

CONSTITUTION
of
New South Wales Fencing Association Inc.
Effective 24 July 2016

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ASSOCIATIONS INCORPORATION ACT 2009 (NSW)

CONSTITUTION

of

NEW SOUTH WALES FENCING ASSOCIATION INCORPORATED

1. NAME OF ASSOCIATION

The name of the Association is the New South Wales Fencing Association Incorporated ("**Association**").

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Constitution unless the contrary intention appears:

"**Accredited Coach**", means a coach currently accredited to a standard that is determined to be satisfactory by the Association from time to time..

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

"**Affiliated Club**" means a Club meeting the requirements of clause 6.

"**Appointed Director**" means a Director appointed pursuant to clause 16.

"**Association**" means New South Wales Fencing Association Incorporated.

"**Board**" means the body consisting of the Directors.

"**Club**" means a fencing club which is affiliated or registered with the Association.

"**Constitution**" means this Constitution of the Association.

"**Delegate**" means a Member of the Association delegated by the Board to attend General Meetings of the Australian Fencing Federation and to represent the Association at such meetings and to vote on motions considered at such meetings.

"**Director**" means a member of the Board and includes any person acting in that capacity from time to time appointed or elected in accordance with this Constitution and does not include the Executive Officer.

"**Executive Officer**" means the Executive Officer of the Association for the time being appointed under this Constitution. Where the Association does not have an Executive Officer, the Association Secretary or Public Officer will, subject to confirmation by the Board, assume the functions of the Executive Officer under this Constitution.

"**Financial year**" means the year ending on the next 31 December following incorporation and thereafter a period of 12 months commencing on 1 January and ending on 31 December each year.

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

"**IF**" means the International Federation for the sport of fencing – Federation Internationale d'Esgrime (FIE).

“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.

“Honorary Member” means an individual appointed as a Life Member of the Association under clause 5.2.

“Member” means a registered, financial member of the Association or a natural person who is otherwise recognised by the Association as an individual Member who meets the requirements of clause 5.

“NSO” means National Sporting Organisation – specifically, the Australian Fencing Federation (AFF).

“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.

“Register” means a register of Members kept and maintained in accordance with clause 7.

“Registered Club” means a Club registered with the Association in accordance with Clause 41.

“Regulations” mean any Regulations made by the Board under clause 38.

“Special Resolution” means a special resolution defined in the Act.

2.2 Interpretation

In this Constitution:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations and bodies politic;
- (d) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (e) 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
- (f) 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 the Australian Fencing Federation so fencing can be conducted, encouraged, promoted, advanced and administered in Australia and in New South Wales;
- (b) conduct, encourage, promote, advance and administer fencing throughout New South Wales;
- (c) ensure the maintenance and enhancement of the Association, NSO, the Members and fencing, its standards, quality and reputation for the benefit of the Members and fencing;
- (d) at all times promote mutual trust and confidence between the Association, 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 fencing in New South Wales, as determined by the Directors from time to time;
- (f) promote the economic and community service success, strength and stability of the Association, the Members and fencing in New South Wales;
- (g) be a constituent member of the Australian Fencing Federation and adopt its rule and policy framework to further these Objects and fencing;
- (h) use and protect the Intellectual Property of the Association;
- (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 fencing in New South Wales;
- (k) abide by, promulgate, enforce and secure uniformity in the application of, the rules of fencing as may be determined from time to time by the Federation Internationale d'Escrime, the Australian Fencing Federation and the Association as may be necessary for the management and control of fencing and related activities in New South Wales;
- (l) advance the operations and activities of the Association throughout New South Wales;
- (m) further develop fencing into an organised institution and with these Objects in view, to foster, regulate, organise and manage examinations, competitions, displays and other activities and to issue badges, medallions and certificates and award trophies to successful Members;

