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# **CONSTITUTION OF TRIATHLON WESTERN AUSTRALIA INCORPORATED**

**Dated  
(August 2009)**



**TRIATHLON**  

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**WESTERN AUSTRALIA**

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**CONSTITUTION  
of  
TRIATHLON WESTERN AUSTRALIA INCORPORATED**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In these Rules unless the contrary intention appears:

- (1) “**Act**” means the Associations Incorporation Act 1987 (WA);
- (2) “**Affiliated Club**” means a Triathlon Club affiliated with the Association for such time as that club remains so affiliated under these Rules;
- (3) “**Aquathlon**” means the sport comprising a combination of the disciplines of swimming and running;
- (4) “**Association**” means Triathlon Western Australia;
- (5) “**Attached Member**” means a natural person who is a member of the Association and a member of an Affiliated Club;
- (6) “**Board**” means the board of the Association elected by the Senior Members of the Association as described in Rule 24;
- (7) “**Board Member**” means a member of the Board elected or appointed in accordance with these Rules and includes a person acting in that capacity from time to time;
- (8) “**Club Delegate**” means an individual nominated from time to time in writing by an Affiliated Club
- (9) “**Competitive Member**” means an Individual Member who competes in Triathlon, Duathlon and Aquathlon events and who is subject and entitled to the rights, privileges and obligations of that status of membership as determined by the from time to time;
- (10)
- (11)
- (12) “**Duathlon**” means the sport comprising a combination of the disciplines of cycling and running;
- (13) “**Elite Athlete**” means triathletes who compete in triathlons in Western Australia other than in age group categories as elite triathletes or such other

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designation provided to them from time to time and includes professional triathletes licensed as Elite Athletes by Triathlon Australia;

- (14) “**Executive Officer**” means the person employed as executive officer by Triathlon Western Australia;
- (15) “**Financial year**” means the year ending 30 June in each year;
- (16) “**General Meeting**” means the annual or any special general meeting of the Association;
- (17) “**Immediate Past President**” means the person who held the position of President of the Association prior to the current President;
- (18) “**Individual Member**” means the types of members referred to in Rule 7.1(3);
- (19) “**Junior Member**” means a natural person under the age of 20 years as at a date to be determined by the Board from time to time, and who is an Individual Member of the Association as referred in Rule 7.1(3) comprising either a Junior Competitive Member or Junior Non Competitive Member;
- (20) “**Life Member**” means an individual appointed as a Life Member of the Association under Rule 7.3;
- (21) “**Member**” means a member for the time being of the Association under of these Rules comprising Individual Members and Affiliated Clubs;
- (22) “**Non Competitive Member**” means an individual member who does not compete in Triathlons, Duathlons or Aquathlons as a member and who is entitled to the rights, privileges and obligations of that status of membership as determined by the Board from time to time;
- (23) “**Officer Bearer**” means all elected members of the Board;
- (24) “**President**” means the President for the time being of the Association including any person acting in that capacity;
- (25) “**Register**” means the register of Members maintained under Rule 10;
- (26) “**Regulations**” means any Regulations made by the Board under Rule 32;
- (27) “**Rules**” means these Rules of the Association;
- (28) “**Seal**” means the common seal of the Association and includes any official seal of the Association;
- (29) “**Secretary**” means the person appointed to the position of secretary of the Association in accordance with these Rules;
- (30) “**Senior Member**” means a natural person over 20 years of age as at a date to be determined by the Board from time to time who is an Individual member of

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the Association as referred to in Rule 7.1(3) comprising a Senior Competitive Member or a Senior Non Competitive Member;

- (31) **“Special Notice”** means a notice, in a form acceptable to the Secretary distributed to all Members of the Association;
- (32) **“Special Resolution”** means a resolution passed in accordance with the Act, whereby a majority of three quarters of the members present and entitled to vote (in person or by proxy), where 21 days notice of the resolution has been given to those entitled to notice under these Rules;
- (33) **“TA”** means Triathlon Australia;
- (34) **“TA Board”** means the Board of TA;
- (35) **“Technical Committee”** means the committee nominated from time to time by the Board to develop and enforce the Association’s race requirements, regulations and sanctioning provisions;
- (36) **“Triathlon”** means the sport comprising a combination of the disciplines of swimming, cycling and running;
- (37) **“Triathlon Australia”** means the Australian governing body for the sports of Triathlon, Duathlon and Aquathlon and presently known as Triathlon Australia Ltd or such other or substitute body as succeeds this body as the peak body in respect of Triathlon, Duathlon and Aquathlon in Australia;
- (38) **“Triathlon Club”** means an incorporated entity in Western Australia whose objects are principally the participation or advancement of the sports of Triathlon, Duathlon and Aquathlon;
- (39) **“Triathlon Western Australia”** and **“TWA”** means Triathlon Western Australia Inc;
- (40) **“Unattached Member”** means a natural person who is a member of the Association but who is not a member of an Affiliated Club.

## 1.2 Interpretation

In these Rules:

- (1) a reference to a function includes a reference to a power, authority and duty;
- (2) 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;
- (3) words importing the singular include the plural and vice versa;
- (4) words importing any gender include the other genders;
- (5) references to persons include corporations and bodies politic;

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- (6) references to a person include the legal personal representative, successors and permitted assigns of that person;
  - (7) a reference to an Australian state includes a reference to an Australian territory;
  - (8) 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
  - (9) 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.

### 1.3 Severance

If any provision of these Rules or any phrase contained in them 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 these Rules.

### 1.4 Associations Incorporation Act

Except where the contrary intention appears, in these Rules, an expression that deals with a matter under the Act, has the same meaning as that provision of the Act.

