



# **CONSTITUTION**

Date: 29 May 2022

**BIATHLON AUSTRALIA LIMITED**

**ACN 167 329 044**

## TABLE OF CONTENTS

1.	DEFINITIONS AND INTERPRETATIONS.....	6
1.1	Definitions.....	6
1.2	Interpretation.....	8
1.3	Corporations Act.....	9
2.	OBJECTS.....	9
3.	POWERS.....	11
4.	INCOME AND PROPERTY OF THE COMPANY .....	11
4.1	Sole Purpose .....	11
4.2	Payments to Members.....	11
5.	MEMBERSHIP.....	11
5.1	Categories of Members.....	11
5.2	Admission of Members.....	11
5.3	Discretion.....	12
5.4	Renewal.....	12
5.5	Member obligations.....	12
5.6	Member Rights and Effect of Membership.....	13
5.7	General.....	14
5.8	Limited Liability.....	15
6.	CESSATION OF MEMBERSHIP .....	15
6.1	Cessation.....	15
6.2	Resignation.....	15
7.	GRIEVANCES AND DISCIPLINE OF MEMBERS .....	15
7.1	Jurisdiction.....	15
7.2	Policies .....	15
8.	FEES AND SUBSCRIPTIONS.....	16
8.1	Membership Fee .....	16
8.2	Non-Payment of Fees.....	17
8.3	Deferral or reduction of subscriptions.....	17
9.	GENERAL MEETINGS.....	17
9.1	Annual General Meeting .....	17
9.2	Power to convene General Meeting .....	17
9.3	Notice of a General Meeting .....	18
9.4	No other business .....	18
9.5	Cancellation or postponement of General Meeting .....	18
9.6	Written notice of cancellation or postponement of General Meeting .....	18
9.7	Contents of a notice postponing a General Meeting.....	19

9.8	Number of clear days for postponement of General Meeting.....	19
9.9	Business at postponed General Meeting.....	19
9.10	Proxy at postponed General Meeting.....	19
9.11	Non-receipt of notice .....	19
9.12	Right to appoint a proxy.....	20
9.13	Form of proxy.....	20
9.14	Lodgement of proxy documents.....	20
9.15	Authority given by appointment.....	20
10.	PROCEEDINGS AT GENERAL MEETING .....	21
10.1	Number for a quorum .....	21
10.2	Requirement for a quorum.....	21
10.3	Quorum and time.....	21
10.4	Adjourned meeting .....	21
10.5	Chairperson to preside over General Meetings.....	21
10.6	Conduct of General Meetings .....	22
10.7	Adjournment of General Meeting .....	22
10.8	Notice of adjourned meeting.....	22
10.9	Questions decided by majority .....	23
10.10	Equality of votes.....	23
10.11	Declaration of results.....	23
10.12	Poll .....	23
10.13	Objection to voting qualification.....	23
10.14	Chair to determine any poll dispute .....	23
10.15	Electronic voting.....	24
11.	VOTES OF MEMBERS .....	24
11.1	Votes of Members.....	24
11.2	Election of Directors .....	24
11.3	Resolutions not in General Meeting .....	25
12.	STAKEHOLDER FORUM.....	25
12.1	Power to convene Stakeholder Forums.....	25
12.2	Notice of Stakeholder Forums.....	25
12.3	Conduct of a Stakeholder Forum .....	25
13.	DIRECTORS.....	26
13.1	Number of Directors and Elections.....	26
13.2	Interim Board .....	26
13.3	Eligibility.....	26
13.4	Nominations Committee .....	27

13.5	Nomination for election.....	28
13.6	Term of office of Directors generally.....	28
13.7	Office held until end of meeting.....	28
13.8	Elected Director elected at General Meeting .....	28
13.9	Maximum consecutive years in office for Directors .....	29
13.10	Casual vacancy .....	29
13.11	Appointed Directors.....	29
13.12	Remuneration of Directors .....	30
13.13	Removal of Director.....	30
13.14	Vacation of office.....	30
13.15	Alternate Director .....	31
14.	POWERS AND DUTIES OF DIRECTORS.....	31
14.1	Directors to manage the Company.....	31
14.2	Specific powers of Directors.....	31
14.3	Time, etc.....	31
14.4	Appointment of an attorney.....	31
14.5	Provisions in a power of attorney .....	31
14.6	Delegation of powers.....	31
14.7	Code of Conduct and Board Charter .....	32
14.8	Strategic Plan.....	32
15.	PROCEEDINGS OF DIRECTORS.....	32
15.1	Directors' meetings.....	32
15.2	Questions decided by majority .....	32
15.3	Chair's casting vote .....	33
15.4	Quorum.....	33
15.5	Effect of vacancy .....	33
15.6	Convening meetings.....	33
15.7	Election of Chairperson .....	33
15.8	Circulating resolutions .....	34
15.9	Validity of acts of Directors .....	34
15.10	Directors' Interests .....	34
16.	VIRTUAL MEETINGS.....	35
16.1	Virtual Meeting .....	35
16.2	Conduct of Virtual Meeting.....	35
17.	CHIEF EXECUTIVE OFFICER .....	36
17.1	Appointment of a CEO.....	36
17.2	Powers, duties and authorities of a CEO .....	36

17.3	Suspension and removal of a CEO .....	36
17.4	Delegation by Directors to a CEO .....	36
17.5	CEO to attend meetings .....	36
18.	COMPANY SECRETARY.....	37
18.1	Appointment of a Company Secretary.....	37
18.2	Suspension and removal of a Company Secretary .....	37
18.3	Powers, duties and authorities of a Company Secretary .....	37
19.	COMMITTEES .....	37
19.1	Committees.....	37
19.2	Powers delegated to Committees .....	37
19.3	Committee meetings.....	37
19.4	FAR Committee.....	37
20.	POLICIES .....	37
20.1	Making and amending Policies.....	37
20.2	Effect of Policies.....	38
21.	INSPECTION OF RECORDS .....	38
22.	ACCOUNTS.....	38
22.1	Accounting Records .....	38
22.2	Auditor .....	38
23.	SERVICE OF DOCUMENTS.....	38
23.1	Document includes notice.....	38
23.2	Methods of service on a Member .....	39
23.3	Methods of service on the Company .....	39
23.4	Post.....	39
23.5	Electronic transmission.....	39
24.	INDEMNITY .....	39
24.1	Indemnity of officers .....	39
24.2	Insurance .....	40
24.3	Deed.....	40
25.	WINDING UP .....	40
25.1	Contributions of Members on winding up.....	40
25.2	Excess property on winding up .....	41

# Constitution

## BIATHLON AUSTRALIA LIMITED

### 1. DEFINITIONS AND INTERPRETATIONS

---

#### 1.1 Definitions

In this Constitution unless the context requires otherwise:

**Affiliate Member** means a Biathlon club or association Registered with, and admitted to, the Company under **clause 5.1(c)** and the Policies.

**AGM** or **Annual General Meeting** means the Annual General Meeting of the Company required to be held by the Company in each calendar year under the Corporations Act.

**Appointed Director** means a Director appointed under **clause 13.11**.

**Biathlon** means the sport of Biathlon in all of its forms, disciplines and variations outlined in the definition below and as recognised and regulated by IBU from time to time.

“The sport of biathlon combines cross-country skiing with marksmanship shooting. Other forms of biathlon combine rifle shooting with other forms of movement (such as roller skiing, running, mountain biking or snowshoe hiking). All such forms of biathlon are referred to collectively in this Constitution as Biathlon.”

**CEO** means a person appointed as chief executive officer of the Company by the Directors.

**Chairperson** or **Chair** means the person elected as the chair of the Company under **clause 15.7(a)**.

**Committee** means a committee established by the Directors under **clause 19.1**.

**Company** means Biathlon Australia Limited (ACN 167 329 044).

**Company Secretary** means a person appointed as a company secretary of the Company by the Directors under **clause 18**.

**Constitution** means this constitution as amended from time to time, and a reference to a particular clause is a reference to a clause of this constitution.