- (n) review and/or determine any matters relating to fencing 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 fencing in New South Wales, including disciplinary matters;
- (p) pursue such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of fencing in New South Wales;
- (q) adopt and implement such policies as may be developed by the Australian Fencing Federation, including (as relevant and applicable) member protection, anti-doping, health and safety, junior sport and such other matters as may arise as issues to be addressed in fencing;
- (r) represent the interests of its Members and of fencing generally in any appropriate forum in New South Wales;
- (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 fencing in New South Wales;
- (v) seek and obtain improved facilities for the enjoyment of fencing in New South Wales; 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) Members who may register in the following categories:
 - (i) Senior Affiliated Members – over the age of 18 on 1 January in the year of registration who shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings and have the right to vote in person or by valid proxy.
 - (ii) Junior Affiliated Members – under the age of 18 on 1 January in the year of registration who shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings but shall have no right to vote.
 - (iii) Senior Registered Members – over the age of 18 on 1 January

in the year of registration who shall have the right to receive notice of General Meetings and to be present and to debate and have the right to vote in person or by valid proxy.

- (iv) Junior Registered Members – under the age of 18 on 1 January in the year of registration and who shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings but shall have no right to vote.
- (v) Honorary Members, over the age of 18 on 1 January in the year of registration who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings and have the right to vote in person or by valid proxy.
- (vi) Member Coaches, over the age of 18 on 1 January in the year of registration who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings and have the right to vote in person or by valid proxy.
- (vii) Senior Club Fencers– over the age of 18 on 1 January in the year of registration who participate in Club activities and who, subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings and have the right to vote in person or by valid proxy.
- (viii) Junior Club Fencers– under the age of 18 on 1 January in the year of registration who participate in Club activities and who, subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and to debate at General Meetings but shall have no right to vote.

- (b) 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 Honorary Members

- (a) The Board may recommend to the Annual General Meeting that any natural person who has rendered distinguished service to the Association or to fencing, where such service is deemed to have assisted the advancement of fencing in New South Wales, be appointed as an Honorary Member.
- (b) A recommendation of the Board to confer honorary membership (subject to clause 5.2(c)) must be approved by a Resolution of Members at the Annual General Meeting.
- (c) A person must accept or reject the Association's resolution to confer honorary 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 an Honorary Member.

6. AFFILIATION OR REGISTRATION

6.1 Clubs

A Club is not required to be incorporated to affiliate or register with the Association.

6.2 Benefits of Affiliation or Registration

On becoming an Affiliated or Registered Club, for the duration of its affiliation or registration, the club shall receive the benefit of such insurance (subject to compliance with the terms of any such insurance policy) arranged by the Association as can extend to the Club or its members or officers; be listed on the Association's website as an Affiliated or Registered Club with contact details and information about the Club's activities; and be eligible for grants that may be made by the Association for Club development from time to time.

6.3 Application for Affiliation or Registration

An application for Club affiliation or Registration 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 (if any) (which must be acceptable to the Association and must substantially conform to this Constitution) and the applicant's register of members;
- (c) accompanied by the appropriate fee (if any); and
- (d) include the names of the office bearers of the Club being the President, Secretary and Treasurer (if any).

6.4 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, 6.2 and 6.3 or not. The Association shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Where the Association rejects an application, the Association shall refund any fees forwarded with the application and the application shall be deemed rejected by the Association.

6.5 Re-Affiliation or Re-Registration

- (a) Clubs may re-affiliate or re-register annually with the Association in accordance with the procedures set down by the Association in Regulations from time to time.
- (b) Upon re-affiliation or re-registration a Club must provide any information reasonably required by the Association.

6.6 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..

- (c) Any Members of the Association prior to approval of this Constitution under the Act, who are not deemed Members under clause 6.6(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 name, residential address, telephone number(s), email address, category of membership and date of entry to membership of each Member and
- (b) where applicable, the date of termination of membership of any Member and the reason for the termination of membership, and
- (c) Members shall provide notice of any change and required details to the Association within one month of such change.

The Register of Members may be kept in an electronic database.

7.2 Inspection of Register

Having regard to the Act, confidentiality considerations and privacy laws, an extract of the Register shall be available for inspection (but not copying) by Members, upon reasonable request.

