



# MERCEDES-BENZ CLUB (AUCKLAND) INCORPORATED

## CONSTITUTION

### 1. Introductory Rules

#### 1.1 Name

The name of the society is the Mercedes-Benz Club (Auckland) Incorporated (in this **Constitution** referred to as the '**Society**').

#### 1.2 Definitions

In this **Constitution**, unless the context requires otherwise, the following words and phrases have the following meanings:

'**Act**' means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time), and any regulations made under the Act or under any Act which replaces it.

'**Annual General Meeting**' means a meeting of the **Members** of the **Society** held once per year which, among other things, will receive and consider reports on the **Society's** activities and finances.

'**Chairperson**' means the **Officer** responsible for chairing **General Meetings** and **committee** meetings, and who provides leadership for the **Society**.

'**Committee**' means the **Society's** governing body.

'**Constitution**' means the rules in this document.

'**General Meeting**' means either an **Annual General Meeting** or a **Special General Meeting** of the **Members** of the **Society**.

'**Interested Officer**' means a **Officer** who is interested in a matter for any of the reasons set out in section 62 of the **Act**.

'**Member**' means a person who has consented to become a **Member** of the **Society** and has been properly admitted to the **Society** who has not ceased to be a **Member** of the **Society**.

'**Notice**' to **Members** and from **Members** includes any **Notice** given by email, post, courier, or website, or notification in the club magazine or newsletter.

'**Officer**' means a natural person who is a **Member** of the **Committee**.

'**Register of Members**' means the **Register of Members** kept under this **Constitution** as required by section 79 of the **Act**.

'**Sign**' means physical or electronic signature on a **Notice** from a **Member**.

'**Secretary**' means the **Officer** responsible for the matters specifically noted in this **Constitution**.

**‘Special General Meeting’** means a meeting of the **Members**, other than an **Annual General Meeting**, called for a specific purpose or purposes.

**‘Voting Member’** means an ordinary **Member**, or a life **Member**, or the representative of a corporate body **Member**, or a family **Member** on the **Committee**.

**‘Written’** means in a form that can be distributed by **Notice** to or from **Members**.

**‘Working Days’** mean as defined in the Legislation Act 2019. Examples of days that are not **Working Days** include, but are not limited to, the following - a Saturday, a Sunday, Christmas Day, Boxing Day, Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day.

### 1.3 Purposes

The primary purposes of the **Society** are:

- to preserve and promote the marque;
- to represent **Members’** views on motoring-related issues;
- to provide fellowship and interest to all **Members**;
- to assist and give advice to such other **Members** who may require it;
- to encourage safe motoring;
- to promote rallies, touring expeditions, competitions, trials and such other events as may be decided upon; and
- that the **Society** may cultivate reciprocal relations with kindred institutions in this and other countries.

The **Society** must not operate for the purpose of, or with the effect of:

- distributing any gain, profit, surplus, dividend, or other similar financial benefit to any of its **Members** (whether in money or in kind); or
- having capital that is divided into shares or stock held by its **Members**; or
- holding property in which its **Members** have a disposable interest (whether directly, or in the form of shares or stock in the capital of the **Society** or otherwise).

### 1.4 Contact Person

The **Society** shall have **at least one** contact person whom the Registrar can contact when needed. The contact person will be appointed by the **Committee**.

Any change in contact person or that person’s details shall be advised to the Registrar of Incorporated Societies within **20 Working Days** of the **Society** becoming aware of the change.

## 2. Members

### 2.1 Minimum Number of Members

The **Society** shall maintain the minimum number of **Members** required by the **Act**.

### 2.2 Types of Members

A **Member** is an individual or body corporate admitted to membership under this **Constitution** and who or which has not ceased to be a **Member**.

Classes of membership include:

- (a) Ordinary Members  
Persons owning or driving a Mercedes-Benz vehicle, who are deemed the financial **Member** and entitled to vote at **Annual General** and **Special General Meetings**.

Any persons interested in furthering the objects of the **Society**, which shall include **Members** who for the time being are not owners of Mercedes-Benz vehicles.

- (b) Life Members  
A Life **Member** is elected by resolution of a **General Meeting**, passed by a clear majority of **Voting Members** at a **General Meeting**. A Life **Member** has all the rights and privileges of a **Member** and shall be subject to all the same duties as a **Member** except those of paying subscriptions and levies.

