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## RULES OF AUCKLAND REGIONAL TRANSPORT AUTHORITY

PURSUANT TO SECTION 23 (4) OF THE LOCAL  
GOVERNMENT (AUCKLAND) AMENDMENT ACT 2004

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## Rules of the Auckland Regional Transport Authority

This document constitutes the rules of the Auckland Regional Transport Authority made by the Auckland Regional Council by council resolution dated 27 September 2004 pursuant to section 10(4) of the Local Government (Auckland) Amendment Act 2004.

### 1. Interpretation

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#### 1.1 Definitions

In these Rules, unless the context otherwise requires:

**Act** means the Local Government (Auckland) Amendment Act 2004;

**ARC** means the Auckland Regional Council;

**ARC Group** means the ARC and any council-controlled organisation of the ARC;

**ARTA** means the Auckland Regional Transport Authority constituted under the Act;

**ARTA Controlled Organisation** means any organisation in respect of which ARTA has control of:

- (a) the exercise of 50% or more of the voting rights at a meeting of (if that organisation is a company) the shareholders of the company or (if that organisation is not a company) the members or the controlling body of that organisation; or
- (b) the appointment of 50% or more of the directors, trustees or managers (however described) of the organisation;

and includes an organisation:

- (c) which acts, or is accustomed to act, in accordance with the wishes of ARTA; or
- (d) over which ARTA is able (directly or indirectly) to exert a substantial degree of influence over that organisation's activities;

**ARTA Group** means ARTA and any ARTA Controlled Organisation;

**Board** means Directors who number not less than the required quorum acting together as the board of directors of ARTA;

**Director** means a person appointed as a director of ARTA in accordance with these Rules;

**Funding Agreement** means the then current agreement between the ARC and ARTA relating to the provision of funding by the ARC to ARTA for public transport services;

**Interests Register** means the interests register maintained by ARTA under these Rules;

**Material Transaction** means:

- (a) the acquisition of, or an agreement to acquire (whether contingent or not):
  - (i) any Strategic Asset; or
  - (ii) any other asset which is material to the financial position of ARTA;
- (b) the disposition of, or an agreement to dispose of, (whether contingent or not):
  - (i) any Strategic Asset; or
  - (ii) any other asset which is material to the financial position of ARTA;
- (c) a transaction that has or is likely to have the effect of ARTA acquiring rights or interests or incurring obligations or liabilities which are likely to have a material adverse effect on:
  - (i) the financial position or performance of the ARC; or
  - (ii) the ability of the ARC to perform its responsibilities, functions or powers (which includes any material change in the basis (in terms of financial risk, service specification or performance specification) on which ARTA contracts for the provision of public transport services); or
- (d) any transaction which may change the essential nature or scope of the activities of ARTA or any ARTA Controlled Organisation;

**Statement of Intent** means the then current statement of intent of ARTA under the Local Government Act 2002;

**Strategic Asset** means:

- (a) any asset which is public transport infrastructure (as defined in the Land Transport Management Act 2003); or
- (b) any other asset specified as a strategic asset for the purposes of these Rules by the ARC by council resolution.

## 1.2 Construction

In these Rules, unless the context otherwise requires:

- (a) words or expressions defined in the Act have the same meaning in these Rules.
- (b) the headings appear as a matter of convenience and will not affect the construction of these Rules;
- (c) in the absence of an express indication to the contrary, references to rules are to rules of these Rules;
- (d) a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or instrument as from time to time amended or re-enacted or substituted;
- (e) the singular includes the plural and vice versa and one gender includes the other gender;