## 2. NAME

- 2.1 The name of the association is Triathlon Western Australia Incorporated.

## 3. OBJECTS

- 3.1 Purposes of Association

The purposes for which the Association is established and maintained are to:

- (1) provide for the encouragement, conduct, promotion and administration of Triathlon, Duathlon and Aquathlon in Western Australia;
- (2) participate as a member of a single uniform entity through and by which Triathlon, Duathlon and Aquathlon in Western Australia is conducted, encouraged, promoted and administered;
- (3) affiliate and otherwise liaise with the peak national (and/or international) body or bodies or other strategically aligned bodies in the pursuit of these purposes;
- (4) co-operate with Triathlon Australia and/or other state triathlon associations in the conduct and development of Triathlon, Duathlon and Aquathlon;

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- (5) strive for and maintain government, commercial and public recognition of the Association as the authority on Triathlon, Duathlon and Aquathlon in Western Australia;
  - (6) participate to secure uniformity in such rules as may be necessary for the management and control of Triathlon, Duathlon, Aquathlon and related activities;
  - (7) pursue through itself or others such commercial arrangement, including sponsorship and marketing opportunities, as are appropriate to the purposes of the Association in Western Australia;
  - (8) act as arbiter on matters pertaining to the conduct of Triathlon, Duathlon and Aquathlon in Western Australia;
  - (9) formulate or adopt, or adopt and implement appropriate policies, including in relation to drugs in sport, safety, junior and senior development programs and such other matters as arise from time to time as issues to be addressed in Triathlon, Duathlon and Aquathlon;
  - (10) represent the interests of its Members and of Triathlon, Duathlon and Aquathlon generally in any appropriate forum;
  - (11) have regard to the public interest in its operations;
  - (12) encourage Members to realise their potential and athletic abilities by extending to them the opportunity of education and participation in Triathlon, Duathlon and Aquathlon competition and to award trophies and rewards to successful competitors;
  - (13) encourage and promote performance enhancing drug free competition;
  - (14) seek and obtain improved facilities for the conduct of Triathlon, Duathlon and Aquathlon;
  - (15) effect such purposes as may be necessary in the interest of Triathlon, Aquathlon and Duathlon;
  - (16) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these purposes and to carry this constitution into effect; and
  - (17) procure that all Triathlon, Duathlon and Aquathlon events conducted in Western Australia are conducted in accordance with technical and safety requirements stipulated by the Association from time to time.

## **4. POWERS**

### **4.1 Powers of Association**

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Solely for furthering the purposes set out above, and (except to the extent of any inconsistency) in addition to the rights, powers and privileges provided under the Western Australia Act, the Association has power to:

- (1) take on lease or in exchange any real estate or purchase take on lease or exchange any items of plant and equipment or other property which may be deemed necessary or convenient for any of the objects of the Association and to sell, manage, lease, mortgage, give in exchange, dispose of or otherwise deal with any part of the rights or property of the Association, whether subject to any charges or encumbrances or not and to erect, replace, maintain, reconstruct, adapt and furnish any offices or other buildings thereon and to sell, let, alienate, mortgage, charge or deal with all or any such lands, tenements or hereditaments or any part of them;
- (2) construct, maintain and alter any houses, buildings, grounds, courses, conveniences or works necessary or convenient for the purposes of, or which seem likely to advance, the Association;
- (3) borrow and raise money in such manner as the Association thinks fit, including bonds or mortgage or other security of any property held for or on behalf of the Association or without any such security;
- (4) take or hold mortgages, liens, or charges, to secure payment of title purchase price, or any unpaid balance of the purchase price of any part of the Association's property sold, or any money due to the Association from any purchasers or others;
- (5) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable and transferable instruments;
- (6) receive money on deposit with or without allowance of interest thereon;
- (7) invest and deal with any monies of the Association, not immediately required for the purposes of the Association, in such manner as may from time to time be considered appropriate;
- (8) do all or any of the matters authorised either alone or in conjunction with any person, company or unincorporated body or by or through any factors, trustees or agents;
- (9) take any gift of property whether subject to any special trust or not for any one or more of the purposes of the Association, provided the Association shall only deal with any such trusts in such manner as is allowed by law;
- (10) lend and advance money to, give credit to, or otherwise assist, any person or body corporate, including to guarantee or indemnify person's or body corporate's performance;
- (11) take such steps by personal or written appeals, public meetings or otherwise as may from time to time be deemed expedient for the purposes of procuring

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- contributions to the funds of the Association in the form of donations, annual subscriptions or otherwise;
- (12) subscribe to, become a member of or co-operate with any other organisation whether incorporated or not whose purposes are similar, in whole or in part, to those of the Association, so long as that other organisation prohibits the distribution of its income and property amongst its members at least to the extent provided under these Rules;
  - (13) print and publish any newspapers, periodicals, books or leaflets and develop and implement any computer system or software package that the Association may think desirable for the promotion of its purposes;
  - (14) appoint, hire, employ, remove, replace or reinstate secretaries, managers, servants, employees and other persons in and for carrying out the purposes of the Association and to pay them in return for services rendered to the Association, salaries, wages and gratuities, as appropriate;
  - (15) buy, sell and deal in all kinds of articles, commodities and provisions both liquid and solid for Members or other persons frequenting the premises or facilities of or under the control of the Association;
  - (16) subscribe to any charities and to grant donations for any public purpose;
  - (17) produce, develop, create, licence and otherwise exploit, use and protect the intellectual property of the Association;
  - (18) promote any other person or company for any purpose calculated to benefit the Association;
  - (19) enter into arrangements with any government or authority that are incidental or conducive to the attainment of the purposes and the exercise of the powers of the Association, and to obtain rights, privileges and concessions from such government or authority and carry out, exercise and comply with any such rights, privileges and concessions;
  - (20) take and effect insurance or seek, obtain and in its discretion act on, any professional advice necessary or appropriate; and
  - (21) do all such acts and things as are incidental, conducive or subsidiary to all or any of the purposes of the Association.
  - (22) impose penalties, levies, fines, contributions or subsidies where applicable.
  - (23) collect such penalties, levies and fees, fines, contributions, subsidies or other monies whatsoever that may be legally due or donated to TWA from club, group or individual.
  - (24) formulate, issue and amend, from time to time, of rules and such regulations for the control of Triathlon, Duathlon, Aquathlon as it may deem necessary.
  - (25) enforce the provisions of these Rules and any rules of TA where necessary.