- (c) Body Corporate Members  
A corporate body (e.g. a Limited Liability Company or Incorporated Society).

- (d) Family Members  
Any ordinary **Member's** or life **Member's** spouse, partner or dependent child attaining the age of **16**.

Any family **Member** nominated and appointed to the **Committee** shall be accorded the same rights as a full **Member** while they are serving on the **Committee**.

### 2.3 Becoming a Member

An applicant for membership must complete and sign the application form and supply any information, as may be reasonably required by the **Committee** regarding application for membership.

Every applicant for membership must consent via **Written Notice** to becoming a **Member**. The signed written consent of every **Member** to become a **Society Member** shall be retained in the **Society's** membership records.

The applicant will become a **Member** on acceptance of the application by the **Committee**.

The **Committee** may accept or decline an application for membership at its sole discretion. The **Committee** must advise the applicant of its decision.

### 2.4 Members' Obligations and Rights

- All **Members** shall promote the interests and purposes of the **Society** and shall do nothing to bring the **Society** into disrepute.
- A **Member** must pay such annual subscription and other fees as are required by this **Constitution**.
- Any **Member** that is a body corporate shall provide the **Committee**, in writing, with the name and contact details of the person who is the organisation's authorised representative, and that person shall be deemed to be the organisation's proxy for the purposes of voting at **General Meetings**.

## 2.5 Subscriptions and Fees

The annual subscription and any other fees for membership for the then current financial year shall be set by resolution of a **General Meeting**.

## 2.6 Ceasing to be a Member

A **Member** ceases to be a **Member**:

- by resignation from that **Member's** class of membership by **Written Notice Signed** by that **Member** to the **Committee**; or
- on termination of a **Member's** membership following a dispute resolution process under this **Constitution**; or
- on death (or if a body corporate on liquidation or deregistration, or if a partnership on dissolution of the partnership); or
- by resolution of the **Committee** where:
  - the **Member** has failed to pay a subscription, levy or other amount due to the **Society** within **three months** of the due date for payment.
  - in the opinion of the **Committee** the **Member** has brought the **Society** into disrepute,

with effect from (as applicable):

- the date of receipt of the **Member's Notice** of resignation by the **Committee** (or any subsequent date stated in the **Notice** of resignation); or
- the date of termination of the **Member's** membership under this **Constitution**; or
- the date of death of the **Member** (or if a body corporate from the date of its liquidation or deregistration, or if a partnership from the date of its dissolution); or
- the date specified in a resolution of the **Committee** and when a **Member's** membership has been terminated the **Committee** shall promptly notify the former **Member**.

All members must, on resignation or expulsion from the **Society**, return to the **Secretary** all physical **Society** property held by him/her or attached to his/her vehicle. Such items include **Society** insignia, trophies, flags, marquee or trailer, for example.

Any former **Member** may apply for re-admission in the manner prescribed for new applicants. But, if a former **Member's** membership was terminated following a disciplinary or dispute resolution process, the applicant may be re-admitted only by a resolution passed at a **General Meeting** on the recommendation of the **Committee**.

## 3. General meetings

### 3.1 Annual General Meetings

An **Annual General Meeting** shall be held **once a year** on a date and at a location and/or online as determined by the **Committee** and consistent with any requirements in the **Act**.

The **Annual General Meeting** of the **Society** shall be held at a place decided upon by the **Committee** **no later than six months** after the balance date of the **Society**.

That **Notice** will be addressed to the **Member** at the contact address notified to the **Society** and recorded in the **Society's Register of Members**. The **General**

**Meeting** and its business will not be invalidated simply because *one or more* **Members** do not receive the **Notice** of the **General Meeting**.

### 3.1.1 Annual General Meetings: Business

*Fifteen Working Days'* **Notice** in writing shall be given to all **Society Members** of the **Annual General Meeting** and of the business to be transacted there at.

*Not less than five Working Days* before the **Annual General Meeting**, the **Society Secretary** shall send to every **Member** of the **Society** an agenda paper of the business to be transacted at the meeting and advise that a copy of the accounts of the **Society** for the preceding financial year will be available at the **Annual General Meeting**.

The **Committee** must, at each **Annual General Meeting**, present the following information:

- an annual report on the operation and affairs of the **Society** during the most recently completed accounting period;
- the annual financial statements for that period; and
- **Notice** of any disclosures of conflicts of interest made by **Officers** during that period (including a summary of the matters, or types of matters, to which those disclosures relate).