- (f) without limiting the circumstances in which voting rights or the appointment of a director (or equivalent) is to be taken to be under the “**control**” of ARTA, ARTA is to be taken as having such control:
- (i) whether or not such control may exist or arise directly or indirectly, or together with another person, or under any agreement, arrangement or understanding;
  - (ii) if a person cannot be appointed as a director of the relevant organisation without the exercise by ARTA of such a power in the person’s favour; or
  - (iii) a person’s appointment as a director of the relevant organisation follows necessarily from the person being a director or employee of ARTA;
- (g) “**dispose**” means to:
- (i) sell, transfer, lease, grant a security interest over, part with possession or otherwise dispose of or deal with part or all of any right or interest in:
    - (A) any equity, debt or other securities or other interest (including an option) in any organisation; or
    - (B) any asset of any organisation;
  - (ii) issue any equity, debt or other security or other interest (including an option) in any organisation;
- (h) “**establish**” includes (whether directly or indirectly, and whether or not with another person):
- (i) holding (or entering into an agreement or arrangement to acquire) any equity or other securities or other interest (or any right or option to any such securities or an interest in all or substantially all of the assets of) in any organisation;
  - (ii) having (or entering into an agreement or arrangement with the effect of having):
    - (A) control of the exercise of any votes at any meeting of the shareholders, directors or beneficiaries or controlling body of that organisation;
    - (B) control of the appointment or removal of any trustee, director or manager (however described) of the organisation;
    - (C) the right to receive or direct the application of any dividend or other distribution (whether on liquidation, dissolution or otherwise) from an organisation;
    - (D) significant influence in or over that organisation;
  - (iii) settling, or being or appointing (or having the right to appoint) a trustee of, a trust; and
- (i) “**organisation**” includes any company, partnership, trust, profit-sharing arrangement, joint venture, any association of persons (whether corporate or unincorporated and whether or not having separate legal personality) or similar arrangement;
- (j) the word “**person**” includes any association of persons whether corporate or unincorporate, and any state or government or department or agency thereof, whether or not having separate legal personality;

- (k) the words “**written**” and “**writing**” include facsimile communications and any other means of communication resulting in permanent visible reproduction; and
- (l) “**security interest**” has the meaning given to that term in section 17 of the Personal Property Securities Act 1999.

## **2. Compliance and amendment**

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### **2.1 Subject to legislation**

These Rules are subject to the provisions of the Act and any other enactment. If there is any inconsistency between these Rules and the Act or any other enactment, the Act or that enactment (as the case may be) will take precedence over these Rules.

### **2.2 Compliance**

Each Director will comply with:

- (a) the Act, the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987 and any other applicable law;
- (b) these Rules; and
- (c) any policies or procedures of ARTA approved by the Board.

### **2.3 ARTA controlled organisations**

The Directors will ensure that the constitution (if a company) or other constitutive document (if not a company) of any ARTA Controlled Organisation:

- (a) is in a form approved by the ARC; and
- (b) subject to any approval by the ARC under rule [2.3(a)], requires each director of each ARTA Controlled Organisation to comply with these Rules as if such director were a “Director” and such organisation was “ARTA” for the purposes of these Rules.

### **2.4 Policies of ARTA**

The Board will not approve (or give effect to) any policy of ARTA which is likely to result in a material adverse effect on:

- (a) the ARC’s financial position or performance; or
- (b) the ARC’s ability to perform its responsibilities, functions or powers,

unless and until such policy has been approved by the ARC. Any policy of ARTA must be consistent with the policies of the ARC as notified to the Board.

### **2.5 Effective date**

These Rules take effect on and from the date on which these Rules are notified in the Gazette in accordance with section 10(4) of the Act.

## 2.6 **Amendment**

These Rules may be amended by the ARC by council resolution. The ARC will consult with the Board prior to making an amendment to these Rules. Any such amendment will take effect on and from the date such amendment is notified in the Gazette (or such later date as may be specified in such amendment).

## 2.7 **ARC as Sole Shareholder**

ARTA is a council-controlled organisation for the purposes of the Local Government Act 2002. For the purposes of part 5 of the Local Government Act 2002, the ARC is to be treated as the sole shareholder of ARTA.