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- (26) consider and if deemed necessary, implement recommendations from TA.
  - (27) enforce any legal instruction from any higher authority in the sport of Triathlon, Duathlon or Aquathlon.
  - (28) maintain a central registry of clubs, members and competitors recognised in accordance with these Rules.
  - (29) produce an annual report of its finances and activities and the distribution of copies of such reports to the Affiliated Clubs and other bodies and individuals deemed necessary.
  - (30) the setting up of a headquarters and management and administration arrangements in accordance with the Rules, the powers specified in Rule 4 and such powers as it may from time to time determine provided that this administration will not derogate, diminish or lessen the authority of TWA in respect of the sport of Triathlon, Duathlon and Aquathlon in Western Australia, which absolute authority shall be subject only to TA.

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

## **5. STATUS AND COMPLIANCE OF ASSOCIATION**

### **5.1 Recognition of Association**

- (1) Triathlon Western Australia is recognised by the Government of Western Australia, Triathlon Australia and other sporting organisations as the controlling body in Western Australia for the sports of Triathlon, Duathlon and Aquathlon;
- (2) Triathlon Western Australia is the only Western Australian sporting body affiliated to Triathlon Australia in respect of the sports of Triathlon, Duathlon and Aquathlon pursuant to the provisions of the Constitution of Triathlon Australia;
- (3) Triathlon Western Australia has, pursuant to its affiliation to Triathlon Australia, agreed to be bound by the Constitution of Triathlon Australia.

### **5.2 Compliance of Association**

The Members acknowledge and agree the Association will:

- (1) be or remain incorporated in Western Australia;
- (2) where deemed appropriate by the Board:
  - (a) use its best endeavours to comply with and be bound by the standards and technical requirements of Triathlon Australia;

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- (b) to the best of its ability uphold and enforce the policies and procedures as published from time to time by Triathlon Australia; and
  - (3) apply where possible those standards and technical requirements to all Triathlon, Duathlon and Aquathlon races in Western Australia that are sanctioned by Triathlon Western Australia;
  - (4) use its best endeavours to have at least one Senior Member to be elected to the Board of Triathlon Australia;
  - (5) be empowered, subject to consideration by its Technical Committee to grant or withhold race sanctioning in respect of all Triathlon, Duathlon and Aquathlon races conducted in Western Australia;
  - (6) accept as valid any race licence issued by Triathlon Australia in respect of any Triathlon, Duathlon or Aquathlon race to be conducted in Western Australia.

### **5.3 Operation of Rules**

- (1) The Association and the Members acknowledge and agree that they are bound by these Rules and that these Rules operate to create uniformity in the way in which the purposes of the Association and Triathlon, Duathlon and Aquathlon are to be conducted, promoted, encouraged and administered throughout Western Australia.
- (2) All the Members acknowledge and agree that upon applying for membership of the Association, they consent to being members of Triathlon Australia and are bound by the Constitution of Triathlon Australia.

### **5.4 Compliance of Affiliated Clubs**

The Affiliated Clubs acknowledge and agree that each of them will:

- (1) be or remain incorporated in Western Australia;
- (2) nominate a Club Delegate annually and inform the Association of the details of that person;
- (3) provide the Association with copies of its audited accounts, reports and other associated documents promptly, following the Affiliated Club's annual general meeting;
- (4) recognise the Association as the authority for Triathlon, Duathlon and Aquathlon in Western Australia and TA as the national authority for Triathlon, Duathlon and Aquathlon;
- (5) generally have regard to the purposes of the Association, and in particular the purpose to create a single uniform entity for the conduct, promotion, encouragement and administration of Triathlon, Duathlon and Aquathlon, in any matters of the Affiliated Club pertaining to these activities; and

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- (6) require that all of their members be Individual Members of the Association either as a Competitive Member or a Non Competitive Member;
  - (7) require that all of their members be members of Triathlon Australia; and
  - (8) uphold and comply with all of the provisions of these Rules as a condition of affiliation to Triathlon Western Australia.

## **6. CONSTITUTION(S)**

### **6.1 Constitution of Affiliated Clubs**

The constituent documents of each Affiliated Club must:

- (1) recognise the Association as the authority for Triathlon, Duathlon and Aquathlon in Western Australia and its objects and purposes; and
- (2) provide for each Affiliated Club to exist and function in accordance with the rights, privileges and obligations under these Rules.

### **6.2 Register of Affiliated Club**

- (1) Each Affiliated Club will maintain, in a form acceptable to the Association, a register of all members of the Affiliated Club.
- (2) Each Affiliated Club will provide:
  - (a) a copy of the register at a time and in a form acceptable to the Association; and
  - (b) provide prompt and regular updates of the register to the Association.

