



Constitution for the  
South Australian Badminton Association Inc  
November 2019

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# ASSOCIATIONS INCORPORATION ACT 1985 (SA)

## CONSTITUTION

of

### South Australian Badminton Association INCORPORATED

#### 1. NAME OF ASSOCIATION

The name of the association is the “**South Australian Badminton Association**”

#### 2. DEFINITIONS AND INTERPRETATION

##### 2.1 Definitions

In this Constitution, unless the contrary intention appears:

**Act** means the *Associations Incorporation Act 1985 (SA)*.

**Affiliate Member** means a RSO or Club that is admitted as an Affiliate Member under clause 5.

**Association** means “**South Australian Badminton Association**”.

**Annual General Meeting** means a meeting of the kind described in **clause 7**.

**Appointed Director** means a Director appointed under **clause 8**.

**Board** means the body consisting of the Directors.

**Club** means a Club; whose members participate in the Sport. which is an affiliate member of the Association.

**Constituent Documents** means that Member’s governing documents, including but not limited to, that Member’s constitution and regulations and any other governing documents

**Constitution** means this constitution of the Association.

**Delegate** means the person(s) appointed from time to time to act for and on behalf of an Affiliate Member and to represent the Affiliate Member at Annual General Meetings and/or Special General Meetings.

**Director** means a member of the Board and includes Elected Directors and Appointed Directors and any person acting in that capacity from time to time appointed in accordance with this Constitution.

**Elected Director** means a director appointed under **clause 8**.

**Financial year** means the year ending on the next 30 June following incorporation and thereafter a period of 12 months commencing on 1 July and ending on 30 June each year.

**General Meeting** means any general meeting of Members and includes the Annual General Meeting or any Special General Meeting.

**Individual Member** means a registered financial member of an Affiliated Club or Affiliated Association.

**Intellectual Property** means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment (including computer software), images (including photographs, videos or films) or service marks relating to the Association or any activity of or conducted, promoted or administered by the Association in South Australia.

**Life Member** means an Individual Member appointed as a life member of the Association under **clause 5.3**.

**Elite Member** means an Individual Member appointed as a life member of the Association under **clause 5**.

**Member** means a member for the time being of the Association under **clause 5**.

**NSO** means Badminton Australia Ltd

**Objects** means the objects of the Association in **clause 3**.

**Ordinary Resolution** means:

- (a) at a meeting of Affiliate Members, a resolution passed at a General Meeting by a majority of Affiliate Members present, entitled to vote and voting; or
- (b) at a meeting of the Board or a committee of the Board, a resolution passed by a majority of those present.

**Participants** means persons who participate in the Sport whether as players, coaches, umpires or other officials.

**Regulations** means any regulations, by-laws or policy made by the Board under **clause 10.4**.

**Region** means a geographical area within the State of South Australia, which the Association is responsible for and is recognised by the Association.

**RSO** means a regional sporting association that conducts and manages participation in the Sport (and which is distinct from a Club and may have Clubs as part of its own membership).

**Seal** means the common seal of the Association.

**Special Resolution**” means a resolution passed at a General Meeting of the Affiliate Members if:

- (a) at least 21 days written notice specifying the intention to propose the resolution as a special resolution has been given to all Affiliate Members; and
- (b) it is passed at a duly convened meeting of the Affiliate Members by a majority of not less than three-quarters of Affiliate Members present, entitled to vote and voting.

**Sport** means the sport of badminton.

## 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 of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include 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);

- (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; and
- (i) any doubt arising as to the application or meaning of any clause or wording therein shall be decided by a vote at a Special General Meeting, which decision shall be final and conclusive.

### **2.3 Severance**

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution.

### **2.4 The Act**

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act. Model rules under the Act are expressly displaced by this Constitution.

## **3. OBJECTS OF THE ASSOCIATION**

The objects of the Association are, within the State, to:

- (a) participate as a member of the NSO so the Sport can be conducted, encouraged, promoted, advanced and administered.
- (b) arrange, conduct and regulate competitions in the Sport;
- (c) affiliate with the NSO and act as its South Australian affiliated member;
- (d) maintain and enhance the reputation of the Sport and the standards of play and behaviour of participants in the Sport;
- (e) undertake and or do other things or activities which are necessary, incidental or conducive to the advancement of these Objects;
- (f) have regard to the public interest in its operations;
- (g) promote at all times mutual trust and confidence between the Association, the NSO and the Members in pursuit of these objects;
- (h) act at all times on behalf of, and in the interest of, the Members and the Sport;
- (i) promote the economic and community service success, strength and stability of the Association, the Members and the Sport ;
- (j) affiliate and otherwise liaise with the NSO and adopt its rule and policy framework to further these objects and the Sport;
- (k) use and protect the intellectual property appropriately;
- (l) strive for government, commercial and public recognition of the Association and the Sport;
- (m) abide by, promulgate, enforce and secure uniformity in the application of the rules of the Sport as may be determined from time to time by the NSO and as may be necessary for the management and control of the Sport and related activities;
- (n) act as an arbiter (as required) on all matters pertaining to the conduct of the Sport including disciplinary matters;

- (o) pursue such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the interests of the Sport;
- (p) adopt and implement such policies as may be developed by the NSO, including (as relevant and applicable) Member protection, anti-doping, health and safety, player and child welfare, junior sport, infectious diseases and such other matters as may arise as issues to be addressed in the Sport;
- (q) do all that is reasonably necessary to enable these Objects to be achieved and enable Members to receive the benefits which these Objects are intended to achieve;
- (r) promote the health and safety of Members and all other participants in the Sport; and
- (s) seek and obtain improved facilities for the enjoyment of the Sport.

#### 4. POWERS OF THE ASSOCIATION

Solely for furthering the Objects, the Association has the rights, powers and privileges conferred on it under section 25 of the Act, namely to:

- (a) acquire, hold, deal with, and dispose of, any real or personal property;
- (b) administer any property on trust;
- (c) open and operate ADI accounts;
- (d) invest its moneys —
  - (i) in any security in which trust moneys may, by Act of Parliament, be invested; or
  - (ii) in any other manner authorised by the rules of the Association;
- (e) borrow money upon such terms and conditions as the Association thinks fit;
- (f) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (g) appoint agents to transact any business of the Association on its behalf; and
- (h) enter into any other contract it considers necessary or desirable.

