



*ASSOCIATIONS INCORPORATION ACT 1985 (SA)*

# **West Lakes Triathlon Club Incorporated Constitution**

Amended – October 2013

## TABLE OF CONTENTS

1. NAME OF CLUB .....	3
2. DEFINITIONS AND INTERPRETATION .....	3
3. OBJECTS OF THE CLUB .....	4
4. POWERS OF THE CLUB .....	5
5. MEMBERS .....	5
6. MEMBERSHIP APPLICATION .....	6
7. REGISTER OF MEMBERS.....	7
8. EFFECT OF MEMBERSHIP .....	7
9. DISCONTINUANCE OF MEMBERSHIP .....	8
10. DISCIPLINE.....	9
11. SUBSCRIPTIONS AND FEES .....	9
12. POWERS OF THE BOARD .....	9
13. COMPOSITION OF THE BOARD.....	9
14. ELECTED DIRECTORS .....	10
15. VACANCIES ON THE BOARD .....	11
16. MEETINGS OF THE BOARD.....	11
17. DELEGATIONS.....	14
18. COMMON SEAL .....	14
19. ANNUAL GENERAL MEETING .....	15
20. SPECIAL GENERAL MEETINGS.....	15
21. NOTICE OF GENERAL MEETING .....	15
22. BUSINESS .....	16
23. NOTICES OF MOTION .....	16
24. PROCEEDINGS AT GENERAL MEETINGS.....	16
25. VOTING AT GENERAL MEETINGS .....	17
26. GRIEVANCE PROCEDURE .....	17
27. RECORDS AND ACCOUNTS.....	18
28. AUDITOR – FOR PRESCRIBED ASSOCIATIONS.....	18
29. APPLICATION OF INCOME .....	18
30. WINDING UP .....	19
31. DISTRIBUTION OF PROPERTY ON WINDING UP .....	19
32. ALTERATION OF CONSTITUTION.....	19
33. REGULATIONS .....	19
34. STATUS AND COMPLIANCE OF CLUB .....	20
35. NOTICE.....	20
36. INDEMNITY .....	20
37. AUTHORITY TO TRADE.....	21

**ASSOCIATIONS INCORPORATION ACT 1985 (SA)  
CONSTITUTION**

**OF WEST LAKES TRIATHLON CLUB INCORPORATED**

**1. NAME OF CLUB**

The name of the Club is West Lakes Triathlon Club Incorporated (“**Club**”).

**2. DEFINITIONS AND INTERPRETATION**

**2.1 Definitions**

In this constitution, unless the contrary intention appears:

- ‘**Act**’ means the *Associations Incorporation Act 1985 (SA)*.
- ‘**Board**’ means the body managing the Club and consisting of the directors.
- ‘**Constitution**’ means this constitution of the Club.
- ‘**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.
- ‘**Individual member**’ means a registered, financial member of the Club who is at least 18 years of age.
- ‘**Junior member**’ means a registered member of the Club who is younger than 18 years of age.
- ‘**Life member**’ means an individual appointed as a life member of the Club under **clause 5.2**.
- ‘**Member**’ means a member of the Club for the time being under **clause 5**.
- ‘**Objects**’ means the objects of the Club in **clause 3**.
- ‘**Special resolution**’ means a special resolution defined in the Act.
- ‘**Sport**’ means Triathlon
- ‘**Triathlon Australia**’ means Triathlon Australia Incorporated
- ‘**Triathlon South Australia**’ means Triathlon South Australia Incorporated

**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 the other genders.
- (e) References to persons include corporations and bodies politic.
- (f) References to a person include the legal personal representatives, successors and permitted assigns of that person.
- (g) A reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction).
- (h) A reference to 'writing' shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

### **2.3 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 CLUB**

The Club is established solely for the objects. The objects of the Club are established to:

