

**ASSOCIATIONS INCORPORATIONS ACT 2015 - WESTERN AUSTRALIA**

# **JOONDALUP ATHLETICS CENTRE CONSTITUTION**

12 March 2017

## Version Control

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## THE CONSTITUTION

### 1. NAME OF THE MEMBER CENTRE

The name of the Member Centre is **JOONDALUP ATHLETICS CENTRE INCORPORATED**, hereafter referred to as the Member Centre, with Board approval, may adopt a trading name without affecting the powers or interpretation of this constitution.

### 2. DEFINITIONS AND INTERPRETATION

#### 2.1 Definitions

In this constitution, unless the contrary intention appears:

**Act** means Associations Incorporation Act 2015.

**Annual General Meeting** is the meeting convened under Rule 22.

**Appointed Director** means a Director appointed under Rule 15.

**The Association** means West Australian Little Athletics Incorporated.

**Board** means Directors of the Member Centre, acting collectively.

**Board Meeting** means a meeting referred to in Rule 18.

**By-Law** means any By-Law, regulation or policy made by the Board under Rule 33.

**Chairperson** means, in relation to the proceedings at a Board meeting or General Meeting, the person presiding at the committee meeting or General Meeting in accordance with Rule 13.

**Executive Officer** means the person who is appointed under this Constitution to carry out the duties set out in Rule 20, whether known as the Executive Officer or otherwise.

**Commissioner** means the Commissioner for Consumer Protection exercising powers under the Act.

**Director** means appointed and elected directors referred to in Rule 14 and 15.

**Elected Director** means a Director elected under Rule 14.

**Financial Year** means the period **commencing 01 March and concluding on 28 February** (or 29 February in a leap year) in the following year.

**General Meeting** means the Annual General Meeting or any Special General Meeting of the Association.

**Individual Member** means an Individual Member as defined in Rule 6.1.3 (a).

**Intellectual Property** means all rights or goodwill subsisting in copyright, business names, names, trademarks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to the Association or any event, competition or activity of or conducted, promoted or administered by the Member Centre.

**Life Member** means an individual upon whom life membership of the Member Centre has been conferred under Rule 6.1.3 (b)

**Little Athletics** means athletic activity for persons of an age determined by The Member Centre from time to time.

**Little Athletics Australia** means Little Athletics Australia Incorporated, being the national peak body for the activity of Little Athletics in Australia.

**Little Athletics WA** mean West Australian Little Athletics Incorporated, being the State peak body for the activity of Little Athletics in Western Australia, known as the Association

**Member** means member of the Member Centre as defined in Rule 6.

**Member Centre** means Joondalup Athletics Centre Incorporated

**Policy** means a Policy established under the By-Laws of the Member Centre.

**Poll** means voting conducted in written or electronic form (as opposed to a show of hands).

**Seal** means the common seal of the Association and includes any official seal of the Member Centre.

**Special General Meeting** means a General Meeting other than the Annual General Meeting or Association Meeting.

**Special Resolution** means a special resolution passed in accordance with the Act and requiring 75% majority vote of the Members present and eligible to vote at a General Meeting, and as referred to in Rule 26.

## 2.2 Interpretation

In this constitution:

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

## 2.3 Ambiguity

Any matters of ambiguity relating to this constitution, shall be resolved by the Board in its sole discretion.

## 3. OBLIGATIONS TO THE ASSOCIATION

### 3.1 Affiliation with the Association

As a consequence of affiliation with the Association:

- (a) The Member Centre shall be bound at all times to abide by the Constitution, Rules, By- Laws and Policies of the Association;
- (b) Should the Member Centre fail to fulfil its obligations to the Association by virtue of unduly neglecting, disregarding or abusing the aims and/or powers set out hereunder, or otherwise operate in a manner not in the best interest of Little



Athletics as a whole, the Association shall be empowered to arrange a meeting with the Member Centre Board to resolve the matters;

- (c) The Member Centre cannot change its name, uniform or colours or part thereof without the expressed approval of the Association.

### 3.2 Procedures and Payments

The Member Centre shall complete and submit the affiliation forms and pay the annual affiliation fee prior to the date prescribed by the Association each year, before accepting athlete registrations for the following season.

## 4. OBJECTS OF THE MEMBER CENTRE

### 4.1 Objects

The objects for which the Member Centre is established and maintained are to:

- (a) promote and administer athletic competition for participants who are registered with the Association;
- (b) promote Little Athletics as a recreational and social activity for all participants in an inclusive environment;
- (d) work with other similar bodies to develop and grow Little Athletics and athletics across Western Australia;
- (e) seek and maintain affiliation with the Association Inc;
- (f) enhance the sustainability of the Association / Member centre and its membership;
- (g) align infrastructure development and access to facilities with growth of participation; and
- (h) increase the profile of athletics in Western Australia.