#### 5. MEMBERSHIP ~

##### 5.1 Categories of Members

The Members of the Association shall consist of:

- (a) **Affiliate Members**, which subject to this Constitution, shall be represented by a Delegate, and which shall have the right to receive notice of General Meetings and to be present, debate and vote on behalf of their respective Association or Club at General Meetings;
- (b) **Life Members**, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings, but shall have no voting rights at General Meetings;
- (c) **Elite Members** who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings, but shall have no voting rights at General Meetings;

- (d) Such new categories of Members as may be created by the Board. Any new category of Member created by the Board cannot be granted voting rights without the approval of the Association in General Meeting.

## 5.2 Affiliate Members ~

- (a) An RSO or Club may apply to the Board for admission to Membership as an Affiliate Member;
- (b) To be, or remain, eligible for Membership, an RSO or Club must be incorporated or be in the process of incorporation as detailed in the Regulations;
- (c) Once a Member, an Affiliate Member has the right to receive notice of General Meetings and to be present, debate and vote at General Meetings;
- (d) Each Affiliate Member is taken, by virtue of that membership, to have agreed:
  - (i) that it recognises the Association as the authority for the Sport in South Australia and the NSO as the authority for the Sport nationally;
  - (ii) that it will submit an up-to-date copy of its Constituent Documents to the Board as and when requested by the Board or required by the Regulations;
  - (iii) that it will conscientiously attend General Meetings;
  - (iv) that it will maintain, in a form acceptable to the Association, a register of its Members and provide a copy of the register to the Board on request by the Board; and
  - (v) that, if requested by the Association, it will also provide the Association with copies of its audited accounts, annual financial reports and other associated documents as soon as practicable following the Affiliate Member's Annual General Meeting.
- (e) If an Affiliate Member is not incorporated at the time of applying for membership, the process of incorporation must be completed within one year of applying for membership. If that process is not completed within that time, the Affiliate Member's membership will lapse but it may reapply on becoming incorporated.
- (f) Each Affiliate Member's Constituent Documents must:
  - (i) clearly reflect the Objects; and
  - (ii) conform with this Constitution, the Regulations and the policies of the Association.

## 5.3 Life Members ~

- (a) Life membership is the highest honour that can be bestowed by the Association for longstanding and valued service to the Association or to the Sport in South Australia.
- (b) Life Membership may be awarded to any person who has held a SABA membership for a minimum of *10 years as a board member actively involved in an administrative, official coaching, technical official or other voluntary capacity, or any combination of these positions.*
- (c) Any Member may recommend a person for Life Membership by notice in writing to the Board as detailed in the Regulations.
- (d) A person may be appointed a Life Member only by Special Resolution put to an Annual General Meeting by the Board.
- (e) A Life Member has the right to receive notice of General Meetings and to be present and to debate but not to vote at General Meetings.

- (f) A Life Member cannot be required to pay fees or subscriptions (other than fees that are required to be paid by a participant in the Sport in his or her capacity as a participant in the Sport).

#### 5.4 Elite Members ~

- (a) Elite membership may be awarded to any person who has:
  - (i) held a SABA membership for a minimum of 7 years and;
  - (ii) represented South Australia at a NSO Sanctioned National Carnival and;
  - (iii) been selected in a Commonwealth Games or Olympic Games Team.
- (b) Nominations shall be submitted to the SABA board from a member club, and upon the recommendation of The Board, be awarded an Honorary Elite Member of The Association at an Annual General Meeting based on a *majority vote of those present and entitled to vote and including received postal votes*.
- (c) Elite Members shall have automatic and continuous membership at all times with the privileges of Ordinary Members as defined, and free admittance at the discretion of The Board to all functions conducted under the direction of The Association.
- (d) An Elite Member may be awarded Life Membership and has the right to receive notice of General Meetings and to be present and to debate but not to vote at General Meetings

#### 5.5 Individual Members

- (a) *An Affiliate Member must apply for each of its members (either Full or Social) who represent the sport in any way, to be an Individual Member.*
- (b) *Members (either Full or Social members of Affiliate) can only be nominated by a single Club as an Individual Member.*
- (c) An application under clause 5.7(a) must be signed by both the applicant Participant and the Affiliate Member.
- (d) Notice given to an Affiliate Member is taken to be notice to all Individual Members and participants of that Affiliate Member.

#### 5.6 Application for Membership ~

- (a) Subject to this **clause 5**, an applicant candidate for membership must apply to the Board in writing.
- (b) The application must:
  - (i) be in a form approved by the Board;
  - (ii) contain full particulars of the name and address and contact details of the applicant;
  - (iii) identify the category of membership for which the applicant is applying; and
  - (iv) contain any other information prescribed by Regulation for an application for membership in that category.

#### 5.7 Discretion to Accept or Reject Application

- (a) The Association may accept or reject an application for membership whether or not the applicant has complied with the requirements in this **clause 5**. The Association shall not be required or compelled to provide a reason for accepting or rejecting the Application.



- (b) Where the Association accepts an application, the applicant shall become a Member. Membership shall be deemed to commence upon acceptance of the application by the Association. The secretary shall amend the register accordingly as soon as practicable.
- (c) Where the Association rejects an application, any fees forwarded with the application will be refunded and the application shall be deemed rejected.

#### **5.8 Re-Affiliation of Affiliate Members**

- (a) Affiliate Members must re-affiliate annually with the Association in accordance with the procedures set down by the Association in Regulations from time to time.
- (b) Upon re-affiliation, Affiliate Members must lodge with the Association an updated copy of their own Constituent Documents (including all amendments) and they must provide details of any change in its Delegate and any other information reasonably required by the Association. Each Affiliate Member is to ensure that its own constitution is amended to conform to any amendments made to this Constitution.

#### **5.9 Deemed Membership**

- (a) All Members which or who are, prior to the operation of this Constitution, Members of the Association, shall be deemed Members from the time of the operation of this Constitution.
- (b) Members shall provide the Association with such details as are reasonably required by the Association under this Constitution within one month of the operation of this Constitution.
- (c) Any Members of the Association, prior to the operation of this Constitution, who are not deemed Members under **clause 5.7(a)** shall be entitled to carry on such functions equivalent to their previous functions as are provided for under this Constitution.