- (a) participate as a member of Triathlon South Australia so Triathlon can be conducted, encouraged, promoted, advanced and administered in South Australia;
- (b) conduct, encourage, promote, advance and administer Triathlon throughout the local area;
- (c) ensure the maintenance and enhancement of the Association, Triathlon Australia, the Members and Triathlon, its standards, quality and reputation for the benefit of the Members and Triathlon;
- (d) at all times promote mutual trust and confidence between the Club, Triathlon South Australia and the Members in pursuit of these Objects;
- (e) at all times act on behalf of, and in the interest of, the Members and Triathlon in South Australia;
- (f) promote the economic and community service success, strength and stability of the Club, the Members and Triathlon in South Australia;
- (g) affiliate and otherwise liaise with Triathlon South Australia and adopt its rule and policy framework to further these Objects and Triathlon;
- (h) use and protect the Intellectual Property;

- (i) apply the property and capacity of the Club towards the fulfilment and achievement of these Objects;
- (j) abide by, promulgate, enforce and secure uniformity in the application of, the rules of Triathlon as may be determined from time to time by Triathlon Australia;
- (k) advance the operations and activities of the Club in the local area;
- (l) review and/or determine any matters relating to the Club which may arise, or be referred to it, by any Member;
- (m) act as arbiter (as required) on all matters pertaining to the conduct of Club Members, including disciplinary matters;
- (n) pursue such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of the Club;
- (o) adopt and implement such policies as may be developed by Triathlon Australia and/or Triathlon South Australia, including (as relevant and applicable) member protection, anti-doping , health and safety, junior sport, infectious diseases and such other matters as may arise as issues to be addressed in Triathlon;
- (p) have regard to the public interest in its operations;
- (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 Triathlon in South Australia;
- (s) seek and obtain improved facilities for the enjoyment of the Club
- (t) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

#### **4. POWERS OF THE CLUB**

Solely for furthering the objects, the Club has, in addition to the rights, powers and privileges conferred on it under section 25 of the Act, the legal capacity and powers of a company as set out under section 124 of the *Corporations Act 2001 (Cth)*.

#### **5. MEMBERS**

##### **5.1 Members**

The members of the Club shall consist of:

- (a) Life members, who subject to this constitution, shall have the right to receive notice of general meetings and to be present, to debate and to vote at general meetings
- (b) Individual members, including junior members of 16 years of age and over who subject to this constitution, shall have the right to receive notice of general meetings and to be present, to debate and to vote at general meetings
- (c) Junior members under 16, who subject to this constitution, shall have no right to receive notice of general meetings and no right to be present or to debate or vote at general meetings.

## 5.2 Life Members

Life members may be appointed from amongst members who have rendered special service to the Club and fulfil one or more of the following conditions:

- Have a minimum of 7 years membership as an official
- Have a minimum of 12 years as a member of the Club

The years themselves shall not entitle a member to Life Membership.

Nominations for Life Membership:

- (a) must be in writing, providing evidence of fulfilment of the conditions and detailing the special services rendered.
- (b) must receive the endorsement of the Club's Board
- (c) must be submitted to a joint sitting of the Board and Life Members where to be successful the nomination must be carried by a three-quarters majority of those present. A quorum is no less than two-thirds of the eligible voters or 10, whichever is the lesser. Voting shall be by secret ballot.

Only one new Life Member can be appointed each year.

## 6. MEMBERSHIP APPLICATION

### 6.1 Application for membership

An application for membership must be:

- (a) in writing on the form prescribed from time to time by the board (if any), from the applicant or its nominated representative and lodged with the Club
- (b) accompanied by the appropriate fee, if any.

### 6.2 Discretion to Accept or Reject Application

- (a) The Club may accept or reject an application whether the applicant has complied with the requirements in **clause 6.1** or not. The Club shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Where the Club accepts an application, the applicant shall become a member. Membership shall be deemed to commence upon acceptance of the application by the Club. The register shall be amended accordingly as soon as practicable.
- (c) Where the Club rejects an application, it shall refund any fees forwarded with the application and the application shall be deemed rejected by the Club.

### 6.3 Renewal

Members (other than life members) must renew their membership annually in accordance with the procedures set down by the Club in regulations from time to time.