## 3.2 Special General Meetings

**Special General Meetings** may be called at any time by the **Committee** by resolution of a simple majority.

The **Committee** must call a **Special General Meeting** if it receives a written request signed by *at least five* **Voting Members**.

Any resolution or written request must state the business that the **Special General Meeting** is to deal with.

The provision relating to **Notice** of and proceedings at the **Annual General Meeting** shall apply to **Special General Meetings** as far as practicable, except that **Notices** of motions or resolutions to be proposed at a **Special General Meeting** must be received by the **Society Secretary** *at least 10 Working Days* before such meeting.

A **Special General Meeting** shall only consider and deal with the business specified in the **Committee's** resolution or the written request by **Members** for the **Meeting**.

Where *50 percent or more* of **Officers** are prevented from voting on a **Matter** because they are interested in that **Matter**, a **Special General Meeting** must be called to consider and determine the **Matter**, unless all non-Interested **Officers** agree otherwise.

## 3.3 Quorum

The Quorum for the **Annual General Meeting** or a **General Meeting** shall be *six Voting Members* of the **Society**, but if at the time and place called for the holding of such a meeting a quorum is not present, the meeting shall be adjourned to the same place and time in the following week, and the **Members** then present shall be deemed a quorum.

### 3.4 Attendance at General Meetings

Only **Voting Members** may vote at **General Meetings**:

- in person; or
- by a written proxy in favour of some individual entitled to be present at the meeting and received by, or handed to, the **Committee** before the commencement of the **General Meeting**; or
- through the authorised representative of a body corporate as notified to the **Committee**, and no other proxy voting shall be permitted.

A family **Member** can attend any **General Meeting** of the **Society** as an observer with speaking rights only.

### 3.5 Voting

At all **General Meetings** (Special or Ordinary), each **Voting Member** of the **Society** shall have **one** vote which must be given personally or by electronic means. Voting shall be by a show of hands unless **six Members** present demand a secret vote. The **Chairperson** of a meeting shall in the event of a tie in matters other than the election of **Officers** and **Committee** have a casting vote as well as a deliberate vote.

Provision is made that if in the event of a **Voting Member** not being able to be present at an **Annual General Meeting**, a proxy vote will be allowed.

### 3.6 Conduct of General Meetings

Unless otherwise required by this **Constitution**, all questions shall be decided by a simple majority of those in attendance in person or by proxy and voting at a **General Meeting** or voting by remote ballot.

Any decisions made when a quorum is not present are not valid.

- **General Meetings** may be held at **one or more** venues by **Members** present in person and/or using any real-time audio, audio and visual, or electronic communication that gives each **Member** a reasonable opportunity to participate.
- All **General Meetings** shall be chaired by the **Chairperson**. If the **Chairperson** is absent, the meeting shall elect another **Member** of the **Committee** to chair that meeting.
- Any person chairing a **General Meeting** has a deliberative and, in the event of a tied vote, a casting vote.
- The **Committee** may propose motions for the **Society** to vote on ('**Committee Motions**'), which shall be notified to **Members** with the **Notice** of the **General Meeting**.
- Any **Member** may request that a motion be voted on ('**Member's Motion**') at a **General Meeting**, by giving **Notice** to the **Secretary** or **Committee at least 10 Working Days** before that meeting. The **Member** may also provide information in support of the motion ('**Member's Information**'). If **Notice** of the motion is given to the **Secretary** or **Committee** before **Written Notice** of the **General Meeting** is given to **Members**, **Notice** of the motion shall be provided to **Members** with the **Written Notice** of the **General Meeting**.

### 3.7 Minutes

Minutes of the proceedings of all **General Meetings** of the **Society** and the meetings of the **Committee** shall be kept by the **Secretary** and shall be read and confirmed at the next **General Meeting** or **Committee** meeting respectively.

The minutes of the **Society** shall be open to the inspection of **Members** at all reasonable times.

## 4. Committee

### 4.1 Committee Composition

The **Committee** will consist of *at least three* **Officers**:

- Club President;
- Club Captain or **Secretary**; and
- Treasurer.

A majority of the **Officers** on the **Committee** must be **Voting Members** of the **Society**.

### 4.2 Powers of the Committee

The **Committee** has all the powers necessary for managing - and for directing and supervising the management of - the operation and affairs of the **Society**, subject to such modifications, exceptions, or limitations as are contained in the **Act** or in this **Constitution**.