## 3. **Restricted transactions**

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### 3.1 **Restricted transactions**

Subject to rule 3.2, the Directors will ensure that ARTA does not (either itself or through an ARTA Controlled Organisation), without the prior written approval of the ARC:

- (a) enter into any transaction or series of linked or related transactions which constitutes a Material Transaction; or
- (b) establish or dispose of an organisation.

### 3.2 **General exclusion**

The approval of the ARC under rule 3.1(a) is not required for any transaction or other matter authorised in the Funding Agreement in relation to the then current financial year of ARTA.

## 4. **Appointment and removal of directors**

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### 4.1 **Number**

The number of Directors will not at any time be more than 9 nor less than 5.

### 4.2 **Appointment**

A person may be appointed as Director in accordance with the Act.

### 4.3 **Validity of appointment**

Subject to rule [4.4], the appointment of a person as Director is not invalid only because a defect existed in the appointment of that person.

### 4.4 **Persons disqualified as directors**

The following persons are disqualified from being Directors:

- (a) a person who is an undischarged bankrupt, or is subject to an arrangement or compromise with that person's creditors generally;

- (b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under sections 382, 383 or 385 of the Companies Act 1993;
- (c) a person who is subject to a property order made under sections 10, 11, 12, 30 or 31 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act;
- (d) a person who, while holding office as a Director, is convicted of an offence punishable by imprisonment for a term of 2 years or more. This disqualification does not take effect until the expiration of the time for appealing against the conviction or decision or, if there is an appeal against the conviction or decision, until the appeal is determined. That person is deemed to have been granted leave of absence as a Director until the expiration of that time, and is not capable of acting as a Director during that time; or
- (e) a person who:
  - (i) is a member or employee of any Auckland local authority or an employee of any ARC Group member; or
  - (ii) has a financial interest in any contract or arrangement entered into by ARTA; or
  - (iii) is otherwise disqualified to act as a director of ARTA under the Act or another enactment.

#### 4.5 Requirement before appointment

Before a person may be appointed as a Director, the person must:

- (a) consent in writing to being a Director;
- (b) certify that he or she is not disqualified from being a Director; and
- (c) disclose to ARTA and the ARC the nature and extent (including monetary value, if quantifiable) of all Interests (as defined in rule 8.7) that the person has at that time, or is likely to have, in matters relating to the ARC Group; and
- (d) have complied with any requirement of the ARC in relation to any such Interest notified to such person by the ARC on or prior to any such notification of appointment.

#### 4.6 Rotation

One third of the Directors or, if their number is not a multiple of three, then the number nearest to one third, will retire from office at the end of each financial year of ARTA. The Directors to retire will be:

- (a) those who have a term of office which expires on that date; and
- (b) to the extent that the Directors referred to in paragraph (a) are insufficient to constitute one-third of the Directors, those who have been longest in office since they were last elected or deemed elected. In the case of Directors who were last appointed Directors on the same day, those to retire will be determined by the ARC.

Notwithstanding the previous part of this rule [4.6], none of the initial Directors is required to retire by rotation at the end of the first financial year of ARTA.

Subject to rule [4.9], a Director will continue in office despite the expiry of his or her term of office until:

- (c) the Director is reappointed; or
- (d) the Director's successor is appointed; or
- (e) the ARC notifies the Director (with a copy to ARTA) that the Director is not to be reappointed.

#### **4.7 Removal**

The ARC may remove a Director by written notice to such Director (with a copy to ARTA) and publishing such notice in the Gazette as required by clause 4(1)(d) of schedule 1 to the Act. The notice may state the date on which the removal takes effect which must not be earlier than the date on which the notice is received by the Director.

#### **4.8 Vacation of office**

Without limiting clause 4 of schedule 1 to the Act, a Director will cease to hold office as a Director if the Director:

- (a) resigns in accordance with rule [4.8];
- (b) is removed from office under these Rules or any enactment;
- (c) is disqualified in accordance with rule [4.4]; or
- (d) otherwise ceases to hold office.