#### **6.4 Deemed Membership**

- (a) All persons who are, prior to the approval of this constitution under the Act, members of the Club shall be deemed members from the time of approval of this constitution under the Act.
- (b) Any members of the Club, prior to approval of this constitution under the Act, who are not deemed members under **clause 0(a)** shall be entitled to carry on such functions analogous to their previous functions as are provided for under this constitution.

### **7. REGISTER OF MEMBERS**

#### **7.1 Club to Keep Register**

The Club shall keep and maintain a register in which shall be entered (as a minimum):

- (a) the full name, address and date of entry of each member
- (b) where applicable, the date of termination of membership of any member.

Members shall provide notice of any change and required details to the Club within one month of such change.

#### **7.2 Inspection of Register**

Having regard 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, upon reasonable request.

#### **7.3 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.

### **8. EFFECT OF MEMBERSHIP**

Members acknowledge and agree that:

- (a) This constitution forms a contract between each of them and the Club and that they are bound by this constitution and the regulations.
- (b) They shall comply with and observe this constitution and the regulations and any determination, resolution or policy which may be made or passed by the board or other entity with delegated authority.
- (c) By submitting to this constitution and regulations, they are subject to the jurisdiction of the Club, Triathlon South Australia and Triathlon Australia.
- (d) The constitution and regulations are necessary and reasonable for promoting the objects and particularly the advancement and protection of triathlon.
- (e) They are entitled to all benefits, advantages, privileges and services of Club membership.

## **9. DISCONTINUANCE OF MEMBERSHIP**

### **9.1 Notice of Resignation**

- (a) A member who has paid all arrears of fees payable to the Club may resign or withdraw from membership of the Club by giving one month's notice in writing to the Club.
- (b) Once the Club receives a notice of resignation of membership given under **clause 9.1(a)**, it must make an entry in the register that records the date on which the member ceased to be a member.

### **9.2 Discontinuance for Breach**

- (a) Membership of the Club may be discontinued by the board upon breach of any clause of this constitution or the regulations, including, but not limited to, the failure to pay any monies owed to the Club, 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 9.2(a)** without the board first giving the accused member the opportunity to explain the breach and/or remedy the breach.
- (c) Where a member fails, in the board's view, to adequately explain the breach, that member's membership shall be discontinued, under **clause 9.2(a)**, by the Club giving written notice of the discontinuance to the member. The register shall be amended to reflect any discontinuance of membership under this **clause 9.2** as soon as practicable.

### **9.3 Member to Re-Apply**

A member whose membership has been discontinued under **clauses 9.2 or 9.3**:

- (a) must seek renewal or re-apply for membership in accordance with this constitution
- (b) may be re-admitted at the discretion of the board.

### **9.4 Forfeiture of Rights**

A member who ceases to be a member, for whatever reason, shall forfeit all rights in and claims upon the Club and its property and shall not use any property of the Club including intellectual property. Any Club documents, records or other property in the possession, custody or control of that member shall be returned to the Club immediately.

### **9.5 Membership May be Reinstated**

Membership, which has been discontinued under this **clause 9**, may be reinstated at the discretion of the board, with such conditions as it deems appropriate.

### **9.6 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.

## 10. DISCIPLINE

- (a) The board may commence or cause to be commenced disciplinary proceedings against a member who has allegedly:
- (i) breached, failed, refused or neglected to comply with a provision of this constitution, the regulations or any resolution or determination of the board or any duly authorised committee
  - (ii) acted in a manner unbecoming of a member, or prejudicial to the purposes and interests of the Club and/or triathlon
  - (iii) brought the Club, any other member or triathlon into disrepute.
- That member will be subject to and will submit unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Club set out in the regulations.
- (b) The board may appoint a judiciary committee to deal with any disciplinary matter referred to it. Such judiciary committee shall operate in accordance with the procedures expressed in the regulations but is subject always to the Act.

## 11. SUBSCRIPTIONS AND FEES

The annual membership subscription (if any) and any fees or other levies payable by members to the Club and the time for and manner of payment shall be as determined by the board.