#### 4.2.1 Sub-committees

The **Committee** may appoint sub-committees consisting of such persons (whether or not **Voting Members** of the **Society**) and for such purposes as it thinks fit. Unless otherwise resolved by the **Committee**:

- the quorum of every sub-committee is half the members of the sub-committee but *not less than two*;
- no sub-committee shall have power to co-opt additional members;
- a sub-committee must not commit the **Society** to any financial expenditure without express authority from the **Committee**; and
- a sub-committee must not further delegate any of its powers.

### 4.3 Committee Meetings

#### 4.3.1 Procedure

The quorum for **Committee** meetings is at least half of the number of **Members** of the **Committee**.

A meeting of the **Committee** may be held either:

- by a number of the **Members** of the **Committee** who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- by means of audio, or audio and visual, communication by which all **Members** of the **Committee** participating and constituting a quorum can simultaneously hear each other throughout the meeting.

A resolution of the **Committee** is passed at any meeting of the **Committee** if a majority of the votes cast on it are in favour of the resolution. Every **Officer** on the **Committee** shall have *one* vote.

The Club President will be **Chairperson** of the **Committee**. If at a meeting of the **Committee**, the **Chairperson** is not present, the **Members** of the **Committee** present may choose *one* of their number to



be **Chairperson** of the meeting. The **Chairperson** *does* have a casting vote in the event of a tied vote on any resolution of the **Committee**.

Except as otherwise provided in this **Constitution**, the **Committee** may regulate its own procedure.

## 4.4 Committee Members/Officers

### 4.4.1 Qualifications of Officers

Every **Officer** must be a natural person who:

- has consented in writing to be an **Officer** of the **Society**; and
- certifies that they are not disqualified under section 47(3) of the **Act** from being elected or appointed or otherwise holding office as an **Officer** of the **Society**.

### 4.4.2 Officers' duties

At all times each **Officer**:

- (a) shall act in good faith and in what he or she believes to be the best interests of the **Society**;
- (b) must exercise all powers for a proper purpose;
- (c) must not act, or agree to the **Society** acting, in a manner that contravenes the **Act** or this **Constitution**;
- (d) when exercising powers or performing duties as an **Officer**, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances taking into account, but without limitation:
  - (i) the nature of the **Society**;
  - (ii) the nature of the decision; and
  - (iii) the position of the **Officer** and the nature of the responsibilities undertaken by him or her;
- (e) must not agree to the activities of the **Society** being carried on in a manner likely to create a substantial risk of serious loss to the **Society** or to the **Society's** creditors, or cause or allow the activities of the **Society** to be carried on in a manner likely to create a substantial risk of serious loss to the **Society** or to the **Society's** creditors; and
- (f) must not agree to the **Society** incurring an obligation unless he or she believes at that time on reasonable grounds that the **Society** will be able to perform the obligation when it is required to do so.

### 4.4.3 Election or appointment of Officers

The election of **Officers** shall be conducted as follows:

- (a) **Officers** shall be elected during **Annual General Meetings**. However, if a vacancy in the position of any **Officer** occurs between **Annual General Meetings**, that vacancy shall be filled by resolution of the **Committee** (and any such appointee must, before appointment, supply a signed consent to appointment and a certificate that the nominee is not disqualified from being appointed or holding office as a **Officer** (as described in the '**Qualification of Officers**' rule above). Any such appointment must be ratified at the next **Annual General Meeting**.
- (b) A candidate's written nomination, accompanied by the written consent of the nominee with a certificate that the nominee is not disqualified from being appointed or holding office as a **Officer** (as described in the '**Qualification of Officers**' rule above) shall be



received by the **Society at least 10 Working Days** before the date of the **Annual General Meeting**. If there are insufficient valid nominations received, further nominations may be received from the floor at the **Annual General Meeting**.