**Corporations Act** means the [Corporations Act 2001 \(Cth\)](#) as amended from time to time and includes any regulations made under the Act and any exemption or modification to the Act that applies to the Company.

**Director** means a director of the Company and includes Elected Directors and Appointed Directors.

**Directors** mean, as the case requires, all or the required quorum of the Directors acting together as a board in accordance with their powers and authority under this Constitution.

**Elected Director** means a Director elected under **clause 13**.

**FAR Committee** means the Finance, Audit and Risk Committee established by the Directors under **clause 19.4**.

**General Meeting** means a general meeting of Members and includes the AGM.

**IBU** means the International Biathlon Union.

**Individual Member** means a person admitted to the Company as a member under **clause 5**.

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

**Member** means a member of the Company under **clause 5**.

**Nominations Committee** means the Nomination Committee established by the Directors under **clause 13.4**.

**Objects** mean the objects of the Company in **clause 2**.

**Official Position** means, in connection with a body corporate or organisation, a person who:

- (a) holds a position, whether elected or appointed, as president, vice president, secretary, treasurer, director or equivalent of that body corporate or organisation; or
- (b) has, directly or indirectly, a material ownership or financial interest in that body corporate or organisation.

**Para-Biathlon** means the modified version of biathlon as determined by the International Paralympic Committee (IPC) and Australian Paralympic Committee (APC) from time to time.

**Policy** means a policy made under **clause 7.2, clause 20.1(a)**.

**Registration** means registration or affiliation of an Individual Member with the Company, such registration being in the form of a signed application form, whether in hard copy or by electronic means of acceptance and, in the case of Individual Members, their consent to membership of the Company as required by **clause 5.2**. **Registered** has a corresponding meaning.

**Sporting Power** means that power delegated to the Company by IBU or other body as the delegated national federation for the management of Biathlon in Australia.

**Special Resolution** has the same meaning as that given to it in the [Corporations Act](#).

**Stakeholder Forum** means a forum convened by the Directors under **clause 12**.

**State** means the States of Australia, which shall be deemed to include each of the Northern Territory and the Australian Capital Territory.

**Statutes and Regulations** mean the statutes and regulations of IBU in force from time to time.

**Virtual Meeting** means a meeting held by telephone, video or any other technology (or any combination of these technologies), that permits each Director at a meeting of Directors or each Voting Member at a meeting of Members to communicate with any other participant.

**Voting Member** means, in relation to a General Meeting, those Members present and entitled to vote in accordance with **clause 5.1**.

## **1.2 Interpretation**

In this Constitution unless the context requires otherwise:

- (a) **(presence of a Member)** a reference to a Member present at a General Meeting (including a Virtual Meeting) means the Member present in person or by proxy;
- (b) **(document)** a reference to a document or instrument includes any amendments made to it from time to time and, unless the contrary intention appears, includes a replacement;
- (c) **(gender)** words importing any gender include all other genders;
- (d) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (e) **(successors)** a reference to an organisation includes a reference to its successors;
- (f) **(singular includes plural)** the singular includes the plural and vice versa;
- (g) **(instruments)** a reference to a law includes regulations and instruments made under it;
- (h) **(amendments to legislation)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by a State or the Commonwealth or otherwise;
- (i) **(include)** the words include, includes, including and for example are not to be interpreted as words of limitation;
- (j) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors;
- (k) **(writing)** writing and written includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (l) **(headings)** headings are inserted for convenience and do not affect the interpretation of this Constitution.



### 1.3 Corporations Act

- (a) In this Constitution, unless the context requires otherwise, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the [Corporations Act](#), the same meaning as in that provision of the [Corporations Act](#).
- (b) The provisions of the [Corporations Act](#) that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

## 2. OBJECTS

---

As the IBU delegated national federation for the sport of Biathlon in Australia, the Company will uphold and enforce present Statutes and Regulations and control of Biathlon in its own country.

The Objects of the Company shall be to:

- (a) conduct, encourage, promote, advance and manage all levels of Biathlon, including Para Biathlon, in Australia in a fair and reasonable manner for all members of all ages, all backgrounds and skills levels;
- (b) Through its membership of the IBU, act as the IBU recognised national federation for the sport of biathlon in Australia. The IBU is the sole international body entitled to make and enforce regulations for the encouragement and control of Biathlon for IBU competitions. The IBU has drawn up Statutes and Regulations governing Biathlon. The Company will be bound by these Statutes and Regulations where relevant and workable for the Company and its members.
- (c) conduct, encourage, promote, advance and manage all levels of Biathlon in Australia interdependently with Members and others, in a manner which is fair and reasonable and secures and enhances the integrity and safety of participants, officials, spectators and the public to ensure Biathlon;
- (d) adopt, formulate, issue, interpret and amend Policies for the regulation and management of Biathlon in Australia which are fair and reasonable;
- (e) support and encourage integrity, ethics and values that promote community confidence in Biathlon in Australia;
- (f) prevent and address threats to the integrity of Biathlon in Australia and support and encourage a national approach to matters relating to the integrity of Biathlon in Australia;
- (g) encourage the provision and development of appropriate facilities for participation in Biathlon;
- (h) encourage and facilitate in a fair and reasonable manner, the development of technical skills and proficiency for all Members in all forms of Biathlon including off-snow and on-snow and the use of both laser systems and 0.22 rifles;

- (i) select coaches and athletes for teams, competitions, events and programs through a fully transparent, advertised, timely and fair selection process, where all members are advised of all opportunities;
- (j) provide a transparent and equitable processes for athletes and members of Biathlon Australia to seek review of its decisions and actions made or taken in performance of its functions in managing and controlling Biathlon that affect them and publicise that process appropriately;
- (k) maintain and enhance standards, quality and reputation of Biathlon for the benefit and interests of Biathlon;
- (l) promote, control and manage doping-free biathlon;
- (m) promote Biathlon for commercial, government and public recognition and benefits;
- (n) be the only body entitled to prepare and enter Australian teams in international IBU Biathlon competitions;
- (o) promote, control, manage and conduct Biathlon events, competitions and championships;
- (p) encourage and promote widespread participation in Biathlon and physical activity;
- (q) ensure that all Biathlon in Australia is carried on in a manner that secures and enhances the safety of participants, officials, spectators and the public;
- (r) promote and encourage gender equity and oppose any unlawful discrimination on any grounds;
- (s) use and promote the Intellectual Property of the Company;
- (t) responsibly manage and use the Company's resources, equipment, facilities and financial resources (including from sponsors) in a manner that is fair and equitable for all members;
- (u) have regard to the public interest in its operations; and
- (v) undertake other actions or activities necessary, incidental or conducive to advance these Objects;
- (w) nominate athletes to the Australian Olympic Committee for representation of Australia at Olympic Winter Games; and
- (x) co-operate with or support any association, organisation, society, individual whose activities or purposes are similar to those of the Company or which advance Snowsports in Australia.

### **3. POWERS**

---

Solely for furthering the Objects under **clause 2**, the Company, in addition to any powers it has under the [Corporations Act](#), has the legal capacity and powers of a company limited by guarantee as set out in section 124 of the [Corporations Act](#).

### **4. INCOME AND PROPERTY OF THE COMPANY**

---

#### **4.1 Sole Purpose**

The income and property of the Company will only be applied towards the promotion of the Objects of the Company.

#### **4.2 Payments to Members**

No income or property will be paid or transferred directly or indirectly to any Member except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
- (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
- (c) of reasonable rent for premises let to the Company by them.

### **5. MEMBERSHIP**

---

#### **5.1 Categories of Members**

Members of the Company shall fall into one of the following categories:

- (a) Individual Members who are 16 years of age or older who, subject to this Constitution, have the right to receive notice of, attend, debate and vote at General Meetings;
- (b) Individual Members under the age of 16 years who subject to this Constitution, have the right to receive notice of and attend, but NOT debate or vote, at General Meetings;
- (c) Affiliate Members, which are not entitled to receive notice of, attend or vote at General Meetings; and
- (d) such other category of Member as may be created by the Directors. Any category of Member created by the Directors under this **clause 5.1(d)** may not be granted voting rights.