## 12. POWERS OF THE BOARD

Subject to the Act and this constitution, the business of the Club shall be managed and the powers of the Club shall be exercised by the board. In particular, the board shall act in accordance with the objects and shall operate for the benefit of the members and the community throughout the local area.

## 13. COMPOSITION OF THE BOARD

### 13.1 Composition of the Board

The board shall comprise of no more than 11 elected directors who must all be members and who shall be elected under **clause 0**

### 13.2 Portfolios

The board may allocate portfolios to directors.

## 14. ELECTED DIRECTORS

### 14.1 Nomination for Board

Nominations for elected director positions shall be called for 28 days prior to the AGM. When calling for nominations, details of the necessary qualifications and job descriptions for the positions shall also be provided. Qualifications and job descriptions shall be determined by the board from time to time.

### 14.2 Form of Nomination

Nominations must be:

- (a) in writing
- (b) on the prescribed form (if any) provided for that purpose
- (c) signed by two individual members
- (d) certified by the nominees (who must be individual members) expressing their willingness to accept the position for which they are nominated
- (e) delivered to the Club not less than 14 days before the date fixed for the AGM.

### 14.3 Elections

- (a) If the number of nominations received 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.
- (b) If there are insufficient nominations received to fill all vacancies on the board, or if a person is not approved by the majority of members under **clause 14.3(a)**, the positions will be deemed casual vacancies under **clause 15.1**.
- (c) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in alphabetical order for each vacancy on the board.
- (d) Voting shall be conducted in such a manner and by such a method as determined by the board from time to time.

### 14.4 Term of Appointment for Elected Directors

Directors elected under **clause 0** shall be elected for a term as follows:

- (a) Directors holding the portfolios of President, Club Captain, Secretary and Treasurer will be elected for a term of 2 years. The President and Treasurer will be elected on odd years and the Club Captain and Secretary on even years.
- (b) Directors, other than those holding the portfolios of President, Club Captain, Secretary and Treasurer, will be elected for a term of one year

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 AGM at which the election occurred until the conclusion of the term.

## **15. VACANCIES ON THE BOARD**

### **15.1 Casual Vacancies**

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.

### **15.2 Grounds for Termination of Director**

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

- (a) dies
- (b) becomes bankrupt or makes any arrangement or composition with her creditors generally
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health
- (d) resigns their office in writing to the Club
- (e) is absent without the consent of the board from meetings held during a period of six months
- (f) holds any office of employment with the Club without the approval of the board
- (g) is directly or indirectly interested in any contract or proposed contract with the Club and fails to declare the nature of that interest
- (h) in the opinion of the board (but subject always to this constitution):
  - (i) has acted in a manner unbecoming or prejudicial to the objects and interests of the Club
  - (i) has brought the Club into disrepute
- (i) is removed by special resolution
- (j) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth.)*.

### **15.3 Board May Act**

In the event of a casual vacancy or vacancies in the office of a director or directors, the remaining directors may act. However, 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.

## **16. MEETINGS OF THE BOARD**

### **16.1 Board to Meet**

The board shall meet as often as is deemed necessary in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act). Subject to this constitution, it may adjourn and otherwise regulate its meetings as it thinks fit. A director may at any time convene a meeting of the board within reasonable time.

## **16.2 Decisions of Board**

Subject to this constitution, questions arising at any meeting of the board shall be decided by a majority of votes and a determination of a majority of directors shall for all purposes be deemed a determination of the board. All directors shall have one vote on any question. Where voting is equal, the chairperson may exercise a casting vote. If the chairperson does not exercise a casting vote, the motion will be lost.

## **16.3 Resolutions Not in Meeting**

- (a) A resolution in writing that has been signed or assented to by email 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 by one or more of the directors.
- (b) Without limiting the power of the board to regulate its meetings as it thinks fit, a meeting of the board may be held where one or more of the directors is not physically present at the meeting, provided that:
  - (i) All persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of 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 17.3(b)(i) from being satisfied by the number of directors which constitutes a quorum, 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 17.3(b)(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.
  - (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 present. If no director is there present, the meeting shall be deemed to be held at the place where the chairperson of the meeting is located.

