
Athletics NSW Limited
ACN 072 450 296



Constitution

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Date

1 Definitions and interpretation

1.1 Definitions

In this Constitution:

Auditor means the auditor of the Company.

Athletics Australia means Athletics Australia ACN 006 447 294 or such other organisation existing from time to time for the promotion, regulation and control of Athletics throughout Australia.

Athletics means the sport of athletics as defined by the International Association of Athletics Federations and Athletics Australia.

Board means the board of Directors.

Business Day means a day on which banks are open for general banking business in New South Wales, excluding Saturdays and Sundays.

By-Laws means the by-laws of the Company made in accordance with rule 3.3 from time to time.

Chairperson means the Chairperson of the Board appointed in accordance with rule 13.14.

Club Associate means an individual registered with the Company as a club associate.

Company means Athletics NSW Limited ACN 072 450 296.

Constitution means this constitution and any supplementary, substituted or amended constitution in force from time to time.

Corporations Act means the *Corporations Act 2001* (Commonwealth).

Directors means the Company's directors.

Director Remuneration means the remuneration payable by the Company to each Director for the performance of their duties as a Director, as determined in accordance with rule 4.4.

General Meeting means a general meeting of the Members.

Managing Director means the managing Director appointed by the Board in accordance with rule 14.

Member means a member of the Company.

Member Club means an organisation or other financially sustainable and properly governed entity conducting Athletics in New South Wales that is approved by the Board to affiliate in accordance with this Constitution.

Member Club Representative means a representative of a Member Club entitled to attend and vote at General Meetings of the Company, appointed in accordance with rule 11.

Notice includes all written communications to Members.

Objects mean the objects of the Company set out in rule 3.1.

Office means the registered office of the Company.

Registered Athlete means an individual registered with the Company as an athlete.

Registered Official means an individual registered with the Company as an official.

Registered Club Member means a Registered Athlete, Registered Official or Club Associate who is a member of a Member Club in accordance with the rules and constitution of the relevant Member Club.

Seal means the common seal of the Company.

Secretary means a person appointed to perform the duties of a secretary of the Company in accordance with this Constitution and includes any person appointed to perform the duties of Secretary for the time being.

Special Resolution means:

- (a) a resolution passed at a General Meeting by not less than 75% of Voting Members present and entitled to vote; or
- (b) the written consent of all Voting Members.

Voting Member means each Member entitled to vote in accordance with this Constitution.

1.2 Interpretation

In this Constitution, unless the context indicates a contrary intention:

- (a) (**headings**) headings and the table of contents are inserted for convenience only and do not affect interpretation of this Constitution.

- (b) (**person**) a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity, and a reference to a person includes their personal representatives, successors and permitted assigns.
- (c) (**requirements**) a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done.
- (d) (**including**) **including** and **includes** are not words of limitation.
- (e) (**corresponding meanings**) a word that is derived from a defined word has a corresponding meaning.
- (f) (**singular**) the singular includes the plural and vice-versa.
- (g) (**legislation**) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.
- (h) (**writing**) a reference to a Notice, consent, request, approval or other communication under this Constitution or an agreement between the parties means a written Notice, request, consent, approval or agreement.
- (i) (**replacement bodies**) a reference to a body (including an institute, association or authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions.
- (j) (**month**) a reference to a month is a reference to a calendar month.
- (k) (**year**) a reference to a year is a reference to twelve consecutive calendar months.

2 Company's name and nature

2.1 Name of the Company

The name of the Company is Athletics NSW Limited.

2.2 Nature of the Company

The Company is a public company limited by guarantee.

3 Company's Objects and powers

3.1 Objects of the Company

- (a) To be the entity through and by which Athletics in New South Wales can be encouraged, conducted, promoted and administered and to be the governing body of Athletics in New South Wales.
- (b) To do all such other things as are incidental or conducive to the attainment of the Objects of the Company.

3.2 Powers of the Company

- (a) The Company has the legal capacity and powers of a company as set out in Section 124 of the Corporations Act.

3.3 By-Laws and Policies

- (a) Subject to rule 8.4, the Directors may make and amend:

- (1) by-laws; and
- (2) policies,

at their discretion to facilitate the operation of the Company, the conduct of any competitions held by the Company, and the conduct of its Members and Registered Club Members.

4 Income and property

4.1 Application

The Company's income and property must be applied solely towards promoting the Company's Objects and the Company's income and property must not be applied for the profit or gain of its individual Members.

4.2 No distribution

Subject to rule 4.3, no part of the Company's income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, fee or otherwise, to any of the Members or Directors.

4.3 Exception

Rule 4.2 does not prohibit making a payment approved by the Board:

- (a) subject to rule 4.4(b), to a Director in respect of Director Remuneration;

- (b) for out-of-pocket expenses incurred by a Director in performing a duty as a Director of the Company;
- (c) for a service rendered to the Company by a Director in a professional or technical capacity, other than in the capacity as a Director of the Company, where:
 - (1) the provision of the service has the prior approval of the Board; and
 - (2) the amount payable is not more than an amount which commercially would be reasonable payment for the service;
- (d) in good faith to any Member for goods supplied in the ordinary and usual course of business;
- (e) for interest on money borrowed from a Member at a rate not exceeding the lowest rate then being paid by the Company's bank on 30 day term deposits;
- (f) of reasonable and proper rent for premises let by any Member to the Company;
- (g) of salary or wages to any Member who is also an employee of the Company;
- (h) to financially assist any Member who, without the financial assistance, may become bankrupt, insolvent or be required to make any arrangements or composition with its creditors to the detriment of the Objects;
- (i) for the indemnification of, or payment of premiums on contracts of insurance for, any Director to the extent permitted by law and this Constitution; or
- (j) to otherwise advance the Objects.