#### **5.10 Obligations of Members**

Each Member must:

- (a) treat all staff, contractors and representatives of the Association, the NSO and all those involved with the Sport with respect, decency and courtesy at all times;
- (b) maintain and enhance the standards, quality and reputation of the Association, the NSO and the Sport;
- (c) not act in a manner:
  - (i) unbecoming of a Member or prejudicial to the Objects or the interests or reputation of the Association, the NSO or the Sport; or
  - (ii) that is likely to bring the Association, the NSO or the Sport into disrepute or which might adversely affect or derogate from the standards, quality and reputation of the Association, the NSO or the Sport and its maintenance and development; and
- (d) in the case of an Affiliate Member:
  - (i) take reasonable steps to prevent any of its own members or any of its participants from acting in a manner:
    - (a) unbecoming or prejudicial to the Objects of the interests or reputation of the Association, the NSO or the Sport; or
    - (b) that is likely to bring the Association, the NSO or the Sport into disrepute or which might adversely affect or derogate from the standards, quality and reputation of the Association, the NSO or the Sport and its maintenance and development; and

- (ii) take reasonable steps to discipline appropriately any of its own members or participants if that member or participant acts in such a way;
- (i) be or remain incorporated in South Australia;
- (ii) nominate an appropriate Delegate annually to attend General Meetings, and shall inform the Association of the details of that person accordingly;
- (iii) provide the Association with copies of its audited accounts, annual financial reports and other associated documents as soon as practicable, following its own annual general meetings;
- (iv) recognise the Association as the authority for the Sport in South Australia and the NSO as the authority for the Sport nationally;
- (v) adopt and implement such policies as may be developed by the Association;
- (vi) have regard to the Objects in any way pertaining to the Sport;
- (vii) the Constituent Documents of each Affiliate Member shall, at the earliest available opportunity, but within one year of the commencement of this Constitution, recognise the Association as the authority for the Sport in South Australia and the NSO as the authority for the Sport nationally; and
- (xi) it shall maintain, in a form acceptable to the Association, a register of all members of its members. Each Affiliate Member shall provide a copy of the register at a time and in a form acceptable to the Association. They shall also provide regular updates of the register to the Association.

#### **5.11 Association to Keep Register**

Subject to the Act, confidentiality considerations and privacy laws:

- (a) the Association must keep and maintain a register of Members, which shall contain, at least;
  - (i) the full name, address, category of membership and date of entry to membership of each Member and Director; and
  - (ii) where applicable, the date of termination of membership of each previous Member.
- (b) the Register may contain such other information as the Board considers appropriate;
- (c) Members must provide the Association with the details required by the Association to keep the register complete and up to date; and
- (d) Members shall provide notice of any change and required details to the Association within one month of such change.

#### **5.12 Inspection of Register**

Subject to the Act, confidentiality considerations and privacy laws, an extract of the register, excluding the address or other direct contact details of any Member, shall be available for inspection (but not copying) by Members who make a reasonable request for a proper purpose.

#### **5.13 Use of Register**

Subject to the Act, confidentiality considerations and privacy laws, the register may be used to further the Objects, in such manner as the Board considers appropriate.

#### **5.14 Effect of Membership**

Members acknowledge and agree that:

- (a) this Constitution forms a contract between each of them and the Association and that they are bound by this Constitution and the Regulations and policies of the Association (as well as the constitutions, regulations and policies of the NSO, where applicable);
- (b) they shall comply with and observe this Constitution and the Regulations and policies of the Association and also any determination, resolution or decision, which may be made or passed by the Board or other entity with delegated authority on behalf of the Association;
- (c) by submitting to this Constitution and the Regulations and policies of the Association, they are subject to the jurisdiction of the Association and the NSO (where applicable);
- (d) the Constitution and the Regulations and policies of the Association are necessary and reasonable for promoting the Objects and particularly the advancement and protection of the Sport in the Region; and
- (e) they are entitled to all benefits, advantages, privileges and services of being a Member of the Association.

#### **5.15 Resignation of Membership**

- (a) A Member who has paid all arrears of fees payable to the Association may resign or withdraw from membership of the Association by giving one month's notice in writing to the Association, subject to the clauses below.
- (b) An Affiliate Member may not resign, disaffiliate or otherwise seek to withdraw from the Association without approval by Special Resolution of the Affiliate Member. A copy of the relevant minutes of the Affiliate Member's meeting showing that the Special Resolution has been passed by the Affiliate Member must be provided to the Association.
- (c) If an Affiliate Member ceases to be a Member under this Constitution, the Association membership of all Individual Members affiliated or registered with or through the Affiliate Member shall not automatically cease at that time but shall be dealt with in accordance with the Regulations and the circumstances pertaining to each Member.
- (d) Once the Association receives notice of resignation of membership given under this **clause 5.13**, it must make an entry in the register that records the date on which the Member who or which gave notice ceased to be a Member.

#### **5.16 Discontinuance of Membership for Breach**

- (a) Membership of the Association may be discontinued by the Board upon breach of any clause of this Constitution or the Regulations or the policies of the Association. This includes, but is not limited to, the failure to pay any monies owed to the Association, disciplinary matters, and the failure to comply with the Regulations or any resolutions or determinations made or passed by the Board or any duly authorised committee.
- (b) Membership shall not be discontinued by the Board under **clause 5.14(a)** without the Board first giving the relevant Member sufficient opportunity to explain the breach and/or remedy the breach.
- (c) A Member may not be expelled unless the Member has been afforded natural justice in accordance with the Act and procedural fairness generally.
- (d) Where a Member fails, in the Board's view, to adequately explain or remedy the breach, that Member's membership shall be discontinued under **clause 5.14(a)**. The Association shall give written notice of the discontinuance to the Member. The register shall be amended to reflect any discontinuance of membership under this **clause 5.14** as soon as practicable.

#### **5.17 Discontinuance of Membership for Failure to Re-Affiliate**

- (a) Membership of the Association may be discontinued by the Board if an Affiliated Member has not re-affiliated with the Association within one month of the re-affiliation falling due (and

notice of such has been brought to the attention of the Affiliated member). In that case, the Affiliated Member's membership will be deemed to have lapsed from that time.

- (b) The register shall be amended to reflect any discontinuance by reason of lapse of membership under this **clause 5.15** as soon as practicable.

#### **5.18 Member to Re-Apply for Membership**

A Member whose membership has been discontinued under **clauses 5.13, 5.14 or 5.15**:

- (a) may seek renewal or re-apply for membership in accordance with this Constitution; and
- (b) may be re-admitted as a Member at the discretion of the Board.

#### **5.19 Forfeiture of Rights**

- (a) A Member who or which ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Association and its property and shall not use any property of the Association including Intellectual Property.
- (b) Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association immediately.
- (c) Where an Affiliated Member ceases to be a Member, it shall also forfeit all representation rights on the Board and at General Meetings effective immediately.

#### **5.20 Delegate Position Lapses**

The position of Delegate shall lapse immediately on cessation of membership of an Affiliate Member.

#### **5.21 Membership May be Reinstated**

Membership which has been discontinued under this **clause 5** may be reinstated at the discretion of the Board, with such conditions of membership as the Board deems appropriate.