7.3 Use of Register

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

8. EFFECT OF MEMBERSHIP

Members and Clubs 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 NSO 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 and NSO;
- (d) the Constitution and Regulations are necessary and reasonable for promoting the Objects and particularly the advancement and protection of fencing in New South Wales; 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 month's notice in writing to the Association of such resignation or withdrawal.
- (b) A Club may not 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) Upon the Association receiving notice of resignation or disaffiliation 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 and the reason given for such cessation.
- (d) A Member's cessation of membership does not terminate the jurisdiction or power of the Association in relation to acts, conduct or events in which the Member was involved when he or she was a Member. This provisions applies to the Association's power to impose internal sanctions or to report matters to the AFF or IF or other State fencing associations.

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 9.2 as soon as practicable.
- (d) The discontinuance of a Member's membership does not terminate the jurisdiction or power of the Association in relation to acts, conduct or events in which the Member was involved when he or she was a Member. This provisions applies to the Association's power to impose internal sanctions or to report matters to the AFF or IF or other State fencing associations.

9.3 Discontinuance for failure to re-affiliate

A Club's affiliation with the Association may be discontinued by the Board if a Club has not re-affiliated with the Association within one month of the beginning of the calendar year. The Register shall be amended to reflect any discontinuance under this clause 9.3 as soon as practicable.

9.4 Member or Club to Re-Apply

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

- (a) may seek renewal or re-apply for membership or affiliation in accordance with this Constitution; and
- (b) may be re-admitted at the discretion of the Board.

9.5 Forfeiture of Rights

A Member ceasing to be a Member or Affiliated or a Registered Club ceasing affiliation, 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 or Club shall be returned to the Association immediately.

9.6 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.

9.7 Refund of Membership Fees

Membership fees or subscriptions paid by the discontinued Member may not be refunded to the Member upon discontinuance.

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 AFF 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, the AFF and/or fencing as determined by the board; or
 - (iii) brought the Association, AFF, any other Member or fencing into disrepute as determined by the board;

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.

- (a) The Membership Year shall commence on 1 January and conclude on 31 December.
- (b) Fencers will not be eligible to participate in any competition or other activity organised by the Association until they have paid their annual membership fee.

12. EXISTING DIRECTORS

Notwithstanding any other provision in this Constitution, which provision shall operate subject to the following transitional provision:

- (a) The executive members of the administrative or governing body (by whatever name called) of the Association in office prior to approval of this Constitution under the Act shall, immediately upon the approval of this Constitution, become Directors . After the next Annual General Meeting, the positions of Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution.
- (b) The person 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 as the governing body for fencing in New South Wales shall be responsible for acting on State and local issues in accordance with the Objects and shall operate for the benefit (as such benefit may be determined by the Board from time to time) of the Members and the community throughout New South Wales and shall govern fencing in New South Wales in accordance with this Constitution and in particular the Objects.

14. COMPOSITION OF THE BOARD

14.1 Composition of the Board

The Board shall comprise:

- (a) Eight (8) Directors who must all be Members; and
- (b) up to two (2) Directors; who need not be Members and who may be appointed by the Directors under clause 16.

14.2 Election and Appointment of Directors

A person is a Director if that person:

- (a) becomes a Director pursuant to clause 12;

- (b) is elected a Director pursuant to clause 15;
- (c) is appointed a Director under clause 16; or
- (d) is appointed a Director to fill a casual vacancy under clause 17.

14.3 Portfolios

The Board may allocate portfolios and/or titles to Directors and may delegate such powers, or revoke or limit powers, as the Board thinks fit and upon such terms as the Board considers to be conducive to the good governance of the Association.

15. ELECTION OF DIRECTORS

15.1 Nominations

- (a) Nominations for the Director positions referred to in clause 14.1 (a) shall be called for twenty-eight (28) days prior to the Annual General Meeting. When calling for nominations, details of the necessary qualifications and job descriptions for the positions may also be provided. Qualifications and job descriptions shall be as determined by the Board from time to time.
- (b) Nominees for Director positions must declare any position they hold in a Club including as an officer (howsoever described) 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 two Members;
- (d) certified by the nominee (who must be a Member) expressing his/her willingness to accept the position for which he/she is nominated; and
- (e) delivered to the Association not less than fourteen (14) 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.
- (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 to be 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 Directors

