

**CONSTITUTION
OF
ATHLETICS WELLINGTON INCORPORATED**

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Constitution of Athletics Wellington Inc.

1. Definitions and interpretation

1.1 **Definitions:** In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

Act means the Incorporated Societies Act 2022, including any amendments and any regulations made under that Act.

AGM or Annual General Meeting means a meeting of the Members held once a year convened under this Constitution.

Applicable Disputes Body means the relevant hearing body, committee or person authorised, delegated or appointed by Athletics New Zealand pursuant to the rules, regulations and policies of Athletics New Zealand, to hear and resolve Complaints referred pursuant to clauses 20.7(c) or 20.8.

Appointed Board Members means the Board Members appointed pursuant to clause 9.5.

Appointment Panel has the meaning given to it in clause 9.6.

Athletics means track and field, road running, race walking, cross-country running and mountain running as defined by Athletics New Zealand or World Athletics from time to time.

Athletics New Zealand means Athletics New Zealand Incorporated (216839).

Balance Date means 31 March in each calendar year, or the date the Board decides.

Board means the Centre's governing committee.

Board Member means a member of the Board, including the Chair.

Bylaws means any bylaws, policies, regulations and codes of the Centre made under clause 18.

Casual Vacancy is a vacancy which arises when a Board Member does not serve their full term of office.

Centre means Athletics Wellington Incorporated (1110526).

Chair means the person elected as chair of the Centre from time to time in accordance with clause 10.4.

Constitution means this Constitution, including any amendments and any schedules to this Constitution.

Contact Details means a physical or an electronic address and a telephone number.

Day means any day of the week (including Saturday, Sunday, and public holidays). Where an action is required to be done within a specified time (such as 40 Days) this means clear days, so it is to be calculated by excluding the date of notice (or other relevant action) and the date of the meeting (or other relevant activity).

Delegate means a person appointed as a delegate of a Club pursuant to clause 8.9.

Elected Board Members means the Board Members elected pursuant to clause 9.4.

General Meeting means an AGM or SGM of the Centre.

Incorporated Societies Register means the register of incorporated societies established under the Act.

Individual Member means an individual who is for the time being a member of a Member Club and who has consented to being a Member.

Interested has the meaning given in section 62 of the Act, but excludes where a Board Member is the parent or guardian of a Member, and that Member may obtain a financial benefit from the Matter in question.

Life Member means a person elected as a life member of the Centre under clause 5.7.

Matter has the meaning given in section 62(4) of the Act.

Member means each person who for the time being is a member of the Centre and includes all classes of members described in clause 5.1.

Member Club means a group of individuals formed as a club or organisation to participate in, administer, promote or develop Athletics within the Region which has been approved as a Member.

Officer means a Board Member and any natural person occupying a position in the Centre that allows the person to exercise significant influence over the management or administration of the Centre, including the Treasurer.

Ordinary Resolution means a resolution passed by a majority of votes of those persons entitled to vote and voting on the question.

Panel Member has the meaning given to it in clause 9.6.

President means the person elected as president of the Centre from time to time in accordance with clause 8.5(c).

Region means the geographical area as determined by Athletics New Zealand to be the region represented by the Centre and within which the primary base of activities of the Centre is located and, as at the date of adoption of this Constitution, is the greater Wellington area, including the Kapiti Coast and the Wairarapa.

Registrar means the Registrar of Incorporated Societies under the Act.

Safeguarding means a preventative approach to protection by minimising or eliminating harm to children, young people and vulnerable adults.

SGM or Special General Meeting means a meeting of the Members, other than an AGM, called for a specific purpose or purposes.

Special Resolution means a resolution passed by not less than a 75% majority of votes of those persons entitled to vote and voting on the question.

Treasurer means the person appointed as treasurer of the Centre from time to time in accordance with clause 11.4.

1.2 **Interpretation:** In this Constitution:

- (a) a reference to a gender includes both genders;
- (b) the singular includes the plural and vice-versa;

- (c) unless expressly specified otherwise, a requirement in this Constitution to notify, or to give notice to, a person (including the Centre or Athletics New Zealand) or persons in this Constitution, means notice in writing delivered to that person or persons by any of the following means:
 - (i) by hand, including courier;
 - (ii) by email transmission; or
 - (iii) by post;
- (d) any reference to legislation includes a modification or re-enactment of, legislation enacted in substitution of, or a regulation, order-in-council or other instrument from time to time issued or made under, that legislation;
- (e) any agreement includes that agreement as modified, supplemented, innovated or substituted from time to time;
- (f) any obligation not to do anything will include an obligation not to suffer, permit, or cause that thing to be done;
- (g) a reference to persons includes bodies corporate;
- (h) a reference to a person includes the legal personal representatives, successors and permitted assigns of that person; and
- (i) headings and the contents page are for reference only and are to be ignored in construing this Constitution.