#### **5.2 Admission of Members**

Subject to **clause 5.3**, a person will become Registered as a Member, and the Directors will direct the Company Secretary to record their full name, date of birth, street address, email address and date on which they became Registered as a Member, in the register of Members kept by the Company, only upon the person seeking Registration meeting the criteria

applicable to the relevant category of membership set out in this Constitution and/or in Policies and provided the Member has submitted an application, which is accepted by the Directors, in which the Member undertakes to:

- (a) be bound by this Constitution, the Statutes and Regulations where applicable and the Policies (including any Policies specific to the relevant category of Membership);
- (b) pay the fees and subscriptions determined to apply to the Member under **clause 8**; and
- (c) support the Company in the encouragement and promotion of its Objects.

### **5.3 Discretion**

No person shall be Registered with the Company as a Member except in accordance with this Constitution and the Policies. The Directors or their authorised nominees may at their discretion, but always acting reasonably and in good faith, refuse to accept a person as a Member and shall provide a reason to the person for their membership refusal. The person shall have the right to appeal this decision under the show cause process in **clause 1.1 (d)**.

### **5.4 Renewal**

Members must renew their membership of the Company annually. The Directors may determine procedures for renewal and may prescribe these in Policies from time to time. Members acknowledge and agree that membership renewal shall be automatic, unless a Member has been found to be not of good standing (subject to a formal disciplinary process or hearing) or is otherwise a prohibited person. **Clause 5.3** applies to applications for renewal of membership.

### **5.5 Member obligations**

- (a) Each Member will:
  - (i) do all that is reasonably necessary to enable the Objects to be achieved;
  - (ii) at all times act for and on behalf of the interests of the Company and Biathlon;
  - (iii) be bound by this Constitution and the Policies and the Statutes and Regulations;
  - (iv) act in good faith and loyalty to maintain and enhance the Company and Biathlon, its standards, quality and reputation for the benefit of Biathlon;
  - (v) at all times operate with and promote mutual trust and confidence between the Company and the Members, promoting the financial and sporting success, strength and stability of each other and work cooperatively with each other in the pursuit of the Objects; and
  - (vi) not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Biathlon and its maintenance and development.
- (b) The Policies may set out:

- (i) the categories of Membership which exist;
- (ii) the criteria to be met by each category of Member; and
- (iii) the privileges and benefits of each category of Member in addition to those set out in this Constitution.

## **5.6 Member Rights and Effect of Membership**

- (a) Members acknowledge and agree that:
  - (i) this Constitution constitutes a contract between each of them and the Company and that they are bound by this Constitution and the Policies;
  - (ii) they shall comply with and observe this Constitution and the Policies and any determination, resolution or policy which may be made or passed by the Directors;
- (b) by submitting to this Constitution and the Policies Members acknowledge and agree that:
  - (i) they are subject to the jurisdiction of the Company;
  - (ii) the Constitution and Policies are necessary and reasonable for promoting the Objects, advancement and protection of Biathlon; and
  - (iii) neither membership of the Company, nor this Constitution, gives rise to:
    - (A) any proprietary right of Members in, to or over the Company or its property or assets;
  - (iv) they are entitled to all benefits, advantages, privileges and services of Company membership; and
  - (v) a right, privilege or obligation of a person by reason of their membership of the Company:
    - (A) is not capable of being transferred or transmitted to another person; and
    - (B) terminates upon the cessation of membership whether by death, resignation or otherwise.
  - (vi) they are entitled to use the Company's equipment and facilities in line with policy and subject to usage or other requirements;
  - (vii) subject to the class of membership, they are entitled to vote and to elect office bearers and Directors in democratic elections;
  - (viii) they are [entitled to call a General Meeting](#) with support of 5% of Members and to put forward Motions and Special Resolutions to General Meetings in accordance with the rules set out in [s249D of Corporations Act](#);

- (ix) they are entitled to automatically renew their membership unless determined to be not of good standing.
- (c) Notwithstanding any other rule in this Constitution, where a Member:
  - (i) fails to comply with financial or other obligations under this Constitution; or
  - (ii) behaves or acts in such a manner contrary to the safety, ethical and moral standards expected of a Member;

the Board may determine that Member to be not of good standing.
- (d) On determination that a Member is not of good standing, the Board (or its delegate) may give notice to the Member of its:
  - (i) determination; and
  - (ii) the grounds for the determination; and

provided the Member has at the time of requesting the review complied with any financial obligation under this Constitution, the member shall be entitled to have the decision reviewed by an independent tribunal with jurisdiction to determine the matter, such as the National Sports Tribunal or any equivalent or successor tribunal.

In the event that there is no independent tribunal with jurisdiction to determine the matter the Board shall request that the Member show cause within such time as is determined by the Board as to why further action should not be taken against the Member in accordance with this Constitution. The Member shall be entitled to fair and equitable treatment and natural justice during the show cause action. The Member's failure to respond or act to the Board's satisfaction (including assurances or compliance with its obligations) may result in the Board suspending or terminating the Member's membership of the Company or otherwise imposing such conditions on membership, as the Board considers fit.

## 5.7 General

- (a) The Company must keep a register of all Members in accordance with the [Corporations Act](#).
- (b) No Member whose membership lawfully ceases or terminates in accordance with the Constitution and Policies has any claim against the Company or the Directors for damages or otherwise arising from cessation or termination of membership.
- (c) Membership is personal to each Member. No Member shall, or purport to, assign the rights comprising or associated with membership to any other person and any attempt to do so shall be void.
- (d) A Member must treat all staff, contractors and representatives of the Company with respect and courtesy at all times.

- (e) A Member must not act in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Company or Biathlon, or both.

## **5.8 Limited Liability**

Members have no liability in that capacity except as set out in **clause 25**.

## **6. CESSATION OF MEMBERSHIP**

---

### **6.1 Cessation**

A person ceases to be a Member on:

- (a) resignation, subject to **clause 6.2**;
- (b) death;
- (c) cessation or termination of their membership according to this Constitution and Policies;
- (d) if a body corporate, being dissolved or otherwise ceasing to exist; and
- (e) the Member no longer meeting the requirements for membership according to **clause 5**.

### **6.2 Resignation**

- (a) Subject to **clause 6.2(b)**, for the purposes of **clause 6.1(a)**, a Member may resign as a member of the Company by giving written notice to the Directors.
- (b) A Member must not resign, and notice given under **clause 6.2(a)** is invalid, where the Member is at the time of notice being given, subject to disciplinary proceedings under **clause 7.2**, including proceedings under a Policy. For the purposes of this clause, **subject to disciplinary proceedings** includes where a complaint or allegations have been made against, but not yet conveyed to, a Member.

## **7. GRIEVANCES AND DISCIPLINE OF MEMBERS**

---

### **7.1 Jurisdiction**

All Members will be subject to, and submit unreservedly to, the jurisdiction, procedures, penalties and appeal mechanisms of the Company whether under the Policies or under this Constitution.

### **7.2 Policies**

- (a) The Directors may make or adopt a Policy or Policies for the:
  - (i) fair and reasonable hearing and determination of:
    - (A) complaints by a Member that feels aggrieved by a decision or action of the Company; and/or

- (B) disputes between Members relating to the conduct or administration of Biathlon;
  - (ii) discipline of Members;
  - (iii) formation and administration of an appeals tribunal which must be independent of any party before it on the matter which is the subject of the appeal in question; and
  - (iv) cessation or termination of Membership
- (b) The Directors may, in making or adopting a Policy under **clause 7.2(a)**, incorporate provisions within the Policy to exclusively govern its subject matter, to the exclusion of **clause 7.2(c)** and/or other Policies..
- (c) The Directors in their sole discretion may refer an allegation (which in the opinion of the Directors is not vexatious, trifling or frivolous) by a complainant (including a Director or a Member) that a Member has:
  - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Policies or any other resolution or determination of the Directors or any duly authorised Committee; or
  - (ii) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Company or Biathlon, or both; or
  - (iii) prejudiced the Company or Biathlon or brought the Company or Biathlon or themselves into disrepute,

for investigation or determination either under the procedures set down in the Policies or by such other procedure and/or persons as the Directors consider appropriate.
- (d) Parties involved in investigatory or disciplinary proceedings under this **clause 7**, may not participate in Biathlon or associated activities, pending the determination of such proceedings (including any available appeal) unless the Directors decide continued participation is appropriate having regard to the matter at hand. Such continued participation may be limited or conditional.