## **7. MEMBERS**

### **7.1 Classes of Members**

The Members of the Association will consist of:

- (1) Affiliated Clubs;
- (2) Life Members;
- (3) Individual Members comprising:
  - (a) Senior Competitive Members;
  - (b) Junior Competitive Members;
  - (c) Family Members

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- (d) Social Members
  - (e) Trystars Members
  - (f) Unattached Members; and
- (4) Such new classes of Members created in accordance with Rule 7.2 from time to time.

## **7.2 Creation of New Classes**

The Board has the right and power from time to time to create, remove or alter new classes of membership with such rights, privileges and obligations as are considered appropriate.

## **7.3 Life Members**

- (1) The Board may recommend to a General Meeting that any natural person who has rendered distinguished service to Triathlon, Duathlon, Aquathlon in Western Australia through the promotion of the interests and objects of the Association be appointed as a Life Member.
- (2) A resolution of a General Meeting to confer life membership (subject to Rule 7.3(3)) on the recommendation of the Board must be a Special Resolution.
- (3) A person nominated for Life Membership must accept or reject the Association's resolution to confer life membership in writing. Upon written acceptance, the person's details will be entered upon the Register, and from the time of entry on the Register the person will be a Life Member.
- (4) A Life Member may elect to be a Senior Member and will be entitled to all privileges and all obligations of that position.

## **8. SUBSCRIPTIONS AND FEES**

- 8.1 Membership application fees, joining fees, annual membership subscriptions, and other fees payable by Members to the Association and the time for and manner of payment will be as determined by the Board from time to time. The Board may vary those fees year to year. The Board will notify Members of the fees for the following financial year prior to 30 June each financial year.
- 8.2 The annual membership subscription and fees payable by Unattached Members for each year must be not less than the sum of the maximum fees that would be paid by an individual for membership of an Affiliated Club and the Association as a Competitive Senior Member in the year preceding the year for which membership of the Association as an Unattached Member is sought.

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## **9. CLUB AFFILIATION**

### **9.1 Affiliated Clubs**

- (1) To be eligible for membership of the Association, a Triathlon Club must be incorporated.
- (2) An application for membership may be made by the secretary of an unincorporated Triathlon Club in preparation of the Triathlon Club being eligible for membership upon incorporation.

### **9.2 Application for Affiliation**

An application for affiliation by a club (“**applicant**”) must be:

- (1) in writing on the form or as otherwise prescribed by the Board from time to time, from the applicant or its nominated representative and lodged with the Association;
- (2) accompanied by a copy of the applicant’s constitution and register of members;
- (3) accompanied by the appropriate fee; and
- (4) accompanied by details of the nominated Club Delegate.

### **9.3 Discretion to Accept or Reject Application**

- (1) The Board may accept or reject an application whether the applicant has complied with the requirements in Rules 9.1 and 9.2 or not, and is not required or compelled to provide any reason for such acceptance or rejection;
- (2) Where the Board accepts an application the applicant will become an Affiliated Club commencing upon acceptance of the application; and
- (3) If the Board rejects an application, it will refund any affiliation fee (but not the application fee) forwarded with the application, and the application will be deemed rejected by the Association.

### **9.4 Re-affiliation**

- (1) Affiliated Clubs must re-affiliate with the Association in accordance with the procedures set down by the Board in Regulations from time to time;
- (2) Upon re-affiliation, an Affiliated Club must lodge with the Association an updated copy of its constitution (including all amendments) and provide details of any change in its Club Delegate, and any other information reasonably required by the Association.

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## 9.5 **Membership Renewal**

In order to become or remain an Attached Member, individuals must become members of Affiliated Clubs and must renew their membership of their Affiliated Clubs or otherwise remain registered or financial members of the Affiliated Clubs in accordance with the procedures applicable from time to time.

## 10. **REGISTER OF MEMBERS**

### 10.1 **Executive Officer to keep Register**

- (1) The Secretary will keep and maintain a Register in which will be entered (as a minimum):
  - (a) the full name, address, class of membership and date of entry of the name of each Member; and
  - (b) the full name, address and date of entry of the name of each Office Bearer.
- (2) Members will provide notice of any change in required details to the Association within 1 month of the change.

### 10.2 **Inspection of Register**

Having regard to confidentiality and privacy considerations, an extract of the Register, excluding the address or other direct contact details of any Individual Member, Life Member or Office Bearer, will be available for inspection by Members upon reasonable request.

### 10.3 **Use of Register**

Subject to confidentiality and privacy considerations, the Register may be used by the Association to further the purposes of the Association, as the Board considers appropriate.

### 10.4 **Right of Triathlon Australia to Access Register**

- (1) The Association may provide a copy of the Register to Triathlon Australia at a time and in a form acceptable to Triathlon Australia and may provide regular updates of the Register to Triathlon Australia. Triathlon Australia may use the information contained in the Register and the Register itself to further the objects of Triathlon Australia, subject always to reasonable confidentiality and privacy considerations.
- (2) The Association may enter into arrangements with Triathlon Australia to manage the whole or parts of the Register on its behalf.

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## **11. EFFECT OF MEMBERSHIP**

11.1 The Members acknowledge and agree that:

- (1) these Rules constitute a contract between each of them and the Association and that they are bound by the Rules and the Regulations;
- (2) they must comply with and observe these Rules and the Regulations and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee or sub-committee or other body with delegated authority;
- (3) by submitting to these Rules and the Regulations, they are subject to the jurisdiction of the Association;
- (4) the Rules and Regulations are necessary and reasonable for promoting the objects of the Association and particularly the advancement of Triathlon, Duathlon and Aquathlon; and
- (5) they are entitled to all the benefits, advantages, privileges and services of the Association.