4.4 Director Salary

- (a) Subject to rule 4.4(b), the Board may determine the Director Remuneration of each Director.
- (b) The Company may by resolution, set a maximum amount payable by the Company in respect of Director Remuneration.

5 Liability of Members

5.1 Liability of Members limited

The liability of the Members is limited.

5.2 Member undertaking

Every Member of the Company undertakes to contribute to the assets of the Company if it is wound up during the time the Member is a Member or within one year afterwards for:

- (a) payment of the debts and liabilities of the Company contracted before the time at which the Member ceases to be a Member;
- (b) the costs, charges and expenses of winding up; and
- (c) the adjustment of the rights of the contributories among themselves,

such amount as may be required but not exceeding \$1 per Member.

6 Winding Up

6.1 Winding up or dissolution

If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever the same must not be paid to or distributed among the Members but must be given or transferred to a fund, authority or institution:

- (a) having objects similar to the Objects of the Company;
- (b) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as outlined in rule 4; and
- (c) which operates in Australia.

7 Effect of, and altering, this Constitution

7.1 Contract effect

This Constitution will have effect as a contract:

- (a) between the Company and each Member;
- (b) between the Company and each Director; and
- (c) between a Member and each other Member,

pursuant to which each Member agrees to accept the provisions of this Constitution, and comply with those provisions, so far as they apply to that Member.

7.2 Altering the Constitution

Notwithstanding any provisions contained in the Corporations Act, no amendment will be made to this Constitution unless such amendment is first approved by Special Resolution of the Members.

8 Membership

8.1 Deeming provisions

All persons or entities who were Members of the Company immediately prior to the time of approval of this Constitution under the Corporations Act, will be deemed Members from the time of approval of this Constitution under the Corporations Act, and will be entitled to all benefits conferred on them by the Company, whether directly or indirectly.

8.2 Members

- (a) The Members of the Company will consist of Member Clubs, who are entitled to vote at General Meetings pursuant to rules 11.1 and 12.12.
- (b) An individual may not be a Member.

8.3 Creation of new categories of membership

- (a) Subject to rule 8.4, the Directors may at any time:
 - (1) establish a new class of membership of the Company;
 - (2) determine any restrictions on the number of Members within each class or category;
 - (3) determine the qualifications and eligibility criteria for admission in each class or category; and
 - (4) determine the rights, obligations and privileges of Members within each class or category.

8.4 Variation of Rights

- (a) Subject to the Corporations Act and the terms of a particular class of Members, the Board may vary or cancel the rights of Members of a particular class, or convert a Member from one class to another, by Special Resolution of the Company and a Special Resolution passed at a meeting of the Members included in the affected class.
- (b) The Company must give a notice in writing of the variation or cancellation to Members of the class affected within 7 days after the variation or cancellation.

8.5 Applications for membership

- (a) The Directors may from time to time fix a fee (if any) payable by applicants on application for membership of the Company.
- (b) An application for membership must be:
 - (1) in the form prescribed by the Directors from time to time;
 - (2) accompanied by such documents or evidence as to eligibility as the Directors determine from time to time; and
 - (3) accompanied by the fee (if any) determined by the Directors in accordance with rule 8.5(a).
- (c) The Board may, in its absolute discretion, admit or reject any application for membership. If the applicant is not admitted to membership in due course, all monies paid by that applicant to the Company must be returned in full.
- (d) If the Board rejects an application for membership, the Secretary must, as soon as practicable, notify the applicant in writing that the application has been rejected.
- (e) If the Board approves an application for membership, the Secretary must, as soon as practicable, notify the applicant in writing of the approval.

8.6 Fees

- (a) Members may be required to pay fees as determined by the Directors from time to time.
- (b) Subject to rule 8.6(c), the amount of any fees will be fixed by the Directors and will be payable by Members at such times and in such manner as determined by the Directors from time to time.
- (c) The Directors may in their discretion:
 - (1) determine that no fee is payable by a Member or Members (in whole or in part) for any given year; and
 - (2) extend the time for payment of fees by any Member or class of Members.
- (d) No part of any fee will be refunded to a Member who ceases to be a Member in accordance with rule 9.

9 Discontinuance of membership

9.1 When membership ceases

A Member will cease to be a Member if:

- (a) the Member ceases to satisfy all requirements for their respective category of membership;
- (b) the Membership of any Member is terminated by the Board in accordance with rule 9.3;
- (c) a liquidator is appointed in connection with the winding up of the Member;
- (d) if a receiver, receiver and manager, official manager, trustee, administrator, other controller or similar official is appointed, or steps are taken for such appointment over the assets of the Member;
- (e) if an order is made by a Court for the winding up or deregistration of the Member; or
- (f) the Member becomes bankrupt or insolvent or makes any arrangements or composition with his or her creditors,

unless otherwise approved by the Board.

9.2 Withdrawal of Members

Any Member may withdraw from membership of the Company by giving at least one month's notice to the Company.

