Associations Incorporation Regulation 2019 **(NSW) (Act).**

Newcastle & District Softball Association Incorporated Constitution

Adopted by Resolution of Members at a

Special General Meeting on 11th June 2020

TABLE OF CONTENTS

1. NAME OF ASSOCIATION 4
2. DEFINITIONS AND INTERPRETATION 4
3. OBJECTS OF THE ASSOCIATION 6
4. POWERS OF THE ASSOCIATION 7
5. MEMBERS 7
6. AFFILIATION 8
7. REGISTER OF MEMBERS 9
8. EFFECT OF MEMBERSHIP 10
9. DISCONTINUANCE OF MEMBERSHIP 10
10. DISCIPLINE 11
11. SUBSCRIPTIONS AND FEES 12
12. EXISTING DIRECTORS 12
13. POWERS OF THE BOARD 12
14. COMPOSITION OF THE BOARD 12
15. ELECTED DIRECTORS 13
16. APPOINTED DIRECTORS 14
17. VACANCIES ON THE BOARD 15
18. MEETINGS OF THE BOARD 15
19. DELEGATIONS 18
20. ASSOCIATIONS ADDRESS 18
21. ANNUAL GENERAL MEETING 19
22. SPECIAL GENERAL MEETINGS 19
23. NOTICE OF GENERAL MEETING 19
24. BUSINESS 20
25. NOTICES OF MOTION 20
26. PROCEEDINGS AT GENERAL MEETINGS 20
27. VOTING AT GENERAL MEETINGS 21
28. PROXY VOTING 21
29. STRATEGIC FORUM OF ASSOCIATION 22
30. GRIEVANCE PROCEDURE 22
31. RECORDS AND ACCOUNTS 22
32. AUDITOR 23
33. INCOME 24
34. WINDING UP 24
35. DISTRIBUTION OF PROPERTY ON WINDING UP 24
36. ALTERATION OF CONSTITUTION 25

37. REGULATIONS 25
38. STATUS AND COMPLIANCE OF ASSOCIATION 25
39. ASSOCIATION'S CONSTITUTION 26
40. STATUS AND COMPLIANCE OF CLUBS 26
41. NOTICE 27
42. PATRONS AND VICE PATRONS 28
43. INDEMNITY 288

ASSOCIATIONS INCORPORATION ACT 2019 (NSW)

CONSTITUTION

of

NEWCASTLE & DISTRICT SOFTBALL ASSOCIATION INCORPORATED

1. NAME OF ASSOCIATION

The name of the Association is Newcastle & District Softball Association Incorporated ("**Association**").

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Constitution unless the contrary intention appears:

"Act" means the *Associations Incorporation Act 2009 (NSW)*.

"Affiliate Member" means an individual who is an umpire, referee, coach or other official who is associated with the Association but who is not an Individual Member.

"Annual General Meeting" means the annual general meeting of the Association held in accordance with **clause 21**.

"Association" means Newcastle & District Softball Association Incorporated.

"Board" means the body consisting of the Directors.

"Club" means a Softball club which is a Member or is otherwise affiliated with the Association.

"Constitution" means this Constitution of the Association.

"Delegate" means the person(s) appointed from time to time to act for and on behalf of a Club and to represent the Club at General Meetings.

"Director" means a member of the Board and includes any person acting in that capacity from time to time appointed in accordance with this Constitution

"Secretary" means the Secretarial Director of the Association for the time being appointed under this Constitution.

"Financial year" means the year ending on the next 30 April following incorporation and thereafter a period of 12 months commencing on 1 May and ending on 30 April each year.

"General Meeting" means the annual or any special general meeting of the Association.

"IF" means the International Federation for Softball being International Softball Federation.

"Individual Member" means a registered, financial member of a Club or a natural person who is otherwise recognised by the Association as an Individual Member.

"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 Association or any activity of or conducted, promoted or administered by the Association in the Region.

"Life Member" means an individual appointed as a Life Member of the Association under **clause 5.2**.

"Member" means a member for the time being of the Association under **clause 5**.

"NSO" means the National Sporting Organisation being Softball Australia Limited.

"Objects" means the objects of the Association in **clause 3**.

"Public Officer" means the person appointed to be the public officer of the Association in accordance with the Act.

"Region" means the geographical area for which the Association is responsible and as recognised by the SSO.

"Register" means a register of Members kept and maintained in accordance with **clause 7**.

"Regulations" means any Regulations made by the Board under **clause 37**.

"Seal" means the common seal of the Association (if any).

"Special General Meeting" means a special general meeting of the Association held in accordance with **clause 22**.

"Special Resolution" means a special resolution defined in the Act.

'SSO' means the State Sporting Organisation being Softball NSW.

2.2 Interpretation

In this Constitution:

(a) a reference to a function includes a reference to a power, authority and duty.

(b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty.

(c) words importing the singular include the plural and vice versa.

(d) words importing any gender include the other genders.

(e) references to persons include corporations and bodies politic.

(f) references to a person include the legal personal representatives, successors and permitted assigns of that person.