## **12. DISCONTINUANCE OF MEMBERSHIP**

### **12.1 Notice of Resignation**

- (1) Any member which or who has paid all money due and payable to the Association may resign from the Association by giving three month's notice in writing to the Association of their intention to withdraw or resign and upon the expiration of that period of notice the Member will cease to be a member;
- (2) If an Affiliated Club ceases to be a Member the Association membership of all Attached Members affiliated or registered with or through that Affiliated Club will not automatically cease at that time, but will be dealt with at the discretion of the Board.

### **12.2 Expiration of Notice Period**

Upon expiry of a notice given under Rule 12.1(1), an entry recording the date on which the Member who or which gave notice ceased to be a Member, and any other Members whose membership ceases under Rule 12.1(2) (if any) will be recorded in the Register.

### **12.3 Failure to Re-Affiliate**

- (1) If an Affiliated Club has not re-affiliated with the Association or an Individual Member has not renewed his/her Affiliated Club or Association membership within 1 month of re-affiliation or membership renewal falling due, that party's Association membership will be deemed to have lapsed from that time. The Register will be amended to reflect any lapse of membership under this Rule 12 as soon as practicable.

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- (2) Membership which has been discontinued under this Rule 12 may be reinstated at the discretion of the Board, with such conditions as it deems appropriate.

#### **12.4 Member to Re-Apply**

A Member whose membership has been discontinued or has lapsed under Rule 12.3 must seek renewal or re-apply for membership in accordance with these Rules.

#### **12.5 Forfeiture of Rights**

A Member which ceases to be a Member, for whatever reason, forfeits all right in and claim upon the Association and its property. Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association immediately. Where an Affiliated Club ceases to be a Member it also forfeits its right to appoint a person to any committee sub-committee or other entity with delegated authority.

#### **12.6 Delegate Position Lapses**

The position of Club Delegate of an Affiliated Club lapses immediately on cessation of membership of the Affiliated Club.

#### **12.7 Refund of Membership Fees**

Membership fees or subscriptions paid by the discontinued Member for the relevant year will be forfeited upon discontinuance.

#### **12.8 Financial Obligations**

Any Member which or who has not paid all money due and payable by that Member to the Association may upon resolution of the Board have all rights under these Rules suspended, including the right to vote at General Meetings, until the money is fully paid. In the meantime, the Member has no automatic right to resign from the Association, and will be dealt with in the Board's discretion, which includes the right to expel, discipline or retain that Member as a Member or impose such other conditions or requirements as the Board considers appropriate.

### **13. DISCIPLINE OF MEMBERS**

#### **13.1 Disciplinary Committee**

- (1) Where the Board is advised or considers that a Member has allegedly:
- (a) breached, failed, refused or neglected to comply with a provision of these Rules, the Regulations, or any resolution or determination of the Board or any duly authorised Committee;
  - (b) acted in a manner unbecoming of a Member or contrary to or prejudicial to the objects and purposes and interests of the Association or Triathlon, Duathlon or Aquathlon; or

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- (c) brought the Association, Triathlon, Duathlon or Aquathlon 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, disciplinary procedures and penalties and the appeal mechanisms of the Association set out in the Regulations.

- (2) The Board may appoint a judiciary committee which need not be comprised of Members to deal with any disciplinary matter referred to it. Such a judiciary committee shall operate under the principles expressed in the Regulations.

## **14. ANNUAL GENERAL MEETING**

14.1 An Annual General Meeting of the Association will be held in accordance with the Act and these Rules at a venue and on a date each year within three (3) months of the end of the financial year to be determined by the Board.

14.2 All General Meetings other than the Annual General Meeting will be Special General Meetings and held in accordance with these Rules.

## **15. NOTICE OF GENERAL MEETING**

### **15.1 Notice of General Meetings**

- (1) Notice of every General Meeting will be given to every Affiliated Club, Life Member and Individual Member at the address appearing in the Register kept by the Association.
- (2) A notice of a General Meeting will specify the place, day and hour of meeting and state the business to be transacted at the meeting.
- (3) At least 21 days' notice of a General Meeting will be given to those Members entitled to receive notice together with:
- (a) the agenda for the meeting;
  - (b) any notice of motion received; and
  - (c) forms of authority in blank for proxy votes.

## **16. BUSINESS**

### **16.1 Business of General Meetings**

- (1) The business to be transacted at the Annual General Meeting includes the consideration of accounts and the reports of the Board, and auditors, the election of Board Members, and the appointment and fixing of the remuneration of the auditors (if any).

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- (2) All business transacted at a General Meeting, and at an Annual General Meeting, with the exception of those matters referred to in Rule 16.1(1) will be special business.

## **16.2 Business Transacted**

No business other than that stated on the notice of meeting will be transacted at that meeting.

## **17. NOTICE OF MOTION**

### **17.1 Notice of Motion to be submitted**

All notices of motion for inclusion as special business at a General Meeting must be submitted in writing to the Secretary not less than 14 days (excluding receiving date and meeting date) prior to the General Meeting.

## **18. SPECIAL GENERAL MEETINGS**

### **18.1 Special General Meetings May be Held**

The Board may, whenever it thinks fit convene a Special General Meeting of the Association and, where, but for this Rule more than 15 months would elapse between Annual General Meetings, will convene a Special General Meeting before the expiration of that period.

### **18.2 Requisition of Special General Meetings**

- (1) The Secretary will on the requisition in writing of 20% of Individual Members convene a Special General Meeting within 28 days of receiving such notice.
- (2) The requisition for a Special General Meeting will state the object(s) of the meeting, will be signed by the Members making the requisition under 18.2(1) and be sent to the Association and may consist of several documents in a like form, each signed by 1 or more of the Members making the requisition.
- (3) If the Secretary receives a written request to convene a Special General Meeting under these Rules within the 60 day period before the AGM of the Financial Year, the Association may deal with the matters set out in the request or notice of appeal at the AGM.