2. Details of the Centre

- 2.1 **Name:** The name of the society is Athletics Wellington Incorporated.
- 2.2 **Status:** The Centre is the regional association for Athletics New Zealand and related activities in the Region and is bound by and must observe the rules of Athletics New Zealand.
- 2.3 **Contact person:** At its first meeting following an AGM, the Board must appoint or reappoint at least one, and a maximum of three, persons to be the contact person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of Incorporated Societies of any change in the contact person or their Contact Details.

3. Purpose and powers

- 3.1 **Purpose:** The purposes of the Centre are to:
 - (a) be a member of Athletics New Zealand for the Region.
 - (b) enable, assist and enhance the promotion, development and administration of Athletics within the Region in a manner that is consistent with the requirements of Athletics New Zealand, mainly as an amateur sport for the well-being, benefit and recreation of the general public;
 - (c) support and assist its Members to deliver Athletics in the Region;
 - (d) promote opportunities and facilities to enable, assist and enhance the participation, enjoyment and performance of Athletics in the Region.
 - (e) promote, develop and co-ordinate Athletics competitions in the Region;
 - (f) protect the integrity of the sport of Athletics in the Region by developing and enforcing standards of conduct, ethical behaviour and implementing good governance; and
 - (g) support the enforcement of the rules and regulations of Athletics New Zealand in the Region in respect of Members, including Safeguarding requirements, education, training and development of the Members, including athletes, officials, coaches, team managers and volunteers.
- 3.2 **Powers:** The Centre shall have the capacity and the rights, powers and privileges conferred by the Act, including all powers necessary for, or ancillary or incidental to, fulfilling its purposes.

4. Registered office

- 4.1 **Registered office:** The registered office of the Centre is such place as determined by the Board from time to time.

4.2 **Change of registered office:** The Board may determine to move the registered office of the Centre from time to time. The Board must inform the Registrar of this change within the time frame required by the Act.

5. **Members**

5.1 **Members:** The Members of the Centre are:

- (a) each Member Club;
- (b) each Individual Member;
- (c) each Life Member; and
- (d) each individual who is for the time being a Board Member.

5.2 **Application to become a Member Club:** Member Clubs must first apply to be members of Athletics New Zealand. Once approved by Athletics New Zealand, the Centre will be notified at which time the Centre, through the Board, may accept or decline an application for membership of the Centre in its absolute discretion within the timeframe specified in clause 5.4. A Member Club becomes a Member when its application has been accepted and it has paid any required affiliation fees and satisfied any other preconditions.

5.3 **Member consent:** A person or entity consents to become a Member by submitting an application and paying any relevant fees, unless otherwise specified in this Constitution.

5.4 **Acceptance:** Subject to clause 5.2, within 14 Days of an applicant applying to become a Member, the Board will determine the outcome of the membership application, at its sole discretion. If no refusal is communicated within this timeframe, the application is deemed to have been accepted. Where the application is refused, any fee will be refunded. The Board must advise the applicant of its decision.

5.5 **Renewal of membership:** Subject to clause 6, a Member Club must renew its membership in accordance with the regulations of Athletics New Zealand.

5.6 **Membership entitlements not transferable:** A right, privilege or obligation, which a person or entity has by reason of being a Member is not capable of being transferred or assigned to another person or entity and terminates on cessation of that Member's membership.

5.7 **Life Members**

- (a) Life membership may be granted in recognition and appreciation of outstanding service by an individual to the Centre. Any Member may nominate an individual to become a Life Member by giving notice to the Board setting out the grounds for the nomination. The Board must then determine whether the nomination should be forwarded to a General Meeting for determination by the Members. A person may only be elected as a Life Member by a Special Resolution at a General Meeting. A person consents to becoming a Life Member on acceptance of their life membership. Life Members have such rights and benefits as determined by the Board.

- (b) Life Members will not have voting rights and shall be exempt from renewing their membership and paying the Centre membership fee.

5.8 **Board Members:** A Board Member consents to be a Member by consenting to be a Board Member. Board Members will not have voting rights at General Meetings and shall be exempt from renewing their membership and paying the Centre membership fee.

