banner; or
- (c) other article,

which the chairperson considers to be dangerous, offensive, inappropriate or liable to cause disruption to the General Meeting; or

- (3) is guilty of or threatens conduct which is or is likely to be offensive, inappropriate or disruptive to the General Meeting.

#### **24. DELEGATES OF VOTING MEMBERS - ENTITLEMENT TO VOTE**

A Voting Member is not entitled to vote at a General Meeting if a notice has been issued to the Voting Member under clause 9(4)(b) or the Voting Member's annual subscription remains in arrears at the date of the General Meeting.

#### **25. QUALIFICATION OF DELEGATES - OBJECTIONS**

- (1) An objection to the qualification of a Delegate may only be raised at the meeting or adjourned meeting at which the Delegate tendered his or her vote.
- (2) Any objection under clause 25(1) must be referred to the chairperson of the meeting, whose decision is final.
- (3) A vote which the chairperson does not disallow because of an objection is valid for all purposes.

#### **26. VOTES BY PROXY**

- (1) If a Voting Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may vote on a show of hands.
- (2) A proxy may demand or join in demanding a poll.
- (3) A proxy or attorney may vote on a poll.
- (4) If a proxy and a Delegate of a Voting Member are present, only the proxy may vote.
- (5) If two or more proxies for a Voting Member are present, the first named in a joint proxy or in the case of separate proxies the first alphabetically only shall be entitled to vote.

#### **27. INSTRUMENT APPOINTING PROXY**

- (1) A Voting Member may appoint a proxy by a written appointment signed by the appointer or the appointer's attorney duly authorised in writing.
- (2)
  - (a) An appointment of a proxy must comply with the requirements of the Act or be in a form approved by the Board.
  - (b) Schedule 3 sets out a form which will be taken to be approved by the Board unless the Board resolves otherwise.
- (3) A proxy may vote or abstain as the proxy chooses except to the extent that an appointment of the proxy indicates the manner in which the proxy will vote on any resolution. The proxy must vote or abstain on a poll in accordance with any instructions on the appointment.
- (4) A proxy's appointment is valid at an adjourned meeting.

#### **28. LODGEMENT OF PROXY**

- (1) The written appointment of a proxy or attorney must be received by the Secretary, at least forty-eight (48) hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:

- (a) the time for holding the meeting or adjourned meeting at which the appointee proposes to vote; or
  - (b) the taking of a poll on which the appointee proposes to vote.
- (2) The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:
- (a) the Office;
  - (b) a facsimile number at the Office; or
  - (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

**29. VOTES OF DELEGATES AND PROXIES - VALIDITY**

A vote cast by a Delegate or in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointer:

- (1) died;
- (2) became of unsound mind; or
- (3) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant meeting or adjourned meeting.

**30. COMPOSITION OF BOARD - NUMBER OF DIRECTORS**

- (1) The Board of the Company consists of at least three (3) and no more than eight (8) Directors.
- (2) The Board shall include all Founding Members or those Directors appointed by the Founding Members in accordance with clause 5(2).
- (3) A Director must be a Voting Member or Delegate of a Voting Member.

**31. ELECTION OF CHAIRPERSON**

- (1) The chairperson shall be the person referred to in clause 5(3) or 5(4) as the case may be.
- (2) If neither person referred to in clause 5(3) or 5(4) is able or willing to act as chairperson, then the chairperson shall be elected by the Board for such period as the persons referred to in clauses 5(3) and 5(4) are unable or unwilling to act and if permanently by both such election shall be annual.

**32. ELECTION AND REMOVAL OF DIRECTORS**

- (1) Any Voting Member may nominate a person for election as a Director;
- (2) All nominations for election as a Director must be made in writing in the manner approved by the Board, signed by a nominator Voting Member and seconded by another Voting Member and lodged with the Secretary;
- (3) All nominations for election as a Director must have complied with clause 36 before being voted on at a General Meeting;
- (4) The Company may by resolution passed in General Meeting:
  - (a) elect a Director; and
  - (b) remove a Director for cause before the end of the Director's term of office, other than a Director appointed under clause 5(2) and 5(2).

**33. APPOINTMENT OF CASUAL DIRECTORS**

- (1) Subject to clause 36(1), the Board may appoint any person as a Director to fill a casual vacancy.
- (2) A Director appointed under clause 33(1) will hold office until the next election of Directors at an annual General Meeting of the Company when the Director may be re-elected.