## 8. FEES AND SUBSCRIPTIONS

---

### 8.1 Membership Fee

- (a) The Directors must determine from time to time:
  - (i) the amount (if any) payable by an applicant for membership;
  - (ii) the amount of the annual subscription fee (if any) payable by each category of Membership;
  - (iii) any other amount to be paid by each Member, or any category of Members, whether of a recurrent or any other nature; and



- (iv) the payment method, notice for payment and the due date for payment.
- (v) Each Member must pay to the Company the amounts determined under this **clause 8** in accordance with **clause 8.1(a)(iv)**.

## **8.2 Non-Payment of Fees**

- (a) Subject to **clause 8.3(a)**, the right of a Member to attend and vote at a General Meeting is suspended whilst the payment of any subscription or other amount determined under **clause 8** and notified to the Member is in arrears for longer than 30 days.
- (b) If payment of any subscription or other amount determined under **clause 8** is still in arrears for 90 days from the due date the Member's membership ceases without further notice. If membership ceases under this **clause 8.2(b)**, the Member must re-apply for membership in accordance with this Constitution and any relevant Policy.

## **8.3 Deferral or reduction of subscriptions**

- (a) The Directors may defer the obligations of a Member to pay a subscription or other amount or reduce (including to zero) the subscription or other amount payable by a Member, if the Directors are satisfied that:
  - (i) there are reasonable grounds for doing so;
  - (ii) the Company will not be materially disadvantaged as a result; and
  - (iii) the Member agrees to pay the deferred or (if greater than zero) the reduced subscription or other amount within a time fixed by the Directors.
- (b) If the Directors defer or reduce a subscription or other amount payable by a Member under this **clause 8.3**, that Member will retain their rights to attend and vote at a General Meeting, unless otherwise specified by the Directors.

## **9. GENERAL MEETINGS**

---

### **9.1 Annual General Meeting**

AGMs of the Company are to be held:

- (a) according to the [Corporations Act](#); and
- (b) at a date and venue determined by the Directors.

### **9.2 Power to convene General Meeting**

- (a) The Directors may convene a General Meeting as they think fit and must do so if required by the [Corporations Act](#).
- (b) The Voting Members may convene a General Meeting propose a motion and special resolutions at a General Meeting in accordance with the [Corporations Act](#).

### **9.3 Notice of a General Meeting**

- (a) Notice of a General Meeting of Members must be given:
  - (i) to all Members entitled to attend the General Meeting, the Directors, and the auditor of the Company; and
  - (ii) in accordance with **clause 23** and the [Corporations Act](#).
- (b) At least 45 days prior to the proposed date of the AGM, the CEO or Board will request from Voting Members notices of motions, which must be received no less than 28 days prior to the AGM.
- (c) At least 21 days' notice of the time and place of a General Meeting must be given, together with:
  - (i) all information required to be included in accordance with the [Corporations Act](#);
  - (ii) in the case of a proposed Special Resolution, the intention to propose the Special Resolution and the terms of the proposed Special Resolution;
  - (iii) where applicable, any notice of motion received from any Voting Member or Director in accordance with the [Corporations Act](#);
  - (iv) where applicable, a list of all nominations received for positions to be elected at the relevant General Meeting; and
  - (v) Details of any policy that has been requested by 5% or more of members to be reviewed at the General Meeting.

### **9.4 No other business**

No business other than that stated in the notice of meeting may be transacted at a General Meeting.

### **9.5 Cancellation or postponement of General Meeting**

Where a General Meeting (including an AGM) is convened by the Directors they may, if they think fit, cancel the meeting or postpone the meeting to a date and time they determine. This clause does not apply to a General Meeting convened by:

- (a) Members according to the [Corporations Act](#);
- (b) the Directors at the request of Members; or
- (c) a court.

### **9.6 Written notice of cancellation or postponement of General Meeting**

Notice of the cancellation or postponement of a General Meeting must state the reasons for doing so and be given to:

- (a) each Member entitled to attend the General Meeting; and
- (b) each other person entitled to notice of a General Meeting under the [Corporations Act](#).

### **9.7 Contents of a notice postponing a General Meeting**

A notice postponing a General Meeting must specify:

- (a) the new date and time for the meeting;
- (b) the place where the meeting is to be held, which may be either the same as or different to the place specified in the notice originally convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to hold the meeting in that manner.

### **9.8 Number of clear days for postponement of General Meeting**

The number of clear days from the giving of a notice postponing a General Meeting to the date specified in that notice for the postponed meeting must not be less than the number of clear days' notice of that General Meeting required to be given by **clause 10.8** or the [Corporations Act](#).

### **9.9 Business at postponed General Meeting**

The only business that may be transacted at a postponed General Meeting is the business specified in the notice originally convening the meeting.

### **9.10 Proxy at postponed General Meeting**

Where:

- (a) by the terms of an instrument appointing a proxy that appointed person is authorised to attend and vote at a General Meeting on behalf of the appointing Member to be held on a specified date or at a General Meeting(s) to be held on or before a specified date; and
- (b) the date for the meeting is postponed to a date later than the date specified in the instrument,

then that later date is substituted for the date specified in the instrument appointing that appointed person, unless the appointing Member notifies the Company in writing to the contrary at least 48 hours before the time at which the postponed meeting is to be held.

### **9.11 Non-receipt of notice**

The non-receipt of a notice convening, cancelling or postponing a General Meeting by, or the omission unless wilful to give a notice of that kind to, a person entitled to receive it, does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the cancellation or postponement of the meeting.

### **9.12 Right to appoint a proxy**

- (a) A Voting Member entitled to attend a General Meeting of the Company is entitled to appoint a person as their proxy to attend the meeting in their place in accordance with the [Corporations Act](#).
- (b) A proxy may be revoked by the appointing Member at any time by notice in writing to the Company.

### **9.13 Form of proxy**

The instrument appointing a proxy may be in form determined by the Directors from time to time provided that it complies with the requirements under the [Corporations Act](#).

### **9.14 Lodgement of proxy documents**

- (a) A proxy may vote at a General Meeting or an adjourned or postponed meeting only if the instrument appointing the proxy or other authority (if any) under which the instrument is signed, are received by the Company:
  - (i) at the office, the email or other electronic address specified for that purpose in the notice of meeting; and
  - (ii) at least 48 hours before the scheduled commencement time for the meeting or adjourned or postponed meeting (as the case may be) at which the person named in the instrument proposes to vote. The scheduled commencement time is as specified in the notice of meeting.
- (b) An undated proxy is taken to be dated on the day that it is received by the Company.

### **9.15 Authority given by appointment**

- (a) Unless the terms of the appointment specify to the contrary, an appointment by a Voting Member confers authority on a proxy to:
  - (i) agree to a General Meeting being convened by shorter notice than is required by the [Corporations Act](#) or by this Constitution;
  - (ii) speak to any proposed resolution; and
  - (iii) demand or join in demanding a poll on any resolution.
- (b) Unless the terms of the appointment specify to the contrary, even if the instrument of appointment refers to specific resolutions and directs the proxy on how to vote on those resolutions, the appointment is taken to confer authority to:
  - (i) vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
  - (ii) vote on any procedural motion; and
  - (iii) act generally at the meeting.

- (c) Unless the terms of the appointment specify to the contrary, if the instrument of appointment refers to a specific meeting to be held at a specified time or venue and the meeting is postponed or adjourned or changed to another venue, then the appointment confers authority to attend and vote at the:
  - (i) postponed or adjourned meeting; or
  - (ii) new venue.
- (d) Subject to **clause 9.15(c)**, an appointment of a proxy may be a standing proxy - that is, the appointment under the proxy remains valid until it is revoked by the Voting Member that made the appointment.
- (e) The instrument appointing a proxy may provide for the Chairperson to act as the proxy in the absence of any other appointment or if the person or persons nominated fails or fail to attend the meeting.
- (f) The instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution.