5.9 **Member rights and obligations:** Each Member acknowledges and agrees that:

- (a) they are bound by, and will comply with, this Constitution and the Bylaws, as well as the rules, regulations and policies of Athletics New Zealand.
- (b) they are entitled to all rights and entitlements granted by this Constitution or as determined by the Board;
- (c) to receive, or continue to receive or exercise Member rights, they must meet all the Member requirements set out in this Constitution and the Bylaws or as otherwise set by the Board, including payment of any membership or other fees within the required time period;
- (d) they do not have any rights of ownership of, or the automatic right to use, the Centre's property; and
- (e) they will promote the interests and purposes of the Centre and must not do anything to bring the Centre into disrepute.

5.10 **Member Clubs:** In addition to the obligations as a Member under clause 5.9, each Member Club will:

- (a) maintain registration as an incorporated society under the Act, unless an exemption has been granted in accordance with the Athletics New Zealand constitution and regulations.
- (b) ensure its constitution is not inconsistent with this Constitution, provide the Centre with a copy of its constitution and all proposed amendments to it. The Board may require a Member Club to amend its constitution if it, or any proposed amendment, is inconsistent or in conflict with, this Constitution, or any Bylaws; and
- (c) maintain an up-to-date register of its members using the national membership system provided by Athletics New Zealand, which also provides the Centre with full access to that register, in compliance with privacy laws.

5.11 **Member register:** As per the Athletics NZ Membership and Database Regulations, the Board will keep an up-to-date Member register within the Athletics NZ Membership System, which includes each Member's name, Contact Details, the date they became a Member and the date they cease to be a Member. Member Clubs must keep their details up to date within the Athletics NZ Membership System. In using the Athletics NZ Membership System, the Board will keep a record of those who have ceased to be a Member within the previous 7 years and the date on which they ceased to be a Member.

6. Suspension and termination of membership

6.1 **Suspension of Member:** If a Member is, or may be, in breach under clause 5.9 and the Board believes it is in the best interests of the Centre to do so, the Board may suspend the Member until final determination of the matter under clause 20. Before imposing any suspension, the Member and Athletics New Zealand must be given notice of the suspension.

6.2 **Suspension of Member rights:** Unless otherwise determined by the Board, while a Member is suspended, the Member is not entitled to attend, speak or vote at a General Meeting or to any other rights or entitlements of a Member and is not entitled to continue to hold office in any position within the Centre, until such time as the alleged breach is resolved or determined. However, whilst suspended, the Member continues to be bound by this Constitution.

6.3 **Termination by Board:** The Board may, by Ordinary Resolution and written notice stating the reasons for arriving at their decision, terminate a Member's membership:

- (a) for breach of their obligations under clause 5.9; or
- (b) following the dispute resolution process set out in clause 20 or such other process set out or referred to in this Constitution.

Unless otherwise specified in such notice, termination is effective as of the date of the notice.

6.4 **Ceasing to be Member:** A Member ceases to be a Member:

- (a) except for Life Members and Board Members, at the expiry of the term of the membership period;
- (b) by giving notice to the Board of their withdrawal, with such resignation to be effective at the date such notice is received by the Board (unless a later date is specified in such notice);
- (c) in the case of a Life Member, upon their passing;
- (d) in the case of an Individual Member, when they cease to be a member of a Member Club;
- (e) in the case of a Board Member, at the expiry of the term of their membership of the Board; and
- (f) in the case of a Member Club, upon removal from the Incorporated Societies Register.

6.5 **Consequences of ceasing to be a Member:** A Member who ceases to be a Member:

- (a) remains responsible to pay all their outstanding membership fees and other fees to the Centre;
- (b) must return all the Centre's property;
- (c) continues to be bound by, and remains subject to, this Constitution, the Bylaws and the rules, regulations, procedures and policies of Athletics New Zealand

with respect to such Member's activities that occurred during the term of their membership; and

(d) ceases to be entitled to any rights of a Member.

7. Membership Fees

7.1 **Annual Fees:** The membership fees to the Centre shall be such amount as set by the Board from time to time and shall be payable in advance. Fees set by Athletics New Zealand and the relevant Member Club shall be added to the Centre membership fees and will be paid in one transaction.

7.2 **Other Fees:** The Board may determine that other fees are payable by Members from time to time.

7.3 **Membership period:** The membership of each Member Club shall:

(a) commence on:

- (i) the commencement date as specified in any prescribed Athletics NZ membership form or regulation; or
- (ii) if no commencement date is specified, then the date the Member Club's membership is accepted by the Centre; or
- (iii) 1 April for any Member Clubs which renews their membership in accordance with clause 5.5; and

(b) unless the Member Club's membership is terminated earlier in accordance with clause 6, the Member Club's membership shall continue until:

- (i) the end of membership date as specified in any prescribed Athletics NZ membership form or regulation; or
- (ii) if no end date is specified, then 31 March (as it occurs within the twelve (12) month period following commencement of membership).