**34. RETIREMENT AND RE-ELECTION OF DIRECTORS**

- (1) At the fifth and subsequent annual General Meetings, two (2) Directors must retire from office;
- (2) The Directors to retire from office in accordance with clause 34(1) will be determined:
  - (a) firstly, by written notice of a Director that he or she intends to so retire at least seven (7) days prior to the relevant General Meeting;
  - (b) secondly, if less than two (2) Directors have given such notice, those Directors who have held office longest since their last appointment, and in the case of Directors elected on the same day, by the drawing of lots.
- (3) A Director shall not be included in a ballot referred to in clause 34(2)(b) if that Director was elected at the immediately preceding annual General Meeting or at a subsequent extraordinary General Meeting;
- (4) A retiring Director will be eligible for re-election;
- (5) Notwithstanding clause 34(1), the Directors appointed under clause 5(2) shall not be required to retire nor may be removed from office until the eleventh annual General Meeting.

**35. DIRECTORS - FILLING VACATED OFFICE**

- (1) When a Director retires at a General Meeting the Company must elect a person to fill the vacated office in accordance with the procedures set out in clause 32.
- (2) If a vacated office is not otherwise filled and the retiring Director has offered himself or herself for re-election, the retiring Director will be deemed to have been re-elected unless, at the meeting at which he or she retires:
  - (a) it is resolved not to fill the vacated office; or
  - (b) the resolution for the re-election of the Director is put and lost.

**36. DIRECTORS - NOMINATION OF DIRECTOR**

- (1) A person other than a retiring Director is not eligible for election as a Director at a General Meeting unless the person, or a Voting Member who intends to propose the person, has left at the Office a written notice signed by him or her:
  - (a) giving the person's consent to the nomination; and
  - (b) stating either that the person is a candidate for such office or that the Voting Member intends to propose the person for election.
- (2) A notice given in accordance with clause 36(1) must be left at the Office at least thirty (30) days before the relevant General Meeting.
- (3) A written notice referring to all Director vacancies and each candidate for election, must be sent to all Voting Members at least seven days before every General Meeting at which an election of a Director will take place.

### **37. DIRECTORS - VACATION OF OFFICE**

The office of a Director immediately becomes vacant if the Director:

- (1) is prohibited by the Act from holding office or continuing as a Director;
- (2) becomes bankrupt or makes any general arrangement or composition with his or her creditors;
- (3) cannot manage the Company because of his or her mental incapacity and is a person whose estate or property has had a personal representative or trustee appointed to administer it;
- (4) resigns by notice in writing to the Company;
- (5) is removed by a resolution of the Company (subject to clause 34(5));
- (6) is absent from three consecutive Directors' meetings without leave of absence from the Directors;
- (7) holds any unauthorised office of profit under the Company; or
- (8) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Act, subject to the power of the Board to excuse such failure if a declaration is made subsequently and there is no detriment to the Company.

### **38. POWERS AND DUTIES OF DIRECTORS**

- (1) The business of the Company is managed by the Directors acting as a Board, which may exercise all powers of the Company that this Constitution and the Act do not require to be exercised by the Company in General Meeting.
- (2) Without limiting the generality of clause 38(1), the Board may exercise all the powers of the Company to:
  - (a) borrow money or obtain any other form of financial accommodation, including by way of bills of exchange, promissory note or other obligations;
  - (b) charge any property or business of the Company; and
  - (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (3) The following powers may not be exercised by the Board but are reserved for the resolution of the Company at a General Meeting:
  - (a) the election of Directors;
  - (b) the removal for cause of any Director; and
  - (c) the amendment of this Constitution.
- (4) The Board may from time to time appoint one or more Patrons to represent the Company and promote the Objects throughout the community on such conditions, including length of tenure, as the Board may decide. The Board may remove a Patron with or without a replacement at will.