9.3 Termination of membership

The membership of any Member may be terminated by the Board if the Member:

- (a) fails to comply with its obligations under the Constitution;
- (b) fails to comply with the terms of its membership;
- (c) brings the Company into disrepute; or
- (d) fails to comply with any undertaking given by that Member on its admission to membership,

however the relevant Member must be given at least fourteen days notice of what is alleged against that Member and the Member must be afforded an opportunity of being heard by the Board in relation to the matter.

9.4 Effect of termination

A Member whose membership ceases:

- (a) must pay all monies then due and payable by it to the Company; and
- (b) does not have any claim against the Company or the Directors for damages or otherwise and releases the Company and Directors from any such claim.

10 Register of Members

10.1 Register

- (a) The Company will maintain a register of Members as required by the Corporations Act.
- (b) Each Member must notify the Company of any change in their contact details within fourteen days after the change.

11 Member Club Representatives

11.1 Appointment of Member Club Representatives

- (a) Each Member Club must appoint Member Club Representatives in accordance with the following table.

Number of Registered Athletes and Registered Officials of the Member Club	Number of Member Club Representatives
<51	1
51 to 150	2
151 to 250	3
> 250	4

- (b) For the purposes of rule 11.1(a), the number of Registered Athletes and Registered Officials of a Member Club is determined at the end of each financial year of the Company and remains fixed until the end of the following financial year.
- (c) Each Member Club Representative must be a Registered Club Member.
- (d) Each Member Club warrants that each Member Club Representative is empowered by the appointing Member Club to consider, make decisions and vote at General Meetings.

11.2 Term of delegations

- (a) Member Club Representatives may be appointed for such term as is deemed appropriate by the relevant Member Club.
- (b) Each Member Club must notify the Company of the appointment of each Member Club Representative appointed by the Member Club.
- (c) The term of each Member Club Representative continues until a replacement Member Club Representative is appointed by the Member Club and the Member Club notifies the Company in writing of the appointment of the replacement Member Club Representative.

12 General meetings**12.1 Annual General Meeting**

Annual General Meetings of the Company are to be held in accordance with the Corporations Act.

12.2 Business of annual General Meetings

The business of the annual General Meeting is to receive and consider the financial report, the Directors' report and the Auditor's report, to appoint and fix the remuneration of the Auditors and any other business the Directors determine.

12.3 Extraordinary general meeting

An extraordinary General Meeting may be called:

- (a) by the Directors; or
- (b) otherwise in accordance with the Corporations Act.

12.4 Notice of general meeting

- (a) Subject to the provisions of the Corporations Act relating to special resolutions, at least 21 days Notice must be given of any general meeting.
- (b) Any Notice under rule 12.4(a) must specify:
 - (1) the place, the day and the hour of meeting; and
 - (2) the general nature of the business to be discussed at the General Meeting,

to such persons as are, under this Constitution, entitled to receive such Notices from the Company.

- (c) Any Notice under rule 12.4(a) must be given to:
 - (1) the secretary of each Voting Member;
 - (2) every Member Club Representative;
 - (3) each Director; and
 - (4) the Auditor.
- (d) The Members entitled to receive Notice of a particular meeting may agree to a shorter Notice period.

12.5 Entitlement to attend general meetings

No Member may be represented at, or take part in a General Meeting, unless all monies then due and payable to the Company by that Member (which have been due and payable for more than one month) are paid.

12.6 Proceedings at general meetings

- (a) The accidental omission to give Notice of a meeting to, or the non-receipt of Notice of a meeting by, any Member will not invalidate the proceedings at any meeting.
- (b) A person's attendance at a General Meeting waives any objection that the person may have to:
 - (1) a failure to give Notice, or the giving of a defective Notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
 - (2) the consideration of a particular matter at the meeting which is not within the business referred to in the Notice of the meeting, unless the person objects to considering the matter when it is presented.

12.7 Quorum

- (a) No business may be transacted at any General Meeting, except the election of a Chairperson and the adjournment of a meeting, unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) A quorum of Members is 10% of Voting Members.
- (c) If within ten minutes from the time appointed for the meeting a quorum is not present, the meeting:
 - (1) if convened upon the requisition of Members, must be dissolved; and

- (2) in any other case, it must stand adjourned to the same day in the next week, at the same time and place,

and if at the adjourned meeting a quorum is not present within ten minutes from the time appointed for the meeting, the Voting Members present will be a quorum.

12.8 Chairperson

If a General Meeting is held and:

- (a) a Chairperson has not been elected by the Board, or
- (b) the elected Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

then the Members present must elect a Director or, if a Director is not present, is unable or is unwilling to act, an Member Club Representative to preside as Chairperson of the meeting.

12.9 Adjourned meetings

- (a) The Chairperson may, with the consent of any meeting at which a quorum is present (and must if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) When a meeting is adjourned for ten days or more, Notice of the adjourned meeting must be given as in the case of an original meeting.
- (c) Except as otherwise required, it is not necessary to give any Notice of an adjournment or of the business to be transacted at an adjourned meeting.

12.10 Vote on show of hands

- (a) At any General Meeting a resolution put to the vote of the meeting must 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 at least two Member Club Representatives or the Chairperson.
- (b) Unless a poll is demanded, a declaration by the Chairperson 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 of the proceedings of the Company, will be conclusive evidence of the fact, without

proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

- (c) If a poll is duly demanded it must be taken in such manner as the Chairperson directs, and unless the meeting is adjourned the result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.
- (d) A poll demanded on the election of a Chairperson, or on a question of adjournment, must be taken forthwith. A poll demanded at a meeting on any other question will be taken at such time at that meeting as the Chairperson of the meeting directs.