### 4.2 Promotion of Objects

The property and income of the Member Centre shall be applied solely towards the promotion of the objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.

## **5. POWERS OF THE MEMBER CENTRE**

The powers conferred on the Member Centre are the same as those conferred by the Act, so that subject to the Act and any additions, exclusions or modifications inserted below, the Member Centre may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may:

- (a) acquire, hold, deal with, and dispose of any real or personal property;
- (b) open and operate bank accounts;
- (c) invest its money:
  - i. in any security in which trust monies may lawfully be invested; or
  - ii. in any other manner authorised by the rules of the Member Centre;
- (d) borrow money upon such terms and conditions as the Member Centre thinks fit;
- (e) give such security for the discharge of liabilities incurred by the Member Centre as the Member Centre thinks fit;
- (f) appoint agents to transact any business of the Member Centre on its behalf;
- (g) enter into any other contract it considers necessary or desirable; and
- (h) may act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene the Act or this constitution.

## **6. MEMBERS**

### **6.1 Category of Members**

Subject to Rule 6.3 the Member Centre shall consist of the following Members:

- (a) Registered Little Athlete;
- (b) Ordinary Members;
- (c) Individual Members
- (d) Life Member; and
- (e) Such new categories of Members, created in accordance with sub-rule 6.3.

### 6.1.1 Registered Little Athlete

Registered Little Athlete shall:

- (a) be within the prescribed age range for registration as defined by the Association;
- (b) provided evidence of date of birth upon application for memberships; and
- (c) pay all fees associated with membership of the Member Centre and the Association.
- (d) have no voting rights.

### 6.1.2 Ordinary Membership

- a) An Ordinary Member may be a parent/ guardian/ career of a Registered Little Athlete as defined in Rule 6.1;
- b) Ordinary Members shall be nominated with their Registered Little Athlete and their Membership is valid while all Fees under Rule 8.1 have been paid.
- c) Shall have voting rights.

Irrespective of number of registered Little Athletes, parental votes are limited to one vote per Ordinary Member.

### 6.1.3 Other Member Categories

#### (a) Individual Members

- i. Individual Members means a registered financial individual member of the Member Centre;
- ii. Each Individual Member must be registered with the Member Centre;
- iii. Shall have voting rights.

#### (b) Life Members

Life Members will be appointed in accordance with the criteria and procedure set out, from time to time by the Board, in the policies. Any conditions, obligations or privileges of life membership shall be as prescribed in the policies. Life Members, subject to this constitution, may attend General Meetings, but shall have no right to debate or vote unless they are also of another member category

### 6.2 Patron and Vice Patron

The Member Centre at its Annual General Meeting may appoint annually, on the recommendation of the Board, a Patron and/or Vice-Patron, subject to approval by the Members.

### 6.3 Creation of New Categories

The Board has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined appropriate, even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership may be granted voting rights without the approval of Members.

### 6.4 Register of Individual Members

The Member Centre shall register their Individual Members with the Association.

## **7. REGISTER OF MEMBERS OF THE MEMBER CENTRE**

- (a) The Registrar or Executive Officer, on behalf of the Member Centre, must comply with the Act by keeping and maintaining in an up to date condition a secure register of the Members of the Member Centre and their contact details as prescribed in the Act.
- (b) Upon the request of a Member, the Member Centre shall make the register available for the inspection of the Member and the Member may make a copy of or take an extract from the register but shall have no right to remove the register for that purpose.
- (c) In accordance with the Act, the Member Centre may charge a fee for the provision of accessing the Member Register. The Member Centre may also require a member who wished to obtain a copy of the register of members to provide a statutory declaration setting out the purpose for which the application is made.
- (d) The register must be kept at the principal place of administration of the Member Centre.
- (e) The Registrar or Executive Officer must cause the name of a person who dies or who ceases to be a Member under Rule 8 to be deleted from the register of Members.
- (f) Subject to confidentiality considerations and the Privacy Act (if applicable), the register may be used by the Member Centre to further the objects of the Member Centre, as the Board considers appropriate.

## **8. SUBSCRIPTIONS AND FEES**

### **8.1 Registered Little Athlete Fees**

- (a) Registered Little Athletes shall in each Financial Year pay to the Member Centre, membership fees being:
  - i. Member Centre fee, and
  - ii. the affiliation fees which shall be paid to the Association
- (b) The annual membership subscription, fees and any levies payable by Members (or any category of Members) to the Member Centre, the basis of, the time for and manner of payment shall be as determined by the Board from time to time.
- (c) Any Member that has not paid all monies due and payable to the Member Centre may (subject to the Board's discretion) have all rights under this Constitution immediately suspended from the expiry of the time, prescribed in Rule 8 (b) of this constitution. Rights will be suspended until such time as the monies are fully paid or as otherwise determined in the Board's discretion. In the meantime, the Member shall have no automatic right to resign from the Member Centre, and shall be dealt with at the Board's discretion, which includes the right to expel, suspend, disqualify, fine, discipline or retain that Member Centre as a Member Centre, or impose other conditions or requirements as the Board considers appropriate.