### **39. PROCEEDINGS OF DIRECTORS – BOARD MEETINGS**

- (1)
  - (a) A Director may at any time, and the Secretary must on the request of a Director, convene a Board meeting.
  - (b) Notice of a Board Meeting may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

- (2) (a) Subject to the Act, a Board Meeting maybe held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (b) The Directors need not all be physically present in the same place for a Board Meeting to be held.
- (c) Subject to clause 42, a Director who participates in a Board Meeting held in accordance with this Constitution is taken to be present and entitled to vote at the Board Meeting.
- (3) Clause 39(2) applies to meetings of Directors' committees as if all committee Members were Directors.
- (4) The Directors may meet together, adjourn and regulate Board Meetings as they think fit.
- (5) A quorum is a majority of Directors for the time being including a Founding Member or his or her nominee.

#### **40. PROCEEDINGS OF DIRECTORS - CHAIRPERSON**

- (1) The person referred to in clause 5(3) will be the chairperson of the Board, failing which the person referred to in clause 5(4) will be the chairperson.
- (2) If neither of the persons referred to above are present, willing or able to act as chairperson, the Directors present may elect a chairperson for that meeting.

#### **41. PROCEEDINGS OF DIRECTORS - DECISION OF QUESTIONS**

- (1) Subject to this Constitution, questions arising at a Board Meeting are to be decided by a majority of votes of the Directors present and voting and, subject to clause 42, each Director has one vote.
- (2) The chairperson of a meeting has a casting vote in addition to his or her deliberative vote.
- (3) (a) An Alternate Director has one vote for each Director for whom he or she is an alternate.
- (b) If the Alternate Director is a Director, he or she also has a vote as a Director.
- (4) Notwithstanding clause 41(1), a resolution of the Board will not be carried if any Director appointed under clause 5(2) casts a vote against the resolution.

#### **42. PROCEEDINGS OF DIRECTORS - DIRECTORS' INTERESTS**

- (1) Every Director who has a material personal interest in a matter that is to be considered at a Board Meeting:
  - (a) must not vote on the matter but may be present while the matter is being considered at the Board Meeting if a majority of the other Directors present agree; and
  - (b) will not be counted in a quorum in relation to that matter,if to do so would be contrary to the Act.
- (2) Each Director must disclose his or her material personal interests to the Company in accordance with the Act and the Secretary must record all declarations in the minutes of the relevant Board Meeting.
- (3) Voting by a Director contrary to this clause 42, or failure by a Director to make disclosure under this clause 42, does not render void or voidable a contract or arrangement in which the Director has a material personal interest.

- (4) A Director may join in executing in accordance with section 127 of the Act any document relating to a contract or arrangement or proposed contract or arrangement in which the Director has an interest.
- (5) Subject to the above, a Director may:
  - (a) hold any office in the Company, except that of auditor;
  - (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which the Company has an interest of any kind;
  - (c) enter into any contract or arrangement with the Company;
  - (d) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Company or persons dependent on or connection with them;
  - (e) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
  - (f) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors;
  - (g) sign or participate in the execution of a document by or on behalf of the Company; and
  - (h) do any of the above despite the fiduciary relationship of the Director's office:
    - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
    - (ii) without affecting the validity of any contract or arrangement.

#### **43. PROCEEDINGS OF DIRECTORS - ALTERNATE DIRECTORS**

- (1) A Director may, with the approval of the Directors, appoint any person as his or her alternate for a period determined by that Director.
- (2) An Alternate Director is entitled to notice of Board Meetings and, if the appointer is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director.
- (3) An Alternate Director is an officer of the Company and is not an agent of the appointer.
- (4) The provisions of this Constitution which apply to Directors also apply to Alternate Directors.
- (5)
  - (a) The appointment of an Alternate Director may be revoked at any time by the appointer or by the other Directors.
  - (b) an Alternate Director's appointment ends automatically when his or her appointer ceases to be a Director.
- (6) Any appointment or revocation under this clause must be effected by written notice delivered to the Secretary.

#### **44. PROCEEDINGS OF DIRECTORS - REMAINING DIRECTORS**

- (1) The Directors may act even if there are vacancies on the Board.
- (2) If the number of Directors is not sufficient to constitute a quorum at a Board Meeting, the Directors may act only to:
  - (a) appoint a Director to fill a casual vacancy; or



- (b) convene a General Meeting.