12.11 Casting vote

In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands or the poll takes place, does not have a casting vote.

12.12 Voting rights

Subject to rule 12.5, each Member Club Representative is entitled to one vote at General Meetings.

12.13 Decisions at general meetings

Except as otherwise required by the Corporations Act, questions arising at a General Meeting must be decided by a majority of votes cast by the Voting Members present and voting at the meeting.

12.14 Participation at general meetings

The Company may hold a meeting of its Members at two or more venues using technology that gives Members as a whole a reasonable opportunity to participate.

12.15 Appointment of proxies

- (a) Each:
 - (1) Voting Member; and
 - (2) with the prior written approval of the relevant Member Club, Member Club Representative,

(as applicable) may appoint another person as proxy to attend in their place at a General Meeting.

- (b) A proxy appointed in accordance with 12.15(a) must be a Registered Club Member.
- (c) A proxy is entitled to vote on a show of hands.

- (d) A proxy may vote on behalf of no more than 10 Voting Members or Member Club Representatives (as applicable).

12.16 Instrument appointing a proxy

An instrument appointing a proxy:

- (a) must be in writing under the hand of the appointor or the appointor's attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or duly authorised attorney;
- (b) may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument appointing a proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument; and
- (c) subject to the Corporations Act, must be in the form approved by the Directors.

12.17 Validity of instrument of appointment

An instrument appointing a proxy or representative must not be treated as valid unless:

- (a) an instrument appointing a proxy and, if the instrument is signed by the appointor's attorney, the power of attorney, or a certified copy of that power of attorney; and
- (b) in the case of a Member Club Representative, the written approval provided by the Member Club in accordance with rule 12.15,

is completed and received by the Company at any time before the commencement of a meeting or an adjourned meeting at which the proxy proposes to vote.

12.18 Validity of vote not affected

- (a) A vote given in accordance with the terms of an instrument appointing a proxy, an instrument appointing a corporate representative, a power of attorney or other relevant instrument of appointment is valid despite:
 - (1) the previous death or unsoundness of mind of the appointor;
 - (2) the revocation of the instrument (or of the authority under which the instrument was executed) or of the power; or

- (3) the transfer of the share in respect of which the instrument or power is given,

if no notice in writing of the death, unsoundness of mind, revocation or transfer has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

- (b) A proxy is not revoked by the appointor in respect of whom a proxy has been appointed attending and taking part in the meeting, unless the appointor actually votes at the meeting on the resolution for which the proxy is proposed to be used.

12.19 Incomplete proxy

- (a) An instrument appointing a proxy will not be invalid merely because it does not contain:

- (1) the address of the appointor or of the proxy;
- (2) the proxy's name or the name of the office held by the proxy; or
- (3) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.

- (b) Where the instrument does not specify the name of a proxy, the instrument will be taken to be given in favour of the Chairperson of the meeting.

13 Directors' powers, dealings and delegates

13.1 Business of the Company

The business of the Company will be managed by the Directors, who may exercise all such powers of the Company as are not required by the Corporations Act, this Constitution or By-Laws (if any) to be exercised by the Company in general meeting, but no regulation made in a General Meeting will invalidate any prior act of the Directors which would have been valid if that regulation had not been made.

13.2 Powers and duties of Directors

- (a) The Directors are responsible for managing the Company's business and affairs and may exercise to the exclusion of the Company in general meeting all the Company's powers which are not required, by the Corporations Act, this Constitution or By-Laws (if any), to be exercised by the Company in general meeting.

- (b) Without limiting rule 13.2(a), the Directors may exercise all the Company's powers to:
 - (1) borrow or otherwise raise money;
 - (2) charge any property or business of the Company; and
 - (3) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The Directors may decide how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the Company.

13.3 Delegation

- (a) The Directors may:
 - (1) appoint or employ a person to be an officer, agent or attorney of the Company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for the period and on the conditions they think fit;
 - (2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (3) subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.
- (b) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the Directors think fit.

13.4 Number of Directors

- (a) The Company must have at least 3 Directors.
- (b) The Company must have no more than 12 Directors unless otherwise determined by the Company.

13.5 Filling a casual vacancy

- (a) Subject to the Corporations Act, the Directors may at any time appoint any person to be a Director either to fill a casual vacancy or as an addition to the existing Directors.
- (b) Any Director appointed under rule 13.5(a) holds office until the next annual General Meeting of the Company and is then eligible for re-election.

13.6 Appointment and removal of Directors

Subject to the Corporations Act, the Company may by resolution appoint and remove any Director.

13.7 Qualifications of Directors

Subject to rule 13.5:

- (a) with the exception of the Managing Director, a Director must be a Registered Club Member; and
- (b) all Directors must be at least 18 years of age.

13.8 Deeming provisions

The Directors who hold office at the date of adoption of this Constitution continue in office subject to this Constitution, and for the purposes of rule 13.9, their term of office will be determined by reference to their original date of appointment.

13.9 Term of directorships

With the exception of the Managing Director, all Directors will hold office for a term of 2 years.