### **8.2 Other Registered Member Fees**

- (a) Each Individual Member or any New Category of Membership created under Rule 6.3, shall pay each year to the Member Centre, membership fees, being an amount that shall be determined by the Board, from time to time.
- (b) Life Members of the Member Centre shall not pay any fees to the Member Centre.

## **9. TERMINATION OF MEMBERSHIP OF THE MEMBER CENTRE**

Membership of the Member Centre may be terminated upon:

- (a) receipt by the Member Centre of a notice in writing from a Member of their resignation the Member Centre. Such Member remains liable to pay to the Member Centre the amount of any subscription due and payable by that Member to the Member Centre WA but unpaid at the date of termination; or
- (b) non-payment by a Member of their Member fees within three months of the date fixed by the Member Centre for subscriptions to be paid, unless the Board decides otherwise; or
- (c) expulsion of a Member in accordance with Rule 10.

## 10. SUSPENSION OR EXPULSION OF MEMBERS OF THE MEMBER CENTRE

- (a) If the Board considers that a Member should be suspended or expelled from membership of the Member Centre because of conduct detrimental to the interests of the Member Centre, the Board must communicate in writing, to the Member:
  - i. notice of the proposed suspension or expulsion and of the time, date and place of the Board meeting at which the question of that suspension or expulsion will be decided; and
  - ii. particulars of that conduct, not less than thirty (30) days before the date of the Board meeting referred to in paragraph (i).
- (b) At the Board meeting referred to in a notice communicated under Rule 10 (a) the Board may, having afforded the member concerned a reasonable opportunity to be heard by, or to make representations in writing to the Board, suspend or expel or decline to suspend or expel that Member from membership of the Member Centre and must, after deciding whether or not to suspend or expel that Member, communicate that decision in writing to that Member.
- (c) Subject to Rule 10 (e) a Member has their membership suspended or ceases to be a member fourteen (14) days after the day on which the decision to suspend or expel a Member is communicated to them under Rule 10 (b).
- (d) A Member who is suspended or expelled under Rule 10 (b) must, if they wish to appeal against that suspension or expulsion, give notice in writing to the Board of their intention to do so within the period of fourteen (14) days referred to Rule 10 (c).
- (e) When notice is given under Rule 10 (d):
  - i. The Member Centre in a General Meeting, must either confirm or set aside the decision of the Board to suspend or expel the Member, after having afforded the Member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Member Centre at the General Meeting;
  - ii. the Member who gave that notice is not suspended or does not cease to be a Member unless and until the decision of the Board to suspend or expel them is confirmed under this sub-rule; and
  - iii. any decision shall be recorded in the minutes of each relevant Board meeting.

## **11. DISCIPLINE OF MEMBERS**

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

- i. breached, failed, refused or neglected to comply with a provision of this constitution, policies or any resolution or determination of the Board or any duly authorised committee; or
- ii. acted in a manner unbecoming of a Member or prejudicial to the objects and interests of The Member Centre and/or the sport of athletics and its related disciplines; or
- iii. brought The Member Centre, the sport of athletics or its related disciplines into disrepute:

the Board may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the Member Centre as set out in the Member Centres policies.

## **12. POWERS OF THE BOARD**

Subject to the Act and this constitution the governance of the Member Centre shall be exercised by the Board. In particular, the Board as the controlling authority of the Member Centre shall be responsible for acting on all Centre issues in accordance with the objects of the Member Centre and shall operate for the collective and mutual benefit of the Member Centre and the sport of athletics within Western Australia.

The Board, subject to the Act and this constitution, shall have the power, jurisdiction and authority to do all things necessary to carry out the business, the affairs and the objects of the Member Centre.

The Board Directors shall comply with the Member Centre Board Charter, including but not limited to the following actions:

- i. a duty of care and diligence;
- ii. a duty to act in good faith in the best interests of the Member Centre and for a proper purpose;
- iii. a duty to not use one's position and a duty to not misuse information obtained through the position to gain an advantage for self or someone else or to cause detriment to The Member Centre.

The duties outlined in this section 12 will also apply to other officers of the Member Centre, which include persons who:

- a. participate in making decisions that affect a whole or substantial part of the Member Centre operations;
- b. have the capacity to significantly affect the Member Centre's financial standing;  
and
- c. with whose instruction, the Board is accustomed to act.

### 12.1 Committees of the Board

The Board may from time to time appoint committees to undertake certain tasks as determined by the Board. Committees shall be comprised of suitably skilled persons as determined by the Board. A Director of the Board of the Member Centre shall be appointed Chairperson of any such committee. The terms of reference for each committee shall be determined by the Board.