The fee shall be due and payable (on a pro rata basis where applicable) on the date of application. Renewals will fall on the date immediately following the date the Member's membership expires.

8. General Meetings

8.1 **AGM:** An AGM must be held once a year at the time, date and place as the Board decides, but not more than 6 months after each Balance Date of the Centre and not more than 15 months after the previous AGM.

8.2 **Notice of AGM:** The Members must be given at least 30 Days notice informing them of the date, time and place of the AGM. Notice to Members of an AGM may be given by posting on the website.

8.3 **Notice of proposed motions:** Members must give notice of any proposed motions and other items of business to the Centre at least 14 Days before the date of the AGM.

8.4 **Notice of agenda:** Notice of the agenda containing the business to be discussed at the AGM must be sent (via email, print media or posting on the Centre's website or social media account) to all persons entitled to attend the AGM at least 7 Days before the date of the AGM. No additional items of business can be voted on other than those set out in the agenda, but the Members present may agree by Special Resolution to discuss and vote on any other items.

8.5 **Business of AGM:** The following business will be discussed at the AGM:

- (a) confirmation of the minutes of the previous AGM;
- (b) the Board's presentation of the following information during the most recently completed accounting period:
 - (i) the annual report;
 - (ii) the annual financial statements;
 - (iii) where required by the Act or where the Centre elects to do so, the auditor's/reviewer's report, whereby a qualified auditor/reviewer has audited/reviewed the annual financial statements;
 - (iv) notice of any disclosures of conflicts of interest made by Board Members (including a brief summary of the matters, or types of matters, to which those disclosures relate);
- (c) election of the President for the ensuing year, as provided for in clause 11.1;
- (d) the election of Elected Board Members, as provided for in clause 9.4;
- (e) consideration of any motions proposing to amend this Constitution that have been properly submitted for consideration at the AGM; and
- (f) consideration of any other items of business that have been properly submitted for consideration at the AGM.

8.6 **SGM:** The Board must call a SGM if determined by a majority of the Board Members or if it receives a written request stating the purpose of the SGM from one third of Member Clubs.

8.7 **Notice of SGM:** Members must be given at least 14 Days notice of the SGM, unless the Board, in its discretion, decides that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members. A SGM may only consider and deal with the business specified in the request for the SGM.

8.8 **Method of holding meeting:** A General Meeting may be held by a quorum of people being assembled at the time and place appointed by the Board or by means of audio link, audio-visual link or any other form of communication approved by the Board.

8.9 **Delegates:** Each Member Club shall appoint at least one and up to three Delegates to represent it at General Meetings at its cost, as follows:

- (a) The number of Delegates shall not exceed the number of votes that the Member Club is entitled to pursuant to clause 8.16.
- (b) Each Delegate must be a member of the Member Club that elects or appoints them;
- (c) No person may be a Delegate for more than one Member Club;
- (d) Each Member Club is required to provide to the Board in writing, by a date and time determined by the Board prior to the commencement of each General Meeting, the:
 - (i) number of votes that the Member Club is entitled to pursuant to clause 8.16.
 - (ii) name of the chosen Delegate(s); and
- (e) A Delegate can also be appointed as a proxy in accordance with clause 8.18.

- 8.10 **Quorum:** No business may occur at any General Meeting unless a quorum is present at the meeting's start time. The quorum for a General Meeting is a number of Delegates of Member Clubs who are entitled to vote, in person, by proxy, or through audio, audio visual link or other electronic communication, and who hold or control seven votes. A quorum must always be present during the General Meeting.
- 8.11 **No quorum at AGM:** If a quorum is not met within 30 minutes of the AGM's scheduled start time, the AGM is adjourned to a day, time and place set by the Chair of the AGM (which date may not be less than 6 nor more than 30 days after the date of the AGM). Notice of the day, time and place for the adjourned AGM must be given to all Members as soon as reasonably possible after the original scheduled AGM. If no quorum is met at the further AGM, the Members present, in person or through audio, audio visual link or other electronic communication, 15 minutes after the further AGM's scheduled start time, are deemed to constitute a valid quorum.
- 8.12 **No quorum at SGM:** If a quorum is not met within 30 minutes of the scheduled start time of the SGM, the SGM is cancelled.
- 8.13 **Control of General Meetings:** The person elected pursuant to clause 10.4 chairs General Meetings. If that person is unavailable, a Board Member (appointed by the Board) will preside. In the absence of both of those persons, the Members present will elect a person to chair the General Meeting.
- 8.14 **Omissions and irregularities:** The General Meeting and its business will not be invalidated by:
 - (a) one or more Members not receiving notice of the meeting;
 - (b) notice not being given within the required time frame; or
 - (c) an accidental irregularity, error or omission in the notices, agendas or papers of the meeting or notice.
- 8.15 **Attendance:** Members and any other persons invited by the Board are eligible to attend and speak at General Meetings.