- (c) Votes shall be cast in such a manner as the person chairing the meeting determines. In the event of any vote being tied, the tie shall be resolved by the incoming **Committee** (excluding those in respect of whom the votes are tied).
- (d) **Two Members** (who are not nominees) or non-**Members** appointed by the **Chairperson** shall act as scrutineers for the counting of the votes and destruction of any voting papers.
- (e) The failure for any reason of any **Voting Member** to receive such **Notice** of the **General Meeting** shall not invalidate the election.
- (f) In addition to **Officers** elected under the foregoing provisions of this rule, the **Committee** may appoint other **Officers** for a specific purpose, or for a limited period, or generally until the next **Annual General Meeting**. Unless otherwise specified by the **Committee**, any person so appointed shall have full speaking and voting rights as an **Officer** of the **Society**. Any such appointee must, before appointment, supply a signed consent to appointment and a certificate that the nominee is not disqualified from being appointed or holding office as an **Officer** (as described in the '**Qualification of Officers**' rule above).

#### 4.4.4 Term

The term of office for all **Officers** elected to the **Committee** shall be **one** year, expiring at the end of the **Annual General Meeting** in the year corresponding with the last year of each **Officer's** term of office.

- No **Officer** shall serve for **more than five** consecutive terms.
- No **Chairperson** shall serve for **more than three** consecutive years as **Chairperson**.
- Any **Officer** who has reached their maximum number of consecutive years in office will be eligible for re-election after a stand-down period of **one** year.

#### 4.4.5 Removal of Officers

An **Officer** shall be removed as an **Officer** by resolution of the **Committee** or the **Society** where in the opinion of the **Committee** or the **Society**:

- the **Officer** elected to the **Committee** has been absent from **three committee** meetings without leave of absence from the **Committee**;
- the **Officer** has brought the **Society** into disrepute;
- the **Officer** has failed to disclose a conflict of interest;
- the **Committee** passes a vote of no confidence in the **Officer**;
- the **Officer** resigns in the manner provided in the **Constitution**;
- the **Officer** becomes disqualified from being an **Officer** under section 47(3) under the **Act**;
- the **Officer** dies; or
- the **Officer** otherwise vacates office in accordance with the **Society's Constitution**,

with effect from (as applicable) the date specified in a resolution of the **Committee** or **Society**.

## 5. Records

### 5.1 Register of Members

The **Society** shall keep an up-to-date **Register of Members**.

For each current **Member**, the information contained in the **Register of Members** shall include:

- their name;
- the date on which they became a **Member** (if there is no record of the date they joined, this date will be recorded as 'Unknown'); and
- their contact details, including:
  - a physical address or an electronic address; and
  - a telephone number.

The register will also include each **Member's**:

- class of membership; and
- whether the **Member** is financial or unfinancial.

Every current **Member** shall promptly advise the **Society** of any change of the **Member's** contact details.

The **Society** shall also keep a record of the former **Members** of the **Society**. For each **Member** who ceased to be a **Member** within the previous **seven** years, the **Society** will record:

- the former **Member's** name, and
- the date the former **Member** ceased to be a **Member**.

### 5.2 Conflicts of Interest

#### 5.2.1 Conflicts of Interest Register

The **Committee** must maintain a Conflicts of Interest Register.

The Conflicts of Interest Register should be used to record any conflict of interest disclosed by a **Committee Member** or other **Officer** of the **Society**.

At the **Annual General Meeting**, the **Committee** must provide a summary of disclosures of conflicts of interest recorded in the Conflicts of Interest Register during the reporting period since the last **Annual General Meeting**.

#### 5.2.2 Determining Conflicts of Interest

A **Committee Member** or other **Officer** of the **Society** has a conflict of interest if they have a personal interest in a matter that is, or could be, in conflict with the interests of the **Society** in that matter, such as if:

- they or a member of their family may benefit financially from the matter; or
- they have an interest in the matter that could affect their objectivity or create personal bias that would influence their judgements; or
- they otherwise have an interest as defined by the Incorporated Societies Act 2022.

### 5.2.3 Disclosing Conflicts of Interest

A **Committee Member** or other **Officer** of the **Society** who has a conflict of interest must disclose their interest to the **Chairperson** or **Secretary** of the **Committee** as soon as they become aware that they have a conflict of interest.

### 5.2.4 Managing Conflicts of Interest

A **Committee Member** or other **Officer** of the **Society** who has a conflict of interest relating to a matter:

- must not vote or take part in a decision or action of the **Committee** relating to that matter, unless the other **Committee Members** agree to them doing so;
- may take part in discussions relating to the matter and be present at the time of the decision of the **Committee**, unless the **Committee** decides otherwise; and
- if in attendance at the meeting, may still be counted as part of the quorum for the meeting, even though they are unable to vote.