## **10. PROCEEDINGS AT GENERAL MEETING**

---

### **10.1 Number for a quorum**

The number of Voting Members who must be present and eligible to vote for a quorum to exist at a General Meeting is 10% (including those present and proxies held).

### **10.2 Requirement for a quorum**

An item of business may not be transacted at a General Meeting unless a quorum is present at the commencement of, and remains throughout, the General Meeting.

### **10.3 Quorum and time**

If, within 30 minutes after the time appointed for a General Meeting, a quorum is not present, the meeting:

- (a) if convened by, or on requisition of, Members, is dissolved unless a member present requests that the meeting be adjourned, in which case it will be adjourned to such other day, time and place as the chair determines; and
- (b) in any other case stands adjourned to such other day, time and place as the chair determines.

### **10.4 Adjourned meeting**

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, those Voting Members then present shall constitute a quorum.

### **10.5 Chairperson to preside over General Meetings**

- (a) The Chairperson is entitled to preside as chair at General Meetings.

- (b) If a General Meeting is convened and there is no Chairperson, or the Chairperson is not present within 15 minutes after the time appointed for the meeting, or is unable or unwilling to act, the following may preside as chair (in order of entitlement):
  - (i) a Director (or other person) chosen by a majority of the Directors present;
  - (ii) the only Director present; or
  - (iii) a representative of a Voting Member that is entitled to vote and is chosen by a majority of the Voting Members present.

## **10.6 Conduct of General Meetings**

- (a) The chair:
  - (i) has charge of the general conduct of the meeting and of the procedures to be adopted;
  - (ii) may require the adoption of any procedure which in his or her opinion is necessary or desirable for proper and orderly debate or discussion or the proper and orderly casting or recording of votes; and
  - (iii) may, having regard to the Corporations Act, terminate discussion or debate on any matter whenever he or she considers it necessary or desirable for the proper conduct of the meeting.
- (b) A decision by the chair under this **clause 10.6** is final.

## **10.7 Adjournment of General Meeting**

- (a) The chair may, with the consent of any General Meeting at which a quorum is present, and must if so, directed by the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.
- (b) The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and place agreed by vote of the members present.
- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

## **10.8 Notice of adjourned meeting**

- (a) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 30 days or more.
- (b) In that case, at least the same period of notice as was originally required for the meeting must be given for the adjourned meeting.

## **10.9 Questions decided by majority**

Subject to the Corporations Act and except in the case of a Special Resolution, a resolution is carried if a simple majority of the votes cast on the resolution are in favour of it.

## **10.10 Equality of votes**

Where an equal number of votes are cast in favour of and against the resolution, the resolution is not carried.

## **10.11 Declaration of results**

- (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 properly demanded, and the demand is not withdrawn.
- (b) A declaration by the chair 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 minutes of the meetings of the Company, is conclusive evidence of the fact.
- (c) Neither the chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded for or against the resolution.

## **10.12 Poll**

- (a) If a poll is properly demanded in accordance with the Corporations Act or by the chair of the meeting, it must be taken in the manner and at the date and time directed by the chair, and the result of the poll is the resolution of the meeting at which the poll was demanded.
- (b) A poll demanded on the election of a chair or on a question of adjournment must be taken immediately.
- (c) A demand for a poll may be withdrawn.
- (d) A demand for a poll does not prevent the General Meeting continuing for the transaction of any business other than the question on which the poll was demanded.

## **10.13 Objection to voting qualification**

- (a) An objection to the right of a person to attend or vote at a General Meeting (including an adjourned meeting):
  - (i) may not be raised except at that meeting; and
  - (ii) must be referred to the chair, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

## **10.14 Chair to determine any poll dispute**

If there is a dispute about the admission or rejection of a vote, the chair must decide it and the chair's decision made is final.

## 10.15 Electronic voting

Voting by electronic communication at General Meetings may be permitted from time to time in such instances as the Directors may determine and shall be held in accordance with such procedures as may be prescribed by the Directors.

## 11. VOTES OF MEMBERS

---

### 11.1 Votes of Members

- (a) At a General Meeting, on a show of hands and on a poll, each Voting Member shall have the votes set out in this **clause 11.1**.
- (b) Each Voting Member will receive one (1) vote.
- (c) No Member other than Individual Members under **clause 5.1(a)** are entitled to vote at General Meetings.

### 11.2 Election of Directors

- (a) Elections for Elected Directors shall be by ballot in accordance with this **clause 11.2** at the relevant General Meeting.
- (b) The ballot for an election to fill one or more Elected Director positions will be conducted in accordance with the following procedure:
  - (i) if at the close of nominations for an election to fill one or more Elected Director positions the number of eligible nominees is equal to or less than the number of positions to be filled, then no election is to take place and those eligible nominees will be taken to be elected to fill one or more of the Elected Director positions;
  - (ii) if at the close of nominations for an election to fill one or more Elected Director positions there are more eligible nominees than the number of positions to be filled, a ballot will be conducted as a poll and the eligible nominee/s who receives the highest number of votes will be elected to fill the Elected Director positions. For clarity, this means if three director positions are due for election, members vote once and indicate their preferred 3 candidates with their one vote. The method of determining the preferred 3 candidates will be advised on the ballot paper;
  - (iii) a returning officer will be appointed who is not a member of the Board. If requested by a member at least 45 days prior to the proposed date of the AGM, the Board shall appoint an independent returning officer who is not a member or Director of the Company; and
  - (iv) If two or more nominees get the same number of votes and at the relevant time, there is only one Elected Director position to be filled then the returning officer is to draw the name of one of those nominees by lot. That nominee is to be elected as an Elected Director.



### **11.3 Resolutions not in General Meeting**

- (a) If all Members entitled to vote sign a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms is deemed to have been passed at a General Meeting of the Company held at the time on which the document was signed by the last Member entitled to vote.
- (b) For the purposes of **clause 11.3(a)**, two or more separate documents containing statements in identical terms, each of which is signed by one or more Members entitled to vote, are deemed together to constitute one document containing a statement in those terms signed by those Members on the respective days on which they signed the separate documents.
- (c) Email or other form of visible or other electronic communication under the name of a Member is deemed to be a document in writing signed by that Member for the purpose of this clause.

## **12. STAKEHOLDER FORUM**

---

### **12.1 Power to convene Stakeholder Forums**

The Directors may from time to time convene a Stakeholder Forum to proactively engage and collaborate with Members.

### **12.2 Notice of Stakeholder Forums**

- (a) The Directors may determine the notice provided to Members (or categories of Members) for a proposed Stakeholder Forum, including the period and method of notice.
- (b) The notice may include the purpose and intent of a particular Stakeholder Forum, including any proposed items for discussion, in addition to the purposes outlined in **clause 12.1**.

### **12.3 Conduct of a Stakeholder Forum**

- (a) The format of proceedings at a Stakeholder Forum shall be at the discretion of the Directors.
- (b) The Directors shall determine who shall chair the Stakeholder Forum, including who shall lead or facilitate particular discussion items.
- (c) There is no quorum requirement for a Stakeholder Forum.
- (d) Items for discussion which were not included in the notice issued under **clause 12.2** (if any) may, with the permission of the chair, be raised for discussion.
- (e) Directors are not bound by any resolution passed at the Stakeholder Forum.

## 13. DIRECTORS

---

### 13.1 Number of Directors and Elections

- (a) There must be not less than six Directors and not more than eight Directors.
- (b) Subject to **clause 13.1(a)**, not less than six (6) Directors are to be elected by the Members (Elected Directors), and not more than two (2) Directors are to be appointed under **clause 13.11**.