## **19. PROCEEDINGS AT GENERAL MEETINGS**

### **19.1 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 General Meetings of the Association will be 20 Individual Members who are entitled to vote under Rule 20.1.

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## 19.2 **President to Preside**

The President, or in his absence a Member of the Board appointed by the Board will, subject to these Rules, preside as Chairman at every General Meeting of the Association except:

- (1) in relation to any election for which the President is a nominee; or
- (2) where a conflict of interest exists.

## 19.3 **Adjournment of Meeting**

- (1) If within half an hour from the time appointed for the meeting a quorum is not present the meeting will be adjourned until the same day in the next week at the same time and place or to such other day and at such other time and place as the Chairman may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed of the meeting the meeting will lapse.
- (2) The Chairman may with the consent of any meeting at which a quorum is present, and will if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (3) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting will be given as in the case of an original meeting.
- (4) Except as provided in Rule 19.3(3) it is not necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

## 19.4 **Voting Procedure**

At any meeting a resolution put to the vote of the meeting will 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:

- (1) by the Chairman; or
- (2) by a simple majority of Individual Members.

## 19.5 **Recording of Determinations**

Unless a poll is demanded under Rule 19.4, a declaration by the Chairman 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 that effect in the book containing the minutes of the proceedings of the Association will be conclusive evidence of the fact without proof of the number of votes recorded in favour of or against the resolution.

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## 19.6 Where Poll Demanded

If a poll is duly demanded under Rule 19.4 it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairman directs and the result of the poll will be the resolution of the meeting at which the poll was demanded.

## 20. VOTING AT GENERAL MEETINGS

### 20.1 Members Entitled to Vote

Each Individual Member and Life Member over the age of 18 years at the time of a General Meeting will have one vote at that General Meeting. No other Member will be entitled to vote.

### 20.2 Chairman may Exercise Casting Vote

Where voting at General Meetings is equal the Chairman may exercise a casting vote. The Chairman has no deliberative vote.

## 21. PROXY VOTING

### 21.1 Proxy Voting Permitted

- (1) Each voting member is entitled to appoint in writing, a natural person who is also a voting Member of the Association to be the Member's proxy, and to attend and vote on the Member's behalf at any General Meeting of the Association.
- (2) Written notice of the proxy must be:
  - (a) given to the Executive Officer no later than 48 hours before the commencement of the meeting in respect of which the proxy is appointed; and
  - (b) in the form as approved by the Board.
- (3) No member may hold more than one proxy.

## 22. POWERS OF THE BOARD

- (1) Subject to the Act and these Rules, the business of the Association will be managed, and the powers of the Association will be conducted by the Board in accordance with this Rule.
- (2)

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## **23. COMPOSITION OF THE BOARD**

### **23.1 Composition of the Board**

At the first Annual General Meeting after the adoption of this Constitution the Board shall be comprised of 7 Elected Board members (including the President and Vice President) and up to two appointed Board members.

The Board will comprise:

- (1) the President;
- (2) the Vice President
- (3) five other elected Board Members;
- (4) two appointed Board members and
- (5) if applicable under Rule 24.3 the Immediate Past President,

who must all be Individual Members over the age of 18 years at the time of election and who except for the Immediate Past President and the appointed Board members will be elected under Rule 24.

23.2 The Board will be chaired by the President or in his absence the Vice President.

### **23.3 Portfolios**

If the Board considers it appropriate, in order to further the objects and purposes of the Association, it may allocate Board members to specific portfolios, with specific responsibilities as determined at the discretion of the Board.

### **23.4 Right to Co-opt**

It is expressly acknowledged that the Board will have the right to co-opt any person with appropriate experience or expertise to assist the Board in respect of such matters and on such terms as the Board thinks fit. Any person so co-opted will not be an Board Member, and will not exercise the rights of an Board Member, but will act in an advisory role only.

### **23.5 Appointed Board Members**

The persons elected under Rule 24 at a meeting of the Board will seek to appoint the Appointed Board members at the Board meeting immediately following the AGM.

### **23.6 Appointment of Senior Member to TA Board**

The Board may nominate a Senior Member to be elected to the Board of TA and use best endeavours to have that person elected.

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### **23.7 Board Members not Employees**

Board Members must not have positions of employment with the Association.

## **24. ELECTION OF BOARD MEMBERS**

### **24.1 Nominations of Candidates**

- (1) Nominations of candidates for election as Board members (including the President) will be:
  - (a) made in writing, signed by 2 Individual Members and accompanied by the written consent of the nominee (which may be endorsed on the form of nomination); and
  - (b) delivered to the Association prior to the commencement of the meeting at which the election is to be held.
- (2) If insufficient nominations are received to fill all available vacancies on the Board candidates nominated will be deemed to be elected and further nominations shall be received at the Annual General Meeting.
- (3) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated will be deemed to be elected.

### **24.2 Voting Procedures**

The elections will be by standard preferential ballot and will be by secret ballot on papers prepared by the Secretary or by show of hands as determined by the meeting.

### **24.3 Immediate Past President**

If passed by a simple majority of the persons elected under Rule 24 at meeting of the Board and agreed by the candidate, the person who was the President of the Association in the preceding year will be a member of the Board. The Immediate Past President will not have voting rights.