## 5.3 Access to Information for Members

A **Member** may at any time make a written request to the **Society** for information held by the **Society**.

The request must specify the information sought in sufficient detail to enable the information to be identified.

The **Society** must, within a reasonable time after receiving a request:

- a) provide the information; or
- b) agree to provide the information within a specified period; or
- c) refuse to provide the information, specifying the reasons for the refusal.

Nothing in this rule limits Information Privacy Principle 6 of the Privacy Act 2020 relating to access to personal information.

## 6. Finances

### 6.1 Control and Management

The funds and property of the **Society** shall be:

- controlled, invested and disposed of by the **Committee**, subject to this **Constitution**; and
- devoted solely to the promotion of the purposes of the **Society**.

The **Committee** shall maintain bank accounts in the name of the **Society**.

All money received on account of the **Society** shall be banked within **seven Working Days** of receipt.

All accounts paid or for payment shall be submitted to the **Committee** for approval of payment.

The **Committee** must ensure that there are kept at all times accounting records that:

- (a) correctly record the transactions of the **Society**; and
- (b) allow the **Society** to produce financial statements that comply with the requirements of the **Act**; and
- (c) would enable the financial statements to be readily and properly audited (if required under any legislation or the **Society's Constitution**).

The **Committee** must establish and maintain a satisfactory system of control of the **Society's** accounting records.

- The accounting records must be kept in written form or in a form or manner that is easily accessible and convertible into written form.
- The accounting records must be kept for the current accounting period and for the last **seven** completed accounting periods of the **Society**.

#### 6.1.1 Balance date

The **Society's** financial year shall commence on **1 April** of each year and end on **31 March** (the latter date being the **Society's** balance date).

## 7. Dispute Resolution

### 7.1 Disputes between Members, or between Members and the Committee

A dispute may be between **two or more Members**, or between a **Member** or **Members** and the **Committee**.

A dispute must relate to:

- an allegation of misconduct or of a breach, or likely breach, of a duty under the **Society's Constitution**, policies, the Incorporated Societies Act 2022, Charities Act 2005, or any other legislation; or
- an allegation of damage to a **Member's** rights or interests, or to the rights and interests of **Members** in general.

Disputes must be dealt with according to the procedures in the Appendix, which must at all times be consistent with the principles of natural justice and the requirements of the Incorporated Societies Act 2022.

## 8. Liquidation and Removal from the Register

### 8.1 Resolving to put Society into Liquidation

The **Society** may be liquidated in accordance with the provisions of Part 5 of the **Act**.

The **Committee** shall give **20 Working Days Written Notice** to all **Voting Members** of the proposed resolution to put the **Society** into liquidation.

The **Committee** shall also give **Written Notice** to all **Voting Members** of the **General Meeting** at which any such proposed resolution is to be considered. The **Notice** shall include all information as required by section 228(4) of the **Act**.

Any resolution to put the **Society** into liquidation must be passed by a **three-quarters** majority of all **Voting Members** present and voting.

## 8.2 Resolving to Apply for Removal from the Register

The **Society** may be removed from the Register of Incorporated Societies in accordance with the provisions of Part 5 of the **Act**.

The **Committee** shall give **20 Working Days Written Notice** to all **Members** of the proposed resolution to remove the **Society** from the Register of Incorporated Societies.

The **Committee** shall also give **Written Notice** to all **Voting Members** of the **General Meeting** at which any such proposed resolution is to be considered. The **Notice** shall include all information as required by section 228(4) of the **Act**.

Any resolution to remove the **Society** from the Register of Incorporated Societies must be passed by a **three-quarters** majority of all **Voting Members** present and voting.

## 8.3 Surplus Assets

If the **Society** is liquidated or removed from the Register of Incorporated Societies, no distribution shall be made to any **Member**.

On the liquidation or removal from the Register of Incorporated Societies of the **Society**, its surplus assets - after payment of all debts, costs and liabilities - shall be vested in the Mercedes-Benz Club New Zealand. If that entity ceases to exist it will be decided by a majority of **Voting Members** at a **General Meeting**.

However, in any resolution under this rule, the **Society** may approve a different distribution to a different not-for-profit entity from that specified above, so long as the **Society** complies with this **Constitution** and the **Act** in all other respects.

## 9. Amending this Constitution

All amendments must be made in accordance with this **Constitution**. Any minor or technical amendments shall be notified to **Members** as required by section 31 of the **Act**.