## 13. COMPOSITION OF THE BOARD

### 13.1 The Board

The Board shall comprise:

- (a) **Six (6)** Elected Directors in the following positions:
  - i. Chairperson
  - ii. Treasurer
  - iii. Competition Director
  - iv. Equipment Director
  - v. Centre Development Director
  - vi. External Liaison Director
- (b) Independent Directors who may be appointed in accordance with Rule 15.
- (c) A Director may be elected by the Elected Directors with the additional role of Deputy Chairperson

### 13.2 Chairperson

Subject to this Rule, the Chairperson must preside at all General Meetings and Board Meetings. In the event of the absence from a General Meeting or a Board meeting of the Chairperson:

- (a) a Director elected by those Directors present at the General Meeting must preside at the General Meeting; or
- (b) in the event of the absence of the Chairperson from a Board meeting, a Director appointed by the other Directors present at the Board Meeting must preside at the Board Meeting.



## 14. ELECTED DIRECTORS

### 14.1 Qualifications for Elected Directors

- (a) Nominees for Elected Director positions on the Board must meet the qualifications as prescribed from time to time by the Board and set out in the Member Centre policies.
- (b) Elected Directors should have a knowledge of athletics or its strategic direction, its stakeholders and a commitment to the development of the sport of athletics.
- (c) Nominees for Elected Director positions on the Board must declare any position they hold in the Member Centre, including as an office bearer, Director or a paid employee.
- (d) A nominee who is subsequently elected as a Director must retire/ resign as a paid employee of the Member Centre.

### 14.2 Elections of Elected Directors

- (a) At least **28 days** before the date of the Annual General Meeting (excluding the meeting date) in each year, a notice seeking nominations shall be given to each Member, notifying each member of the positions on the Board for which an election is to be held and calling upon Members to nominate persons for election to the Board.
- (b) A nominee must be a Member of the Member Centre over the age of 18 years.
- (c) Nominations for Elected Directors must be:
  - i. in writing on the prescribed form provided for that purpose;
  - ii. signed by a Member of the Member Centre over the age of 18 years and;
  - iii. signed by the nominee expressing a willingness to accept the position for which they have nominated and may, if desired by the nominee, be accompanied by a written statement of not more than 350 words specifying background information, qualifications, skills and experience of the nominee and particulars of why the nominee has nominated for election.
- (d) Nominations must be received by the Chairman at least **14 days** prior to the relevant Annual General Meeting (excluding the meeting date).
- (e) If the number of nominations received for the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those persons nominated shall be duly elected.

- (f) If the number of nominations exceeds the number of vacancies to be filled, a ballot shall be taken as follows:
  - i. At least 7 days prior to the Annual General Meeting, each Member entitled to vote will be forwarded a notice specifying the nominees for election, the notice specifying the nominees for election shall be in a format approved by the Board.
  - ii. The notice specifying the nominees for election will contain:
    - a. the number of positions on the Board for which an election is required and whether the positions are general Board Director positions or the position of Chairperson;
    - b. the names of each nominee and
    - c. if provided, the written statement supplied in accordance with Rule 14.2(c).
- (h) The voting shall be conducted by majority vote at the Annual General Meeting.
- (i) If there are insufficient nominations received to fill all vacancies on the Board, any remaining vacant positions shall be dealt with in accordance with Rule 17.
- (j) At the Annual General Meeting the Chair at that meeting shall announce the result of the election.

#### 14.3 Term of Appointment

- (a) Subject to the transitional provisions contained in Rule 21, Elected Directors shall be elected in accordance with this constitution, for a term of **one (1) year**, which shall commence from the conclusion of the Annual General Meeting at which the election occurred and continue until the conclusion of the next Annual General Meeting following.
- (b) Should any adjustment to the term of Elected Directors elected under this constitution be necessary to ensure rotational terms in accordance with this constitution, the adjustment shall be determined by the Board.

### 15. INDEPENDANT DIRECTORS

Independent Directors are not Elected by the Membership of the Centre under Rule 14, but appointed by the Board.

#### 15.1 Vacant Board Positions

The Board shall fill any vacant Appointed Directors positions as soon as practicable, in accordance with Rule 14.2.

## 15.2 Qualifications for Appointed Directors

The Appointed Directors may have specific skills as required by the Board in commerce, finance, marketing, law or business generally or such other skills that complement the Board composition.

## 15.3 Term of Appointment

Subject to the transitional provisions contained in Rule 21, Appointed Directors shall be appointed by the Board in accordance with this constitution for a term of one (1) year, commencing from their date of appointment and concluding at the conclusion of the following Annual General Meeting.

## 15.4 Additional Appointed Directors

Up to two (2) additional Independent Directors may be appointed by the board at any time for a specific term or a maximum period of up until the conclusion of the following Annual General Meeting.