### 13.2 Interim Board

- (a) From the adoption of this Constitution there will be an interim Board comprised as follows:
  - (i) six (6) Directors from the current board of Australian Biathlon Association:
    - (A) three (3) of whom will retire at the 2022 AGM but may be re-elected for a term of two (2) years; and
    - (B) the other three (3) of whom will retire at the 2023 AGM but may be re-elected for a term of two (2) years; and
  - (ii) two (2) Directors nominated by Biathlon East Australia. These director positions will remain in office under the 2024 AGM but are subject to re-nomination at the 2022 and 2023 AGM.
- (b) At the 2024 AGM the three (3) Directors elected under **clause 13.2(a)(i)(A)** and the two (2) Directors nominated under **clause 13.2(a)(ii)** will retire. Three (3) Director positions will be subject to re-election at the 2024 AGM for further terms of two (2) years. Thereafter three Directors shall retire each year but may be re-elected subject to this Constitution.

### 13.3 Eligibility

- (a) All Voting Members that are Australian citizens are eligible for election, unless they reside overseas.
- (b) For the period from the date of this Constitution a person that:
  - (i) is an employee of the Company; or
  - (ii) holds an Official Position; or
  - (iii) was a Director of the Company and **clause 13.9** applies; or
  - (iv) was CEO of the Company at any time within the period beginning three years prior to the date of his/her proposed appointment or election as a Director, (each a disqualifying position) may not hold office as a Director.
- (c) A Director that accepts a disqualifying position must notify the other Directors of this fact immediately and is deemed to have vacated office as a Director.

- (d) A person elected or appointed as a Director at the time of holding a disqualifying position must resign from that disqualifying position within 30 days.
- (e) No person shall be eligible to stand for an Elected Director position if, during the proposed term of office, they would be in breach of **clause 13.9**.
- (f) The Directors and Nominations Committee must use reasonable endeavours to ensure:
  - (i) no one gender constitutes more than 60%, or less than 40%, of the total number of Directors; and
  - (ii) no more than 60% of the total number of Directors shall reside in the same State; and
  - (iii) that no Director co-habits with or is related to another Director;
  - (iv) no more than 45% of the Directors are related to or co-habiting with an athlete in Biathlon and who represents the Company at any of the following IF recognised events: Youth Winter Olympic Games, Olympic Winter Games, IBU World Championships, IBU World Cup, IBU Cup and IBU Open European Championships, IBU endorsed Regional Cups; and
  - (v) Director's Conflicts of Interest are declared and a Conflicts of Interest Register placed on the Company's website, enforced and independently audited.

#### **13.4 Nominations Committee**

- (a) A Nominations Committee shall be formed, the role of which shall include to identify and encourage skilled members to apply to fill Director vacancies; and to co-ordinate and provide candidate information on relevant Board skills, to enable members to make informed selection decisions.
- (b) The Nominations Committee may encourage members to apply if the potential combination of nominated candidates may not meet **clause 13.3(f)**.
- (c) The Nominations Committee shall comprise five persons, including four members and an independent Chair being appointed from an organisation or body external to the Company.
- (d) A Nominations Committee member must not be a current Director or related or cohabiting with a current Director or candidate or have any conflicts of Interest. A declaration of conflicts of interest must be made;
- (e) The Nominations Committee shall prepare a matrix of the skills of candidates for Director positions, to enable members to make informed selection decisions. The specific content of each matrix criterion must be provided by each candidate, and not the Nominations Committee.
- (f) The Nominations Committee shall develop a set of relevant questions to be completed in writing by all Candidates for Director positions. Candidate responses and their own profiles to be distributed to members and placed on the Company's website.

- (g) When assessing nominees for Appointed Director vacancies, the Nominations Committee must comply with **clause 13.3(f)**.
- (h) If there is a requirement for an appointed Director to comply with **clause 13.3(f)**, an expression of interest must first be sent to all Members. The Nominations Committee may also advertise for appropriate candidates.
- (i) The Nominations Committee must nominate all members who have nominated for election, and must not recommend for or against any candidate.

### **13.5 Nomination for election**

- (a) At least 45 days prior to the proposed date of the AGM, at which a resolution or resolutions will be proposed to fill a vacancy in an Elected Director position, the Company Secretary or Executive Officer will request from Members nominations (that comply with this **clause 13.5** for elections to positions falling vacant, that must be received no later than 28 days prior to the AGM.
- (b) Any Member, Director or Committee may nominate a person to fill a vacancy in an Elected Director position that is to be the subject of an election at the next AGM.
- (c) A nomination must:
  - (i) be in the form required by the Directors; and
  - (ii) signed by the nominator and nominee.

### **13.6 Term of office of Directors generally**

Subject to **clauses 13.2, 13.8, 13.9, 13.13** and **13.14**, an Elected Director will hold office for a term of two years.

### **13.7 Office held until end of meeting**

A retiring Elected Director holds office until the end of the meeting at which that Elected Director retires but, subject to the requirement of this Constitution, including **clause 13.9**, is eligible for re-election.

### **13.8 Elected Director elected at General Meeting**

- (a) At a General Meeting:
  - (i) at which an Elected Director retires; or
  - (ii) at the commencement of which there is a vacancy in the office of an Elected Director,

there will be a vote of the Members conducted in accordance with **clause 11.2** to fill the vacancy by electing someone to that office.

- (b) Subject to **clauses 13.8(c), 13.9** and **13.14**, an Elected Director elected under this **clause 13.8** takes office at the end of the meeting at which they are elected for a period of two (2) years.
- (c) An Elected Director elected under **clause 13.8(a)(ii)** is elected for the remainder of the term of office for the position that they are filling.

### **13.9 Maximum consecutive years in office for Directors**

- (a) A Director must not serve more than six consecutive years as a Director, including where one or more of the years is as an Appointed Director, unless a members resolution extends the maximum term for that director.
- (b) For the purpose of **clause 13.9(a)**, where service:
  - (i) by a person as a Director under this Constitution is for a period less than two years:
    - (A) if the service is less than one year, it will be treated as one full year;
    - (B) if the service is between one year and two years, it will be treated as two full years;
  - (ii) by a person as a Director takes place immediately before the adoption of this Constitution, the number of consecutive years of service by that person before the adoption of this Constitution will be treated as service towards **clause 13.9(a)**, rounded up to the nearest full year.
- (c) A Director who has served the maximum number of years in accordance with **clause 13.9(a)** shall not be eligible to be a Director for two years following the completion of their maximum term.

### **13.10 Casual vacancy**

- (a) The Directors may at any time appoint a person to fill a casual vacancy (as defined in **clause 13.14**) in the rank of the Directors.
- (b) A person appointed under **clause 13.10(a)** holds office for the remainder of the vacating Director's term and, subject to this Constitution, they may offer themselves for re-election.

### **13.11 Appointed Directors**

- (a) The Elected Directors, subject to **clause 13.4**, may appoint up to two persons to be Directors because of their gender, special business acumen and/or technical skills. These persons will be known as the "Appointed Directors".
- (b) A member who is a candidate for a Director position but is not elected at that AGM, may not be appointed as a Director in that term.
- (c) A Director who has been elected for a term, is not eligible to be an Appointed Director in the next term.

- (d) Subject to **clauses 13.9 and 13.14**, an Appointed Director holds office for a term determined by the Directors not to exceed two (2) years.
- (e) A person may only serve two years or part thereof as an Appointed Director but, subject to the other requirements of this Constitution, in particular **clause 13.9**, are otherwise eligible to be elected to an Elected Director position.
- (f) Subject to this Constitution, the Directors may at any time appoint a person to fill a casual vacancy (as defined in **clause 13.14**) in the rank of the Appointed Directors on whatever terms the directors decide.

### **13.12 Remuneration of Directors**

A Director must not be paid for services as a Director but, with the approval of the Directors and subject to the Corporations Act, may be:

- (a) paid by the Company for services rendered to it other than as a Director; and
- (b) reimbursed by the Company for their reasonable travelling, accommodation and other expenses when:
  - (i) travelling to or from meetings of the Directors, a Committee or the Company; or
  - (ii) otherwise engaged in the affairs of the Company.