(g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and

(h) a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

2.3 Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution.

2.4 The Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act. Model rules under the Act are expressly displaced by this Constitution.

3. OBJECTS OF THE ASSOCIATION

The Association is established solely for the Objects. The Objects of the Association are to:

(a) participate as a member of SSO so Softball can be conducted, encouraged, promoted, advanced, and administered in the Region and New South Wales.

(b) conduct, encourage, promote, advance, and administer Softball throughout the Region.

(c) ensure the maintenance and enhancement of the Association, the SSO, the NSO, the Members and Softball, along with its standards, quality, and reputation for the benefit of the Members and Softball.

(d) at all times promote mutual trust and confidence between the Association, the SSO, the NSO and the Members in pursuit of these Objects.

(e) at all times act on behalf of, and in the interest of, the Members and Softball in the Region.

(f) promote the economic and community service success, strength and stability of the Association, the Members and Softball in the Region.

(g) affiliate and otherwise liaise with the SSO and adopt its rule and policy framework to further these Objects and Softball, to the extend determined by the Board.

(h) use and protect the Intellectual Property.

(i) apply the property and capacity of the Association towards the fulfilment and achievement of these Objects.

(j) strive for government, commercial and public recognition of the Association as the controlling body for Softball in the Region.

(k) abide by, promulgate, enforce and secure uniformity in the application of the rules of Softball as may be determined from time to time by the Association, SSO, NSO or IF and as may be necessary for the management and control of Softball and related activities in the Region;

(l) advance the operations and activities of the Association throughout the Region.

(m) further develop Softball into an organised institution and with these Objects in view, to foster, regulate, organise and manage examinations, competitions, displays and other activities and to appropriately recognise successful Members as deemed appropriate by the Board.

(n) review and/or determine any matters relating to Softball which may arise, or be referred to it, by any Member.

(o) act as arbiter (as required) on all matters pertaining to the conduct of Softball in the Region, including disciplinary matters.

(p) pursue such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of Softball in the Region.

(q) adopt and implement such policies as may be developed by NSO, SSO or the Association, including (as relevant and applicable) member protection, anti-doping, health and safety, junior sport, infectious diseases and such other matters as may arise as issues to be addressed in Softball;

(r) represent the interests of its Members and of Softball generally in any appropriate forum in the Region.

(s) have regard to the public interest in its operations.

(t) do all that is reasonably necessary to enable these Objects to be achieved and enable Members to receive the benefits which these Objects are intended to achieve.

(u) promote the health and safety of Members and all other participants in Softball in the Region.

(v) seek and obtain improved facilities for the enjoyment of Softball in the Region; and

(w) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

4. POWERS OF THE ASSOCIATION

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

5. MEMBERS

5.1 Categories of Members

The Members of the Association shall consist of:

(a) Clubs, which subject to this Constitution, shall be represented by a Delegate, and who shall have the right to receive notice of General Meetings and to be present, debate and vote on behalf of the Club at General Meetings.

(b) Life Members, who subject to this Constitution, shall have the right to receive notice of Annual General Meetings and to be present and to debate at Annual General Meetings, and shall have voting rights only if currently registered and an active member of the Association.

(c) Individual Members and Affiliate Members who shall have the right to be present at General meetings but shall have no rights, to debate or to vote at General Meetings.

(d) the Directors, who shall have the right to be present and to debate at General Meetings, but have no right to vote; and

(e) such new or other categories of Members as may be established by the Board. Any new category of Member established by the Board cannot be granted voting rights without the approval of the Association in General Meeting.

5.2 Life Members

(a) The Board may recommend to the Annual General Meeting that any natural person who has rendered distinguished service to the Association or Softball, where such service is deemed to have assisted the advancement of Softball in the Region, for the minimum period of 10 years be appointed as a Life Member.

(b) A resolution of the Annual General Meeting to confer life membership (subject to **clause 5.2(c)**) on the recommendation of the Board must be a Special Resolution.

(c) A person must accept or reject the Association's resolution to confer life membership in writing. Upon written acceptance, the person's details shall be entered upon the Register, and from the time of entry on the Register the person shall be a Life Member.

6. AFFILIATION

6.1 Clubs

(a) To be, or remain, eligible for membership, a Region or Club must be incorporated or in the process of incorporation. This process must be complete within one year of applying for membership under this Constitution.

(b) For such time as the Club is not incorporated, the secretary of any such unincorporated Club shall be deemed to be the Member (on behalf of the unincorporated entity). The secretary shall be entitled to exercise the same voting and other rights and have the same obligations and shall follow such procedures on behalf of the unincorporated Club as incorporated Members, to the extent that this is possible.

(c) Any dispute or uncertainty as to the application of this Constitution to an unincorporated Club shall be resolved by the Board in its sole discretion.

(d) Failure to incorporate within the period stated in **clause 6.1(a)** shall result in the expulsion of the secretary (acting on behalf of the unincorporated entity) from membership. The expelled unincorporated entity shall not be entitled to re-apply for membership until it becomes incorporated.

