



**NEW ZEALAND
MASTERS SWIMMING**

CONSTITUTION

OF

NEW ZEALAND MASTERS
SWIMMING INCORPORATED
(NZMS)

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Constitution of New Zealand Masters Swimming Incorporated

OPERATIVE PROVISIONS

1 Creation of the Society and adoption of this constitution

- 1.1 1.1 The Society is constituted by resolution passed at a Special General Meeting held on _____ for that purpose and the Society hereby adopts this constitution as its constitution.

2 Definitions

2.1 In this constitution:

- (a) **Act** means the Incorporated Societies Act 2022 or its successors and any regulations made under those statutes.
- (b) **Annual general meeting** means a meeting of the Members held once per year which will address the items detailed in clause 27 herein.
- (c) **Arm's-length terms** means terms between the Society and an officer or a member in relation to a transaction that:
 - (i) would be reasonable in the circumstances if the parties were connected or related only by the transaction in question, each acting independently, and each acting in its own best interests; or
 - (ii) are less favourable to the officer or member than the terms referred to in clause 2.1(c)(i); and
 - (iii) do not include providing the officer or member any share of a gain, profit, or surplus, percentage of revenue, or other reward in connection with any gain, profit, surplus, or revenue of the Society.
- (d) **Chairperson** means the person who chairs each meeting of the Society being the President, or in the President's absence, the Vice-President, or in the absence of both of them, by another officer elected for the purpose at any meeting, and any such chairperson has a deliberative and casting vote.
- (e) **Committee** means the officers of the Society acting as a board in accordance with this constitution.
- (f) **Financial year** means the calendar year ending on 31 December each year.
- (g) **General meeting** means either an annual general meeting or a special general meeting, as the case may be.
- (h) **Interests Register** means the register of officer interests maintained by the Committee pursuant to clause 18.1 of this constitution.

- (i) **Member** means an individual or entity that has become a member of the Society, paid any subscriptions due and whose membership has not been terminated in accordance with this constitution.
- (j) **New Zealand Masters Swimming club** means a swimming club in New Zealand that is affiliated with the Society. A list of affiliated New Zealand Masters Swimming clubs is published on the Society's website from time to time.
- (k) **Notice** means any notice sent by post, courier or email to the most recent physical, postal or email address of the intended recipient that is known to the sender of the notice or, in the case of notices to the Society, to the Society's registered office.
- (l) **Objects** means the objects of the Society provided for in clause 4 of this constitution.
- (m) **Officer** means an officer of the Society appointed pursuant to clause 13 of this constitution.
- (n) **President** means the individual appointed as the Society's President pursuant to clause 13.2 whose duties include those provided for in clause 13.
- (o) **Secretary** means the individual appointed as the Society's Secretary pursuant to clause 13.2 whose duties include those provided for in clause 15.
- (p) **Society** means the incorporated society with the name specified in clause 3.1 and governed by this constitution.
- (q) **Special general meeting** has the meaning given in clause 26.2.
- (r) **Treasurer** means the individual appointed as the Society's Treasurer pursuant to clause 13.2 whose duties include those provided for in clause 16.
- (s) **Vice-President** means the individual appointed as the Society's Vice-President pursuant to clause 13.2 whose duties include those provided for in clause 14.

3 Name

3.1 The name of the Society is New Zealand Masters Swimming Incorporated.

4 Objects

4.1 Subject to clause 4.2, the objects of the Society are:

- (a) to foster, develop and otherwise promote adult swimming as a means of health, recreation, fitness, community, inclusion and competition in New Zealand.
- (b) Developing, implementing and enforcing nationally consistent rules for competition.
- (c) Together with New Zealand Masters Swimming clubs:
 - (i) To further the purposes of the Society;

- (ii) to prescribe standard rules for Clubs;
 - (iii) to coordinate, support, encourage and enable swimming activities including training for competition and for social purposes at a local, national and international level in a safe, inclusive and professional environment.
- (d) Maintaining a New Zealand national records database and publishing results of national and international swimming meets.

4.2 Notwithstanding clause 4.1, no member of the Society may derive any personal pecuniary gain from membership of the Society.

5 Powers

5.1 Except as restricted by this constitution, the Society has full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter any transaction required to further or promote the Objects including, without limitation, to:

- (a) make regulations or bylaws to advance the attainment of any of the Objects;
- (b) do any act or thing incidental or conducive to the attainment of the Objects;
- (c) use such of its funds to pay the costs and expenses of furthering or carrying out the Objects;
- (d) employ one or more individuals on such terms approved by the Committee (subject to clause 5.4);
- (e) purchase, lease, hire or otherwise acquire, exchange and sell, lease or otherwise dispose of property, rights or privileges; and
- (f) invest in any investment in which a trustee might invest (subject to Trusts Act 2019, s 30).