#### **4.9 Resignation of directors**

A Director may resign from office by written notice to the ARC (with a copy to ARTA) in accordance with clause 4(1)(c) of schedule 1 to the Act. A Director's resignation is effective on receipt by the ARC of the notice or at any later time specified in the notice.

#### **4.10 No compensation for loss of office**

A Director is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a Director.

#### **4.11 No alternate directors**

A Director may not appoint an alternate director or other person to represent that Director.

### **5. Delegation of powers**

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#### **5.1 General authority**

The Board may delegate any of the functions or powers of ARTA or the Board, either generally or specifically, by resolution and written notice to the delegate (with a copy to the ARC).

If the Board proposes the delegation of any function or power to a person who is not a Director or employee of ARTA, then the Board must obtain the prior written approval of the

ARC to any such delegation. The Board is not required to obtain such approval from the ARC if the relevant delegation is provided for in the Statement of Intent or the Funding Agreement.

## 5.2 **Restrictions**

The Board will not delegate the general power of delegation.

## 5.3 **Delegates**

A delegate to whom any functions or powers of ARTA or the Board are delegated, may:

- (a) unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were ARTA or the Board; and
- (b) delegate the function or power only:
  - (i) with the prior written approval of the Board; and
  - (ii) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.

A delegate who purports to perform a function or exercise a power under a delegation is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation.

## 5.4 **Effect**

No delegation in accordance with these Rules:

- (a) affects or prevents the performance of any function or the exercise of any power by ARTA or the Board; or
- (b) affects the responsibility of the Board for the actions of any delegate acting under the delegation; or
- (c) is affected by any change in the membership of the Board or of any committee or class of persons or by any change in an employee of ARTA.

## 5.5 **Revocation**

A delegation may be revoked by the Board by written notice to the delegate and the ARC, or by any other method provided for in the delegation. A delegation under rule 5.3(b) may be revoked by written notice of the delegate to the subdelegate.

## 5.6 **Disclosure of interest**

Rule [8] applies to the delegate as if the delegate were a Director and as if disclosure must be made to the Board (and with any other necessary modification).

## **6. Directors' duties**

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### **6.1 Accountability**

Directors are accountable to the ARC for performance of their collective and individual duties as Directors.

### **6.2 Collective duties of the board**

The Board must ensure that ARTA:

- (a) acts in a manner consistent with its statutory objectives, principles and functions and complies with these Rules and the Statement of Intent and Funding Agreement; and
- (b) performs its functions efficiently and effectively.

### **6.3 Individual duties of directors**

A Director must:

- (a) not contravene, or cause the contravention of, or agree to ARTA contravening, the Act, any other enactment or these Rules;
- (b) act in good faith, with honesty and integrity;
- (c) exercise a power for a proper purpose; and
- (d) exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation):
  - (i) the nature of ARTA;
  - (ii) the nature of the action; and
  - (iii) the position of the Director and the nature of the responsibilities undertaken by him or her.

### **6.4 Reliance on information and advice**

In performing his or her duties, a Director may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

- (a) an employee of the ARC group whom the Director believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
- (b) a professional adviser or expert in relation to matters that the Director believes on reasonable grounds to be within the person's professional or expert competence; or
- (c) any other Director or a committee of the Board on which the Director did not serve in relation to matters within the Director's or committee's designated authority.

This rule [6.4] only applies to a Director if the Director:

- (a) acts in good faith;

- (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
- (c) has no knowledge that the reliance is unwarranted.

## **7. Proceedings of the board**

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### **7.1 Methods of holding meetings**

A meeting of the Board may be held either:

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

### **7.2 Notice of meeting**

A Director or, if requested by a Director to do so, an employee of ARTA approved by the Board for this purpose, may convene a meeting of the Board by giving at least 5 working days' notice of such meeting. In addition, the Chairperson may so convene a meeting of the Board on shorter notice.