6.2 Application for Affiliation

An application for affiliation must be:

(a) in writing on the form prescribed from time to time by the Board (if any), from the applicant or its nominated representative and lodged with the Association.

(b) accompanied by a copy of the applicant's constitution (which must be acceptable to the Association and must substantially conform to this Constitution) and the applicant's register of members; and

(c) accompanied by the appropriate fee (if any).

6.3 Discretion to Accept or Reject Application

(a) The Association may accept or reject an application whether the applicant has complied with the requirements in **clauses 6.1** and **6.2** or not. The Association

shall not be required or compelled to provide any reason for such acceptance or rejection.

(b) Where the Association accepts an application, the applicant shall, become a Member. Membership shall be deemed to commence upon acceptance of the application by the Association. The Secretary Director shall amend the Register accordingly as soon as practicable.

(c) Where the Association rejects an application, the Association shall refund any fees forwarded with the application and the application shall be deemed rejected.

6.4 Re-affiliation

(a) Clubs must re-affiliate annually with the Association in accordance with the procedures set down by the Association in Regulations from time to time.

(b) Upon re-affiliation a Club must lodge with the Association an updated copy of its constitution (including all amendments) and must provide details of any change in its Delegate and any other information reasonably required by the Association. Each Club must ensure that its constitution is amended to conform to any amendments made to this Constitution.

6.5 Deemed Membership

(a) All members which or who are, prior to the approval of this Constitution under the Act, members of the Association, shall be deemed Members from the time of approval of this Constitution under the Act.

(b) Clubs shall provide the Association with such details as are reasonably required by the Association under this Constitution within one month of the approval of this Constitution under the Act.

(c) Any members of the Association prior to approval of this Constitution under the Act, who are not deemed Members under **clause 6.5(a)** shall be entitled to carry on such functions analogous to their previous functions as are provided for under this Constitution.

7. REGISTER OF MEMBERS

7.1 Association to keep Register

The Association shall keep and maintain a Register in which shall be entered (as a minimum):

(a) the full name, address, category of membership and date of entry to membership of each Club; and

(b) the full name, residential address and date of entry to membership of each Director and Life Member; and

(c) where applicable, the date of termination of membership of any Club.

Clubs, Directors and Life Members shall provide notice of any change and required details to the Association within one month of such change.

7.2 Inspection of Register

Having regard to the Act, confidentiality considerations and privacy laws, an extract of the Register, excluding the address or other direct contact details of any Life Member or

Director, shall be available for inspection (but not copying) by Members who make a reasonable request.

7.3 Use of Register

Subject to the Act, confidentiality considerations and privacy laws, the Register may be used to further the Objects, in such manner as the Board considers appropriate.

8. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

(a) this Constitution constitutes a contract between each of them and the Association and that they are bound by this Constitution and the Regulations and the SSO's and NSO's constitution and regulations.

(b) they shall comply with and observe this Constitution and the Regulations and any determination, resolution or policy which may be made or passed by the Board or other entity with delegated authority.

(c) by submitting to this Constitution and Regulations they are subject to the jurisdiction of the Association, SSO and NSO.

(d) the Constitution and Regulations are necessary and reasonable for promoting the Objects and particularly the advancement and protection of Softball in the Region; and

(e) they are entitled to all benefits, advantages, privileges and services of Association membership.

9. DISCONTINUANCE OF MEMBERSHIP

9.1 Notice of Resignation

(a) A Member having paid all arrears of fees payable to the Association may resign or withdraw from membership of the Association by giving one months' notice in writing to the Association of such resignation or withdrawal.

(b) A Club may not resign, disaffiliate or otherwise seek to withdraw from the Association without approval by Special Resolution of the Club. A copy of the relevant minutes of the Club meeting showing that the Special Resolution has been passed by the Club must be provided to the Association.

(c) If a Club ceases to be a Member under this Constitution, the Association membership of all Individual Members affiliated or registered with or through the Club shall not automatically cease at that time but shall be dealt with in accordance with the Regulations.

(d) Upon the Association receiving notice of resignation of membership given under **clauses 9.1(a)** and **(b)**, an entry in the Register shall be made recording the date on which the Member who or which gave notice ceased to be a Member.

9.2 Discontinuance for breach

(a) Membership of the Association may be discontinued by the Board upon breach of any clause of this Constitution or the Regulations, including but not limited to the failure to pay any monies owed to the Association, failure to comply with the Regulations or any resolutions or determinations made or passed by the Board or any duly authorised committee.

(b) Membership shall not be discontinued by the Board under **clause 9.2(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach.

(c) Where a Member fails, in the Board's view to adequately explain the breach, that Member's membership shall be discontinued under **clause 9.2(a)** by the Association giving written notice of the discontinuance to the Member. The Register shall be amended to reflect any discontinuance of membership under this **clause 9.3** as soon as practicable.

9.3 Discontinuance for failure to re-affiliate

Membership of the Association may be discontinued by the Board if a Club has not re-affiliated with the Association within one month of re-affiliation falling due. The Register shall be amended to reflect any discontinuance of membership under this **clause 9.3** as soon as practicable.