5.2 Notwithstanding clause 5.1, the Society cannot:

- (a) Do anything that would be in contravention or inconsistent with the Act; or
- (b) borrow or raise money (or provide any security to borrow or raise money) unless the incurring of the debt is approved by an ordinary resolution at a general meeting.

5.3 Regardless of any other provision in this constitution, the Society must not do anything:

- (a) other than to further the Objects; or
- (b) for the personal or individual financial gain of any member (except as provided for in clause 5.4).

5.4 The Society may provide financial benefits to a member or officer, or any associated person but only on arm's-length terms and any payments made in respect of such transactions must be limited to:

- (a) a fair and reasonable reward for services performed;

- (b) reimbursement of expenses properly incurred;
- (c) usual professional, business or trade charges; and/or
- (d) interest at no more than current commercial rates.

6 Relationship with other Societies or Entities

- 6.1 The Society may be a member of any other society or entity to further the objects of the Society, including but not limited to World Aquatics.
- 6.2 If the Society is a member of any other society (Other Society), the Society must at all times be autonomous of the Other Society and of other societies and persons who are also members of that Other Society. Notwithstanding this provision, the Society shall conform to and abide by the rules and regulations of the Other Society (including but not limited to World Aquatics) insofar as they do not conflict with anything in this Constitution. In the event of a conflict between this Constitution and the rules and regulations or constitution of the Other Society, this Constitution shall take precedence.
- 6.3 If the Society is a member of any Other Society, the Society must elect at its Annual General Meeting delegates (Delegates) who will have the right to attend and speak at any Annual or Special General Meeting of that Other Society and to exercise any votes available to the Society as a member. If any Delegate so elected is unable to attend any Annual or Special General Meeting of the Other Society, the Committee may appoint another person in place of that Delegate.

7 Membership

- 7.1 The Society shall maintain the minimum number of Members required by the Act, which at the date of this constitution, is a minimum of 10 members.
- 7.2 The classes of membership and the method by which members are admitted to different classes of membership are:
 - (a) Individual member: An **Individual Member** is an individual admitted to membership under clause 8 and who or which has not ceased to be a member under any other clause.
 - (b) Life member: A **Life Member** is a person honoured for highly valued or meritorious services to the Society after recommendation by the Committee and election as a life member by resolution of a general meeting passed by a simple majority of those present and voting. A Life Member has all the rights and privileges of an Individual Member and is subject to all the duties of an Individual Member except those of paying subscriptions and levies. To qualify as a Life Member the Member must have accrued a minimum term of 8 years as a Member of the Society.
 - (c) Honorary member: An **Honorary Member** is a person honoured for services to the Society or an associated field elected as an Honorary Member by resolution of a general meeting passed by a simple majority of those present and voting. Notwithstanding any other provision in this constitution, an Honorary Member has no membership rights, privileges or duties.

- 7.3 Every member must advise the Secretary of the member's contact details (and advise as soon as practicable if they need updated), of which include the details contained in clause 7.4.
- 7.4 The Secretary must keep a register of members recording:
- (a) the name of each member;
 - (b) each member's class of membership;
 - (c) the last known contact details of each member;
 - (d) the New Zealand Masters Swimming club they are affiliated to;
 - (e) the date on which each person became a member; and
 - (f) all other information prescribed by the Act (if any).
- 7.5 The Secretary must:
- (a) Retain the signed application form of each Member in the Society's membership register; and
 - (b) update its register of members as soon as practicable after becoming aware of changes to the information recorded on the register.
- 7.6 All members (including members of the Committee) must promote the interests and the objects of the Society and must do nothing to bring the Society into disrepute.
- 7.7 A Member is entitled to exercise the rights of membership, including but not limited to, attending and voting at General meetings, accessing or using the Society's premises, facilities, equipment and other property, and participating in Society activities only on the basis that all subscriptions and levies have been paid to the Society by their respective due dates pursuant to clause 10.
- 7.8 No member is liable for any obligations or debts of the Society by reason only of being a member.
- 7.9 Copies of this constitution must be provided to any member on request.

8 Admission of members

- 8.1 Applicants for membership as Individual Members must complete any application form provided by the Committee and supply such information as may be required by the Committee.

Individual Members

- 8.2 Applicants for Individual membership will be eligible to apply upon confirmation:
- (a) That the applicant is aged 18 years or older (note, World Aquatics rules set a minimum competing age of 25 years or older so applicants/members between the ages of 18 and 24 will be eligible to be a member of the Society but not

eligible to compete in World Aquatics competitions until they attain 25 years of age); and

- (b) that the applicant has joined a New Zealand Masters Swimming club;
- (c) In the event there is no New Zealand Masters Swimming club within 150 kilometres of the applicant's principal place of residence, the applicant may still apply, and acceptance of their membership shall be at the sole discretion of the Committee.