### **24.4 Term of Office of Board Members**

- (1) Board Members shall be elected at the Annual General Meeting for two (2) year terms with half the Board Members to be elected annually. A Board Member shall not serve more than three (3) consecutive terms.
- (2) At the first Annual General Meeting after the adoption of this Constitution, seven (7) Board Members will be elected. The two (2) of the 'elected Board Members', as provided in clause 23.2(3) who receive the least number of votes and the Vice President will serve for a one (1) year term.

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## **25. VACANCIES OF BOARD MEMBERS**

### **25.1 Grounds for Termination of Office of an Office Bearer**

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

- (1) dies;
- (2) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (3) becomes of unsound mind or a person whose person or estate is liable to be dealt within any way under the law relating to mental health;
- (4) resigns his office in writing to the Association;
- (5) is absent without the consent of the Board from meetings during a period of 6 months;
- (6) without the prior consent or later ratification of the Members of the Association in General Meeting holds any office of profit under the Association;
- (7) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest;
- (8) has been expelled or suspended from membership (without further recourse under these Rules);
- (9) in the opinion of the Board in its discretion:
  - (a) has acted in a manner unbecoming or prejudicial to the objects and interests of the Association, Triathlon, Duathlon or Aquathlon; or
  - (b) has brought the Association, any Affiliated Club or Triathlon, Duathlon or Aquathlon into disrepute; or
- (10) would otherwise be prohibited by law from being a director of a corporation.

### **25.2 Remaining Members may Act**

In the event of a casual vacancy or vacancies in the office of a Board Member, the remaining members may act but, if the number of remaining members 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 members to a number sufficient to constitute such a quorum.

### **25.3 Casual Vacancy**

- (1) In the event of a casual vacancy in the office of any Board Member, the Board may appoint an Individual Member to the vacant office and the person so

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appointed may continue in office up to the conclusion of the Annual General Meeting at which the term of the previous appointee would have expired.

- (2) Should the Board Members be reduced in number to 4 or less, a General Meeting shall be convened by the Executive Officer, or if there is no Executive Officer, a surviving Board Member, for the purpose of filling the vacancies.

## **26. MEETINGS OF THE BOARD**

### **26.1 Bodies Meet**

The Board will each meet as often as is deemed necessary in every calendar year for the dispatch of business (and will be at least as often as is required under the Act) and subject to these Rules may adjourn and otherwise regulate their meetings as they think fit. Four Board members may at any time, and the Secretary will on the requisition of four Board members, convene a meeting of the Board (as the case may be) within a reasonable time.

### **26.2 Decisions of the Board**

Subject to these Rules, questions arising at any meeting of the Board will be decided by a majority of votes and a determination of a majority of members will for all purposes be deemed a determination of the relevant body. All members (except the Chairman) will have 1 vote on any question. The Chairman will have a casting vote where voting is equal, but will have no deliberative vote.

### **26.3 Resolutions Not in Meeting**

- (1) A resolution in writing, signed or assented to by telegram, cablegram, radiogram, facsimile, telex or other form of visible or other electronic communication by all the members of the Board for the time being present in Australia shall be as valid and effectual as if it had been passed at a meeting of members duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the members.
- (2) Without limiting the powers 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 members is not physically present at the meeting, provided that:
- (a) 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;
  - (b) notice of the meeting is given to all the members entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board or these Rules and such notice specifies that the member is not required to be present in person;
  - (c) in the event that a failure in communications prevents condition (a) from being satisfied by the number of members which constitutes a quorum, and none of such members are present at the place where the meeting

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is deemed by virtue of the other provisions of this Rule to be held then the meeting will be suspended until condition (a) is satisfied again. If such condition is not satisfied within ½ an hour from the interruption the meeting shall be deemed to have terminated or adjourned; and

- (d) any meeting held where one or more of the members is not physically present will be deemed to be held at the place specified in the notice of meeting provided a member is there present and if no member is there present the meeting will be deemed to be held at the place where the Chairman of the meeting is located.

#### **26.4 Quorum**

A quorum for Board Meetings of the Association will be 4 Board Members.

#### **26.5 Notice of Meetings**

Unless all members agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their apology, presence or attendance in accordance with Rule 26.3) not less than 7 days written notice of the meeting of the Board must be given to each member. The agenda must be forwarded to each member not less than one day prior to such meeting.

#### **26.6 Conflict of Interest**

A Board Member must declare his interest in any contractual, selection, disciplinary or other matter in which a conflict or interest arises or may arise, and will absent himself from discussions of such matter and will not be entitled to vote in respect of such matter. In the event of any uncertainty as to whether it is necessary for a member to absent himself from discussion or refrain from voting, the issue should be immediately determined by vote of the relevant body, or if this is not possible, the matter shall be adjournment or deferred.

### **27. EXECUTIVE OFFICER**

#### **27.1 Appointment of Executive Officer**

The Executive Officer will be appointed by the Board for such term and on such conditions as it thinks fit.

#### **27.2 Executive Officer to Act as Secretary**

The Executive Officer will, with the continuing approval of the Board, act as and carry out the duties of Secretary and Public Officer of the Association and will administer and manage the Association in accordance with these Rules.

#### **27.3 Broad Power to Manage**

Subject to the Act, these Rules, the Regulations and any policy directive of the Board, the Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of the Association. A

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resolution passed by the Association in General Meeting will not invalidate any prior act of the Executive Officer, or the Board which would have been valid if that resolution had not been passed.

#### **27.4 Executive Officer may Employ**

The Executive Officer may, in consultation with the Board, as appropriate, employ such personal as are deemed necessary or appropriate from time to time and such appointments shall be for such period and on such conditions as the Board determines.