9.4 Member to Re-apply

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

(a) must seek renewal or re-apply for membership in accordance with this Constitution; and

(b) may be re-admitted at the discretion of the Board.

9.5 Forfeiture of Rights

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Association and its property and shall not use any property of the Association including Intellectual Property. Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association immediately. Where a Club ceases to be a Member it shall also forfeit all representation rights at General Meetings.

9.6 Delegate Position Lapses

The position of Delegate shall lapse immediately on cessation of membership of a Club.

9.7 Membership may be Reinstated

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

9.8 Refund of Membership Fees

Membership fees or subscriptions paid by the discontinued Member may be refunded on a pro-rata basis to the Member upon discontinuance, at the absolute discretion of the Board.

10. DISCIPLINE

(a) Where the Board is advised or considers that a Member has allegedly:

(i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations, the SSO's or the NSO's constitution or regulations or any resolution or determination of the Board or any duly authorised committee; or

(ii) acted in a manner unbecoming of a Member, or prejudicial to the purposes and interests of the Association, SSO, NSO and/or Softball; or

(iii) brought the Association, SSO, NSO, any other Member or Softball into disrepute.

the Board may commence or cause to be commenced, disciplinary proceedings against that Member, and that Member, will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Association set out in the Regulations.

(b) The Board may appoint a Judiciary Committee to deal with any disciplinary matter referred to it. Such a Judiciary Committee shall operate in accordance with the procedures expressed in the Regulations but subject always to the Act.

11. SUBSCRIPTIONS AND FEES

The annual membership subscription (if any) and any fees or other levies payable by Members to the Association, the time for and manner of payment, shall be as determined by the Board.

12. EXISTING DIRECTORS

(a) The members of the administrative or governing body (by whatever name called) of the Association in office immediately prior to approval of this Constitution under the Act shall continue in those positions until the next Annual General Meeting following such adoption of this Constitution. After this General Meeting the positions of Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution.

(b) The person known and appointed to the position of Secretary (or similar title) immediately prior to approval of this Constitution under the Act shall continue in that position following such approval, subject to any contractual arrangements.

13. POWERS OF THE BOARD

Subject to the Act and this Constitution, the business of the Association shall be managed, and the powers of the Association shall be exercised, by the Board. In particular, the Board shall act in accordance with the Objects and shall operate for the benefit of the Members and the community throughout the Region.

14. COMPOSITION OF THE BOARD

14.1 Composition of the Board

The Board shall comprise:

(a) Of seven elected Directors; Chairperson, Secretary, Finance Director and four Board Directors

who must all be Individual Members and who shall be elected under **clause 15**.

(b) up to two appointed Directors.

who need not be Individual Members and who may be appointed by the Directors in accordance with **clause 16**.

A Director cannot also be a Delegate.

14.2 Election and Appointment of Directors

(a) The elected Directors shall be elected under **clause 15**.

(b) The appointed Directors may be appointed under **clause 16**.

(c) Each Club may be represented by no more than 2 Directors during a term.

14.3 Portfolios

The Chairperson may allocate portfolios and/or titles to Directors.

15. ELECTED DIRECTORS

15.1 Nominations

(d) Nominations for elected Director positions shall be called for forty-eight days prior to the Annual General Meeting. When calling for nominations' details of the necessary qualifications and job descriptions for the positions shall also be provided. Qualifications and job descriptions shall be as determined by the Board from time to time.

(e) Nominees for elected Director positions must declare any position they hold in a Club including as an officer (howsoever described including as a Delegate) or as a full-time employee.

15.2 Form of Nomination

Nominations must be:

(a) in writing.

(b) on the prescribed form (if any) provided for that purpose.

(c) signed by an authorised representative from two Clubs and/or Individual Members.

(d) certified by the nominee (who must be an Individual Member) expressing his willingness to accept the position for which he is nominated; and

(e) delivered to the Association not less than twenty-four days before the date fixed for the Annual General Meeting.

15.3 Elections

(a) If the number of nominations received for the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be declared elected only if approved by the majority of Members entitled to vote.

(b) If there are insufficient nominations received to fill all vacancies on the Board, or if a person is not approved by the majority of Members under **clause 15.3(a)**, the positions will be deemed casual vacancies under **clause 17.1**.

(c) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in alphabetical order, for each vacancy on the Board.

(d) Voting shall be conducted in such manner and by such method as may be determined by the Board from time to time.

15.4 Term of Appointment for Elected Directors

(a) Directors elected under this **clause 15** shall be elected for a term of two years. Subject to provisions in this Constitution relating to earlier retirement or removal of Directors, elected Directors shall remain in office from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the second Annual General Meeting following.

(b) Four (4) elected Directors shall retire in each odd year and three elected Directors shall retire in each even year until, after two years the seven original elected Directors have retired after which those elected Directors (or their replacements) who first retired, shall retire and so on.