#### **5.22 Refund of Membership Fees ~**

Membership fees or subscriptions paid by the discontinued Member may be refunded on a pro-rata basis to the Member upon discontinuance.

#### **5.23 Subscriptions and Fees ®**

- (a) The Board will:
  - (i) fix annual membership subscriptions;
  - (ii) fix such other fees or levies as the Board considers prudent for the effective and sustainable management of the affairs of the Association; and
  - (iii) determine the time for and manner of payment of the subscriptions, fees and levies by Members to the Association.
- (b) The Board may fix subscriptions, fees or levies at different rates for different categories of membership and may determine that no subscriptions are payable by one or more of the categories for any year.
- (c) The Board may also authorise payment of subscriptions, fees or levies by instalments for some or all of the categories of membership and it may prescribe different terms of instalments for different categories of membership.
- (d) On admission to membership, a new Member must pay the current full year's subscription unless the Board agrees to accept payment in instalments.

- (e) The Board may waive all or part of a Member's subscriptions, fees or levies and may agree terms of payment for a Member different from those applicable to other Members of the same category if the Board is satisfied that there are special reasons to do so.

## **6. DISCIPLINE AND DISPUTE RESOLUTION ~**

### **6.1 Regulations**

- (a) The Board may make Regulations governing the hearing and determination of disputes, protests or complaints made by or against Members or participants or the Association or disciplinary matters generally or any other matter involving the enforcement of this Constitution or the Regulations or policies of the Association against Members or participants or the Association.
- (b) A Regulation made under this **clause 6.1** may:
  - (i) provide for one or more judiciary committees or tribunals to hear and resolve cases falling under this **clause 6.1**, including committees or tribunals for appeals from Affiliate Members;
  - (ii) prescribe penalties for breaches of this Constitution or the Regulations or policies of the Association;
  - (iii) invest a judiciary committee or tribunal with power to impose penalties; and
  - (iv) otherwise prescribe the procedures for dealing with cases falling under this **clause 6.1**.
- (c) Despite any Regulation made under this **clause 6.1**, and unless otherwise specified, the Board may itself deal with any disciplinary matter referred to it or appoint a judiciary committee or tribunal to do so.

### **6.2 Natural Justice and Procedural Fairness**

- (d) All proceedings relating to matters falling under **clause 6.1** must be conducted according to the rules of natural justice in accordance with the Act and procedural fairness generally.

### **6.3 Process**

- (e) The dispute resolution procedure set out in this clause applies to disputes between a Member and:
  - (i) another Member; or
  - (ii) the Association.
- (f) In this clause 'Member' includes any former Member who was a Member not more than six months before the dispute occurred and who is involved in the dispute.
- (g) 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 parties.
- (h) 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 after the scheduled meeting, refer the dispute to the Association or the State Sport Dispute Centre to resolve the dispute in accordance with **clause 6.1**.
- (i) The Committee may prescribe additional grievance procedures in Regulations under **clause 6.1**.

## 7. GENERAL MEETINGS

### 7.1 Types

There are two (2) General Meetings that can be convened where Affiliate Members have the opportunity to express opinions and vote on various matters. They are:

- (a) **Annual General Meetings:** Annual General Meetings of the Association must be held in accordance with the Act and this Constitution and on a date and at a venue to be determined by the Board.
- (b) **Special General Meetings:** Special General Meetings of the Association are special meetings that are convened by Members to discuss extraordinary issues.

### 7.2 Attendance

- (a) Unless this Constitution expressly provides otherwise, Members and the auditor are entitled to attend General Meetings but only Affiliate Members are entitled to vote at General meetings.
- (b) Each Affiliate Member, by notice to the Association, may appoint a natural person to act as its Delegate in all matters connected with the Affiliate Member including for voting purposes at General Meetings.
- (c) An Affiliate Member may, by notice under **clause 10.5** to the Association, revoke an appointment made under **clause 7.2(b)**.
- (d) A Delegate appointed under **clause 7.2(b)** may attend a General Meeting by telephone or other electronic means by which he or she can hear and be heard.
- (e) For all the purposes of this Constitution, an Affiliate Member represented at a General Meeting by a Delegate is to be taken to be present in person at the General Meeting.

### 7.3 Notice

- (a) Notice of General Meetings must be given to Members and the auditor by the means authorised in **clause 10.5**.
- (b) A notice of a General Meeting must specify the place, day and hour of the General Meeting and state the nature and order of the business to be transacted at the General Meeting.
- (c) At least twenty-one (21) days' notice of a General Meeting must be given to those Members entitled to receive notice, together with:
  - (i) the agenda for the General Meeting; and
  - (ii) any notice of motion received from Members entitled to vote.

### 7.4 Business

- (a) The ordinary business to be discussed at the Annual General Meeting includes, but is not limited to, the consideration and approval of financial and other accounts and the reports of the Board (and those of any auditors), the election of Directors and any amendments to this Constitution.
- (b) All business that is discussed at a Special General Meeting or an Annual General Meeting, other than those matters referred to in **clause 7.4(a)**, is special business.
- (c) No business other than that stated on the notice for a General Meeting may be discussed at that General Meeting.

## 7.5 Notices of Motion

Members entitled to vote may submit notices of motion for inclusion as special business at a General Meeting. All notices of motion must be submitted in writing to the board not less than fourteen (14) days prior to the General Meeting.

## 7.6 Quorum

No business may be discussed or transacted at a General Meeting unless a quorum is present at the time when the General Meeting proceeds to business. A quorum for General Meetings is **75%** of Affiliate Members.

## 7.7 Chairperson to Preside

- (a) The chairperson of the Board will, subject to this Constitution, preside as chairperson at every General Meeting except:
  - (i) in relation to any election for which the chairperson of the Board is a nominee; or
  - (ii) where the chairperson of the Board has a conflict of interest.
- (b) If the chairperson of the Board is not present or is unwilling or unable to preside, the Affiliate Members present must appoint another Director to preside as chair for that General Meeting only.

## 7.8 Adjournment

- (a) If within half an hour from the time appointed for the General Meeting, a quorum is not present, the General Meeting must be adjourned until the same day in the next week at the same time and place or to such other day, time and place as the chairperson determines.
- (b) If at the adjourned General Meeting a quorum is not present within half an hour from the time appointed for the adjourned General Meeting:
  - (i) if the General Meeting was convened on the requisition of Affiliate Members under **clause 7.14**), the General Meeting will lapse and will not be adjourned or reconvened; and
  - (ii) in any other case, those Affiliate Members present will constitute a quorum.
- (c) The chairperson may, with the consent of any General Meeting at which a quorum is present, and must, if directed by the General Meeting, adjourn the General Meeting from time to time and from place to place but no business may be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting from which the adjournment took place.
- (d) When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned General Meeting must be given as in the case of an original General Meeting.
- (e) Except as provided in clause 7.7(c), it is not necessary to give any notice of an adjournment or the business to be discussed or transacted at any adjourned General Meeting.