8.3 Membership application forms must provide a mechanism for the applicant for membership to confirm their consent to become a member of the Society, which will include:

- (a) the applicant signing the form to become a member and returning the application form; and
- (b) payment of the annual subscription and levies pursuant to clause 10.

8.4 Membership applications must be approved by the Committee who may interview an applicant Individual Member.

8.5 The Committee has sole discretion whether or not to admit a membership applicant to membership and must advise the applicant of its decision within a reasonable time of the application being provided to the Secretary.

9 Affiliated Clubs

9.1 A New Zealand Masters Swimming club may affiliate with New Zealand Masters Swimming Incorporated on the basis it has five (5) or more members of the Society who have paid their subscriptions and levies in accordance with clause 10.

9.2 A New Zealand Masters Swimming club may use the name "Masters Swimmers" in association with their club title.

9.3 New Zealand Masters Swimming clubs must elect a secretary to carry out the secretarial duties contained in clause 15 for the Club.

9.4 New Zealand Masters Swimming clubs must at all times comply with:

- (a) this Constitution of the Society;
- (b) the Rules and Regulations of the Society;
- (c) Section 9 of the New Zealand Masters Swimming Procedure Manual containing the New Zealand Administrative Rules;
- (d) World Aquatics Masters Rules and World Aquatics Open Water Swimming Rules;
- (e) All rulings, decisions and minutes made by the Committee of the Society on matters of importance regarding the Society.

- 9.5 New Zealand Masters Swimming clubs must supply to the Committee as and when requested all membership and other information as may be required from time to time by the Committee.
- 9.6 Subject to any directions from the Society, New Zealand Masters Swimming clubs are responsible for promoting the objects of the National Society within the area covered by the particular New Zealand Masters Swimming club.
- 9.7 Subject to any directions from the Committee or unless otherwise resolved by the Committee in writing, New Zealand Masters Swimming clubs are responsible for the management of its own affairs including meeting its own debts and other liabilities and will not incur any debts or liabilities on behalf of the Society without prior approval of the Committee.

10 Subscriptions and levies

- 10.1 The annual subscription payable for different classes of membership for the following financial year must be set by resolution at each annual general meeting.
- 10.2 If no resolution changing subscription amounts is passed at an annual general meeting, the subscription amounts in place at the commencement of that annual general meeting will continue to apply.
- 10.3 The Committee may by resolution impose a levy or levies on members in different classes of membership in any financial year up to a maximum totalling 50 per cent of the annual subscription for that year for each class of member.
- 10.4 Any member failing to pay the annual subscription (or any instalment acceptable to the Committee) or any levy within one calendar month of the due date will have their membership suspended and (without being released from the obligation of payment) will have no membership rights and will not be entitled to participate in any Society activity or to access or use the Society's premises, facilities, equipment and other property until all the arrears are paid. If such arrears are not paid within six months of the date the subscription or levy became due or such later date as the Committee may determine, the member's membership will end and the member must cease to hold themselves out as a member of the Society, and must return to the Society all equipment and material produced by the Society (including any membership certificate, badges, handbooks and manuals) requested by the Committee.

11 Cessation of membership

- 11.1 Any member may resign from that member's class of membership by notice to the Secretary and the following terms will then apply:
- (a) the resignation will take effect from the date of the resignation notice;
 - (b) the member resigning remains liable to pay all subscriptions, levies and any other fees to the end of that financial year;
 - (c) the resigning member must cease to hold themselves out as a member of the Society and must return to the Society all equipment and material produced by

the Society (including any membership certificate, badges, handbooks and manuals) requested by the Committee, from the date of their resignation.

- 11.2 The Committee may give a member notice terminating that member's membership if that member:
- (a) ceases to be qualified to be a member (i.e. a member is no longer a member of a New Zealand Masters Swimming club (unless that member was permitted membership by virtue of clause 8(2)(c)); or
 - (b) is convicted of a category 3 or 4 offence under the Criminal Procedure Act 2011 or an offence for which a convicted person may be imprisoned;
 - (c) is adjudged bankrupt, makes a composition with creditors, or (if a body corporate) is wound up or placed in receivership or liquidation;
 - (d) has done any act or thing that, in the Committee's opinion, has brought the Society into disrepute and/or has been terminated following a dispute resolution process pursuant to clause 25;
 - (e) is removed as a member pursuant to the provisions of this constitution.