- (a) With the exception of any Director appointed to fill a casual vacancy or an Appointed Director, and subject to clause 15.4(b), a Director's position is for a term of four (4) years. In the case of a Director appointed to fill a casual vacancy, that Director's position will be for the remainder of the term of the Director whose departure resulted in a casual vacancy.
- (b) To allow for rotation of Directors, two Directors will retire at the first Annual General Meeting following the adoption of this Constitution and be eligible for re-election, subject to clause 15.4(c). The sequence of retirements to ensure rotational terms of 4 years shall be determined by the Board. If the Board cannot agree it will be determined by lot.
- (c) No person who has served as a Director for a period of four (4) consecutive full terms shall be eligible for election as Director until the next Annual General Meeting following the date of conclusion of his or her last term as a Director.

16. APPOINTED DIRECTORS

16.1 Appointment of Directors

The Directors may appoint up to two (2) Directors to fill the positions referred to in clause 14.1(b) (**Appointed Directors**).

16.2 Qualifications for Appointed Directors

The Appointed Directors may have specific skills in commerce, finance, marketing, law or business generally, sports administration and organisation management; or such other skills which complement the Board composition. They do not need to be Members but must be natural persons.

16.3 Term of Appointment for Appointed Directors

- (a) Appointed Directors may be appointed by the s under this Constitution for a term of two (2) years, 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 Directors' rotational terms.
- (c) Any adjustment to the term of Appointed Directors 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 (4) 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 a resolution of the remaining Directors appointing an appropriately qualified person as a Director. Any casual vacancy may only be filled for the remainder of the term of the former Director whose departure resulted in the casual vacancy.

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/her creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns his/ her office in writing to the Association;
- (e) is absent without the consent of the Board from more than two consecutive meetings of the Board;
- (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 or her 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
 - (ii) has brought the Association into disrepute;
 - (iii) is removed by Special Resolution; or
- (i) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth)*;
- (j) fails to attend two consecutive meetings of the Board without prior approval given by the chairperson or fails to attend at least half of the board meetings held in any one year without prior approval given by the chairperson.

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 Directors 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. A Board meeting can be in person or by video conference or telephonic link or any combination of those means as shall be selected or approved from time to time by the convenor or chairperson of the meeting.

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 (1) 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 in visible form by email or other form of visible or other electronic communication by all the Directors for the time being present in Australia shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution:
 - (i) may consist of several documents in like form each signed or assented to by one (1) or more of the Directors;
 - (ii) shall state that it is to be circulated for signature or approval.
- (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 (1) 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 (15) minutes from the interruption the meeting shall be deemed to have terminated or adjourned; and
 - (iv) any meeting held where one (1) 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 four (4). For the purposes of determining if a quorum is present, a Director who participates in a meeting by electronic means is deemed to be present at a meeting.

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 (7) 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 three (3) days prior to such meeting.

18.6 Chairperson

The Board shall appoint a chairperson from amongst its number. 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 or she 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 into 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 or her 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 or herself 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. EXECUTIVE OFFICER

19.1 Appointment of Executive Officer

An Executive Officer may be appointed by the Board for such term and on such conditions as the Board thinks fit.

19.2 Executive Officer to act as Secretary and Public Officer

The Executive Officer shall act as and carry out the duties of Secretary and Public Officer of the Association and shall administer and manage the Association in accordance with the Act and this Constitution.

19.3 Specific Duties

The Executive Officer shall:

- (a) as far as practicable attend all Board meetings and all General Meetings;
- (b) prepare the agenda for all Board and General Meetings;
- (c) record and prepare minutes of the proceedings of all Board meetings and General meetings and make the minutes accessible to Members; and
- (d) regularly report on the activities of, and issues relating to, the Association.

19.4 Board Power to Manage

Subject to the Act, this Constitution, the Regulations and any policy directive of the Board, the Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of the Association. No resolution passed by the Association in General Meeting shall invalidate any prior act of the Executive Officer or the Board which would have been valid if that resolution had not been passed.

19.5 Executive Officer may employ

The Executive Officer may in consultation with the Board, as appropriate, employ such personnel as are deemed necessary or appropriate from time to time and such appointments shall be for such period and on such conditions as the Executive Officer determines, subject to approval by the Board.