(c) The sequence of retirements under **clause 15.4(b)** to ensure rotational terms shall be determined by the Board. If the Board cannot agree it will be determined by lot.

(d) Following the adoption of this Constitution, no person who has served as an elected Director for a period of four consecutive full terms shall be eligible for election as an elected Director until the next Annual General Meeting following the date of conclusion of his last term as an elected Director.

16. APPOINTED DIRECTORS

16.1 Appointment of Directors

The elected Directors may appoint up to two appointed Directors.

16.2 Qualifications for Appointed Directors

The appointed Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition. They do not need to be Individual Members but must be natural persons. Appointed Directors cannot also be a Delegate.

16.3 Term of Appointment for Appointed Directors

(a) Appointed Directors may be appointed by the elected Directors under this Constitution for a term of one year, which shall commence from the first Board meeting after the Annual General Meeting until after the conclusion of the second Annual General Meeting following.

(b) Appointed Directors may be appointed to ensure rotational terms that coincide with the elected Directors' rotational terms.

(c) Any adjustment to the term of appointed Directors appointed under this Constitution necessary to ensure rotational terms under this Constitution, shall be determined by the Board.

(d) Following the adoption of this Constitution, no person who has served as an appointed Director for a period of four consecutive full terms shall be eligible for appointment as an appointed Director until the next Annual General Meeting following the date of conclusion of his last term as an appointed Director.

17. VACANCIES ON THE BOARD

17.1 Casual Vacancies

Any casual vacancy occurring in the position of Director may be filled by the remaining Directors from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the Director's term under this Constitution.

17.2 Grounds for Termination of Director

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

(a) dies.

(b) becomes bankrupt or makes any arrangement or composition with his creditors generally.

(c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health.

(d) resigns his office in writing to the Association.

(e) is absent without the consent of the Board from meetings of the Board held during a period of six months.

(f) holds any office of employment with the Association.

(g) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest.

(h) in the opinion of the Board (but subject always to this Constitution):

(i) has acted in a manner unbecoming or prejudicial to the Objects and interests of the Association; or

(i) has brought the Association into disrepute.

(i) is removed by Special Resolution; or

(j) would otherwise be prohibited from being a Director of a corporation under the *Corporations Act 2001 (Cth)*.

17.3 Board May Act

In the event of a casual vacancy or vacancies in the office of a Director or Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Director to a number sufficient to constitute such a quorum.

18. MEETINGS OF THE BOARD

18.1 Board to Meet

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

18.2 Decisions of Board

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

18.3 Resolutions not in Meeting

(a) A resolution in writing, signed or assented to by ,email, facsimile or other form of visible or other electronic communication by all the Directors for the time being present in Australia shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Directors.

(b) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of the Board may be held where one or more of the Directors is not physically present at the meeting, provided that:

(i) all persons participating in the meeting are able to communicate with each other effectively simultaneously and instantaneously whether by means of telephone or other form of communication.

(ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board or this Constitution and such notice specifies that Directors are not required to be present in person;

(iii) if a failure in communications prevents **clause 18.3(b)(i)** from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held then the meeting shall be suspended until **clause 18.3(b)(i)** is satisfied again. If such condition is not satisfied within fifteen minutes from the interruption the meeting shall be deemed to have terminated or adjourned; and

(iv) any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the chairperson of the meeting is located.

18.4 Quorum

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is five.

18.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their apology or presence) not less than seven days written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than four days prior to such meeting.

18.6 Chairperson

The chairperson shall be the nominal head of the Association and will act as chair of any Board meeting or General Meeting at which he is present. If the chairperson is not present

or is unwilling or unable to preside at a board meeting the remaining Directors shall appoint another Director to preside as chair for that meeting only.

18.7 Directors' Interests

A Director is disqualified by holding any place of profit or position of employment in the Association or in any company or incorporated association in which the Association is a shareholder or otherwise interested or from contracting with the Association either as vendor, purchaser or otherwise except with express resolution of approval of the Board. Any such contract or any contract or arrangement entered by or on behalf of the Association in which any Director is in any way interested will be void unless approved by the Board.

18.8 Conflict of Interest

A Director shall declare his interest in any:

(a) contractual matter.

(b) selection matter.

(c) disciplinary matter; or

(d) financial matter.

in which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent himself from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Director votes the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a Director to absent himself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

18.9 Disclosure of Interests

(a) The nature of the interest of such Director must be declared by the Director at the meeting of the Board at which the relevant matter is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a matter after it is made or entered into the declaration of the interest must be made at the first meeting of the Board held after the Director becomes so interested.

(b) All disclosed interests must also be disclosed to each Annual General Meeting in accordance with the Act.

18.10 General Disclosure

A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **clause 18.9** as regards such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

18.11 Recording Disclosures

Any declaration made, any disclosure or any general notice given by a Director in accordance with **clauses 18.8**, **18.9** and/or **18.10** must be recorded in the minutes of the relevant meeting.

.