13.10 Procedure for election of Directors

Board vacancies created by the expiry of the term of any Director will be filled by election at the annual General Meeting coinciding or preceding the term expiry according to the following procedure:

- (a) the Directors will call for nominations for office of Director in at least 6 weeks prior to the date of the annual General Meeting of the Board appointments to be made, and seeking nominations for those positions;
- (b) nominations for any position must be delivered to the Office not later than 12 noon on the seventeenth day prior to the date of the annual General Meeting;

- (c) every nomination must be signed by a proposer and seconder, both of which must be a Registered Club Member, and must be accompanied by the written consent of the nominee; and
- (d) if the number of nominations received at the closing date for nominations:
 - (1) is equal to the number of positions to be filled, those nominees will be declared elected by the Chairperson;
 - (2) is less than the number of positions to be filled, those nominees will be declared elected by the Chairperson, and remaining unfilled positions will be considered casual vacancies; and
 - (3) is greater than the number of positions to be filled, a secret ballot will be conducted at the meeting in accordance with the following:
 - (A) the meeting will elect from those present and, if possible, from non-Voting Members, two persons to act as tellers to count the votes and report to the chairperson the result of the ballot;
 - (B) each Voting Member or Member Club Representative (as applicable) will vote by deleting the names of those candidates for whom the Voting Member or Member Club Representative (as applicable) does not wish to vote, leaving only the exact number to be elected;
 - (C) the results of all elections will be determined, with the vacant positions being filled by the candidates receiving the greatest number of votes; and
 - (D) in the event of a tie for the last vacant position the names of those candidates so tying will be resubmitted to ballot for the position.

13.11 Board meetings

Board meetings may be held at such time and place as the Directors may from time to time determine.

13.12 Directors entitled to vote

Subject to rule 13.13(a), all Directors are entitled to vote at the meetings of the Board.

13.13 Interested Directors

- (a) A Director who has a material personal interest in a matter that is being considered at a Director's meeting must not:
 - (1) be counted in the quorum of Directors while the matter is being considered at the meeting;
 - (2) be present while the matter is being considered at the meeting; or
 - (3) vote on the matter,unless the Directors voting on the matter are satisfied that the interest should not so disqualify the Director.
- (b) If a Director gains a personal interest in a contract or arrangement which the Company has already entered into, the Director must declare that interest in accordance with rule 13.13(c).
- (c) A Director who is in any matter, whether directly or indirectly, interested in a matter in which the Company has an interest, or a proposed interest, must declare that interest at the first meeting of the Board after he or she becomes aware of the interest, by providing written notice which accurately states the nature and extent of the Director's interest, whether that interest is a relationship or association with a specified person, the holding of any office, or being a member, shareholder or partner of a specified firm, corporation or other entity, or the holding of any property or investment, whether directly or indirectly, which may create duties or interests in conflict with the duties or interests of that person as a Director of the Company.
- (d) A Director may not execute any document as a Director of the Company if that document relates to a contract or arrangement in which the Director has an interest and which required disclosure in accordance with this rule 13.13.

13.14 Chairperson and Deputy Chairperson

- (a) Each year the Board must select from the Directors a Chairperson for the ensuing year who will hold office for one year or until a successor is elected. The Chairperson must at the time of their election be a Director and if at any time they cease to be a Director they must vacate the office as Chairperson.
- (b) Any casual vacancy occurring in the office of Chairperson must be filled by election of the Board and the person so elected will hold office for the residue of the predecessor's term of office.

13.15 Director deemed to have vacated office

A Director will be deemed to have vacated the office of Director if the Director:

- (a) dies;
- (b) resigns office by notice in writing addressed to the Board;
- (c) becomes bankrupt or insolvent or makes any arrangements or composition with his or her creditors.
- (d) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
- (e) is absent from three consecutive meetings of the Board without leave of the Board;
- (f) becomes prohibited from being a director of a company by reason of any provision of the Corporations Act;
- (g) is directly or indirectly interested within the meaning of the Corporations Act in any contract with the Company or participated in any profits of any contract with the Company provided that a Director will not be deemed to have vacated office if the Director has declared the nature of the interest in the manner required by rule 13.13(c) and sections 192 and 193 of the Corporations Act and the Board is satisfied that the interest should not disqualify the Director; or
- (h) is removed by resolution of the Company in a general meeting.

13.16 Valid resolution

No act or resolution of the Board will be invalidated by reason of the existence of any vacancy or vacancies among the Board.

13.17 Appointment of alternate Directors

- (a) A Director may appoint any person approved for that purpose by a majority of the other Directors to act as an alternate Director in place of the appointor whenever the appointer is unable to act personally by reason of illness, absence or any other cause.
- (b) A Director may be an alternate Director in the appointor's place during such period as the appointor thinks fit.

13.18 Entitlement to notice and to vote

An alternate Director is entitled to Notice of meetings of the Directors and, if the appointor is not present at such meeting, is entitled to attend and vote in place of the appointor. Any vote of the alternate Director is in addition to any vote the alternate Director may have in that person's capacity as a Director.

13.19 Powers of alternate Director

An alternate Director may exercise any powers that the appointor may exercise and is subject to the duties of the appointor. An alternate Director is solely responsible for that alternate Director's own acts and defaults.

13.20 Alternate Director need not be Registered

An alternate Director need not be a Registered Club Member.