### **28. DELEGATIONS**

#### **28.1 Board may Delegate Functions**

The Board may by instrument in writing create or establish or appoint from among its own members, the Members of the Association or otherwise, special committees, sub-committees, boards, individual officers or consultants to carry out such duties and functions, and with such powers, as the Board determines. It is expressly acknowledged that any body exercising delegated powers will have the right to co-opt persons with appropriate experience or expertise to that entity.

#### **28.2 Delegation by Instrument**

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

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

#### **28.3 Delegated Function Exercised in Accordance with Terms**

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

#### **28.4 Procedure of Delegated Entity**

The procedures for any entity exercising delegated power will, subject to these Rules and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under Rule 26 above. The entity exercising delegated powers may make decisions in accordance with the objects and purposes of the Association, and provide the body delegations its power with details of all material decisions and provide any other reports, minutes and information as the Association may require from time to time.

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## **28.5 Delegation may be Conditional**

A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

## **28.6 Revocation of Delegation**

The Board may by instrument in writing, revoke wholly or in part any delegation made under this Rule, and may amend or repeal any decision made by such body or person under this Rule.

## **29. REGULATIONS**

### **29.1 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, the advancement of the objects of the Association and Triathlon, Duathlon and Aquathlon in Western Australia as it thinks necessary or desirable. Such Regulations may be consistent with the Rules of the Association and any policy directives of the Board.

### **29.2 Regulations Binding**

All Regulations made under this Rule are binding on the Association, and Members of the Association.

### **29.3 Regulations Deemed Applicable**

All rules, by-laws and regulations of the Association and of the Association in force at the date of the approval of these Rules under the Act insofar as such rules and regulations are not inconsistent with, or have been replaced by these Rules, are deemed to be Regulations under this Rule.

### **29.4 Bulletins Binding on Members**

Amendments, alterations, interpretations or other changes to Regulations will be advised to Members of the Association by means of bulletins approved by the Board and prepared and issued by the Executive Officer. The Affiliated Clubs must take reasonable steps to distribute information in the bulletins to Individual Members. Such inclusions in the bulletins are binding upon all Members.

## **30. RECORDS AND ACCOUNTS**

### **30.1 Executive Officer to Keep Records**

The Executive Officer will establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board will produce these as appropriate at each meeting to which these records are relevant.

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### **30.2 Records Kept in Accordance with Act**

Proper accounting and other records must be kept in accordance with the Act. The books of account shall be kept in the care and control of the Executive Officer.

### **30.3 Association to Retain Records**

The Association must retain such records for 7 years after the completion of the transactions or operations to which they relate.

### **30.4 Board to Submit Accounts**

The Board must submit to the Members at the Annual General Meeting the Statements of Account of the Association in accordance with these Rules.

### **30.5 Accounts Conclusive**

The Statements of Account when approved or adopted by an Annual General Meeting are conclusive except as regards any error discovered in them within 3 months after such approval or adoption.

### **30.6 Accounts to be Sent to Members**

The Executive Officer must cause to be sent to all persons entitled to receive notice of Annual General Meetings of the Association in accordance with these Rules, a copy of the Statements of Account, the Board's report, the auditor's report and every other document required under the Act (if any).

### **30.7 Negotiable Instruments**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association, must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by the Executive Officer and any one duly authorised Board Member or any 2 duly authorised Board Members or in such other manner as the Board determines.

## **31. AUDITOR**

- (1) A properly qualified auditor or auditors will be appointed by the Association in General Meeting and the remuneration of such auditor or auditors fixed. The auditor's duties will be regulated in accordance with the Act and in accordance with generally accepted principles, and any applicable code of conduct. The auditor may be removed by the Association in General Meeting.
- (2) The accounts of the Association will be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each Financial Year.

## **32. NOTICE**

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### **32.1 Manner of Notice**

- (1) Notices may be given by the Executive Officer to any Member by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address.
- (2) Where a notice is sent by post, service of the notice will be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected 3 days after posting.
- (3) Where a notice is sent by facsimile transmission, service of the notice will 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.
- (4) Where a notice is sent by electronic mail, service of the notice will be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

### **32.2 Notice of Annual General Meeting**

Notice of every General Meeting will be given in the manner authorised in these Rules.

## **33. SEAL**

### **33.1 Safe Custody of Seal**

The Executive Officer will provide for safe custody of the Seal.

### **33.2 Affixing Seal**

The Seal must only be used by authority of the Board and every document to which the seal is affixed must be signed by two Board Members or one Board Member and the Executive Officer.

## **34. PATRONS, VICE PATRONS AND GOVERNORS**

The Association at its Annual General Meeting may appoint annually on the recommendation of the Board a chief patron and such number of patrons, vice-patrons and governors as it considers necessary, subject to approval of that person or persons.

## **35. ALTERATION OF STATEMENT OF PURPOSE AND RULES**

These Rules of the Association must not be altered except by Special Resolution in accordance with the Act, and in compliance with all other procedures under the Act (if any).

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## **36. INDEMNITY**

### **36.1 Board Members to be Indemnified**

Every Board Member, officer, auditor, manager, employee or agent of the Association will be indemnified out of the property or assets of the Association against any liability incurred by him in his capacity as Board Member, officer, auditor or agent in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him by the Court.

### **36.2 Association to Indemnify Members**

The Association will indemnify its Board Members, officers, managers and employees against all damages and costs (including legal costs) for which any such Board Member, officer, manager or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (1) in the case of a Board Member or officer, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
- (2) in the case of an employee, performed or made in the course of, and within the scope of his employment by the Association.

## **37. DISSOLUTION**

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

## **38. AUTHORITY TO TRADE**

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

## **39. EFFECT OF THESE RULES**

- 39.1 The Rules come into effect and will supersede and replace any previously existing constitutions, rules and orders of the Association and will remain in force until amended.