A notice of a meeting of Directors:

- (a) must be written, and state the time and place of the meeting;
- (b) must be sent to the last known address in New Zealand of every Director who is in New Zealand; and
- (c) may be given by post, delivery or electronic communication.

### **7.3 Waiver of irregularity**

An irregularity in a notice of meeting is waived if all the Directors entitled to receive notice of the meeting either:

- (a) attend or participate in the meeting without protest as to the irregularity; or
- (b) do not attend or participate in the meeting, but agree to the waiver of the irregularity.

### **7.4 Minutes**

The Board will ensure that minutes are kept of all proceedings at meetings of the Board.

### **7.5 Quorum**

Subject to rule [7.6], a quorum for a meeting of the Board is a majority of the Directors, for so long as their number is not reduced below the minimum number fixed by rule [4.1]. No business may be transacted at a meeting of the Board if a quorum is not present.

## **7.6 Insufficient number of Directors**

The Directors may act notwithstanding any vacancy in their body, but if and for so long as their number is reduced below the minimum number fixed by rule [4.1], the Board may meet only to notify the ARC that additional Directors must be appointed to constitute the minimum number of Directors to allow a quorum.

## **7.7 Chairperson and deputy chairperson**

The chairperson and deputy chairperson will be appointed in accordance with the Act.

If at any meeting the chairperson is not present within fifteen minutes after the time appointed for the commencement of the meeting or is interested in the relevant matter, the deputy chairperson (if he or she is not interested in the matter) will be the chairperson of the meeting. If the deputy chairperson is not present within fifteen minutes after the time appointed for the commencement of the meeting or is interested in the relevant matter, the Directors present may select one of their number (who is not interested in the relevant matter) to be chairperson of the meeting.

## **7.8 Term of appointment**

The chairperson and deputy chairperson holds office until:

- (a) he or she resigns from that office by written notice to the ARC (with a copy to the Board). Such notice must state the date on which resignation takes effect (which may not be a date before the date of such notice);
- (b) he or she is removed from that office by the ARC by written notice to that individual (with a copy to the Board);
- (c) he or she ceases to hold office as a Director; or
- (d) the term of the office that may have been specified on appointment expires, unless the Director is reappointed for a further term.

## **7.9 Votes**

Every Director has one vote. In the case of an equality of votes, the chairperson will not have a casting vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless that Director expressly dissents or expressly abstains from voting on, or votes against, the resolution.

## **7.10 Resolutions in writing**

A resolution in writing, signed or assented to by all Directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form, each signed or assented to by one or more Directors. A copy of any such resolution must be sent, within 5 working days of its being passed, to any Directors who did not sign or assent to the resolution and entered in or kept with the records of Board proceedings.

## 7.11 Committees

The Board may (by resolution) appoint a committee of Directors to exercise any of ARTA's functions or powers delegated to that committee by the Board. The Board will appoint a chairperson of each committee of Directors.

The Board will appoint an assurance and risk committee of Directors. The principal function of the assurance and risk committee will be to assist the Board in producing accurate financial statements in compliance with all applicable legal requirements and accounting standards. The Board will prepare terms of reference for the assurance and risk committee (and any other committee) and will provide, on request, a copy of such terms of reference to the ARC.

## 7.12 Other procedures

Except as set out in these Rules, the Act or any other enactment, the Board or the relevant committee (as the case may be) may regulate its own procedure.

## 7.13 Validity of acts

All acts done by any meeting of the Board or of a committee of Directors or by any person acting as a Director are valid notwithstanding:

- (a) any defect in the appointment of any Director or person acting as a Director;
- (b) that they or any of them were disqualified;
- (c) that the occasion for the person acting, or for his or her appointment, had not arisen or had ended; or
- (d) any irregularity in a notice of meeting.