#### **45. PROCEEDINGS OF DIRECTORS – DELEGATION OF POWERS**

- (1) The Board may delegate any of its powers to:
  - (a) a committee of Directors;
  - (b) a committee of one or more Directors and other persons;
  - (c) a Director;
  - (d) an employee of the Company; or
  - (e) any other person.
- (2) A committee or person to which any powers have been delegated must exercise its powers in accordance with any directions of the Board and a power exercised in that way is taken to have been exercised by the Board.
- (3) A committee or person to which any powers have been delegated may be authorised to sub-delegate all or any of the powers for the time being vested in it;
- (4) Meetings of any committee will be governed by the provisions of this Constitution which deal with Board Meetings so far as they are applicable and are not inconsistent with any directions of the Board.
- (5) All committee decisions shall be recommendations only to the Board and are subject to the Board's acceptance, variation or rejection;
- (6) The Board must report to the Company annually on all committees so appointed;
- (7) The Board may vary the size, representation, membership or function of each committee as it sees fit from time to time;
- (8) The Board may, in its discretion, appoint an Executive Committee subject to the following:
  - (a) the Executive Committee shall comprise those persons appointed by the Board and must include the chairperson, Chief Executive Officer and two other Directors, provided that all Founding Members must be members of the Executive Committee unless they are unwilling or unable to do so;
  - (b) the powers of the Executive Committee will be:
    - (i) to consider and recommend matters of policy to the Board;
    - (ii) to deal with and be responsible for the day to day running of the Company (subject to delegation to the Chief Executive Officer);
    - (iii) to supervise all committees of the Board; and
    - (iv) to attend to matters of urgency which cannot at that time be practically dealt with by the Board as a whole provided that such powers must be exercised subject to any prior Board policies and resolutions;
  - (c) The Executive Committee must report fully to each Board Meeting on matters which it has dealt with and where necessary must seek ratification of decisions by the Board.
- (9) Any person exercising a power under these provisions acts as an officer of the Company in so doing but not otherwise.

#### **46. CIRCULAR RESOLUTIONS**

- (1) The Board may pass a resolution without a Board Meeting being held if all the Directors 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. The resolution is passed when the last Director signs.
- (2) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (3) Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- (4) The minutes of Board Meetings must record that a resolution was passed in accordance with this clause.
- (5) This clause applies to meetings of Directors' committees as if all Members of the committee were Directors.

#### **47. PROCEEDINGS OF DIRECTORS - VALIDITY OF ACTS OF DIRECTORS**

If it is discovered that:

- (1) there was a defect in the appointment, or in the continuance of the appointment, of a person as a Director, Alternate Director or Member of a Directors' committee: or
- (2) a person appointed to one of those positions was disqualified,

all acts of the Board or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

#### **48. PROCEEDINGS OF DIRECTORS - MINUTES AND REGISTERS**

- (1) The Board must cause minutes to be made of:
  - (a) the names of the Directors present at all General Meetings, Board Meetings and meetings of Directors' committees;
  - (b) all proceedings and resolutions of General Meetings, Board Meetings and meetings of Directors' committees;
  - (c) all resolutions passed by circular resolution;
  - (d) all appointments of officers;
  - (e) all orders made by the Board and by Directors' committees; and
  - (f) all disclosures of interests made pursuant to clause 42.
- (2) Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- (3) The Company must keep all registers required by this Constitution and the Act.

#### **49. LOCAL MANAGEMENT**

- (1) The Board may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit.
- (2) Without limiting clause 49(1) the Board may:
  - (a) establish branches, local boards and agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be Members of those local boards or agencies; and
  - (b) delegate to any person appointed under clause 49(2)(a) any of the powers, authorities and discretions which may be exercised by the

Board under this Constitution,  
on any terms and subject to any conditions determined by the Board.

- (3) The Board may at any time revoke or vary any delegation under this clause 49.

#### **50. APPOINTMENT OF ATTORNEYS AND AGENTS**

- (1) The Board may from time to time by resolution or power of attorney executed in accordance with section 127 of the Act appoint any person to be the attorney or agent of the Company:
  - (a) for the purposes;
  - (b) with the powers, authorities and discretions (not exceeding those exercisable by the Board under this Constitution);
  - (c) for the period; and
  - (d) subject to the conditions,  
determined by the Board.
- (2) A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Board thinks fit.
- (3) The Board may appoint attorneys or agents by facsimile or email transmission to act for and on behalf of the Company.
- (4) An attorney or agent appointed under this clause may be authorised by the Board to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

#### **51. SECRETARY AND TREASURER**

- (1) The Board must appoint a Director or other person as Secretary of the Company for a term and on conditions determined by the Board.
- (2) The Secretary is entitled to attend and be heard on any matter at all Board meetings and General Meetings.
- (3) The Board may, subject to the terms of the Secretary's employment contract (if any), suspend, remove or dismiss the Secretary.
- (4) The Board may appoint a Director or other person as Treasurer of the Company on conditions determined by the Board.
- (5) The Treasurer is entitled to attend and be heard on any matter at all Board meetings and General Meetings.
- (6) The Board may, subject to the terms of the Treasurer's employment contract (if any), suspend, remove or dismiss the Treasurer.