13.21 Termination of appointment

The appointment of an alternate Director may be terminated at any time by the appointor despite the period of the appointment of the alternate Director having not expired, and terminates in any event if the appointor vacates office as a Director.

13.22 Mode of appointment and termination

An appointment or the termination of any appointment of an alternate Director must be effected by notice in writing in a form acceptable to the Board, signed by the Director who makes or made the appointment and served on the Company at the Office.

14 Managing Director**14.1 Delegation of powers**

The Directors may at their discretion delegate to any Director who is an executive Director, such of their powers as they are not expressly prohibited from delegating for such time and subject to such conditions, and restrictions as they may think expedient, and either collaterally with or to the exclusion of the powers of the Directors in that behalf, and may at any time revoke or vary any of such delegated powers.

14.2 Managing Director not subject to retirement by rotation

The Managing Director will not be subject to retirement from the Board of Directors by rotation, nor will he or she be taken into account in determining the number of Directors to retire.

15 Board's power to discipline Members

15.1 Power of Board in respect of a Member's conduct

- (a) Board may censure, fine, suspend or expel any Member from the Company pursuant to a Board resolution if:
 - (1) a Member wilfully refuses or neglects to comply with the provisions of this Constitution or any By-Laws; or
 - (2) a Member is guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Company.
- (b) At least one week before the Board meeting at which a resolution under rule 15.1(a) is passed, the Company must provide the Member with:
 - (1) notice of the meeting;
 - (2) any allegations against them;
 - (3) the intended resolution; and
 - (4) advice that the Member may, at the meeting and before the passing of the resolution, have an opportunity to give, orally or in writing, any explanation of defence they think fit.
- (c) Any Member referred to in rule 15.1(a) may, by notice in writing lodged with the Secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered by the Directors, elect to have the question dealt with by the Company in general meeting.
- (d) If an election is made under rule 15.1(c):
 - (1) a general meeting must be convened and the resolution considered; and
 - (2) if the resolution is passed by a majority of two-thirds of those present and voting (such vote to be taken by poll), the Member concerned will be dealt with accordingly.

16 Secretary

16.1 Appointment of Secretary

- (a) The Board must appoint a Secretary and such other statutory officers as are required for such terms and upon such conditions as it thinks fit, and any officers so appointed by the Board may be removed by it. Nothing in this Constitution prevents the

Board from appointing a Registered Athlete or Registered Official as Secretary or other statutory officer.

- (b) All terms governing the appointment, remuneration, powers and duties of the Secretary will be determined from time to time by the Directors.
- (c) The Secretary should be absent from any meeting of the Directors during such time as any vote is taken concerning his or her remuneration or duties, and may be required (at the direction of the Chairperson of the meeting or by resolution of the meeting) to leave any meeting of the Directors during such time as their remuneration or duties are discussed.

16.2 Attendance at Board

Unless otherwise directed by the Board, the Secretary must attend all meetings of the Board established by the Board, and all general meetings of the Company, and must keep a record of the proceedings of those meetings.

16.3 Minutes

- (a) The Secretary must cause draft minutes of all meetings specified in rule 16.2 to be promptly circulated to all or, where appropriate, relevant Directors for their information.
- (b) In complying with rule 16.2 and 16.3, the Secretary may, with the consent of the Directors, delegate the role of drafting minutes of meetings to another person.
- (c) The Chairperson must sign-off on all records of Company meetings.

17 Proceedings of the Directors

17.1 Quorum

- (a) The Directors may meet together for the dispatch of business, adjourn or otherwise regulate their meetings and proceedings as they think fit.
- (b) A quorum of Directors is more than half the total number of Directors.
- (c) The effective, instantaneous and contemporaneous linking together by telephone, video conference facility or other electronic means of a sufficient number of the Directors to constitute a quorum constitutes a meeting of the Board.

- (d) A Director who takes part in a meeting by any of the means specified in rule 17.1(c) is taken to be present in person at the meeting.
- (e) If a failure in communications prevents 17.1(c) from being satisfied by that number of Directors which constitutes a quorum, then the meeting must be suspended until rule 17.1(c) is satisfied again. If rule 17.1(c) is not satisfied within 20 minutes from the time the meeting was interrupted, the meeting will be deemed to be terminated.

17.2 Notice of meeting

- (a) Notice of a meeting of the Board must be given to each Director other than a Director who is on a leave of absence approved by the Board.
- (b) A notice of Board meeting:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting; and
 - (3) may be given in person or by post, telephone, fax or other electronic means.
- (c) A Director may waive notice of a meeting of the Board by notifying the Company to that effect in person or by post, telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of the Board by, or a failure to give notice of a meeting of the Board to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the Director:
 - (A) waived or waives notice of that meeting under rule 17.2(c); or
 - (B) has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, telephone, fax or other electronic means; or
 - (3) the Director attended the meeting.

- (e) Attendance by a Director at a meeting of the Board waives any objection which that Director may have had arising from a failure to give notice to him or her of the meeting.

17.3 Chairperson

The Chairperson must take the chair at all meetings of the Board and if at any meeting the Chairperson is not present within ten minutes after the time appointed for holding the same the Directors present must choose one of their number to be Chairperson of the meeting.

17.4 Questions decided by majority

Questions arising at any meeting duly convened at which a quorum is present, will be decided by a majority of the votes of the Directors present and in the case of an equality of votes the Chairperson of the meeting will have a casting vote.