## **16.4 Quorum**

At meetings of the board the number of directors whose presence is required to constitute a quorum is six.

## **16.5 Notice of Board Meetings**

Unless all directors agree to hold a meeting at a shorter notice (which agreement shall be sufficiently evidenced by their apology or presence) not less than fourteen days' written notice of the meeting of the board shall be given to each director. The agenda shall be forwarded to each director no less than four days prior to the meeting.

## **16.6 Chairperson**

The board shall appoint a chairperson from among its number. The chairperson shall be the nominal head of the Club and will act as chair of any board meeting or general meeting at which he is 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.

## **16.7 Conflict of Interest**

A director shall declare his interest in any

- a) Contractual;
- b) Selection;
- c) Disciplinary; or
- d) financial matter;

in which a conflict of interest arises or may arise. He shall, unless otherwise determined by the board, absent himself 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. In the event of any uncertainty as to whether it is necessary for a director to absent himself 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.

## **16.8 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 AGM in accordance with the Act.

## **16.9 General Disclosure**

A general notice stating that a director is a member of any specified firm or company and that he is 'interested' in all transactions with that firm or company is sufficient declaration under **clause 16.8**. 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.

## **16.10 Recording Disclosures**

Any declaration made, any disclosure or any general notice given by a director in accordance with **clauses 17.7, 16.8** and/or **16.9** must be recorded in the minutes of the relevant meeting.

## **17. DELEGATIONS**

### **17.1 Board May Delegate Functions**

The board may, by instrument in writing, create, establish or appoint special committees, individual officers and consultants to carry out specific duties and functions.

It will determine what powers these committees are given. In exercising its power under this clause, the board must take into account broad stakeholder involvement.

### **17.2 Delegation by Instrument**

In the establishing instrument, the board may delegate such functions as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function imposed on the board or the executive officer by the Act, any other law, this constitution, or by resolution of the Club in a general meeting.

### **17.3 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.

### **17.4 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 under **clause 17**. The entity exercising delegated powers shall make decisions in accordance with the objects, and it shall promptly provide the board with details of all material decisions. The entity shall also provide any other reports, minutes and information required by the board.

### **17.5 Delegation May Be Conditional**

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

### **17.6 Revocation of Delegation**

At any time the board may, by instrument in writing, revoke wholly or in part any delegation made under this clause. It may amend or repeal any decision made by a body or person under this clause.

## **18. COMMON SEAL**

- (a) The Club shall have a seal upon which its corporate name shall appear in legible characters.
- (b) The seal shall not be used without the express authorisation of the board. Every use of the seal shall be recorded in the Club's minute book. Two directors must witness every use of the seal.

## 19. ANNUAL GENERAL MEETING

- (a) The Club's AGM shall be held in accordance with the Act and this constitution. It should be held on a date and at a venue determined by the board.
- (b) All general meetings other than the AGM shall be special general meetings and shall be held in accordance with this constitution.

## 20. SPECIAL GENERAL MEETINGS

### 20.1 Special General Meetings May be Held

The board may, whenever it thinks fit, convene a special general meeting. When, but for this clause, more than fifteen months elapses between AGMs, the board shall convene a special general meeting before the expiration of that period.

### 20.2 Requisition of Special General Meetings

- (a) The secretary will convene a special general meeting when five per cent of members (no less) submit a requisition in writing.
- (b) The requisition for a special general meeting shall state the object(s) of the meeting, be signed by the members making the requisition and be sent to the Club. The requisition may consist of several documents in a like form, each signed by one or more of the members making the requisition.
- (c) If the board does not cause a special general meeting to be held one month after sending the requisition to the Club, the members making the requisition, or any of them, may convene a special general meeting to be held no later than three months after that date.
- (d) A special general meeting convened by members under this constitution shall be convened in the same manner, or as close as possible, as those convened by the board.