The **Society** may amend or replace this **Constitution** at a **General Meeting** by a resolution passed by a **two-thirds** majority of those **Voting Members** present and voting.

Any proposed resolution to amend or replace this **Constitution** shall be signed by **at least two Voting Members** and given in writing to the **Committee at least 20 Working Days** before the **General Meeting** at which the resolution is to be considered and accompanied by a written explanation of the reasons for the proposal.

The **Committee** can propose amendments to this **Constitution**.

**At least five Working Days** before the **General Meeting** at which any amendment is to be considered the **Committee** shall give all **Members Notice** of the proposed resolution in writing, the reasons for the proposal, and any recommendations the **Committee** has.

When an amendment is approved by a **General Meeting**, it shall be notified to the Registrar of Incorporated Societies in the form and manner specified in the **Act** for registration, and shall take effect from the date of registration.

## 10. Appendix

### 10.1 Meanings of Dispute and Complaint

A dispute is a disagreement or conflict involving the **Society** and/or its **Members** in relation to specific allegations set out below.

All **Members** (including the **Committee**) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the **Society's** activities.

The complainant raising a dispute, and the **Committee**, must consider and discuss whether a dispute may best be resolved through informal discussions, mediation, or arbitration. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.

#### 10.1.1 How complaint is made

- (a) A **Member** or an **Officer** may make a complaint by giving to the **Committee** (or a complaints sub-committee) a **Notice** in writing that:
  - (i) states that the **Member** or **Officer** is starting a procedure for resolving a dispute in accordance with the **Society's Constitution**; and
  - (ii) sets out the allegation or allegations to which the dispute relates and whom the allegation is against; and
  - (iii) sets out any other information reasonably required by the **Society**.
- (b) The **Society** may make a complaint involving an allegation or allegations against a **Member** or an **Officer** by giving to the **Member** or **Officer** a **Notice** in writing that:
  - (i) states that the **Society** is starting a procedure for resolving a dispute in accordance with the **Society's Constitution**; and
  - (ii) sets out the allegation to which the dispute relates.
- (c) A complaint may be made in any other reasonable manner permitted by the **Society's Constitution**.

#### 10.1.2 Person who makes complaint has the right to be heard

- (a) A **Member** or an **Officer** who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.
- (b) If the **Society** makes a complaint:
  - (i) the **Society** has a right to be heard before the complaint is resolved or any outcome is determined; and
  - (ii) an **Officer** may exercise that right on behalf of the **Society**.

#### 10.1.3 Person who is subject of complaint has right to be heard

- (a) The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
- (b) If the respondent is the **Society**, an **Officer** may exercise the right on behalf of the **Society**.

- (c) A respondent:
  - (i) must be fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
  - (ii) must have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held).

#### 10.1.4 Investigating and determining dispute

- (a) The **Society** must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with its **Constitution**, ensure that the dispute is investigated and determined.
- (b) Disputes must be dealt with under the **Constitution** in a fair, efficient, and effective manner and in accordance with the provisions of the **Act**.

#### 10.1.5 Society may decide not to proceed further with complaint

Despite the 'Investigating and determining dispute' rule above, the **Society** may decide not to proceed further with a complaint if:

- (a) the complaint is considered to be trivial; or
- (b) the complaint does not appear to disclose or involve any allegation of the following kind:
  - (i) that a **Member** or an **Officer** has engaged in material misconduct;
  - (ii) that a **Member**, an **Officer**, or the **Society** has materially breached, or is likely to materially breach, a duty under the **Society's Constitution** or bylaws or the **Act**; or
  - (iii) that a **Member's** rights or interests or **Member's** rights or interests generally have been materially damaged; or
- (c) the complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the **Constitution**; or
- (f) there has been an undue delay in making the complaint.

#### 10.1.6 Society may refer complaint

- a) The **Society** may refer a complaint to:
  - (i) a sub-committee or an external person to investigate and report; or
  - (ii) a sub-committee, an arbitral tribunal, or an external person to investigate and make a decision.
- b) The **Society** may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation or facilitation).



#### 10.1.7 Decision makers

A person may not act as a decision maker in relation to a complaint if **two or more Members** of the **Committee** or a complaints sub-committee consider that there are reasonable grounds to believe that the person may not be:

- (a) impartial; or
  - (b) able to consider the matter without a predetermined view.
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