## 16. LEAVE OF ABSENCE

The Board of Directors may, in its discretion, grant leave of absence to a Director following consideration of an application submitted in writing to the Board provided:

- (a) if such period is less than six (6) months, the Board of Directors may appoint a temporary replacement from amongst the membership;
- (b) if, in the case of an Elected Director, such period is six (6) months or more, that Director is taken to have resigned their position and a casual vacancy arises, but the Director shall be entitled to seek re-election at the Annual General Meeting at which their term of office would otherwise have expired;
- (c) if, in the case of an Appointed Director, the remaining Directors decide that granting the leave of absence would impede the Board of Directors in its role, the Appointed Director's term may be ended and a new Director appointed; and,
- (d) the leave of absence cannot exceed the remaining term of office of the Director.

## 17. VACANCIES OF THE BOARD

### 17.1 Grounds for Termination of a Director

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

- (a) dies;
- (b) becomes bankrupt or is required to make any arrangement or composition with creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns from office in writing to the Member Centre;
- (e) is absent without the consent of the Board from three (3) consecutive meetings of the Board;
- (f) takes up any office of salaried employment of the Member Centre or the Association;
- (g) without the prior consent or later ratification of the Member Centres in a General Meeting holds any position of remuneration under the Member Centre;
- (h) is directly or indirectly interested in any contract or proposed contract with the Member Centre and fails to declare the nature of that interest;
- (i) if found to be an undischarged Bankrupt and does not declare their Bankruptcy to the Board or offer their resignation;
- (j) is removed from office by Special Resolution under Rule 17.2;
- (k) would otherwise be prohibited from being a director of a corporation under the Corporations Act or is disqualified from office under the Act;
- (l) breaches Board confidentiality such that the breach poses serious and indefensible circumstances with regards the Director's fiduciary duty to the Member Centre or the Board's good governance of the Member Centre; or
- (m) brings the sport of athletics into disrepute.

### 17.2 Removal of a Director

- (a) The Member Centre in a Special General Meeting may by Special Resolution with a majority vote of at least 75%, remove any Director before the expiration of their term of office. If a Director is removed in accordance with this Rule the office of the Director becomes vacant and shall be filled as a casual vacancy in accordance with Rule 17.3.
- (b) The Board, by a majority vote, may remove any Appointed Director, before the expiration of their term of office. If an Appointed Director is removed in accordance with this Rule 17.2 (b) the office of the Director becomes vacant and shall be filled as a casual vacancy in accordance with Rule 17.3.

- (c) Where the Director to whom a proposed resolution referred to in Rule 17.2 (a) makes representations in writing to the Chairman and requests that such representations be notified to the Members, the Chairman may send a copy of the representations to each Member or, if they are not so sent, the Director may require they be read out at the Special General meeting referred to Rule 17.2 (a) and the representations shall be so read.
- (d) Any written communication must be of reasonable length and must not contain any illegal, offensive or defamatory material.
- (e) At the Special General Meeting referred to in Rule 17.2 (a) the person whose removal is proposed shall have the right to address the meeting.
- (f) Removal of any Director shall be without prejudice to any legal claim they may have against the Member Centre or that the Member Centre may have against the Director in respect of matters arising before or after such removal.

### 17.3 Casual Vacancies

- (a) In the event of a casual vacancy of an Elected Director the Board shall identify a replacement Director, in accordance with Rule 15.2, and appoint a suitable person for the remainder of the vacating Directors term.
- (b) In the event of a casual vacancy of an Appointed Director the Board may identify a replacement Director from among appropriately qualified persons, in accordance with Rule 15.3, and appoint a suitable person for the remainder of the vacating Appointed Directors term.

### 17.4 Remaining Directors May Act

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

## 18. MEETINGS OF THE BOARD

### 18.1 Board to Meet

The Board shall meet at least **6 (six)** times between each Annual General Meeting of the Member Centre at such place and times as the Board may determine, for the dispatch of business. The Chairman shall, on the requisition of two Directors, convene a meeting of the Board within 14 days.

### 18.2 Decisions of Board

Subject to this constitution, each Director has a deliberative vote. Questions arising at any meeting of the Board shall be decided by a majority of votes, but, if there is no majority, the

Chair at the Board meeting will have a casting vote in addition to his or her deliberative vote. All questions so decided shall for all purposes be deemed a determination of the Board.

### 18.3 Resolutions not in Meeting

- (a) A resolution in writing, signed, assented to or endorsed by electronic mail or other form of reproducible record by all the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Directors.
- (b) For purposes of clarity, a majority vote of Directors shall be sufficient to pass a resolution not in meeting as referred to in Rule 18.3 (a).
- (c) Without limiting the power of the Board to regulate their meetings as they think fit, a meeting of the Board may be held where one or more of the Directors is not physically present at the meeting, provided that:
  - i. all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of physical or electronic communication;
  - ii. notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board and such notice does not specify that Directors are required to be present in person; and
  - iii. in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of the Directors are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held, then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated.