## 7.9 Voting Procedure

- (a) At any General Meeting a resolution put to the vote of the General Meeting will be decided on a show of hands unless a poll is (before the show of hands) demanded by:
  - (i) the chairperson; or
  - (ii) a simple majority of Affiliate Members present at the General Meeting.
- (b) Each Affiliate Member is entitled to one (1) vote at General Meetings.

- (c) The chairperson may not exercise a casting vote at General Meetings.

#### **7.10 Lodgement of Postal Votes at General Meetings**

- (a) Any RSO wishing to lodge a postal vote at a General Meeting of The Association shall forward such vote to the Association on the appropriate form (hereinafter referred to as the VOTING FORM). The VOTING FORM must be in the hands of the Board prior to commencement of the meeting for such form to be valid. The VOTING FORM shall consist of two parts:
  - (i) Containing a discussion form relating to the business of the meeting;
  - (ii) Containing the ballot papers on which RSO's are asked to state how they wish to cast their votes. Such votes may be qualified to deal with possible amendments moved at the meeting.
- (b) On this form RSO's are requested to indicate whether they wish to:
  - (i) second a motion of which notice has been received;
  - (ii) move any amendment to such motion;
  - (iii) present any discussion to the meeting in relation to any items of business.
- (c) Completed VOTING FORMS shall be placed in an envelope marked BALLOT PAPER which shall then be sealed. This envelope shall not be marked so as to identify the RSO lodging the VOTING FORMS. This envelope shall then be placed in an envelope marked POSTAL VOTE and the RSO shall ensure that this envelope is properly sealed, carries the name of the RSO and the name and signature of the Secretary or, in his/her absence, the President of the RSO lodging the forms.
- (d) This envelope shall be returned to The Association in the postage prepaid envelope supplied.
- (e) The arrival of Postal Votes shall be recorded and acknowledged and such Votes shall be retained in a secure place for verification by the Board.
- (f) Any RSO which has correctly lodged a postal vote for a General Meeting shall be deemed to have attended that meeting and its vote(s) shall be dealt with as though cast by a voting member present

#### **7.11 Registration of Postal Votes at General Meetings**

- (a) Postal Vote envelopes shall be presented, unopened, to the scrutineers immediately upon their election.
- (b) In the absence of direction to the contrary any vote FOR or AGAINST a motion shall stand, notwithstanding any amendments to that motion which may be moved at the meeting.
- (c) Where a motion is not addressed by a RSO, it shall be deemed that the vote is an abstention.
- (d) The scrutineers shall present any motions, amendments and/or discussions, as directed by the RSO which lodged the VOTING FORMS at the appropriate time.
- (e) At the conclusion of the meeting all VOTING FORMS shall be destroyed in their entirety by the scrutineers. VOTING FORMS shall be subject to inspection only until the specific motion to which they relate is resolved.
- (f) In the event that the scrutineers consider that a Postal Vote may have been tampered with then such vote shall be dealt as follows:
  - (i) Any expressed wish to second motions shall be treated as valid
  - (ii) Any discussion presented shall be treated as valid.
- (g) Any proposed amendment to a motion of which notice was properly given shall be treated as valid.
- (h) Any votes shall be set aside. The scrutineers shall determine whether such votes, if cast either FOR or AGAINST, could have altered the final outcome of a ballot.
- (i) In the event that the final outcome of a ballot could not have been altered by the casting votes, then that outcome shall be valid as though all votes were properly cast. In the event that the final outcome of a ballot could have been altered by the casting votes then that outcome shall be UNRESOLVED until the next General Meeting.



## 7.12 Recording of Determinations

A declaration by the chairperson that a resolution has, on a show of hands, been carried (either unanimously or by a particular majority) or lost and an entry to that effect in the minutes of the proceedings of the Association is conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

## 7.13 Special General Meetings

The Board may, whenever it thinks fit, convene a Special General Meeting of the Association.

## 7.14 Requisition of Special General Meetings by Affiliate Members

- (a) On the requisition in writing of 5% of the total number of Affiliate Members, the Board must, within one month after the receipt of the requisition (and provided notice is given in accordance with clauses 7.3 and 10.5), convene a Special General Meeting for the purpose specified in the requisition.
- (b) Every requisition for a Special General Meeting must be signed by requisitioning Affiliate Members, state the purpose of the meeting and be sent to the Association. The requisition may consist of several documents in a like form, each signed by one or more of the Affiliate Members making the requisitions.
- (c) If the Board does not cause a Special General Meeting to be held within one month after the receipt of the requisition, the Affiliate Members making the requisition may convene a Special General Meeting to be held not later than three (3) months after the receipt of the requisition.
- (d) A Special General Meeting convened by the Affiliate Members under this Constitution must be convened in the same manner, or as nearly as practical to the same manner, as a meeting convened by the Board and for this purpose the Board must ensure that the Affiliate Members making the requisition are supplied free of charge with particulars of the Affiliate Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting must be borne by the Association.

## 8. MANAGEMENT

The Board constitutes the Committee for the purposes of the Act.

### 8.1 General powers of Board

- (a) Subject to the Act and this Constitution, the business and affairs of the Association must be managed by the Board, which may exercise the powers of the Association for that purpose.
- (b) The Board must perform its functions in the pursuit of the Objects and in the interests of the Association as a whole, having regard to the Association's position and role in the structure and reputation of the Sport in South Australia.
- (c) The Board may not cause the Association to disaffiliate from the NSO or the Sport in any way unless decided by resolution of the Members at a General Meeting.

The Board will comprise of:

- (a) up to seven (7) Elected Directors elected under **clause 8.6**; and
- (b) up to two (2) Appointed Directors appointed under **clause 8.8**; and
- (c) *The Appointed Directors may be non-voting members*

(i) Non-Voting Board Members.

*Notwithstanding anything to the contrary contained herein, the members of the Board may*

*appoint non-voting members of the Board (Non-voting Board Members). Accordingly, the members of the Board shall be comprised of the Elected Members and the Non-voting Board Members, if any, of the Association. Non-voting Board Members shall have the right to receive notice of any meeting of the Board and to participate in, but not to vote at, all such meetings, and shall be entitled to indemnification and exculpation to the same extent members of the Association are entitled thereto. If appointed, Non-voting Board Members will not be counted in determining whether a quorum is present.*

## **8.2 Portfolios ~**

The Board may allocate portfolios to Directors.