## 21. NOTICE OF GENERAL MEETING

- (a) Notice of every general meeting shall be given to every life member and individual member entitled to receive notice. Notices shall be sent to the email addresses appearing in the Club's register. If an auditor has been appointed, the auditor shall also be entitled to receive notice of every general meeting. This will be sent to the auditor's last known address. No other person shall be entitled, as of right, to receive notices of general meetings.
- (b) A notice of a general meeting shall specify the place, day and hour of the meeting and shall state the business to be transacted at the meeting.
- (c) At least 28 days prior to a general meeting, a notice will be sent to entitled members. They will also receive:
  - (i) the agenda for the meeting
  - (ii) any notice of motion received from members entitled to vote.
- (d) Notice of every general meeting shall be given in the manner authorised in **clause 35**.

## 22. BUSINESS

- (a) The business to be transacted at the AGM includes the consideration of accounts and the reports of the board and auditors, the election of directors under this constitution and the appointment of the auditors.
- (b) All business that is transacted at a general meeting and at an AGM, with the exception of those matters set down in **clause 23(a)**, shall be special business.
- (c) No business other than that stated on the notice for a general meeting shall be transacted at that meeting.

## 23. 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 Club no less than 35 days (excluding receiving date and meeting date) prior to the general meeting.

## 24. PROCEEDINGS AT GENERAL MEETINGS

### 24.1 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 Club shall be ten members present or 5% of the membership of the Club whichever is the greater.

### 24.2 Chairperson to Preside

The chairperson of the board shall, subject to this constitution, preside as chair at every general meeting except:

- (a) in relation to any election for which the chairperson is a nominee
- (b) where a conflict of interest exists.

If the chairperson is not present, or is unwilling or unable to preside, the delegates present shall appoint another director to preside as chairperson for that meeting only.

### 24.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall be adjourned until the same day in the next week at the same time and place or to a date, time or place determined by the chairperson. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting will lapse.
- (b) The chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **clause 24.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

#### **24.4 Voting Procedure**

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

- (a) the chairperson
- (b) a simple majority of members.

#### **24.5 Recording of Determinations**

Unless a poll is demanded under **clause 24.4**, the chairperson's declaration shall be conclusive evidence of the result of a resolution decided by a show of hands. The declaration does not need to record the number of votes in favour of or against the resolution; the result of the resolution must be recorded in the Club's book of proceedings.

#### **24.6 Where Poll Demanded**

If a poll is duly demanded under **clause 24.4** it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll shall be the resolution of the meeting.

### **25. VOTING AT GENERAL MEETINGS**

#### **25.1 Members Entitled to Vote**

Each life member and individual member shall be entitled to one vote at general meetings. No other member shall be entitled to vote but shall, subject to this constitution, have and be entitled to exercise those rights set out in clause 5.1.

#### **25.2 Chairperson May Exercise Casting Vote**

Where voting at general meetings is equal, the chairperson may exercise a casting vote. If the chairperson does not exercise a casting vote the motion will be lost.

#### **25.3 Proxy Voting**

Proxy voting shall not be permitted at all general meetings.

### **26. GRIEVANCE PROCEDURE**

- (a) The grievance procedure set out in this rule applies to disputes under these rules between a member and:
  - (i) another member
  - (ii) the Club.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen days after the dispute comes to the attention of all parties.
- (c) The board may prescribe additional grievance procedures in regulations consistent with this **clause 27**.

## **27. RECORDS AND ACCOUNTS**

### **27.1 Records**

The Club shall establish and maintain proper records and minutes concerning all of its transactions, business, meetings and dealings (including those of the board). It shall produce these as appropriate at each board or general meeting.

### **27.2 Records Kept in Accordance with the Act**

Proper accounting and other records shall be kept in accordance with the Act. The Club shall retain such records for seven years after the completion of the transactions or operations to which they relate.

### **27.3 Board to Submit Accounts**

The board shall submit the Club's statements of account to the members at the AGM in accordance with this constitution and the Act.

### **27.4 Accounts Conclusive**

The statements of account, when approved or adopted by an AGM, shall be conclusive except when errors have been discovered within three months after such approval or adoption.