#### **52. SEALS - COMMON SEAL**

If the Company has a Seal:

- (1) the Board must provide for the safe custody of the Seal;
- (2) the Seal must not be used without the authority of the Board or a Directors' committee authorised to use the Seal;
- (3) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Board to countersign the document.

**53. SEALS - DUPLICATE SEAL**

If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal each of which:

- (1) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal';
- (2) must not be used except with the authority of the Board.

**54. INSPECTION OF RECORDS**

Except as otherwise required by the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members or Delegates other than Directors.

**55. NOTICES - SERVICE OF NOTICES**

- (1) Notice may be given by the Company to any person who is entitled to notice under this Constitution:
  - (a) by serving it on the person; or
  - (b) by sending it by post, facsimile or email transmission to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.
  - (c) A notice sent by post is taken to be served on the day after the day on which it was posted.
  - (d) A notice sent by facsimile or email transmission is taken to be served on the day after its despatch.
- (2) If a Member has no registered address a notice will be taken to be served on that Member twenty-four (24) hours after it was posted on a notice board at the Office.
- (3) A Member whose registered address is not in Australia may specify in writing an address in Australia to be taken to be the Member's registered address within the meaning of this clause.
- (4) A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- (5) Subject to the Act the signature to a written notice given by the Company may be written or printed.
- (6) All notices sent by post outside Australia must be sent by prepaid airmail post.

**56. NOTICES - PERSONS ENTITLED TO NOTICE**

- (1) Notice of every General Meeting must be given to:
  - (a) every Voting Member;
  - (b) every other Member entitled to attend a General Meeting;
  - (c) every Director and Alternate Director;
  - (d) any Auditor.
- (2) No other person is entitled to receive notice of a General Meeting.

## **57. AUDIT AND ACCOUNTS**

- (1) The Board must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Act.
- (2) The Board must cause the financial records of the Company to be audited in accordance with the requirements of the Act.

## **58. WINDING UP**

- (1) If the Company is wound up each Member and each Member that has ceased to be a Member in the preceding year undertakes to contribute to the property of the Company for the:
  - (a) payment of debts and liabilities of the Company (in relation to clause 58(1), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
  - (b) adjustment of the rights of the contributories amongst themselves,such amount as may be required, not exceeding the amount of Ten Dollars (\$10.00).
- (2) If upon the winding up or dissolution of the Company there remains any property, after the satisfaction of all the Company's debts and liabilities, the property shall not be paid to or distributed among the Members, but shall be given or transferred to any Organisation having objects similar to the Objects of the Company, which is not carried on for the profit or gain of its individual members and which prohibits the distribution of its or their income and property amongst its and their members at least to the same extent as is imposed on the Company by virtue of this Constitution, to be determined by the Voting Members at or before the time of dissolution, and in default thereof, by a Court of competent jurisdiction in the matter.

## **59. INDEMNITY AND INSURANCE**

- (1) To the extent permitted by law and to the extent that the officer is not indemnified by directors' and officers' liability insurance maintained by the Company, the Company indemnifies every person who is or has been an officer of the Company against any liability:
  - (a) incurred by that person as such an officer to another person other than the Company or a related body corporate of the Company unless the liability arises out of conduct involving a lack of good faith; and
  - (b) for costs and expenses incurred by the person as such an officer:
    - (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.
- (2) The Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer or auditor of the Company against a liability:
  - (a) incurred by the person as such an officer or auditor unless the liability arises out of conduct involving:
    - (i) a wilful breach of duty in relation to the Company; or

- (ii) without limiting subclause 59(2)(a)(i) above, a contravention of Section 182 or 183 of the Act; or
- (b) for costs and expenses incurred by the person as such an officer or auditor in defending proceedings, whether civil or criminal and whatever their outcome.