## **8.3 Nominations for Elected Directors**

- (a) The Board must call for nominations for Elected Directors at least forty-nine (49) days prior to the Annual General Meeting.
- (b) The Board may, when it calls for nominations, indicate which portfolios on the Board it wishes to fill, the job descriptions for those portfolios and the qualifications or experience it considers desirable for those portfolios.

## **8.4 Nominations must: ~**

- (a) be in writing;
- (b) be in the prescribed form (if any) provided for that purpose;
- (c) be signed by the nominee;
- (d) disclose any position the nominee holds in a Club, including as an officer, a participant, a Delegate or an employee; and
- (e) be delivered to the Association not less than twenty-eight (28) days before the date fixed for the Annual General Meeting.

## **8.5 Elections**

- (a) 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 nominated shall be declared elected only if approved by the majority of Members entitled to vote at the Annual General Meeting.
- (b) If the number of nominations exceeds the number of vacancies to be filled, an election must be conducted at the Annual General Meeting.
- (c) Voting shall be conducted in such a manner and by such a method as determined by the Board from time to time.
- (d) If at the close of the Annual General Meeting, vacancies on the Board remain unfilled, the vacant position(s) will be deemed casual vacancies under **clause 8.12**.
- (e) If a person nominated at the Annual General Meeting is not approved by the majority of Members under **clause 8.6(a)**, he or she will not be entitled to take office until approved by the Members at an Annual General Meeting.

## **8.6 Term of Appointment for Elected Directors**

- (a) Directors elected under **clause 8** shall be elected for a term of two (2) years. Subject to provisions in this Constitution relating to early retirement or removal of Directors, Elected Directors shall remain in office from the conclusion of the Annual General Meeting at which their relevant election occurred until the conclusion of the second Annual General Meeting following.

- (b) At least half of the Elected Directors shall retire in each odd year and the balance of the Elected Directors shall retire in each even year until, after two (2) years the original elected Directors have all retired.
- (c) The sequence of retirements under **clause 8.7(b)**, which is designed to ensure rotational and staggered terms, shall be determined by the Board.
- (d) Following the adoption of this Constitution, no person who has served as an Elected Director or Appointed Director for a period of ten (10) years shall be eligible for election as an Elected Director until the next Annual General Meeting following the date of conclusion of their last term as an Elected Director.
- (e) If the law requires the Elected Director to have a particular qualification or clearance (for example, police clearance), the Elected Director's term will not begin until the qualification or clearance has been established.

### **8.7 Appointment of Appointed Directors**

The Elected Directors may appoint up to two (2) Appointed Directors.

*(i) The board may call for nominations of suitable persons for appointment to fulfil specific roles on the board, which may include the positions of Secretary and Treasurer or other specific role(s)*

*(ii) The role(s) of the appointed member(s) may be Non-voting positions*

### **8.8 Qualifications for Appointed Directors**

In appointing Appointed Directors, the Elected Directors should have regard to which personal skills, diversity (including, but not limited to gender, ethnicity and age) and experience the Elected Directors believe will complement the Board composition.

### **8.9 Term of Appointment**

The term of office of each Appointed Director must be fixed by the Elected Directors at the time of the Appointed Director's appointment but it cannot exceed two (2) years.

### **8.10 Chairperson**

The Board shall appoint a chairperson from amongst its Elected Directors. The chairperson shall be the nominal head of the Association and will act as chair of any Board meeting at which they are present. If the chairperson is not present or is unwilling or unable to preside at a Board meeting, the remaining Directors shall appoint another Director to preside as chair for that meeting only.

### **8.11 Casual Vacancies**

Subject to **clause 7.6** any casual vacancy occurring in the position of Director may be filled by the remaining Directors from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the Director's term under this Constitution.

### **8.12 Duties of Directors**

In accordance with Division 3A of the Act, Directors must:

- (a) not, in the exercise of their powers or the discharge of their duties, commit an act with intent to deceive or defraud the Association, Members or creditors of the Association or creditors of any other person or for any fraudulent purpose;
- (b) not make improper use of information acquired by virtue of their position in the Association so as to gain, directly or indirectly, any pecuniary benefit or material advantage themselves or any other person, or so as to cause a detriment to the Association;

- (c) not make improper use of their position as such an officer or employee so as to gain, directly or indirectly, any pecuniary benefit or material advantage for themselves any other person, or so as to cause a detriment to the Association; and
- (d) at all times act with reasonable care and diligence in the exercise of their powers and the discharge of the duties of their office.

### **8.13 Grounds for Termination of Director**

- (e) The office of a Director becomes vacant if the Director:
  - (i) dies;
  - (ii) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
  - (iii) suffers from mental or physical incapacity;
  - (iv) cannot obtain or retain office under section 30 of the Act;
  - (v) resigns his or her office by notice in writing to the Association;
  - (vi) is absent without the consent of the Board from meetings of the Board held during a period of six (6) months;
  - (vii) holds any office of employment with the Association;
  - (viii) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his or her interest (and which amounts to a conflict of interest);
  - (ix) in the case of an Appointed Director, is removed from office by the Elected Directors;
  - (x) is removed by the Members in General Meeting; or
  - (xi) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth)*.
- (f) If a Director is removed by resolution of the Members, the Director cannot be reappointed to the Board as an Appointed Director without a further resolution of Members authorising the appointment.

### **8.14 Board May Act**

If there are any vacancies on the Board, 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 a quorum.

### **8.15 Board to Meet**

- (a) The Board must meet as often as it considers necessary in every calendar year for the dispatch of business (and must meet at least as often as is required under the Act) and in accordance with principles of good governance. Subject to this Constitution, the Board may adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Any Director may at any time convene a meeting of the Board on reasonable notice to the other Directors.

## 8.16 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board may be decided by resolution of the Directors. Each Director has one (1) vote on any question. The chair does not have a casting vote.

## 8.17 Circulatory Resolutions ~

- (a) A resolution in writing, signed or assented to by email, facsimile or other form of visible or other electronic communication by all the Directors for the time being present in Australia 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 or assented to by one (1) or more of the Directors.
- (b) A resolution may not be passed under **clause 8.18(a)** if, before it is circulated for voting under **clause 8.18(a)** the Board resolves that it can only be put at a meeting of the Board.
- (c) A resolution passed under this clause must be recorded in the minute book.