11.3 When a member's membership is terminated under clause 11.2:

- (a) the termination will take effect from the date specified in the termination notice;
- (b) the member remains liable to pay all subscriptions, levies and any other fees to the end of that financial year; and
- (c) the member must cease to hold themselves out as a member of the Society and must return to the Society all equipment and material produced by the Society (including any membership certificate, badges, handbooks and manuals) requested by the Committee from the date of the termination notice.

12 Re-admission of former members

12.1 Any former member may apply for re-admission in the manner prescribed for new applicants and may be re-admitted by decision of the Committee.

12.2 However, if a former member's membership was terminated under clause 11.2 the applicant must not be re-admitted by the Committee without the prior approval of a general meeting.

13 The Committee

13.1 The Committee has all the powers necessary for managing, directing and supervising the management, operation and affairs of the Society, subject to the terms of this constitution.

13.2 The Committee must consist of the following officers:

- (a) President;
- (b) Vice-President;

- (c) Secretary/Treasurer (referred to interchangeably as the “Executive Director” and/or “Secretary” and/or “Treasurer”); and

13.3 The Committee may consist of up to seven (7) other officers who may include:

- (a) National recorder;
- (b) Communications officer;
- (c) Website and social media officer;
- (d) IT officer;
- (e) Swim officer;
- (f) Para Officer;
- (g) Trophy Officer.

13.4 The officers must be elected annually as follows:

- (a) nominations for appointment as an officer, accompanied by the evidence of consent of each nominee, must be received by the Secretary not less than 21 clear days before the date of the annual general meeting;
- (b) within a reasonable timeframe before the date of the annual general meeting, the Secretary must post or email to all members a voting paper listing all officer nominees and such information (not exceeding 500 words) as may be supplied to the Secretary by or on behalf of each nominee in support of their nomination;
- (c) if there are insufficient valid nominations received under clauses 13.2 and 13.3 above, but not otherwise, further nominations and consent by any nominees may be received from the floor at the annual general meeting;
- (d) votes must be cast in such manner as the chairperson of the annual general meeting determines;
- (e) two members (who are not nominees) designated by the chairperson of the annual general meeting must act as scrutineers for the counting of the votes and destruction of any voting papers; and
- (f) in the event of any vote being tied the tie must be resolved by the other members of the incoming Committee.

- 13.5 To qualify for appointment as an officer, a nominee must satisfy the qualifications for appointment as an officer of a Society in the Act.
- 13.6 All officers must be members of the Society or representatives of an affiliate New Zealand Masters Swimming club of the Society except the Secretary and the Treasurer.
- 13.7 The Secretary and the Treasurer do not need to be members and may be the same person.
- 13.8 The Committee must include at least three officers and the majority of the Committee must be either members of the Society or representatives of a New Zealand Masters Swimming club.
- 13.9 If, between annual general meetings, a vacancy arises in the position of President, Vice-President, Secretary or Treasurer or if the Committee fails to meet the requirements of clause 13.2 that vacancy or those vacancies must be filled by the Committee.
- 13.10 The officers appointed at each annual general meeting (or appointed subsequently pursuant to clause 13.9):
- (a) will hold office for two (2) years after their appointment; but
 - (b) they may seek re-appointment at the annual general meeting that is two (2) years from their first appointment or previous appointed; provided that
 - (c) no officer may serve more than four (4) consecutive terms as an officer.
- 13.11 Subject to clause 5.4, officers may be paid such remuneration or honorarium as the Committee may from time to time determine.
- 13.12 Any officer may be removed as an officer by a resolution of a general meeting of which prior notice was given in the notice of meeting and which is passed by a simple majority of those present and voting.

14 President and Vice-President

The Committee is responsible for generally overseeing and directing the affairs and business of the Society, under the leadership of the **President** (and, in the absence of the President, the **Vice-President**).

15 Secretary

- 15.1 The Secretary must record the minutes of all general meetings and Committee meetings, and all such minutes when confirmed by the next such meeting and resolved by the Committee present at that meeting, will be prima facie evidence that

that meeting was duly called and will be deemed to be a true and correct record of what occurred at that meeting.

- 15.2 The Secretary must hold the Society's records, documents, and books.
- 15.3 The Secretary must deal with and answer correspondence and perform such other duties as directed by the Committee.
- 15.4 The Committee may in its discretion suspend or remove the Secretary from office.
- 15.5 The Secretary must keep a membership register of Members recording their names and contact details, the dates each member became a Member, the New Zealand Masters Swimming club they are a member of, and all other information required by the Act.
- 15.6 Unless an alternative "contact person" or "contact persons" are appointed by the Committee from time-to-time (for the purposes of the Act), the Secretary will be the Society's "contact person". Any contact person or persons appointed by the Committee must be over 18 years and ordinarily reside in New Zealand.
- 15.7 The contact person(s) must notify the Registrar of Incorporated Societies of the contact person(s) within 28 days of the appointment. The details to be provided shall include the contact person(s) physical address and/or email address and a telephone number.