**60. AMENDMENT OF CONSTITUTION**

This Constitution may only be amended pursuant to a special resolution of the Company.

**61. FINANCIAL YEAR**

The Financial Year of the Company shall commence on the 1<sup>st</sup> day of July in each year and shall end on the 30<sup>th</sup> day of June in that year.

**62. PUBLIC FUND**

- (1) The Company will establish and maintain a public fund to be called "The Australian Road Safety Foundation Public Fund".
- (2) Donations will be deposited into the public fund and these monies will be kept separate from other funds of the Company and will only be used to further the principal purpose of the Company. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- (3) The Company agrees to comply with any rules that the Federal Treasurer and any other relevant minister may make to ensure that the gifts made to the fund are used only for its purpose.
- (4) The fund will be administered by a management committee or a subcommittee of the management committee, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the objectives of the Company.
- (5) No monies/assets in this fund will be distributed to members or office bearers of the Company, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- (6) Receipts for gifts to the public fund must state:
  - (a) the name of the public fund and that the receipt is for a gift made to the public fund;
  - (b) the Australian Business Number of the Company;
  - (c) the fact that the receipt is for a gift; and
  - (d) any other matter required to be included on the receipt pursuant to the requirements of the Income Tax Assessment Act 1997.
- (7) If upon the winding-up or dissolution of the public fund there remains after satisfaction of all its debts and liabilities any property or funds, the property or funds shall not be paid to or distributed among members of the company, but shall be given or transferred to some other fund, authority or institution having objects similar to the objects of this public fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution to be eligible for tax deductibility of donations under Subdivision 30-B, section 30-100, of the Income Tax Assessment Act 1997 and which complies with all the requirements relating to such tax deductibility.

- (8) If the Company is wound up or if the endorsement of the Company as a deductible gift recipient is revoked, the following assets remaining after the payment of the Company's liabilities shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made:
- (a) gifts of money or property for the principal purpose of the Company;
  - (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company; and
  - (c) money received by the Company because of such gifts and contributions.

**SCHEDULE 1**

**FOUNDING MEMBERS**

**MEMBER**

**ADDRESS**

**Russell Kenneth White**

8 Fidelis Place, Coomera Waters QLD 4209

**Elizabeth Wendy White**

8 Fidelis Place, Coomera Waters QLD 4209



**SCHEDULE 2**

**INITIAL BOARD**

**NAME**

**ADDRESS**

**Russell Kenneth White**

8 Fidelis Place, Coomera Waters QLD 4209

**Elizabeth Wendy White**

8 Fidelis Place, Coomera Waters QLD 4209

**John Robert Macpherson Ffrench**

145A Worongary Road, Tallai QLD 4213

**SCHEDULE 3**

**GENERAL MEETING**

**PROXY FORM**

The \_\_\_\_\_ Secretary

(address)

I/We ..... (please print)

of ..... (please print)

hereby appoint:

Name of proxy .....

Address of proxy.....

or, in his/her absence, the chairperson of the meeting as my/our proxy to vote on my/our behalf at the General Meeting of \_\_\_\_\_ to be held on ..... at ..... am/pm and at any adjournment of that meeting.

**Proxy instructions**

*To instruct your proxy how to vote, insert 'X' in the appropriate column against each item of business set out below. If you do not instruct your proxy how to vote on a resolution, your proxy may vote as she/he thinks fit or abstain from voting.*

I/We instruct my/our proxy to vote as follows:

**Resolution**

For            Against            Abstain

.....

*This proxy must be signed by each appointing Member, Delegate or attorney. Proxies given by companies must be executed in accordance with section 127 of the Corporations Act 2001 or signed by an authorised officer or attorney.*

Dated: .....

COMMON SEAL	SIGNATURE(S)	NAME (print)

This proxy and any power of attorney or other authority under which it is signed (or a certified copy) must be lodged at the registered office of NAME, address or by facsimile on fax no no later than time am/pm on date, being not later than forty-eight (48) hours before the meeting.

**Notes:**

1. A Member who is entitled to vote at the meeting may appoint one proxy.
2. If you require an additional proxy form, the company will supply it on request.
3. A proxy need not be a Member or Director of the company or a Delegate of a General Member.