# 8. Directors' Interests

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## 8.1 Disclosure of Interests

A Director will, on the creation of any Interest or immediately after becoming aware of such Interest, disclose details of the Interest to the Board and to the ARC. The details that must be disclosed include:

- (a) the nature of the interest and the monetary value of the Interest (if the monetary value can be quantified); or
- (b) the nature and extent of the Interest (if the monetary value cannot be quantified).

## 8.2 General disclosure

For the purposes of rule [8.1], a general notice entered in the Interests Register and disclosed to the Board and to the ARC to the effect that a Director is a shareholder, director, officer or trustee of another named organisation or other person and is to be regarded as interested in any matter which may, after the date of the entry or disclosure, be entered into with that organisation or person, is a sufficient disclosure of Interest in relation to that matter.

### 8.3 Interests register details

The relevant Interested Director will ensure that such details of his or her Interest are entered in the Interests Register and disclosed in the applicable annual report of ARTA.

### 8.4 Interested directors may not vote

A Director who is Interested in a matter may attend a meeting of the Board at which that matter arises, but must not:

- (a) vote or take part in any discussion or decision by the Board or any committee relating to the matter, or otherwise participate in any activity of any ARTA Group member that relates to the matter;
- (b) be included among the Directors present at a meeting of the Board for the purposes of a quorum during which a decision or discussion relating to the matter occurs or is made;
- (c) sign a document relating to the matter on behalf of any ARTA Group member; and
- (d) do any other thing in his or her capacity as a Director in relation to the matter.

The ARC may approve a Director with a specified class of Interest to do anything otherwise prohibited by this rule [8.4]. The approval may:

- (a) state conditions that the Director must comply with; and
- (b) be amended or revoked by the ARC by written notice to the Board.

### 8.5 No application in certain cases

Nothing in this rule [8] applies in relation to:

- (a) remuneration or any other benefit given to a Director in accordance with these Rules; or
- (b) an indemnity given or insurance provided in accordance with these Rules.

### 8.6 Failure to disclose

The Board will notify the ARC of any failure of any Director to comply with this rule [7] and of the acts affected, as soon as practicable after becoming aware of the failure.

### 8.7 Interpretation

In this rule [8]:

“**matter**” means:

- (a) ARTA’s performance of its functions or the exercise of its powers; or
- (b) an agreement, arrangement or other transaction entered into, or proposed to be entered into, by ARTA;

**“Interested”** means where a Director:

- (a) is a party to, or will or may derive a material financial benefit from the matter;
- (b) has a material financial Interest in another party to the matter;
- (c) is a director, employee, or trustee of another party to, or person who will or may derive a material financial benefit from, the matter, not being a party or person that is a member of the ARC Group;
- (d) is the parent, child, or spouse or de facto partner of another party to, or person who will or may derive a material financial benefit from, the matter; or
- (e) is otherwise directly or indirectly materially interested in the matter,

(and **“Interest”** will be interpreted accordingly).

However, a Director is not interested in a matter if his or her Interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under these Rules, the Act or any other enactment.

## **9. Directors’ remuneration and other benefits**

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### **9.1 Remuneration and benefits**

The Board may, subject to the prior written approval of the ARC, authorise:

- (a) the payment by ARTA of remuneration or the provision of other benefits (including reimbursement of reasonable travel, accommodation and other expenses incurred by the Director relating to the Director’s attendance at meetings or otherwise relating to the activities of ARTA) by ARTA to a Director for services as a Director (but not in any other capacity); or
- (b) the entering into of any agreement by ARTA to do those things.

### **9.2 Interests register details**

The Board will ensure that forthwith after authorising the making of such payment or the provision of such benefit or the entering into of such agreement, particulars of that payment, benefit or agreement are entered in the Interests Register in relation to the relevant Director.

## **10. Indemnity and insurance for directors and employees**

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### **10.1 Protection from liability**

A Director or employee of ARTA is not liable for any liability of ARTA by reason only of being a Director or employee of ARTA.