16 Treasurer

- 16.1 The Treasurer must:
- (a) prepare or have prepared financial statements that comply with the Act;
 - (b) provide a true record of the Society's financial position and a report on the Society's financial position to each Committee meeting and present annual financial statements (meeting the requirements of the Act) to the Annual General Meeting together with a budget for the next financial year; and
 - (c) ensure that copies of the Society's financial statements are registered with the Registrar of Incorporated Societies within 6 months after the balance date of the Society.

17 Finances

- 17.1 The Committee must maintain bank accounts in the name of the Society, and all cheques and withdrawal forms must be signed and all electronic transactions must be approved by the Committee in writing (which may include by email) and signed by the

Treasurer (and in the event more than one signature is required, countersigned by another member of the Committee).

- 17.2 All money received on account of the Society must be banked within twenty (20) working days of receipt.
- 17.3 All accounts paid or for payment must be submitted to the Treasurer who must then present the accounts to the Committee for approval of payment.
- 17.4 The Society's financial year commences on 1 January of each year and ends on 31 December in each year.
- 17.5 The Committee at the annual general meeting each year may appoint an auditor to audit the annual accounts of the Society and provide a certificate of correctness. Any auditor must be a member of Chartered Accountants Australia and New Zealand and not a member of the Society, and if any such auditor is unable to act the Committee must appoint a replacement auditor.

18 Disclosure of officer interests

- 18.1 The Committee must maintain a register in which officer's interests are recorded.
- 18.2 An officer of the Committee or any sub-committee who is interested in a matter relating to the Society (as defined in s 62 of the Act) must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified):
 - (a) to the Committee; and
 - (b) in the Interests Register.
- 18.3 Disclosure under clause 18.2 must be made as soon as practicable after the officer becomes aware that they are interested in the matter.
- 18.4 An Officer or member of a sub-committee who is an Interested Member regarding a Matter—
 - (a) must not vote or take part in the decision of the Committee and/or sub-committee relating to the Matter unless all members of the Committee who are not interested in the Matter consent; and
 - (b) must not sign any document relating to the entry into a transaction or the initiation of the Matter unless all members of the Committee who are not interested in the Matter consent; but
 - (c) may take part in any discussion of the Committee and/or sub-committee relating to the Matter and be present at the time of the decision of the Committee and/or sub-committee (unless the Committee and/or sub-committee decides otherwise).

- 18.5 However, an Officer or member of a sub-committee who is prevented from voting on a matter may still be counted for the purpose of determining whether there is a quorum at any meeting at which the matter is considered.
- 18.6 Where a majority of officers are prevented from voting on a matter because they are interested in that matter, a Special General Meeting must be called to consider and determine the matter, unless all non-interested officers agree otherwise.
- 18.7 Where majority of the members of a sub-committee are prevented from voting on a matter because they are interested in that matter, the Committee shall consider and determine the matter.

19 Officer ceasing to hold office

- 19.1 A person ceases to be an officer if the person:
- (a) resigns in accordance with clause 19.2; or
 - (b) is removed from office in accordance with clause 13.12; or
 - (c) becomes disqualified from being an officer under s 47(3) of the Act; or
 - (d) dies; or
 - (e) otherwise vacates office in accordance with this constitution.
- 19.2 An officer may resign by giving notice of resignation to the Secretary and the President and the notice of resignation will take effect when it is received by the Secretary and the President or at any later time specified in the notice.
- 19.3 Each officer must, within one calendar month of submitting a resignation or ceasing to hold office, deliver to that officer's successor or the Secretary all books, papers and

other property of the Society possessed by such former officer requested by the Committee.

- 19.4 Despite vacating office as an officer, a person who has held office as an officer remains liable for acts and omissions and decisions made while that person was an officer.