### 18.4 Quorum

At meetings of the Board the number of Directors whose presence under Rule 18.2 or participation under Rule 18.3 (b) is required to constitute a **quorum is four (4) Directors**.

When a Board Meeting lapses due to lack of a quorum, the Chairman shall convene a second Board Meeting within a period of 14 days.

### 18.5 Notice of Board Meetings

Unless all Directors agree to hold an extraordinary meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than seven (7) days oral or written notice of the meeting of the Board shall be given to each Director by the

Executive Officer. The agenda shall be forwarded to each Director not less than three working days prior to such meeting.

#### 18.6 Validity of Board Decisions

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

#### 18.7 Chair of Board Meeting

The Chairperson shall preside at every meeting of the Board. If the Chairperson is not present, or is unwilling or unable to preside, the Directors shall choose one of their number present to preside as chair for that meeting only. Where the Chairperson is granted a leave of absence by the Board a replacement Chair may be elected for the duration of the absence.

### **19. CONFLICTS**

#### 19.1 Directors' Interests

A Director is disqualified from holding any position of profit or position of employment in, or in any company or incorporated the Member Centre in which the Member Centre is a shareholder or otherwise interested or from contracting with the Member Centre either as a vendor, purchaser or otherwise except pursuant to an express resolution of approval of the Board. Subject to this Rule, any contract or arrangement entered into by or on behalf of the Member Centre in which any Director is in any way interested will be voided for such reason.

#### 19.2 Conflict of Interest

A Director shall declare an interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) judicial or disciplinary matter;
- (d) sponsorship matter;
- (e) material personal interest; or
- (f) other financial matter;

in which a conflict of interest arises or may arise, and shall absent themselves from discussions of such matter and shall not be entitled to vote in respect of such matter. In the event of any uncertainty as to whether it is necessary for a Director to absent themselves from discussions and refrain from voting, the issue should be immediately

determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

### 19.3 Disclosure of Interests

- (a) The nature of the interest of such Director must be declared by the Director at the meeting of the Board at which the contract or other matter is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a contract or other matter after it is made or entered into, the declaration of the interest must be made at the first meeting of the Board held after the Director becomes so interested.
- (b) Conflicts of Interest shall be a standing agenda item at meetings of the Board and it is the duty of the Chairman to ensure that any declaration made or any general notice given by a Director is recorded in the minutes.
- (c) Conflict of Interest registered by Directors, will also be declared at the Annual General Meeting.

## **20. EXECUTIVE OFFICER**

### 20.1 Appointment of Executive Officer

The Executive Officer shall be appointed by the Board on such conditions as it may determine. The Executive Officer shall be entitled to notice of, attend and participate in debate at all meetings of the Board, but shall have no entitlement to vote. The role, responsibilities and duties of the Executive Officer shall be in accordance with the job description, as determined and approved by the Board from time to time.

### 20.2 Executive Officer Duties

The Executive Officer shall act as and carry out the duties as defined in Rule 19.3 and shall administer and manage The Member Centre in accordance with this constitution, The Member Centres policies and the Act.

### 20.3 Specific Duties

The Executive Officer shall:

- (a) as far as practicable attend all Board meetings and General Meetings;
- (b) in conjunction with the Chairperson prepare the agenda for all Board Meetings and all General Meetings;



- (c) ensure that minutes of the proceedings of all meetings of the Board and The Member Centre are both prepared and recorded; and
- (d) regularly report on the activities of, issues relating to, the conduct and business of The Member Centre.
- (e) undertake other duties as directed by the Board.

#### 20.4 Broad Power to Manage

Subject to the Act, this constitution, The Member Centres policies, any directive of the Board and to the extent outlined in the Executive Authority Limitations, the Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of The Member Centre.

#### 20.5 Executive Officer's Staff

The Executive Officer may employ staff as deemed necessary from time to time and such appointments shall be for the duties, period and conditions determined by the Board.

### **21. TRANSITIONAL PROVISIONS**

#### 21.1 Transitional Board

Upon the adoption of this constitution, the Board elected at the Annual General Meeting preceding the adoption (the transitional Board) will continue as the Board of the Member Centre, with each Director serving out the remainder of their term. The transitional Board shall, consistent with this constitution, do such things and act in such manner as is necessary to further the objects of the Member Centre during its term. The quorum for a meeting of the transitional Board shall be four (4) Directors.

#### 21.2 Board Chairperson During Transitional Period

The Chairperson shall preside at every meeting of the transitional Board. If the Chairperson is not present, unwilling or unable to preside, the Directors shall choose one of their number present to preside as Chair for that meeting only.