### **27.5 Negotiable Instruments**

All cheques, promissory notes, bankers, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Club, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two duly authorised directors or in such other manner as the board determines.

## **28. AUDITOR – FOR NON PRESCRIBED ASSOCIATIONS**

- (a) The Club shall prepare and make available to the members an annual financial report comprising; an annual profit and loss statement, a balance sheet, a statement of cash flows and a directors' report (about the Club's operations etc.)

## **29. APPLICATION OF INCOME**

29.1 The income and property of the Club shall be applied solely towards the promotion of the objects.

29.2 Except as prescribed in this constitution or the Act:

- (a) no portion of the income or property of the Club shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any member
- (b) no remuneration or other benefit in money or money's worth shall be paid or given by the Club to any member who holds any office of the Club.

29.3 Payment in good faith of or to any member can be made for:

- (a) any services actually rendered to the Club whether as an employee, director or otherwise
- (b) goods supplied to the Club in the ordinary and usual course of operation

- (c) interest on money borrowed from any member
- (d) rent for premises demised or let by any member to the Club
- (e) any out-of-pocket expenses incurred by a member on behalf of the Club.

Nothing in clauses **29.1 or 29.2** preclude such payments provided they do not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

### **30. WINDING UP**

- (a) Subject to this constitution the Club may be wound up in accordance with the Act.
- (b) The liability of the members of the Club is limited.
- (c) Every member undertakes to contribute to the assets of the Club in the event of it being wound up while a member, or within one year after ceasing to be a member, for payment of the debts and liabilities of the Club contracted before the time at which they ceased to be a member and towards the costs, charges and expenses of winding up the Club, such an amount not exceeding one dollar (\$1.00).

### **31. DISTRIBUTION OF PROPERTY ON WINDING UP**

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

### **32. ALTERATION OF CONSTITUTION**

This constitution shall not be altered except by special resolution.

### **33. REGULATIONS**

#### **33.1 Board to Formulate Regulations**

The board may formulate, issue, adopt, interpret and amend regulations for the proper advancement, management and administration of the Club, the advancement of the purposes of the Club and triathlon in the local area. Such regulations must be consistent with the constitution and any policy directives of the board.

#### **33.2 Regulations Binding**

All regulations are binding on the Club and all members.

#### **33.3 Regulations Deemed Applicable**

All clauses, rules, by-laws and regulations of the Club 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.

### **33.4 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 Club. The Club shall take reasonable steps to distribute information in the bulletins to members. The matters in the bulletins are binding on all members.

## **34. STATUS AND COMPLIANCE OF CLUB**

### **34.1 Recognition of Club**

The Club is a member of Triathlon South Australia and is recognised by Triathlon South Australia as the entity responsible for the delivery of triathlon in the local area and is subject to compliance with this constitution. Triathlon South Australia's constitution shall continue to be so recognised and shall administer triathlon in the local area in accordance with the objects.

### **34.2 Constitution of the Club**

This constitution will clearly reflect the objects of Triathlon South Australia and will conform to the constitutions of the state, subject always to the Act.

### **34.3 TRIATHLON SOUTH AUSTRALIA**

The Club may not resign, disaffiliate or otherwise seek to withdraw from Triathlon South Australia without approval by special resolution.

## **35. NOTICE**

- (a) Notices may be given by the Club to any person entitled under this constitution to receive any notice. The notice can be sent 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. In the case of a delegate, the notice can be sent to the last recorded address, facsimile number or electronic mail 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 three 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 electronic mail, service of the notice shall be deemed to be effected the next business day after it was sent.

## **36. INDEMNITY**

- (a) Every director and employee of the Club will be indemnified out of the property and assets of the Club against any liability incurred by them in their capacity as director or employee in defending any proceedings, civil or criminal, in which judgement is given in their favour or in which they are acquitted or connected with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) The Club 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:

- (ii) in the case of a director, performed or made while acting on behalf of and with the authority, express or implied, of the Club
- (iii) in the case of an employee, performed or made in the course of, and within the scope of, their employment by the Club.

**37. AUTHORITY TO TRADE**

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