20 Management by the Committee and subcommittees

- 20.1 From the end of each annual general meeting until the end of the next, the Society must be administered, managed and controlled by the Committee.
- 20.2 Subject to this constitution and the resolution of any general meeting, the Committee may exercise all the Society's powers, other than those required by statute or by this constitution to be exercised by the Society in general meeting.
- 20.3 The Committee must meet at such times and places and in such manner (including by telephone or video conference) as it may determine and otherwise where and as convened by the President or Secretary.
- 20.4 All Committee meetings must be chaired by the Chairperson.
- 20.5 The Committee may co-opt any person to the Committee for a specific purpose, or for a limited period, or generally until the next annual general meeting.
- 20.6 The quorum for Committee meetings is at least half the number of the officers.
- 20.7 Only officers elected or appointed under clause 13 who are present in person or by telephone or video link may be counted in the quorum and entitled to vote at a meeting of the Committee.
- 20.8 The Committee may appoint subcommittees consisting of such persons (whether or not members of the Society) and for such purposes as it thinks fit.
- 20.9 Unless otherwise resolved by the Committee:
- (a) the quorum of every subcommittee is half the members of the subcommittee;
 - (b) no subcommittee may co-opt additional members;
 - (c) no subcommittee may commit the Society to any financial expenditure without express authority from the Committee; and
 - (d) no subcommittee may delegate any of its powers.
- 20.10 The Committee and any subcommittee may act by:
- (a) a written resolution (which may be in physical or electronic form); or
 - (b) a resolution approved verbally in the course of a meeting, telephone conference call or video conference;

approved by a simple majority of the officers or members of the Committee or subcommittee (as the case may be).

20.11 The Committee from time to time may make and amend regulations, bylaws and policies for the conduct and control of Society's activities, but no such regulations, bylaws and policies can be inconsistent with this constitution or the Act.

20.12 This constitution, and such regulations, bylaws and policies, must be available at all reasonable times for inspection by members, and copies must be provided (at cost, if required by the Committee) to any member on request.

20.13 Other than as prescribed by the Act, this constitution or any bylaw, the Committee may regulate its proceedings as it thinks fit.

20.14 Members of the Committee and of subcommittees:

- (a) may receive such honoraria as may be set by resolution of a general meeting, subject to clause 5.4; and
- (b) are entitled to be reimbursed by the Society for any reasonable actual expenses incurred by them on behalf of the Society as approved by resolution of the Committee.

20.15 Subject to the Act, this constitution and the resolutions of general meetings, the decisions of the Committee on the interpretation of this constitution and all matters dealt with by the Committee in accordance with this constitution shall be final and binding on all members.

20.16 The Committee may employ any person or company to administer or manage the affairs of the Society.

21 Indemnity and insurance

21.1 The Society must indemnify each Officer, member, or employee of the Society for:

- (a) liability to any person other than the Society for any act or omission in their capacity as an Officer, a member, or an employee of the Society; or
- (b) costs incurred by the Officer, member, or employee in defending or settling any claim or proceeding relating to that liability;

provided that this indemnity will not apply to any:

- (c) criminal liability; or
- (d) liability that arises out of a failure to act in good faith and in what the Officer, member, or employee believed to be the best interests of the Society when acting in their capacity as an Officer, a member, or an employee of the Society.

21.2 The Society must also indemnify an Officer, member, or employee of the Society for any costs incurred by them in defending or settling a proceeding that relates to liability of a kind referred to in clause 21.1(c) and 21.1(d) if:

- (a) judgment is given in their favour or if they are acquitted; or
- (b) the proceeding is discontinued.

21.3 The Society may, with the prior approval of the Committee, effect insurance for an Officer, a member, or an employee of the society in respect of:

- (a) liability (other than criminal liability) for any act or omission in their capacity as an Officer, a member, or an employee of the Society (including any breach of duties under this constitution or the Act);
- (b) costs incurred by the Officer, member, or employee in defending or settling any claim or proceeding relating to that liability; and
- (c) costs incurred by the Officer, member, or employee in defending any criminal proceedings:
 - (i) that have been brought against the Officer, member, or employee in relation to any alleged act or omission in their capacity as an Officer, a member, or an employee; and
 - (ii) in which they are acquitted.

21.4 The Officers who vote in favour of authorising the insurance under clause 21.3 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the Society.

21.5 The Officer, member, or employee who is insured is personally liable to the Society for the cost of effecting insurance if:

- (a) the requirements of this constitution have not been complied with; or
- (b) reasonable grounds did not exist for the opinion set out in the certificate given under clause 21.4;

unless the insurance was fair to the Society at the time the insurance was effected.

22 Registered office

22.1 The registered office of the Society will be at such place as the Committee from time to time determines.

23 Execution of documents

23.1 A contract or other enforceable obligation may be entered into by the Society, when authorised by a resolution of the Committee, on the following basis:

- (a) an obligation that, if entered into by a natural person, would, by law, be required to be by deed may be entered into on behalf of the Society in writing signed under the name of the society by:

- (i) 2 or more officers of the society; or
 - (ii) 1 or more attorneys appointed by the Society under s 124 of the Act.
- (b) an obligation that, if entered into by a natural person, is, by law, required to be in writing may be entered into on behalf of the Society in writing by a person acting under the Society's express or implied authority.
- (c) an obligation that, if entered into by a natural person, is not, by law, required to be in writing may be entered into on behalf of the Society in writing or orally by a person acting under the Society's express or implied authority.