17.5 Special meeting

Upon the written requisition of any three Directors, the Chairperson or in their absence, the Secretary must convene a special meeting of the Board to be held within fourteen days after the receipt of the requisition. The written requisition must set forth the objects for which the meeting is required.

17.6 Authorities, powers and discretions

A meeting of the Board for the time being at which a quorum is present will be competent to exercise all or any of the authorities, powers and discretions by or under the rules of the Company for the time being vested in or exercisable by the Board generally.

17.7 Delegation

The Board may delegate any of its powers to committees consisting of such Directors as they think fit and may from time to time revoke such delegation. Any committee so formed must in the exercise of the powers so delegated conform to any rules that may from time to time be imposed upon it by the Board. The meetings and proceedings of any such committee consisting of two or more Directors will be governed by this Constitution regarding regulation of the meetings and proceedings of the Board so far as those are applicable and are not superseded by any rule made by the Board under this rule.

17.8 Acts stand despite defect in appointment

An act at a meeting of Directors or at a committee of Directors, or by any person acting as a Director will, even if there is a defect in the appointment of a Director or person acting (including that the Director or person acting is disqualified from acting), is valid as if that person had been duly appointed and was qualified to be a Director.

17.9 Resolution in writing

- (a) A resolution in writing signed by all the Directors will be as valid and effectual as if it had been passed at a duly called and constituted meeting of the Board.
- (b) Two or more separate documents in identical terms, each of which is assented to by one or more Directors, are taken as constituting one document.

17.10 Minutes

The Board will cause Minutes to be duly entered in books provided for the purpose of all resolutions and proceedings of the Company and of meetings of the Board and of committees and of all appointments of officers made by the Directors and such Minutes must be signed by the Chairperson of the meeting or of the next meeting and when signed will be evidence of the matters stated in such minutes unless and until proven to the contrary.

18 Seal**18.1 Common seal**

- (a) The Board may procure a common Seal for the Company and if adopted, must provide for the safe custody of any Seal.
- (b) Subject to rule 18.1(c) the Seal must not be used except:
 - (1) by the authority of the Board; and
 - (2) in the presence of one Director at least who must sign every instrument to which the Seal is affixed and every such instrument must be countersigned by one other Director or the Secretary or some other person appointed by the Board.
- (c) Nothing in this rule 18 in any way limits the ability of the Company to execute documents in accordance with the Corporations Act.

19 Authentication of deeds and documents**19.1 Authentication of deeds and documents**

- (a) All deeds executed on behalf of the Company may so far as they are within the powers and authorities of the Board be in such form and contain such powers, provisos, conditions, covenants, clauses and agreements as the Board thinks fit.

- (b) All bills of exchange, promissory notes or other negotiable instruments will be accepted, made, drawn or endorsed for and on behalf of the Company and all cheques or orders for payment must be signed on behalf of the Company by such persons as may be appointed by the Board.
- (c) Cheques or other negotiable instruments paid to the Company's bankers for collection and requiring the endorsement of the Company may be endorsed on its behalf in such manner as the Board may from time to time direct. All moneys belonging to the Company will be paid to such bankers or others as the Board will from time to time in writing or by resolution of the Board appoint and all receipts for money paid to the Company will be signed by such officers as the Board may appoint for that purpose and such receipt will be an effectual discharge for the money stated to be received.
- (d) All guarantees given at any time by the Company must be executed under the Seal of the Company or as otherwise permitted by the Corporations Act.

19.2 Document with common Seal binding on the Company

Any instrument issued for valuable consideration and executed in accordance with the Corporations Act will be binding on the Company despite any irregularity touching the authority of the Board to issue it.

20 Committees and panels

20.1 Formation

- (a) The Board may from time to time form committees and / or panels to carry out such duties and functions and to exercise such powers as the Board determines.
- (b) Committees and panels may consist of Registered Club Members or Directors of the Company and others who may be co-opted for the purpose to give advice.
- (c) The Board may disband a committee or panel as it sees fit.

20.2 Delegation of powers

- (a) The Board may at its discretion delegate to any committee or panel such of its powers as it is not expressly prohibited from delegating for such time and subject to such conditions and restrictions as it may think appropriate.
- (b) The Board may at any time revoke or vary any delegated powers given in accordance with rule 20.2(a).

20.3 Procedures for meetings

The procedures for any committee and panel meetings will, subject to any policies developed by the Board in respect of that particular committee and any necessary or incidental amendments, be the same as that applicable to meetings of the Board. The quorum for committee and panel meetings will be determined by the committee / panel, but will be no less than the majority of the total number of committee / panel members.

21 Accounts

21.1 Accounts to be kept

The Board must cause true accounts to be kept of the sums of money received and expended by the Company and the matters in respect of which such receipts and expenditure take place and of the assets and liabilities of the Company, and of all sales and purchases of goods and services by the Company.

21.2 Accounts

The accounts will be kept at the Office or at such other place or places as the Board thinks fit.

21.3 Balance sheet and income and expenditure account

A balance-sheet and an income and expenditure account must be made out once at least in every calendar year at intervals of not more than fifteen months or since the preceding account and tabled at an annual general meeting, made up to a date not earlier than the date of the meeting at which they are tabled by more than six months. The balance-sheet must be accompanied by a report to the Members upon the general state of the Company's affairs and such other reports as may be required by the Corporations Act.