#### 21.3 Transitional Board Vacancies

Upon the adoption of this constitution, the transitional Board may appoint a person to one of the Appointed Director positions referred to in Rule 15.

## 22. GENERAL MEETINGS

An Annual General Meeting of the Member Centre shall be held in accordance with the provisions of the Act and this constitution, on a date and at a venue to be determined by the Board, in every calendar year within four (4) months after the end of the Member Centre's financial year or such longer period as may in a particular case be allowed by the Commissioner.

All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this constitution.

## 23. NOTICE OF GENERAL MEETINGS

### 23.1 Notice of Annual General Meetings

The Secretary or Executive Officer shall be responsible for;

- (a) giving notice of the Annual General Meeting to all Board Director and Members,
- (b) notice of the Annual General Meeting shall be given **at least 28 days** prior to the meeting and shall specify the place, the day and time of the Annual General Meeting, and
- (c) distributing, **at least 7 days** prior to the Annual General Meeting an agenda for the meeting stating the business to be transacted, together with any notice of motion received or forms applicable to the intended business.

### 23.2 Notice of General Meetings

The Secretary or Executive Officer shall be responsible for:

- (a) giving notice of General Meetings to all Board Directors and Members;
- (b) notice of the General Meetings shall be given at least 28 days prior to the meeting and shall specify the place, the day and time of the General Meeting; and
- (c) distributing, at least 7 days prior to the General Meeting an agenda for the meeting stating the business to be transacted, together with any notice of motion received or forms applicable to the intended business.

## **24. BUSINESS**

### **24.1 Business of General Meetings**

- (a) The business to be transacted at the Annual General Meeting includes the presentation of annual accounts, reports of the Board (including the activities of the Member Centre during the preceding Financial Year and activities of the Board), auditors report and the confirmation of Elected Directors and Life Membership.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at the Annual General Meeting, with the exception of those matters set out in Rule 23.2 shall be special business.

### **24.2 Business Transacted**

No business other than that stated on the notice of meeting or agenda shall be transacted at that meeting.

## **25. SPECIAL GENERAL MEETINGS**

- (a) Excluding the Annual General Meeting, the Board may, whenever it thinks fit, convene Special General Meetings on dates and at venues to be determined by the Board.
- (b) The Board shall on the requisition in writing by no less than 20 % of Members of the Member Centre over the age of 18 years convene a Special General Meeting.
- (c) The requisition for a Special General Meeting shall state the objective(s) of the meeting; shall be sent to the Members of the Member Centre over the age of 18 years and shall be signed by the Members making the requisition.
- (d) If the Board does not cause a Special General Meeting to be held within two (2) months after the date on which the requisition is sent to The Member Centre, the Members making the requisition, may convene a Special General Meeting to be held not later than one (1) month after that date.
- (e) A Special General Meeting convened under sub-rule 25 (a) of this Constitution shall be convened in the same manner, in which meetings are convened by the Board. No business except that for which the meeting has been called, shall be transacted at such Special General Meeting.
- (f) In accordance with the Act, should the Commissioner for Consumer Protection direct that a special general meeting be held, it will be conducted in accordance with this Constitution.

## **26. PROCEEDINGS AT GENERAL MEETINGS**

### **26.1 Quorum**

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for a General Meeting of The Member Centre shall be a minimum of ten (10) per cent of Members eligible to vote.

### **26.2 Conduct of Meeting**

Without limiting the power of the Board to regulate a meeting as they think fit, a General Meeting may be held where one or more of the Delegates is not physically present at the meeting, provided that:

- (a) prior notification of requirements to satisfy Rule 26.2 (b) are communicated to the Secretary or Executive Officer;
- (b) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of physical or electronic communication;
- (c) notice of the meeting is given to all Members entitled to notice in accordance with Rule 23.2; and
- (d) in the event that a failure in communications prevents the condition in Rule 26.2 (b) from being satisfied by that number of participants that constitutes a quorum, and insufficient Delegates are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held, then the meeting shall be suspended until the condition at Rule 26.2 (b) is satisfied again. If such condition is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have terminated.

### **26.3 Chair of General Meetings**

The Chairperson shall, subject to this constitution, preside as Chair at every General Meeting of The Member Centre. If the Chairperson is not present, is unwilling or unable to preside, the Directors shall choose one of their number present who shall, subject to this constitution, preside as chair for that meeting only.

### **26.4 Adjournment of Meeting**

- (a) If within thirty (30) minutes from the time appointed for the General Meeting, a quorum is not present, the meeting shall be adjourned to such other day, such other time and place as may be determined under Rule 26.4 (b).

- (b) When any General Meeting lapses due to lack of a quorum, the Secretary or Executive Officer shall convene a second meeting within a period of fourteen (14) days. If at the adjourned meeting a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the business shall be transacted, provided the Members then present, is not less than half the number required for a quorum.
- (c) The Chair may, with the consent of any General Meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (d) When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (e) Except as provided in sub- Rule 26.4 (d) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

#### 26.5 Voting Procedure

At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a Poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the Chair; or
- (b) by at least three (3) Members present in person at the meeting.