24 Amending the constitution

24.1 This constitution may be amended or replaced by resolution of any general meeting passed by a simple majority of members entitled to vote, provided that no amendment may be made which would alter:

- (a) the rules precluding members from obtaining any personal benefit from their membership.

24.2 Any proposed motion to amend or replace this constitution must be signed by at least half of the members entitled to vote and given in writing to the Secretary at least 30 clear days before the general meeting at which the motion is to be considered, accompanied by a written explanation of the reasons for the proposal.

24.3 At least 20 clear days before the general meeting at which any such proposal is to be considered, the Secretary must give notice (in accordance with this constitution) to members of the proposed motion, of the reasons for the proposal and of any recommendations from the Committee in respect of that notice.

24.4 Subject to clause 24.1, the Committee may amend this constitution if the amendment:

- (a) has no more than a minor effect; or
- (b) corrects errors or makes similar technical alterations.

24.5 An amendment made pursuant to clause 24.4 is only valid if the Committee sends notice of the amendment to every member of the Society stating:

- (a) the text of the amendment; and
- (b) the right of the member to object to the amendment; and

the Committee receives no objection from any member within 20 working days after the date on which the notice was sent.

25 Dispute Resolution

25.1 If any dispute arises between:

- (a) two or more members; or
- (b) two or more officers; or

(c) one or more members or officers and the Society; and

the dispute relates to an allegation that:

(d) a member or an officer has engaged in misconduct; or

(e) a member or an officer has breached, or is likely to breach, a duty under this constitution or the Act;

(f) the Society has breached, or is likely to breach, a duty under this constitution or the Act;

(g) a member's rights or interests as a member have been damaged or members' rights or interests generally have been damaged;

then any party involved with the dispute may make a complaint to the Committee and the procedures contained in sch 2 of the Act shall be deemed to be included in this constitution and shall apply to the resolution of the dispute.

25.2 The Committee shall be the decision maker responsible for resolving the dispute provided that:

(a) If the complaint relates to one or more officers, that officer or those officers must be excluded from the Committee's management of the dispute resolution process and decision making;

(b) If the complaint is made by one or more officers, that officer or those officers must be excluded from the Committee's management of the dispute resolution process and decision making; and

(c) If the Committee is unable to proceed because it will not have a quorum of officers to conduct the dispute resolution process as a consequence of clause 25.2(a) or 25.1(b), the Committee must appoint an individual who is not a member or an officer to manage the dispute resolution process and make a decision about the complaint.

After completing the dispute resolution processes provided for in clause 25.1, the Committee or the independent person appointed pursuant to clause 25.2(b), (the **decision maker**) may:

(d) Make a finding considered by the decision maker to be fair and consistent with the evidence provided by the dispute resolution process;

(e) In the case of a complaint against a member, suspend the member's membership for a defined period or terminate the member's membership; or

(f) In the case of a complaint against an officer, remove the officer from their role as an officer (and, if the officer is also a member, the penalties in clause 25.2(e) could also be applied).

26 General meetings

26.1 The Society's annual general meeting must be held:

(a) not later than 6 months after the end of the Society's financial year; and

(b) not later than 15 months after the previous annual general meeting.

provided that the Society does not have to hold its first annual general meeting in the calendar year of its incorporation but must hold that meeting within 18 months after its incorporation.

- 26.2 Special general meetings may be called by the Committee by resolution or by written requisition to the Secretary signed by not less than 5% of the Members. Any resolution or written requests must state the business that the Special general meeting is to address.
- 26.3 At least 28 clear days before any general or special general meeting, the Secretary shall send to all members notice of the business to be conducted at the meeting and details of the date, time and place of the meeting and/or whether it is to be conducted via electronic communication means. Notice will be sent to the last known contact details the Committee holds for each Member. No meeting will be invalidated because one or more members did not receive the notice of the general meeting.
- 26.4 Any irregularity in the manner of calling a general or special meeting is waived if all the members entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such members agree to the waiver but in any event the failure for any reason of any member to receive notice of a meeting does not invalidate the meeting or its proceedings.
- 26.5 General or special general meetings may be attended by all members of whatever class of membership, but only Individual, Club and Life Members whose subscription payments are up to date are entitled to vote. Each such member is entitled to exercise one (1) vote on any motion at a general or special meeting.
- 26.6 An Individual, Club or Life Member is entitled to vote by attendance in person, electronic means or by written proxy in favour of another member present at the meeting, but no other proxy voting is permitted.
- 26.7 The quorum for general or special general meetings is five (5) members entitled to vote pursuant to clause 7.7, present in person, by electronic means or by proxy.
- 26.8 If within 30 minutes of the notified meeting start time, a quorum is not present, the meeting shall be dissolved if convened upon request of any Members. In the event it was convened by the Committee, the Chairperson will adjourn the meeting to a day, time and place determined by the Chairperson and if a quorum is not present at said adjourned meeting, the Members present, by electronic means or by proxy will constitute a sufficient quorum.
- 26.9 All general and special general meetings must be chaired by the President or, in the President's absence, by the Vice-President or, in the absence of both of them, by some other officer elected for the purpose by the members at the meeting, and any such chairperson has a deliberative and casting vote.
- 26.10 Voting at general or special general meetings must be exercised as follows:
- (a) voting must be by voices, by show of hands or, on demand of the chairperson or of any member present, by secret ballot, and on each case each member entitled to vote is entitled to one vote;