### **13.13 Removal of Director**

- (a) A Director may be removed by the Members in accordance with the [Corporations Act](#).
- (b) Unless otherwise resolved at a General Meeting, a Director removed in accordance with **clause 13.13(a)** cannot be re-appointed or re-elected as a Director within two (2) years of their removal.

### **13.14 Vacation of office**

The office of a Director becomes vacant when the [Corporations Act](#) says it does and also if the Director:

- (a) dies;
- (b) is removed in accordance with **clause 13**;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (d) resigns from office by notice in writing to the Company;
- (e) accepts appointment to, or becomes the holder of, a disqualifying position as set out in **clause 13.3** and does not resign from that position within 30 days;
- (f) is absent at three consecutive Directors' meetings without leave of absence from the Directors; or

- (g) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Act.

#### **13.15 Alternate Director**

A Director cannot appoint an alternate.

### **14. POWERS AND DUTIES OF DIRECTORS**

---

#### **14.1 Directors to manage the Company**

The Directors are to manage the Company's business and may exercise those of the Company's powers that are not required, by the [Corporations Act](#) or by this Constitution, to be exercised by the Company in General Meeting.

#### **14.2 Specific powers of Directors**

Without limiting **clause 14.1**, the Directors may exercise all the Company's powers to borrow or raise money, to charge any property or business or give any other security for a debt, liability or obligation of the Company or of any other person.

#### **14.3 Time, etc**

Subject to the [Corporations Act](#) but not including the notice requirements in relation to a resolution proposed by a Member in accordance with the Corporations Act, where this Constitution requires that something be done by a particular time, or within a particular period, or that an event is to occur or a circumstance is to change on or by a particular date, the Directors may at their absolute discretion extend that time, period or date as they think fit.

#### **14.4 Appointment of an attorney**

The Directors may appoint any person to be the Company's attorney for the purposes, with the powers, authorities and discretions, for the period and subject to the conditions they think fit.

#### **14.5 Provisions in a power of attorney**

A power of attorney granted under **clause 14.4** may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

#### **14.6 Delegation of powers**

- (a) Without limiting **clause 17.4** the Directors may, by resolution or by power of attorney or writing under seal, delegate any of their powers to the CEO or any employee or Member of the Company or any other person as they think fit.
- (b) Any delegation by the Directors of their powers:

- (i) must specify the powers delegated, any restrictions on, and conditions attaching to, the exercise of those powers and the period during which that delegation is to be in force;
  - (ii) may be either general or limited in any way provided in the terms of the delegation;
  - (iii) need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position; and
  - (iv) may include the power to delegate.
- (c) If exercising a power depends on a person's opinion, belief or state of mind, then that power may be exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.
  - (d) Any power exercised by a delegate is as effective as if it had been exercised by the Directors.

#### **14.7 Code of Conduct and Board Charter**

The Directors must:

- (a) adopt and implement a code of conduct for Directors and a Board charter;
- (b) periodically review the code of conduct and Board charter in light of the general principles of good corporate governance; and
- (c) act in accordance with the code of conduct for Directors and the Board charter.

#### **14.8 Strategic Plan**

The Directors must develop and adopt a strategic plan as revised from time to time. The Directors will give Members at least 30 days notice of any draft strategic plan for consideration and input.

### **15. PROCEEDINGS OF DIRECTORS**

---

#### **15.1 Directors' meetings**

- (a) Subject to **clause 15.1(b)**, the Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Directors must meet at least five times in each calendar year.

#### **15.2 Questions decided by majority**

A question arising at a Directors' meeting is to be decided by a majority of votes of the Directors present in person and entitled to vote. Each Director present has one vote on a matter arising for decision by Directors.



### 15.3 Chair's casting vote

The chair of the meeting will not have a casting vote.

### 15.4 Quorum

Five Directors present in person and or via technology as determined by the Directors constitutes a quorum.

### 15.5 Effect of vacancy

- (a) The continuing Directors may act despite a vacancy in their number.
- (b) However, if the number of Directors is reduced below the number required for a quorum, the remaining Directors may act only for the purpose of filling the vacancies to the extent necessary to bring their number up to that required for a quorum or to convene a General Meeting.

### 15.6 Convening meetings

- (a) A Director may, and the CEO on the request of a Director must, convene a Directors' meeting.
- (b) Notice of a meeting of Directors must be given individually to each Director (except a Director on leave of absence approved by the Directors). Notice of a meeting of Directors may be given in person, or by post or by telephone or electronic means.
- (c) A Director may waive notice of a meeting of Directors by giving notice to that effect to the Company in person or by post or by telephone or electronic means.
- (d) A person who attends a meeting of Directors waives any objection that person may have in relation to a failure to give notice of the meeting.
- (e) The non-receipt of a notice of a meeting of the Directors or the accidental omission unless wilful to give notice of a meeting to a person entitled to receive notice does not invalidate anything done (including the passing of a resolution) at a meeting of Directors.

### 15.7 Election of Chairperson

- (a) The Directors must, at the first Directors' meeting after the AGM, annually elect one of their number to be the Chairperson by a majority vote.
- (b) The Director elected to be Chairperson under **clause 15.7(a)** will, subject to remaining a Director, remain Chairperson for one year from the date of their election until the first Directors' meeting after the following AGM and shall chair any meeting of Directors.
- (c) Despite **clause 15.7(b)**, if:
  - (i) there is no person elected as Chairperson; or

(ii) the Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting; or

(iii) the Chairperson is unwilling to act,

the Directors present may elect one of their number to be chair of the meeting.

(d) A Director elected as Chairperson may be re-elected as Chairperson in following years, so long as he or she remains a Director.

(e) A person is not eligible to be elected as Chairperson if they are related to or co-habiting with an athlete in Biathlon and who represents the Company at any of the following IBU recognised events Olympic Winter Games, Youth Winter Olympic Games, World Championships, World Cup, IBU Cup, IBU Open and Junior European Championships, IBU endorsed Regional Cup

### **15.8 Circulating resolutions**

(a) The Directors may pass a resolution without a Directors' meeting being held if notice in writing of the resolution is given to all Directors and a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document.

(b) Separate copies of the document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. An email or document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of **clause 15.8(a)** and is taken to be signed when received by the Company in legible form.

(c) The resolution is passed when the last Director signs.

### **15.9 Validity of acts of Directors**

Everything done at a Directors' meeting or a Committee meeting, or by a person acting as a Director, is valid even if it is discovered later that there was some defect in the appointment, election or qualification of any of them or that any of them was disqualified or had vacated office.

### **15.10 Directors' Interests**

(a) A Director shall declare to the Directors any material personal interest or related party transaction, as defined by the [Corporations Act](#), as soon as practicable after that Director becomes aware of their interest in the matter.

(b) Directors must complete an annual statement of interest which must be updated from time to time to satisfy the requirements in **clause 15.10(a)**.

(c) Where a Director declares a material personal interest or in the event of a related party transaction, that Director is ineligible to receive the Directors' meeting papers related to the matter and must absent himself or herself from discussion of such matter and shall

not be entitled to vote in respect of such matter unless otherwise determined by the Directors.

- (d) In the event of any uncertainty in this regard, the issue shall immediately be determined by a vote of the Directors or, if this is not possible, the matter shall be adjourned or deferred to the next meeting.
- (e) The CEO must maintain a register of declared interests.

## **16. VIRTUAL MEETINGS**

---

### **16.1 Virtual Meeting**

- (a) A General Meeting or a Directors' Meeting may be held by means of a Virtual Meeting, provided that:
  - (i) the number of Members or Directors (as applicable) participating is not less than a quorum required for a General Meeting or Directors' Meeting (as applicable); and
  - (ii) the meeting is convened and held in accordance with this Constitution and the Corporations Act (as applicable).
- (b) All provisions of this Constitution relating to a meeting apply to a Virtual Meeting in so far as they are not inconsistent with the provisions of this **clause 16**.