## 8.18 Resolutions not in Meeting

- (a) Without limiting the power of the Board to regulate its meetings as it thinks fit, and subject to **clause 8.20**, 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 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 or this Constitution. The notice will specify that Directors are not required to be present in person;
  - (iii) if a failure in communications prevents **clause 8.19(a)(i)** from being satisfied by the number of Directors which constitutes a quorum (**clause 8.20**), and none of such 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 **clause 8.19(a)(i)** is satisfied again. If such condition is not satisfied within fifteen minutes from the interruption, the meeting shall be deemed to have been terminated or adjourned and
  - (iv) any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of the meeting, provided a Director is there in person. If no Director is there in person, the meeting shall be deemed to be held at the place where the chairperson of the meeting is located.

## 8.19 Quorum

- (a) At meetings of the Board the number of Directors whose presence is required to constitute a quorum is:
  - (i) if the number of Directors then in office is an even number, half of the number of Directors plus one; or
  - (ii) if the number of Directors then in office is an odd number, half of the number of Directors rounded up to the next whole number.
- (b) The chairperson of the Association will act as chairperson of any Board meeting or General Meeting at which he or she is present and unless the Board decides otherwise, is the nominal head of the Association. If the chairperson is not present or is unwilling or unable

to preside at a Board meeting, the remaining Directors must appoint another Director to preside as chair for that meeting only.

#### **8.20 Conflict of Interest ~**

- (c) The Directors must comply with sections 31 and 32 of the Act regarding disclosure of interests and voting on contracts in which a Director has an interest.
- (a) A Director shall declare his or her interest in any contractual, selection, disciplinary, or financial matter in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Board, absent themselves from discussions of such matters and shall not be entitled to vote in respect of such matters. If the Director casts a vote, the vote shall not be counted.
- (b) 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. If this is not possible, the matter shall be adjourned or deferred.

#### **8.21 Disclosure of Interests**

- (a) The nature of the interest of a Director must be declared at the meeting of the Board at which the relevant matter is first taken into consideration, if the interest then exists. In any other case, the interest should be revealed to the Board at the next meeting of the Board. If a Director becomes interested in a 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 interested.
- (b) All disclosed interests must also be disclosed to each Annual General Meeting in accordance with the Act.

#### **8.22 General Disclosure**

A general notice stating that a Director is a member of, or associated with, any entity and that he or she is 'interested' in all transactions with that entity is sufficient declaration under **clause 8.22**. After the distribution of the general notice, it is not necessary for the Director to give a special notice regarding any particular transaction with that firm or company.

#### **8.23 Recording Disclosures ~**

Any declaration made, any disclosure or any general notice given by a Director in accordance with **clauses 8.21, 8.22** and/or **8.23** must be recorded in the minutes of the relevant Meeting.

#### **8.24 Delegations**

##### **(a) Board May Delegate Functions**

The Board may, by instrument in writing, create or establish or appoint special committees, individual officers and consultants to carry out such duties and functions. The Board will also determine what powers these entities are given.

##### **(b) Delegation by Instrument**

The Board may, in the establishing instrument, delegate such functions as are specified in the instrument, other than:

- (i) this power of delegation; and
- (ii) a function imposed on the Board or the Executive Officer by the Act or any other law, or this Constitution or by resolution of the Association in General Meeting.

##### **(c) Delegated Function Exercised in Accordance with Terms**

A function, the exercise of which has been delegated under this clause, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(d) **Procedure of Delegated Entity**

The procedures for any entity exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board. The entity exercising delegated powers shall make decisions in accordance with the Objects. It shall promptly provide the Board with details of all material decisions and shall provide any other reports, minutes and information as the Board may require from time to time.

(e) **Delegation May be Conditional**

A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function. These may be specified in the delegation.

(f) **Revocation of Delegation**

By instrument in writing, the Board may at any time revoke wholly or in part any delegation made under this clause. It may amend or repeal any decision made by such body or person under this clause.

**8.25 Seal**

- (a) The Association will have a Seal on which its corporate name appears in legible characters.
- (b) The Seal may not be used without the express authorisation of the Board and every use of the Seal must be recorded in the minute books of the Association. The affixing of the Seal must be witnessed by two (2) Directors or by one Director and another person authorised by the Board for that purpose.

**8.26 Appointment of Secretary**

- (a) There must be at least one Secretary who is to be appointed by the Directors.
- (b) The Directors may suspend or remove a Secretary from that office.
- (c) A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to them by the Directors.

**9. RECORDS AND ACCOUNTS**

**9.1 Accounts to be Kept and Distributed**

- (a) The Association must keep such accounting records as correctly record and explain the transactions and financial position of the Association.
- (b) The Directors will cause proper accounting and other records to be audited and distributed in accordance with Division 2 of the Act, including all documents required to be distributed to the Members for the purpose of the Annual General Meeting.
- (c) The Association must lodge with the Corporate Affairs Commission such periodic returns, containing accounts and other information relevant to the affairs of the Association, as the Act and associated regulations (Associations Incorporation Regulations 2008) may require.

**9.2 Transaction Accounts**

- (d) The Association shall open and keep at least one transaction account as the Board may from time to time determine, and all monies belonging to the Association shall, as soon as practicable after the same shall be received, be paid and deposited to the credit of those account(s) of the Association.
- (e) No withdrawal shall be made from, and no cheques shall be drawn on, any transaction account in the name of the Association unless the withdrawal form, cheques or electronic

transfer is signed or password-activated, as appropriate, by any two of the persons appointed by the Board for such purposes. All extraordinary and capital expenditure must be unequivocally ratified by the Board.

### **9.3 Auditor**

- (a) A properly qualified auditor or auditors shall be appointed by the Directors and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Act.
- (b) The following people may not be appointed as an auditor:
  - (i) an officer of the Association, including a Director (and any partners, employers or employees of officers); or
  - (ii) an employee of the Association, (and any partners, employers or employees of employees).
- (c) The auditor may be removed by the Directors.
- (d) The auditor has a right of access at all reasonable times to the accounting records and other records of the Association and is entitled to require from any officer of the Association such information and explanations as he or she desires for the purpose of an audit.
- (e) The auditor must provide the Board with reports that comply with the Act with sufficient time for the Board to lay such material before the Members as and when required (including for the Annual General Meeting).
- (f) The reasonable fees and expenses of the auditor are payable by the Association.