19. DELEGATIONS

19.1 Board may Delegate Functions

The Board may by instrument in writing create or establish or appoint special committees, individual officers and consultants to carry out such duties and functions, and with such powers, as the Board determines from time to time. In exercising its power under this clause, the Board must consider broad stakeholder involvement

19.2 Delegation by Instrument

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

(a) this power of delegation; and

(b) a function imposed on the Board or the Secretary Director by the Act or any other law, or this Constitution or by resolution of the Association in General Meeting.

19.3 Delegated Function Exercised in Accordance with Terms

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

19.4 Procedure of Delegated Entity

The procedures for any entity exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **clause 18** above. The entity exercising delegated powers shall make decisions in accordance with the Objects, and shall promptly provide the Board with details of all material decisions and shall provide any other reports, minutes and information as the Board may require from time to time.

19.5 Delegation may be Conditional

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

19.6 Revocation of Delegation

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

20. OFFICIAL ADDRESS

An Association's proposed official address which must be an address within New South Wales.

(a) At which any premises used by the association are located, or

(b) At which the proposed public officer resides, is employed or carries on business.

(c) The official address of an association must be for the public officer (who is the official contact) and must be an address at which it is possible to serve documents on the association personally or by post in accordance with section 101 of the Act.

21. ANNUAL GENERAL MEETING

(a) An Annual General Meeting of the Association shall be held in accordance with the Act and this Constitution and on a date and at a venue to be determined by the Board.

(b) All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

22. SPECIAL GENERAL MEETINGS

22.1 Special General Meetings May be Held

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

22.2 Requisition of Special General Meetings

(a) The Secretary Director shall on the requisition in writing of not less than five percent of voting Members convene a Special General Meeting.

(b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Members making the requisition and be sent to the Association and may consist of several documents in a like form, each signed by one or more of the Members making the requisition.

(c) If the Secretary Director does not cause a Special General Meeting to be held within one month after the date on which the requisition is sent to the Association, the Members making the requisition, or any of them, may convene a Special General Meeting to be held not later than three months after that date.

(d) A Special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

23. NOTICE OF GENERAL MEETING

(a) Notice of every General Meeting shall be given to every Club and Life Member or other Member entitled to receive notice at the address appearing in the Register kept by the Association. The auditor and Directors shall also be entitled to notice of every General Meeting, which shall be sent to their last notified address. No other person shall be entitled as of right to receive notices of General Meetings.

(b) A notice of a General Meeting shall specify the place and day and hour of meeting and shall state the business to be transacted at the meeting.

(c) At least twenty-one days' notice of a General Meeting shall be given to those Members entitled to receive notice, together with:

(i) the agenda for the meeting.

(ii) any notice of motion received from Members entitled to vote.

(d) Notice of every General Meeting shall be given in the manner authorised in **clause 41**.

24. BUSINESS

(a) The business to be transacted at the Annual General Meeting includes the consideration of accounts and the reports of the Board and auditors, the election of Directors under this Constitution and the appointment of the auditors.

(b) All business that is transacted at a General Meeting and all business that is transacted at an Annual General Meeting, with the exception of those matters set down in **clause 24(a)** shall be special business.

(c) No business other than that stated on the notice for a General Meeting shall be transacted at that meeting.

25. NOTICES OF MOTION

Members entitled to vote may submit notices of motion for inclusion as special business at a General Meeting. All notices of motion must be submitted in writing to the Secretary Director not less than thirty-five days (excluding receiving date and meeting date) prior to the General Meeting.

26. PROCEEDINGS AT GENERAL MEETINGS

26.1 Quorum

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of the Association shall be **75%** of Clubs represented by their Delegates.

26.2 Chairperson to preside

The chairperson of the Board shall, subject to this Constitution, preside as chair at every General Meeting except:

(a) in relation to any election for which the chairperson is a nominee; or

(b) where a conflict of interest exists.

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

26.3 Adjournment of Meeting

(a) If within half an hour from the time appointed for the meeting, a quorum is not present the meeting shall be adjourned until the same day in the next week at the same time and place or to such other day and at such other time and place as the chairperson may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting will lapse.

(b) The chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(c) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(d) Except as provided in **clause 26.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

26.4 Voting Procedure

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

(a) the chairperson; or

(b) a simple majority of Delegates on behalf of their Members.

26.5 Recording of Determinations

Unless a poll is demanded under **clause 26.4**, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

26.6 Where Poll Demanded

If a poll is duly demanded under **clause 26.4** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

27. VOTING AT GENERAL MEETINGS

27.1 Members Entitled to Vote

Each Club shall be entitled to one vote at General Meetings which, subject to this clause shall be exercised by the Club's Delegate. No other Member shall be entitled to vote but shall subject to this Constitution have, and be entitled to exercise, those rights set out in **clause 5.1**. The Directors shall have no right to vote at General Meetings.

A member is not entitled to vote at any general meeting of the association if the member is under 18 year of age.

27.2 Chairperson May Exercise Casting Vote

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

27.3 Postal Voting

No motion shall be determined by a postal ballot unless determined by the Board. If the Board so determines, the postal ballot shall be conducted under the procedures set by the Board from time to time.