### **16.2 Conduct of Virtual Meeting**

The following provisions apply to a Virtual Meeting of the Company:

- (a) all persons participating in the meeting must be linked by telephone, audio-visual or other instantaneous means for the purpose of the meeting;
- (b) each of the persons taking part in the meeting must be able to hear and be heard by each of the other persons taking part at the commencement of the meeting and each person so taking part is deemed for the purposes of this Constitution to be present at the meeting;
- (c) at the commencement of the meeting each person must be distinguishable to the chair;
- (d) a person may not leave a Virtual Meeting by disconnecting his or her telephone, audio-visual or other communication equipment unless that person has previously notified the chair;
- (e) a person may conclusively be presumed to have been present and to have formed part of a quorum at all times during a Virtual Meeting unless that person has previously notified the chair of leaving the meeting; and
- (f) a minute of proceedings of a Virtual Meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the chair.

## **17. CHIEF EXECUTIVE OFFICER**

---

### **17.1 Appointment of a CEO**

The Directors may appoint a CEO and review their performance in accordance with a CEO performance review process adopted by the Board.

### **17.2 Powers, duties and authorities of a CEO**

- (a) The CEO holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to them by the Directors.
- (b) The exercise of those powers and authorities, and the performance of those duties, by the CEO are subject at all times to the control of the Directors.

### **17.3 Suspension and removal of a CEO**

Subject to the terms and conditions of the appointment, the Directors may suspend or remove the CEO from that office.

### **17.4 Delegation by Directors to a CEO**

The Directors may delegate to the CEO the power (subject to such reservations on the power as are decided by the Directors) to conduct the day-to-day management and control of the business and affairs of the Company. The delegation will include the power and responsibility to:

- (a) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the Directors and to implement them to the extent approved by the Directors;
- (b) manage the financial and other reporting mechanisms of the Company;
- (c) approve and incur expenditure subject to specified expenditure limits;
- (d) sub-delegate his or her powers and responsibilities to employees or internal management committees of the Company; and
- (e) any other powers and responsibilities which the Directors consider appropriate to delegate to the CEO.

### **17.5 CEO to attend meetings**

The CEO is entitled, subject to a determination otherwise by the Directors, to attend all meetings of the Company, all meeting of the Directors and any Committees and may speak on any matter but does not have a vote.

## **18. COMPANY SECRETARY**

---

### **18.1 Appointment of a Company Secretary**

There must be at least one Company Secretary who is to be appointed by the Directors.

### **18.2 Suspension and removal of a Company Secretary**

The Directors may suspend or remove a Company Secretary from that office.

### **18.3 Powers, duties and authorities of a Company Secretary**

A Company Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to them by the Directors.

## **19. COMMITTEES**

---

### **19.1 Committees**

The Directors may delegate any of their powers to Committees consisting of those persons they think fit (including Directors, individuals and consultants), and may vary or revoke any delegation.

### **19.2 Powers delegated to Committees**

- (a) A Committee must exercise the powers delegated to it according to the terms of the delegation and any directions of the Directors.
- (b) Powers delegated to and exercised by a Committee are taken to have been exercised by the Directors.

### **19.3 Committee meetings**

Unless otherwise determined by the Directors, committee meetings are governed by the provisions of this Constitution dealing with Directors' meetings, as far as they are capable of application.

### **19.4 FAR Committee**

- (a) A FAR Committee must be established by the Directors.
- (b) The composition, duties and functions of the FAR Committee shall be defined in the FAR Committee terms of reference.

## **20. POLICIES**

---

### **20.1 Making and amending Policies**

- (a) In addition to policies made under **clause 7.2**, the Directors subject to **clause 20.1(b)** may from time to time make policies that are:

- (i) required to be made under this Constitution; and
- (ii) in their opinion, necessary or desirable for the control, administration and management of the Company's affairs.

The Directors may amend, interpret, repeal and replace any Policy.

- (b) Unless otherwise stated in the Policy, any Policy referred to in **clauses 7.2** and **20.1(a)** will take effect 7 days after the service of the Policy on the Member and shall be in force and effect on that date.

## **20.2 Effect of Policies**

A Policy:

- (a) is subject to this Constitution;
- (b) must be consistent with this Constitution including the Objects;
- (c) when in force, is binding on all Members and has the same effect as a provision in this Constitution; and
- (d) if there is an inconsistency between the Constitution and a Policy, then the Constitution prevails to the extent of the inconsistency only.

## **21. INSPECTION OF RECORDS**

---

A Member does not have the right to inspect any document of the Company (including registers kept by the Company) except as specified in any Law including the Corporations Act.

## **22. ACCOUNTS**

---

### **22.1 Accounting Records**

The Directors will cause proper accounting and other records to be kept and will distribute copies of financial statements as required by the Corporations Act.

### **22.2 Auditor**

A properly qualified independent auditor(s) shall be appointed by the Directors and the remuneration of such auditor(s) fixed and duties regulated in accordance with the Corporations Act.

## **23. SERVICE OF DOCUMENTS**

---

### **23.1 Document includes notice**

In this **clause 23**, document includes a notice.

### **23.2 Methods of service on a Member**

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member; or
- (c) by sending it to an email or other electronic address nominated by the Member.

### **23.3 Methods of service on the Company**

A Member may give a document to the Company by:

- (a) delivering it to the Registered Office;
- (b) sending it by post to the Registered Office; or
- (c) sending it to an email or other electronic address nominated by the Company.

### **23.4 Post**

A document sent by post if sent to an address:

- (a) in Australia, may be sent by ordinary post; and
- (b) outside Australia, or sent from an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the 14th business day after the date of its posting.

### **23.5 Electronic transmission**

If a document is sent by email or other electronic transmission, delivery of the document is taken to:

- (a) be affected by properly addressing and transmitting the email or other electronic transmission; and
- (b) have been delivered on the business day following its transmission.

## **24. INDEMNITY**

---

### **24.1 Indemnity of officers**

- (a) This **clause 24** applies to every person who is or has been:
  - (i) a Director, CEO or Company Secretary of the Company; and
  - (ii) another officer, employee, former officer or former employee of the Company or of its related bodies corporate as the Directors may in each case determine.

Each person referred to in this **clause 24.1(a)** is referred to as an **Indemnified Officer** for the purposes of the rest of **clause 24**.

- (b) The Company will indemnify each Indemnified Officer out of the property of the Company against:
  - (i) every liability (except a liability for legal costs) that the Indemnified Officer incurs as an Officer of the Company or of a related body corporate of the Company; and
  - (ii) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the Indemnified Officer becomes involved as an officer of the Company or of a related body corporate of the Company,

unless:

- (iii) the Company is forbidden by statute to indemnify the person against the liability or legal costs;
- (iv) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute; or
- (v) the act of the Indemnified Officer was undertaken contrary to an express instruction to not proceed or engage.

## **24.2 Insurance**

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring an Indemnified Officer against liability that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

## **24.3 Deed**

The Company may enter a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by **clause 24.1** on the terms the Directors think fit (as long as they are consistent with **clause 24**).

## **25. WINDING UP**

---

### **25.1 Contributions of Members on winding up**

- (a) Each Voting Member maybe be required to contribute to the Company's property if the Company is wound up whilst they are a Member or within one year after their membership ceases.



- (b) The contribution is for:
  - (i) payment of the Company's debts and liabilities contracted before their membership ceased;
  - (ii) the costs of winding up; and
  - (iii) adjustment of the rights of the contributories among themselves.

The amount is not to exceed \$1.00.
- (c) No other Member shall be required to contribute to the Company's property if the Company is wound up.

## **25.2 Excess property on winding up**

- (a) If on the winding up or dissolution of the Company, and after satisfaction of all its debts and liabilities, any property remains, that property must be given or transferred to another body or bodies:
  - (i) having objects similar to those of the Company; and
  - (ii) whose constitution prohibits (or each of whose constitutions prohibit) the distribution of its or their income and property among its or their members to an extent at least as great as is imposed under this Constitution.
- (b) That body is, or those bodies are, to be determined by the Voting Members at or before the time of dissolution or, failing that determination, by a judge who has, or acquires, jurisdiction in the matter.

[END]