### **10.2 Indemnity – costs of proceedings**

ARTA may indemnify a director or employee of any ARTA Group member for any costs incurred by him or her in any proceedings:

- (a) that relate to liability for any act or omission in his or her capacity as a director or employee; and

- (b) in which judgment is given in his or her favour, or in which he or she is acquitted or which is discontinued.

### 10.3 Indemnity – liability

ARTA may indemnify any director or employee of any ARTA Group member in respect of:

- (a) liability to any person other than ARTA or any ARC Group member for any act or omission in his or her capacity as a director or employee; or
- (b) costs incurred by that director or employee in defending or settling any claim or proceeding relating to such liability,

not being criminal liability or liability in respect of a breach, in the case of an employee, of any fiduciary duty owed to ARTA or any ARC Group member.

### 10.4 Insurance

ARTA may, in the absence of relevant insurance cover arranged by the ARC, effect insurance for any director or employee of an ARTA Group member in respect of:

- (a) liability, not being criminal liability, for any act or omission in his or her capacity as a director or employee;
- (b) costs incurred by that director or employee in defending or settling any claim or proceeding relating to any such liability;
- (c) costs incurred by that director or employee in defending any criminal proceedings:
  - (i) that have been brought against the director or employee in relation to any act or omission in his or her capacity as a director or employee; and
  - (ii) in which he or she is acquitted.

### 10.5 Certificate and interests register

The Directors who vote in favour of authorising the effecting of insurance under rule [10.4] must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to ARTA.

The Board will ensure that particulars of any indemnity given to, or insurance effected for, any director or employee of any ARTA Group member are forthwith entered in the Interests Register.

### 10.6 Definitions

In this rule [10]:

“**director**” includes a former director;

“**effect insurance**” includes paying, whether directly or indirectly, the costs of insurance;

“**employee**” includes a former employee; and

“**indemnify**” includes relieve or excuse from liability, whether before or after the liability arises, and “**indemnity**” has a corresponding meaning.

## **11. Interests register**

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The Board will maintain an Interests Register. The Interests Register will be held by ARTA at its principal office. The Interests Register will not be open to public inspection but may be used by ARC at any time in relation to:

- (a) ensuring compliance with any enactment, these Rules or any policy or procedure of any ARC Group member; and
- (b) any allegation of insider trading made against any member of the ARC Group or any director or any employee of any such member.

## **12. Information for ARC**

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### **12.1 Power to request information**

The Board will ensure that ARTA makes available to the ARC (without charge):

- (a) in a timely manner, any information required by the ARC to perform its responsibilities, functions or exercise its powers under any enactment or these Rules; and
- (b) in a timely manner prior to (or at the same time as) any request for such approval, sufficient information to enable the ARC to make an informed decision in relation to any matter which requires the ARC's approval under any enactment or these Rules; and
- (c) any policy or procedure of ARTA approved by the Board.

The Board will also make available for inspection by the ARC (or any representative of the ARC) at any time during a working day (without charge) the information referred to in this rule 12.1.

### **12.2 ARC meetings**

The Board will hold meetings with the ARC:

- (a) at least once in every 3-month period; and
- (b) in accordance with any notice received from the ARC.

The purpose of those meetings will be to review the performance of any ARTA Group member, the Board and the Directors and discuss any matters relating to any ARTA Group member that may be expected by the ARC to arise in the future. The ARC will regulate the procedures at such meetings.

### **12.3 Regular reports**

The Board will ensure that ARTA provides regular reports to the ARC in accordance with the Statement of Intent and the Funding Agreement.

## **13. ARTA information**

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A Director who has confidential information in his or her capacity as a Director must not disclose that information to any person, or make use of or act on the information, except:

- (a) for the purposes of the objectives, principles and functions of ARTA; or
- (b) as required by law; or
- (c) in complying with his or her obligation to make disclosure under these Rules or any policy or procedure of ARTA.