### **9.4 Application of Income**

- (a) The income and property of the Association shall be applied solely towards the promotion of the Objects.
- (b) Except as prescribed in this Constitution or the Act:
  - (i) no portion of the income or property of the Association shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member; and
  - (ii) no remuneration or other benefit in money or money's worth shall be paid or given by the Association to any Member who holds any office of the Association.
- (c) Nothing in **clauses 9.4(a) or 9.4(b)** shall prevent payment to any Member for:
  - (i) any services actually rendered to the Association whether as an employee, Director or otherwise; or
  - (ii) goods supplied to the Association in the ordinary and usual course of operation;
  - (iii) interest on money borrowed from any Member;
  - (iv) rent for premises demised or let by any Member to the Association; or
  - (v) any out-of-pocket expenses incurred by the Member on behalf of the Association.

provided that any such payments shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction and there is no conflict of interest in making the payment.

## **10. ADMINISTRATION**

### **10.1 Winding Up**

The Association may be wound up in accordance with the Act.



## **10.2 Distribution of Assets and Property on Winding Up**

- (a) If upon winding up or dissolution of the Association, there remains, after satisfaction of all its debts and liabilities, any assets or property, the same shall not be paid to or distributed to its Members, but instead, those assets or property must be given or transferred to another organisation(s) that has objects similar to the Objects of the Association.
- (b) Those organisation(s) must prohibit the distribution of income and property among its members to an extent at least as great as that imposed on the Association by this Constitution.
- (c) The organisation(s) is to be determined by the Members in a Meeting at or before the time of dissolution. If this does not occur, the decision will be made by a judge of the Supreme Court of South Australia or other court as may have or acquire jurisdiction in the matter.

## **10.3 Amendment of Constitution**

This Constitution shall not be amended except by Special Resolution.

## **10.4 Regulations**

### **(a) Board to Formulate Regulations**

The Board may formulate, issue, adopt, interpret and amend such Regulations for the proper advancement, management and administration of the Association and the advancement of the purposes of the Association and the Sport in South Australia as it thinks necessary or desirable. Such regulations must be consistent with the Constitution, the NSO's constitutions, any regulations made by the NSO and any policy directives of the Board.

### **(b) Regulations Binding**

All Regulations are binding on the Association and all Members.

### **(c) Regulations Deemed Applicable**

All clauses, rules, by-laws and Regulations of the Association in force at the date of the approval of this Constitution (as long as such clauses, rules, by-laws and Regulations are not inconsistent with, or have been replaced by, this Constitution) shall be deemed to be Regulations and shall continue to apply.

### **(d) Bulletins Binding on Members**

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of bulletins approved by the Board and prepared and issued by the Executive Officer. Clubs shall take reasonable steps to distribute information in the bulletins to their Individual Members. The matters in the bulletins are binding on all Members.

## **10.5 Notice**

- (a) Notices may be given by the Association to any person entitled under this Constitution to receive any notice. Notices will be sent by pre-paid post or facsimile transmission or, where available, by electronic mail (email) to the Member's registered address or facsimile number or email address. Notices to Delegates will be sent to the last notified address, facsimile number or email address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected six (6) days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.

- (d) Where a notice is sent by email, service of the notice shall be deemed to be effected the next business day after it was sent.
- (e) Notices given to the Association are subject to **clauses 10.5(a), (b), (c) and (d)**.

#### **10.6 Patrons and Vice Patrons ~**

At a General Meeting, the Association, on the recommendation of the Board, may annually appoint a chief patron and the number of patrons, as it considers necessary. This is subject to approval of that person or persons.

#### **10.7 Indemnity**

- (a) Every Director of the Association shall be indemnified out of the property and assets of the Association against any liability incurred by them in their capacity as Director in defending any proceedings, whether civil or criminal.
- (b) The Association shall indemnify its Directors and employees against all damages and losses (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:
  - (i) in the case of a Director, performed or made while acting on behalf of and with the authority, express or implied, of the Association
  - (ii) in the case of an employee, performed or made in the course of, and within the scope of, their employment by the Association.

#### **10.8 Authority to Trade**

The Association is authorised to trade in accordance with the Act.

#### **10.9 Transitional Provisions**

##### **(a) Continuing Membership**

- (i) Each Affiliate Member that is a Member of the Association on the day on which this Constitution is adopted will automatically be admitted to membership as an Affiliate Member.
- (ii) Each other person who is a Member on the day on which this Constitution is adopted, will automatically be admitted to membership in the category that, in the reasonable opinion of the Board, is the category most appropriate for that Member.

##### **(b) Directors**

For the purpose of determining when the term ends for each Director in office on the day on which this Constitution is adopted, time served in the Director's current term will be counted as if this Constitution had been in place at the commencement of that term.

##### **(c) Regulations deemed applicable**

All rules, by-laws, policies and Regulations of the Association in force at the date of the adoption of this Constitution are to be deemed to be Regulations and continue to apply unless they are inconsistent with, or have been replaced by this Constitution.

#### **10.10 Status and Compliance of Association**

##### **(a) Recognition of Association**

The Association is a member of the NSO and is recognised by the NSO as the entity responsible for the delivery of the Sport in South Australia. Subject to compliance with this Constitution and the

NSO's constitutions, the Association shall continue to be so recognised and it shall administer the Sport in South Australia in accordance with the Objects.

**(b) Constitution of the Association**

This Constitution will clearly reflect the objects of the NSO and will conform to the NSO's constitution, subject always to the Act.

**(c) Operation of NSO's Constitution**

- (i) The Association will take all reasonable steps to ensure this Constitution conforms to the NSO's constitution, subject always to the Act; and
- (ii) The Association shall provide a copy of this Constitution and all amendments to this Constitution to the NSO. The Association acknowledges and agrees that the NSO has power to veto any provision in its Constitution which, in the NSO's opinion and acting reasonably, is contrary to the Objects of the NSO.

**(d) Status and Compliance of Affiliate Members**

Affiliate Members acknowledge and agree that they shall:

- (a) be or remain incorporated in South Australia;
- (b) nominate a delegate annually to attend General Meetings, and shall inform the Association of the details of that person accordingly;
- (c) provide the Association with copies of their audited accounts, annual financial reports and other associated documents as soon as practicable, following the club's annual general meeting;
- (d) recognise the SSO as the authority for the Sport in South Australia and the NSO as the national authority for the Sport;
- (e) adopt and implement such communications and intellectual property policies as may be developed by the Association and/or the SSO; and
- (f) have regard to the Objects in any matter of the Affiliated Member pertaining to the Sport.

**Constitution Version Control**

Date	Clauses amended	Description of change	General Meeting Date
16 <sup>th</sup> Nov 2019	Clauses 2, 3,4,5,7,8	Based on the July 2018 template from Office of Sport & Recreation South Australian Government Office for Recreation, Sport and Racing	16/11/2019 AGM