21.4 Service of accounts

A copy of the income and expenditure accounts, balance-sheet and report must be served twenty-one clear days prior to the meeting at which they are tabled on every Director entitled to receive notices of general meetings in the manner in which notices are directed to be served.

21.5 Accounts and books open to inspection

- (a) The accounts of the Company must be open to the inspection of the members of the Board.
- (b) A Member who is not a Director is not entitled to inspect the accounts or records of the Company except:

- (1) as permitted or required by Law; or
- (2) authorised by the Directors.

21.6 Audit of accounts

- (a) Once at least in every year the accounts of the Company must be examined and the correctness of the balance-sheet and profit and loss statement ascertained by a registered company Auditor.
- (b) The Company is only obliged to comply with the minimum requirements (if any) imposed on the Company by the Corporations Act in relation to the preparation of financial reports and the reporting of the financial affairs of the Company.

21.7 Maintenance of records

The Company must retain its records for the period required by law.

22 Notices

22.1 Service of Notice

A Notice will be served by the Company upon any Member by:

- (a) sending it to the Member's fax or electronic address, if the Member has nominated one to the Company for receipt of Notices;
- (b) posting by pre-paid post to the Member's registered place of address shown in the register of Members; or
- (c) if the Member has not provided the Company with an address, displaying it at the Office.

22.2 Address outside Australia

Each such person whose registered place of address is not in the Commonwealth of Australia may from time to time notify in writing to the Company an address in the Commonwealth of Australia which will be deemed to be his or her registered place of address within the meaning of rule 22.1.

22.3 Deemed day of service

Any Notice will be deemed to have been served:

- (a) if personally delivered, at the time of delivery;

- (b) if faxed, when the Company receives a confirmation report that all pages of the fax have been transmitted to the Member's fax number, but if transmission or receipt is after 5.00pm or a day which is not a Business Day, it is taken as received on the next Business Day;
- (c) if sent by electronic means, on the next Business Day; and
- (d) if posted, on the first Business Day after the letter is sent. In providing such service it will be sufficient to prove that the letter was properly addressed and put into the post office. A certificate in writing signed by the Secretary or other officer of the Company that the letter, containing the Notice was so addressed and posted will be conclusive evidence.

22.4 Omission of Notice

The accidental omission to give Notice of a meeting to, or the non-receipt of Notice of a meeting by, any Member will not invalidate the proceedings at any time.

22.5 Death

Any Notice sent to a deceased person whether or not the Company has notice of the decease will be deemed to have been duly served.

22.6 Signature

The signature to any Notice to be given by the Company may be written or printed.

22.7 Day of service

Where a given number of days' Notice or Notice extending over any other period is required to be given the day of service will unless it is otherwise provided be counted in such number of days or other period.

23 Indemnity

23.1 Indemnity

- (a) This rule 23 applies to any person who is, or has been, a Director, Secretary or other officer of the Company.
- (b) The Company must indemnify to the fullest extent permitted by law the persons referred to in rule 23.1(a) (**Indemnified Persons**) against, and it will be the duty of the Directors out of the funds of the Company to pay all costs, losses and expenses including travelling expenses which any Indemnified Person may incur or become liable to by reason of any contract entered into or act or thing done by him or her in their capacity as an officer of the Company or in any way in the discharge of his or

her duties and all such persons will also be indemnified out of the funds of the Company against all liability incurred by them in defending any civil or criminal proceedings whether civil or criminal in which judgment is given in his or her favour or in which he or she is acquitted.

- (c) The indemnity granted is a continuing obligation and is enforceable by an Indemnified Person even though that person has ceased to be connected with, or hold a position in, the Company, but only operates to the extent that the cost, loss or liability is not covered by insurance.
- (d) The Company may, to the extent permitted by law:
 - (1) purchase and maintain insurance; or
 - (2) pay or agree to pay a premium for insurance,

for any Indemnified Person against any liability insured by the Indemnified Person as an officer of the Company including a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

- (e) Nothing in this rule 23:
 - (1) affects any other right or remedy that an Indemnified Person may have in respect of any cost, loss or liability referred to in this rule 23; or
 - (2) limits the capacity of the Company to indemnify or provide insurance for any Indemnified Person.

24 Confidentiality

24.1 All communications confidential

All communications, correspondence, reports, minutes and other papers and documents relating to any of the affairs or business of the Company (**Company Information**) are confidential.

24.2 Maintain confidentiality

All Directors and Members must maintain the confidentiality of Company Information and must not disclose any Company Information to any person except:

- (a) with the prior written consent of the Board;
- (b) with the prior written consent of the Managing Director or the chief executive officer of the Company;

- (c) to the Board, the Company's employees and the professional advisors of the Company;
- (d) if applicable, as required by law, after first consulting the Board about the form and content of the disclosure; and
- (e) to Athletics Australia, but only to the extent those disclosures are required by policies agreed between the Company and Athletics Australia from time to time.

25 Application of the Corporations Act

25.1 Special meanings in the Corporations Act apply

An expression used in a particular part or division of the Corporations Act that is given by that part or division a special meaning for the purposes of that part or division has, in any part of this Constitution that deals with a matter dealt with by that part or division, the same meaning as in that part or division, unless the contrary intention appears in this Constitution.

25.2 Replaceable rules displaced

Subject to Part 2B.4 of the Corporations Act, the replaceable rules do not apply to the Company.