#### 26.6 Voting Entitlements

- (a) Subject to this constitution; eligible Members shall be entitled to one (1) vote at General Meetings in accordance with Rule 6.1
- (c) All votes shall be given personally Rule 26.2 (b).

#### 26.7 Recording of Determinations

Unless a Poll is demanded under Rule 26.5, a declaration by the Chair that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or lost and an entry to the minutes of the proceedings of The Member Centre shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

## 26.8 Where Poll Demanded

If a Poll is duly demanded under Rule 26.5 it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the result of the Poll shall be the resolution of the meeting at which the Poll was demanded.

## 26.9 Resolutions at General Meetings

Except where a Special Resolution is required, all motions at General Meetings shall be determined by a majority vote of eligible Members.

## 26.10 Minutes

- (a) The Secretary or Executive Officer shall ensure that minutes of the resolutions and proceedings of each General Meeting are minuted, together with a record of the names of persons present at all meetings.
- (b) Any Member of the Member Centre, on giving reasonable notice to the Secretary or Executive Officer, may inspect the Minutes of any General Meeting.
- (c) Within 14 days after each General Meeting, the Secretary or Executive Officer shall supply to each Member a copy of the minutes of the General Meeting.

## **27. PROXY AND MAIL VOTING**

### 27.1 Proxy Voting Not Permitted

Proxy voting shall not be permitted at General Meetings.

## **28. RULES OF THE MEMBER CENTRE**

The Member Centre may alter or rescind these rules, or make rules additional to these rules, in accordance with the procedure set out in the Act, the constitution shall be reviewed at least every two years.

## **29. COMMON SEAL OF THE MEMBER CENTRE**

- (a) The Member Centre must have a common seal on which its corporate name appears in legible characters.
- (b) The common seal of the Member Centre must not be used without the express authority of the Board.

(c) The affixing of the common seal of The Member Centre must be witnessed by any two of the Chairperson, a Director and either the Secretary or Executive Officer.

(d) The common seal of the Member Centre must be kept in the custody of the Chairman or such other person as the Board from time to time decides.

### **30. INSPECTION OF RECORDS, ETC. OF THE MEMBER CENTRE**

A member may at any reasonable time inspect the books, documents, records and securities of the Member Centre, but may not remove such records.

### **31. DISPUTES AND MEDIATION**

(a) The grievance procedure set out in the Associations Member Protection Policy May 2016 applies to disputes under this constitution between-

- i. a Member and another Member;
- ii. a Member and the Member Centre;
- iii. the Member Centre and the Association; or
- iii. if the Member Centre provides services to non-members, those non-members who receive services from The Member Centre, and The Member Centre.

(b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all of the parties.

(c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within ten (10) days, hold a meeting in the presence of a mediator, in accordance with the Associations policies.

(d) If a dispute between members that relates to the rule of the Member Centre and/or Association cannot be resolved through this process it will be possible to make an application for the matter to be heard by the State Administrative Tribunal. It is open to the State Administrative Tribunal to refer the dispute, or any aspect of it, for mediation or make orders for the resolution of the dispute.

(e) In limited circumstances the Commissioner for Consumer Protection will be able to apply to the State Administrative Tribunal for the appointment of a statutory manager to administer the affairs of the association.

## **32. DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OF THE MEMBER CENTRE**

If upon the winding up or dissolution of the Member Centre there remains after satisfaction of all its debts and liabilities any property whatsoever, the same must not be paid to or distributed among the Members, or former Members. The surplus property must be given or transferred to another Member Centre incorporated under the Act which has similar objects and which is not carried out for the purposes of profit or gain to its individual members, and which the Member Centre shall be determined by resolution of the Member Centres.

## **33. BY LAWS AND POLICIES**

### **33.1 Board to Formulate By-Laws and Policies**

The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such regulations and policies for the proper advancement, management and administration of The Member Centre, the advancement of the objects of The Member Centre and the sport of athletics as it thinks necessary or desirable. Such policies must be consistent with this constitution.

### **33.2 Policies Binding**

All policies made under this Rule shall be binding on the Member Centre and its Members.

### **33.3 Policies Deemed Applicable**

All By-Laws, regulations and policies of the Member Centre and the Association in force at the date of the approval of this constitution under the Act in so far as such by-laws, regulations and policies are not inconsistent with, or have been replaced by this constitution, shall be deemed to be regulations and policies under this Rule.

### **33.4 Notices Binding on Members**

Amendments, alterations, interpretations or other changes to regulations and policies shall be advised to Members by means of notices approved by the Board and prepared and issued by the Secretary or Executive Officer. Notices are binding upon all Members of the Member Centre.