20. DELEGATIONS

20.1 Board may Delegate Functions

The Board may by instrument in writing create or establish or appoint commissions, 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 may take into account broad stakeholder involvement.

20.2 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 Executive Director by the Act or any other law, or this Constitution or by resolution of the Association in General Meeting.

20.3 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.

20.4 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.

20.5 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.

20.6 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.

21. SEAL

Changes to the Act in 2009 provide that a seal is no longer a requirement.

22. 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.

23. SPECIAL GENERAL MEETINGS

23.1 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 (15) months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

23.2 Requisition of Special General Meetings

- (a) The Executive Officer shall on the requisition in writing of not less than five percent (15%) 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 requisitions.
- (c) If the Executive Officer does not cause a Special General Meeting to be held within one (1) 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 (3) 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.

24. NOTICE OF GENERAL MEETING

- (a) Notice of every General Meeting shall be given to every Member entitled to receive notice at the address appearing in the Register kept by the Association. The auditor, Executive Officer 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 eight (28) 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;

and

(iii) forms of authority in blank for proxy votes.

(d) Notice of every General Meeting shall be given in the manner authorised in clause 42.

25. 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 25(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.

26. 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 Executive Director not less than fourteen (14) days (excluding receiving date and meeting date) prior to the General Meeting.

27. PROCEEDINGS AT GENERAL MEETINGS

27.1 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 the transaction of business at General Meetings shall be fifteen (15) Members present in person (being members entitled under this Constitution to vote at a General Meeting).

27.2 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 Members who are eligible to vote that are present shall appoint another Director to preside as chairperson for that meeting only.

27.3 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 (30) 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 27.3(c) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

27.4 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 Members present and entitled to vote.

27.5 Recording of Determinations

Unless a poll is demanded under clause 27.4, 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.

27.6 Where Poll Demanded

If a poll is duly demanded under clause 27.4 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.

28. VOTING AT GENERAL MEETINGS

28.1 Members Entitled to Vote

Each Member who is a paid up member in the categories of Senior Affiliated, Senior Registered, Member Coach and Honorary Member (including Life Members) or is a paid up Member in any other new voting category created under clause 5.1(b) shall be entitled to one (1) vote at General Meetings.

28.2 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.

29. PROXY VOTING

- (a) Proxy voting shall be permitted at all General Meetings provided a proxy form in the form approved by the Board from time to time, has been duly completed and executed and is lodged with the Secretary at least 48 hours prior to the commencement of the meeting. Proxies shall only be exercised by Members entitled to vote. A Member is only entitled to appoint one proxy or an alternate proxy to vote at any one (1) time. A

Member may act as proxy for multiple members without limitation.

- (b) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member shall be entitled to instruct his or her proxy to vote in favour of or against any proposed resolution. Unless otherwise instructed the proxy may exercise the proxy vote as he or she thinks fit.

30. STRATEGIC FORUM OF ASSOCIATION

30.1 Annual Strategic Forum

The Association may hold a strategic forum at every 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.

30.2 Attendees at the Strategic Forum

The following persons may attend the Strategic Forum of the Association:

- (a) Club Presidents and/or their nominated representatives;
- (b) the Directors; and
- (c) such other persons the Board considers should be invited.

31. 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 (14) 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 (10) days, refer the dispute for resolution to an independent tribunal established by the Board in accordance with the procedures determined by the Board from time to time.
- (d) The Board may prescribe additional grievance procedures in Regulations consistent with this clause 31.

32. RECORDS AND ACCOUNTS

32.1 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.

32.2 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 Executive Officer.

32.3 Association to Retain Records

The Association shall retain such records for seven (7) years after the completion of the transactions or operations to which they relate.

32.4 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.

32.5 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 (3) after such approval or adoption.

32.6 Accounts to be sent to Members

The Executive Officer 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).

32.7 Authorisation of payments

All payments by cheque, electronic funds transfers, cash or other means must be approved and executed by any two (2) duly authorised Directors or in such other manner as the Board determines.

33. AUDITOR

- (a) A properly qualified auditor 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.

34. INCOME

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

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

34.3 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, except the Executive Officer who may or may not be paid on the decision of the Board.