## **14. Chief executive**

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The Board will, in accordance with this rule 14, appoint a chief executive of ARTA.

The chief executive is responsible to the Board for:

- (a) implementing the decisions of the Board;
- (b) providing advice to the Board;
- (c) ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by ARTA, or imposed or conferred by any law, are properly performed or exercised;
- (d) ensuring the effective and efficient management of the activities of ARTA;
- (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of ARTA;
- (f) providing leadership for the employees of ARTA;
- (g) employing, on behalf of ARTA, the employees of ARTA; and
- (h) negotiating the terms of employment of the employees of ARTA.

The chief executive is responsible to the Board for ensuring, so far as is practicable, that the management structure of ARTA is capable of delivering adequate advice to the Board to facilitate the explicit resolution of conflicting objectives.

### **14.2 Appointment of chief executive**

The Board will, in making an appointment under rule [14.1], have regard to the need to appoint a person who will:

- (a) discharge the specific responsibilities placed on the appointee;
- (b) promote efficiency in ARTA;
- (c) be a responsible manager;
- (d) maintain appropriate standards of integrity and conduct among the employees of ARTA;
- (e) ensure that ARTA is a good employer; and
- (f) promote equal employment opportunities.

### 14.3 **Term of appointment**

The Board may not (without the prior approval of the ARC) appoint a chief executive for a term of more than 5 years.

## 15. **Method of contracting**

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### 15.1 **Deeds**

A deed which is to be entered into by ARTA may be signed on behalf of ARTA by:

- (a) two or more Directors; or
- (b) one or more attorneys appointed by ARTA.

### 15.2 **Other written contracts**

An obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by ARTA, may be signed on behalf of ARTA by a person acting under the express or implied authority of ARTA.

### 15.3 **Other obligations**

Any other obligation or contract may be entered into on behalf of ARTA in writing or orally by a person acting under the express or implied authority of ARTA.

### 15.4 **Attorneys**

ARTA may by an instrument in writing executed in accordance with rule [14.1] appoint a person as its attorney either generally or in relation to a specified matter. An act of the person as the attorney of ARTA in accordance with that instrument will bind ARTA.

## 16. **Records**

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### 16.1 **Corporate records**

ARTA will keep the following documents at its principal office:

- (a) a copy of these Rules;
- (b) a copy of the Statement of Intent required to be completed by section 64 of the Local Government Act 2002 and any subsequent modifications made to such statement in accordance with section 16 of the Act;
- (c) a copy of the Funding Agreement;
- (d) the full names and residential addresses of the current Directors;
- (e) minutes of all meetings and resolutions of the Board and any committee of the Board within the last 7 years;
- (f) the Interests Register;

- (g) notifications and approvals provided to or received from the ARC under these Rules during the last 7 years;
- (h) all certificates given by Directors under these Rules within the last 7 years;
- (i) all approved policies and procedures of ARTA; and
- (j) copies of all other written communications to the ARC, including the half yearly reports and annual reports under sections 66 and 67 of the Local Government Act 2002.

## 16.2 **Accounting records**

The Board will cause accounting records to be kept by ARTA that:

- (a) correctly record and explain the transactions of ARTA;
- (b) will at any time enable the financial position of ARTA to be determined with reasonable accuracy; and
- (c) will enable the financial statements of ARTA to be readily and properly audited.

The accounting records will contain:

- (d) entries of money received and spent every day and the matters to which it relates; and
- (e) a record of the assets and liabilities of ARTA.

## 16.3 **Form and location of records**

The Board will ensure that:

- (a) the records of ARTA will be kept:
  - (i) in written form; or
  - (ii) in a form or in a manner that allows the documents and information that comprise the records to be easily accessible and convertible into written form;
- (b) the records of ARTA will be kept at the principal office of ARTA; and
- (c) adequate measures exist to prevent the records being falsified or to detect any falsification of them.