- (b) unless otherwise required by this constitution, all questions must be determined by a simple majority of those present and entitled to vote;
- (c) to determine any issue already lawfully before a general meeting (including any election or amendment to this constitution) the meeting may resolve to hold a postal ballot in accordance with the following process:
 - (i) only members with voting rights may vote in any postal ballot;
 - (ii) the resolution to hold a postal ballot must set a closing date and time for ballots to be received by the Secretary, but the closing date must be no earlier than 10 working days after the date ballot papers are sent out to members (excluding the date of posting);
 - (iii) in respect of any motion to amend this constitution by postal ballot, the motion must be accompanied by reasons and recommendations from the Committee, and such motion must be passed by a two-thirds majority of those voting;
 - (iv) voting in a postal ballot may be by ballots returned to the Secretary by mail, delivery, email or other electronic means;
 - (v) the Secretary must declare the result of the postal ballot; and
 - (vi) the result of any postal ballot will be as effective and binding on members as a resolution passed at a general meeting.

26.11A resolution passed by the required majority at any general meeting or by postal ballot binds all members, irrespective of whether they were present at the general meeting where the resolution was adopted or whether they voted.

26.12 The Secretary must keep minutes of each general meeting. If the Secretary is not present at a general meeting, the President must appoint another officer to keep minutes of the meeting.

27 Annual general meeting

27.1 The notice (**Notice**) for an annual general meeting must include:

- (a) an annual report from the Committee reporting on the operations and affairs of the Society during the most recently completed accounting period;
- (b) a copy of the financial statements for the Society for that period;
- (c) notice of any disclosures made to the Interests Register since the immediately preceding annual general meeting (including a brief summary of the matters, or types of matters, to which those disclosures relate);
- (d) a list of and information about nominees for officer appointments;
- (e) a resolution for appointment of an auditor;
- (f) notice of proposed changes to subscriptions for members (if any);
- (g) notice of any motions and the Committee's recommendations; and

(h) the Committee's proposed budget for the next year.

27.2 The business of the annual general meeting is:

- (a) approving the minutes of the previous general meeting;
- (b) approving the Committee's annual report provided with the Notice;
- (c) approving the financial statements provided with the Notice;
- (d) election of officers;
- (e) voting on subscription amount changes for the next financial year (if any);
- (f) voting on any motions referred to in the Notice;
- (g) approving a budget for the next financial year; and
- (h) general business.

27.3 Any member wishing to give notice of any motion for consideration at the annual general meeting must forward written notice of the motion to the Secretary not less than 14 clear days before the date of the meeting. The Committee may consider all such notices of motion and provide recommendations to members in respect of those notices.

28 Written resolution in lieu of general meeting

28.1 A written resolution is as valid as if it had been passed at a general meeting if it is approved by no less than 75% of the number of members who are entitled to vote.

28.2 A written resolution may consist of one or more documents in similar form (including letters, electronic mail, or other similar means of communication) each approved by or on behalf of one or more of the members who are entitled to vote.

28.3 For the purposes of clause 28.2, a member may give their approval by:

- (a) signing the resolution; or
- (b) giving their approval to the resolution by email or any other electronic means approved by the Committee.

29 Winding up

29.1 The Society may be put into liquidation if the Society, at a general meeting of its members, passes a resolution appointing a liquidator and the resolution is confirmed at a subsequent general meeting called together for that purpose and held not earlier than 30 days after the date on which the resolution to be confirmed was passed.

29.2 The Society must be placed into liquidation (using the process specified in the previous clause) if the Society does not have the minimum number of members required to operate as a valid society under the Act in which case the resolution

required pursuant to clause 29.1 shall be deemed to be valid if signed by all of the remaining members.

29.3 If the Society is placed into liquidation, its surplus assets, after payment of all debts, costs and liabilities, must be disposed of to Swimming New Zealand or another organisation for a similar charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005.