28. PROXY VOTING

Proxy voting shall not be permitted at all General Meetings.

29. STRATEGIC FORUM OF ASSOCIATION

29.1 Strategic Forums

The Association shall hold a strategic forum at least once per year. The object of the strategic forum is to:

(a) inform the Board of significant membership issues.

(b) assist the Board to design or review the Association's strategic plan and direction.

(c) discuss state-wide issues.

(d) provide feedback to the Board on the results of its governance decisions in practice at Member level.

29.2 Attendees at Strategic Forums

The following persons may attend strategic fora of the Association:

(a) up to two representatives from each Club.

(b) the Directors; and

(c) such other persons the Board considers should be invited.

30. GRIEVANCE PROCEDURE

(a) The grievance procedure set out in this rule applies to disputes under these rules between a Member and:

(i) another Member; or

(ii) the Association.

(b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen days after the dispute comes to the attention of all parties.

(c) If the parties are unable to resolve the dispute at the meeting or if a party fails to attend that meeting, then the parties must, within ten days, refer the dispute for resolution to an independent tribunal or other committee as determined by the Board in accordance with the Regulations.

(d) The Board may prescribe additional grievance procedures in Regulations consistent with this **Rule 30**.

31. RECORDS AND ACCOUNTS

31.1 Records

The Association shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board and shall produce these as appropriate at each Board or General Meeting.

31.2 Records Kept in Accordance with Act

Proper accounting and other records shall be kept in accordance with the Act. The books of account shall be kept in the care and control of the Secretary Director, or as otherwise determined by the Board by way of Regulations.

31.3 Association to Retain Records

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

31.4 Board to Submit Accounts

The Board shall submit to the Members at the Annual General Meeting the statements of account of the Association in accordance with this Constitution and the Act.

31.5 Accounts Conclusive

The statements of account when approved or adopted by an Annual General Meeting shall be conclusive except as regards any error discovered in them within three months after such approval or adoption.

31.6 Accounts to be Sent to Members

The Secretary Director shall cause to be sent to all persons entitled to receive notice of Annual General Meetings in accordance with this Constitution, a copy of the statements of account, the Board's report, the auditor's report and every other document required under the Act (if any).

31.7 Negotiable Instruments

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

32. AUDITOR

(a) A properly qualified auditor or auditors shall be appointed by the Association in General Meeting. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with the *Corporations Act* and generally accepted principles, and/or any applicable code of conduct. The auditor may be removed by the Association in General Meeting.

(b) The accounts of the Association shall be examined, and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each Financial Year.

33. INCOME

33.1 Income and property of the Association shall be derived from such sources as the Board determines from time to time.

33.2 The income and property of the Association shall be applied solely towards the promotion of the Objects.

33.3 Except as prescribed in this Constitution or the Act:

(a) no portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member; and

(b) no remuneration or other benefit in money or money's worth shall be paid or given by the Association to any Member who holds any office of the Association.

33.4 Nothing in **clauses 33.2** or **33.3** shall prevent payment in good faith of or to any Member for:

(a) any services rendered to the Association whether as an employee, Director or otherwise.

(b) goods supplied to the Association in the ordinary and usual course of operation.

(c) interest on money borrowed from any Member.

(d) rent for premises demised or let by any Member to the Association.

(e) any out-of-pocket expenses incurred by the Member on behalf of the Association.

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

34. WINDING UP

(a) Subject to this Constitution the Association may be wound up in accordance with the Act.

(b) The liability of the Members of the Association is limited.

(c) Every Member undertakes to contribute to the assets of the Association if it is wound up while a Member, or within one year after ceasing to be a Member, for payment of the debts and liabilities of the Association contracted before the time at which it ceases to be a Member and the costs, charges and expenses of winding up the Association, such an amount not exceeding one dollar.

35. DISTRIBUTION OF PROPERTY ON WINDING UP

If upon winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members but shall be given or transferred to another organisation or organisations having objects similar to the Objects and which prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Association by this Constitution. Such organisation(s) to be determined by the Members in General Meeting at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of New South Wales or other Court as may have or acquire jurisdiction in the matter.

36. ALTERATION OF CONSTITUTION

This Constitution shall not be altered except by Special Resolution.

37. REGULATIONS

37.1 Board to Formulate Regulations

The Board may formulate, issue, adopt, interpret and amend such Regulations for the proper advancement, management and administration of the Association, the advancement of the purposes of the Association and Softball in the Region as it thinks necessary or desirable. Such Regulations must be consistent with the Constitution, the SSO's and NSO's constitutions, any regulations made by the SSO or NSO and any policy directives of the Board.

37.2 Regulations Binding

All Regulations are binding on the Association and all Members.

37.3 Regulations Deemed Applicable

All clauses, rules, by-laws and regulations of the Association in force at the date of the approval of this Constitution insofar as such clauses, rules, by-laws and regulations are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be Regulations and shall continue to apply.