34.4 Nothing in clauses 34.2 or 34.3 shall prevent payment in good faith or to any Member or Club for:

- (a) any services actually 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 or Club;
- (d) rent for premises demised or let by any Member or Club to the Association;
- (e) any out-of-pocket expenses incurred by the Member or Club 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.

35. 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 (\$1.00).

36. 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.

37. ALTERATION OF CONSTITUTION

This Constitution shall not be altered except by Special Resolution.

38. REGULATIONS (BY-LAWS)

38.1 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 fencing in New South Wales as it thinks necessary or desirable. Such Regulations must be consistent with the Constitution, the Australian Fencing Federation constitution, any regulations made by the Australian Fencing Federation and any policy directives of the Board.

38.2 Regulations Binding

All Regulations are binding on the Association and all Members.

38.3 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.

38.4 Bulletins

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of policies and/or notices approved by the Board and prepared and issued by the Executive Director. Clubs shall take reasonable steps to distribute information in the policies and/or notices to Members.

39. STATUS AND COMPLIANCE OF ASSOCIATION

39.1 Recognition of Association

The Association is recognised by the Australian Fencing Federation as the controlling authority for fencing in New South Wales and, subject to compliance with this Constitution and the Australian Fencing Federation Constitution, shall continue to be so recognised and shall administer fencing in New South Wales in accordance with the Objects.

A Delegate of the Association, appointed by the Board, shall represent the Association and vote on behalf of the Association at general meetings of the Australian Fencing Federation.

39.2 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 fencing;
- (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 fencing, its standards, quality and reputation for the benefit of the Members and fencing;

- (e) at all times act in the interests of the Members and fencing as determined by its Board from time to time;
- (f) not resign, disaffiliate or otherwise seek to withdraw from the Australian Fencing Federation without approval by Special Resolution; and
- (g) abide by the Australian Fencing Association constitution and the FIE Rules of Fencing.

39.3 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 fencing are to be conducted, promoted, encouraged, advanced and administered throughout New South Wales and;
- (b) to ensure the maintenance and enhancement of fencing, its standards, quality and reputation for the benefit of the Members and fencing;
- (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 fencing 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 fencing and the Members as determined by its Board from time to time;
- (f) that should a Club have administrative, operational or financial difficulties the Association may act to assist the Club in whatever manner the Association considers appropriate.

40. ASSOCIATION'S CONSTITUTION

40.1 Constitution of the Association

This Constitution will clearly reflect the objects of the constitution of the Australian Fencing Federation and will conform to the AFF constitution, subject always to the Act.

40.2 Operation of NSO constitution

- (a) The Association will take all reasonable steps to ensure this Constitution is consistent with the Australian Fencing Federation constitution subject always to the Act.
- (b) The Association shall provide to the Australian Fencing Federation a copy of this Constitution and all amendments to this document.

40.3 Register

The Association shall maintain, in a form acceptable to the Australian Fencing Federation but otherwise in accordance with the Act, a Register of all Clubs and all Members.

41. STATUS AND COMPLIANCE OF CLUBS

The Association will invite Clubs to become affiliated or registered with the Association.

41.1 Compliance

Affiliated or Registered Clubs acknowledge and agree that they shall:

- (a) be or remain resident in New South Wales;
- (b) have regard to the Objects in any matter of the Club pertaining to fencing.

41.2 Club Constitutions

- (a) Any constituent documents of Clubs will clearly reflect the relevant Objects of this Constitution.
- (b) Clubs will take all reasonable steps necessary to ensure any constituent documents are consistent with this Constitution.

41.3 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 annual updates of the register to the Association or, at the request of the Association, at any other time with reasonable notice.

42. 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 electronic mail, to the Member's electronic mail address.
- (b) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected the next business day after it was sent.

43. 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 Vice Patrons as it considers necessary.

44. 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:
 - (i) 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

- (ii) in the case of an employee, performed or made in the course of, and within the scope of their employment by the Association.
- (c) The Association will arrange to provide appropriate insurance for Members of the Association, Accredited Coaches and Affiliated or Registered Clubs.

This Constitution was approved by way of a Special Resolution of Members of the New South Wales Fencing Association at a General Meeting of the Association held in Sydney on 24 July 2016.