37.4 Bulletins Binding on Members

Amendments, alterations, interpretations, or other changes to Regulations shall be advised to Members by means of bulletins approved by the Board and prepared and issued by the Secretary Director. Clubs shall take reasonable steps to distribute information in the Bulletins to Individual Members. The matters in the Bulletins are binding on all Members.

38. STATUS AND COMPLIANCE OF ASSOCIATION

38.1 Recognition of Association

The Association is a member of SSO and is recognised by SSO as the controlling authority for Softball in the Region and subject to compliance with this Constitution and the SSO's and NSO's constitution shall continue to be so recognised and shall administer Softball in the Region in accordance with the Objects.

38.2 Compliance of Association

The Members acknowledge and agree the Association shall:

(a) be or remain incorporated in New South Wales.

(b) apply its property and capacity solely in pursuit of the Objects and Softball.

(c) do all that is reasonably necessary to enable the Objects to be achieved.

(d) act in good faith and loyalty to ensure the maintenance and enhancement of Softball, its standards, quality, and reputation for the benefit of the Members and Softball.

(e) at all times act in the interests of the Members and Softball.

(f) not resign, disaffiliate or otherwise seek to withdraw from SSO without approval by Special Resolution; and

(g) abide by the SSO's and NSO's constitutions and the rules of Softball.

38.3 Operation of Constitution

The Association and the Members acknowledge and agree:

(a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the Objects and Softball are to be conducted, promoted, encouraged, advanced and administered throughout the Region; and

(b) to ensure the maintenance and enhancement of Softball, its standards, quality, and reputation for the benefit of the Members and Softball.

(c) not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Softball and its maintenance and enhancement.

(d) to promote the economic and community service success, strength, and stability of each other and to act interdependently with each other in pursuit of their respective objects.

(e) to act in the interests of Softball and the Members.

(f) that should a Member have administrative, operational or financial difficulties the Association may act to assist the Member in whatever manner the Association considers appropriate.

39. ASSOCIATION'S CONSTITUTION

39.1 Constitution of the Association

This Constitution will clearly reflect the objects of the SSO and will conform to the SSO's constitution, subject always to the Act.

39.2 Operation of NSO constitution

(a) The Association will take all reasonable steps to ensure this Constitution conforms to the SSO constitution subject always to the Act.

(b) The Association shall provide to SSO a copy of this Constitution and all amendments to this document. The Association acknowledges and agrees that the SSO has power to veto any provision in its Constitution which, in SSO's opinion, is contrary to the objects of SSO.

39.3 Register

The Association shall maintain, in a form acceptable to SSO but otherwise in accordance with the Act, a Register of all Clubs and if appropriate all Individual Members.

40. STATUS AND COMPLIANCE OF CLUBS

40.1 Compliance

Clubs acknowledge and agree that they shall:

(a) be or remain incorporated in New South Wales.

(b) nominate a Delegate annually to attend General Meetings and shall inform the Association of the details of that person accordingly.

(c) provide the Association with copies of their accounts, annual financial reports, and other associated documents as soon as practicable, following the Club's Annual General Meeting.

(d) recognise the Association as the authority for Softball in the Region, the SSO as the authority in New South Wales and the NSO as the national authority for Softball.

(e) adopt and implement such communications and Intellectual Property policies as may be developed by the Association and/or the SSO from time to time; and

(f) have regard to the Objects in any matter of the Club pertaining to Softball.

40.2 Club Constitutions

(a) The Clubs' constituent documents will clearly reflect the Objects and will conform to this Constitution.

(b) Clubs will take all reasonable steps necessary to ensure their constituent documents conform to this Constitution.

(c) Clubs shall provide to the Association a copy of their constituent documents and all amendments to these documents. Clubs acknowledge and agree that the Association has power to veto any provision in a Club constitution which, in the Association's opinion, is contrary to the Objects.

(d) The constituent documents of each Club shall, at the earliest available opportunity, but within one year of the commencement of this Constitution, recognise the Association as the authority for Softball in the Region, the SSO as the authority in New South Wales and the NSO as the national authority for Softball in Australia.

40.3 Register

Clubs shall maintain, in a form acceptable to the Association, a Register of all Members of the Club. Each Club shall provide a copy of the Register at a time and in a form acceptable to the Association and shall provide regular updates of the Register to the Association.

41. NOTICE

(a) Notices may be given by the Association to any person entitled under this Constitution to receive any notice by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's Registered address or facsimile number or electronic mail address, or in the case of a Delegate, to the last notified address, facsimile number or electronic mail address.

(b) Where a notice is sent by post, service of the notice shall be deemed to be affected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been affected three days after posting.

(c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.

(d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be affected the next business day after it was sent.

42. PATRONS AND VICE PATRONS

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

43. INDEMNITY

(a) Every Director and employee of the Association shall be indemnified out of the property and assets of the Association against any liability incurred by them in their capacity as Director or employee in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the Court.

(b) The Association shall indemnify its Directors and employees against all damages and losses (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

(ii) in the case of a Director, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and

(iii) in the case of an employee, performed or made during, and within the scope of their employment by the Association.