8.16 **Voting Entitlements:** Each Member Club (through their Delegate(s)) is entitled to exercise a number of votes at a General Meeting (in person or by proxy) proportionate to its membership, unless the Member Club's membership has been suspended as set out in clauses 6.1 and 6.2. The formula for calculating votes shall be as follows:

- (a) One vote per 50 paid-up members of the Member Club registered on GameDay, as at the conclusion of the Member Club's previous financial year or, if the Member Club so elects, at the time of any such General Meeting;
- (b) A maximum of three votes can be allocated to a Member Club and
- (c) A minimum of one vote shall be allocated to each Member Club.

No other class of Member is entitled to vote.

8.17 **Voting by electronic means:** Voting by electronic means is permitted.

8.18 **Voting by proxy:** Proxy voting is permitted. The chair of the General Meeting must receive notice of the proxy signed by the Member Club (or the Member Club Delegate if applicable) prior to the start of the meeting. The form of the proxy notice is:

I [insert name] of [insert address] being a Delegate of [Member Club Name] and member of the Centre appoint [insert name of proxy] as my proxy to speak [and vote] for [Member Club Name] at the General Meeting to be held on [insert date] and at any adjournment of that General Meeting. I direct my proxy to vote in the following manner [insert resolutions and whether the proxy is to vote for or against].

8.19 **Conduct of voting:** Voting is conducted by a show of hands, or an equivalent electronic process, of those Members eligible to vote (and including votes cast by post or electronic means where permitted by the Board), unless a secret ballot is called for and approved by the chair or as otherwise required under this Constitution.

8.20 **Minutes:** Minutes must be kept of all General Meetings.

8.21 **Resolution:** An Ordinary Resolution of Members at a General Meeting is sufficient to pass a resolution, except as specified in the Act or this Constitution.

8.22 **Written resolutions:** A resolution in writing signed, or consented to by email or other electronic means, by at least a 75% majority of Members entitled to vote is valid and effectual as if it had been passed at a General Meeting properly convened and held. Any such resolution may consist of:

- (a) several documents in similar form each signed by one or more Members; or
- (b) several emails in similar form each sent or transmitted by a separate Member.

9. **Board**

9.1 **Functions and powers:** Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution, the Board must manage, direct or supervise the operation and affairs of the Centre and has all the powers necessary

for managing, and for directing and supervising the management of, the operation and affairs of the Centre. The Board may allocate amongst the Board Members, specific roles or functions.

9.2 **Composition:** The Board consists of:

- (a) up to 4 persons elected at the AGM under clause 9.4; and
- (b) up to 4 persons appointed under clause 9.5.

The Board must have at least 3 Board Members. A majority of the Board must be Members or representatives of bodies corporate that are Members.

The President is not a member of the Board.

9.3 **Role of Chair:** The Chair will:

- (a) preside over AGMs and SGMs and meetings of the Board;
- (b) provide an annual report on the operations of the Centre to present to the Members at the AGM outlining the Centre's activities since the previous AGM;
- (c) ensure the affairs of the Centre are properly conducted;
- (d) undertake activities to promote the Centre, good relations and communications between Members and the reputation and best interests of the Centre;
- (e) attend to such other duties as reasonably required by the Board; and
- (f) comply with this Constitution and the Bylaws.

9.4 **Election of Board Members:** Elected Board Members are elected as follows:

- (a) the Board must call for nominations for any Elected Board Member positions that are to be vacated at an AGM at least 60 Days before the AGM;
- (b) nominations are made in the form decided by the Board and must be received by the date set by the Board and if no date is set, at least 30 Days before the AGM;
- (c) the Board must give notice of the nominations to all Members in the notice of the AGM agenda provided under clause 8.4;
- (d) at the AGM, if there are more nominees than number of positions available, the election is by secret ballot, unless otherwise decided by the chair of the General Meeting and approved by a Special Resolution. If a secret ballot is held, two scrutineers must be appointed at the General Meeting to count the votes;
- (e) those nominees who have the highest number of votes in their favour to fit the number of vacant positions are declared elected;
- (f) if the number of votes for one or more nominees is equal to another nominee, a further vote will be held between the tied nominees;
- (g) if there is only one nominee for a vacant position, a vote will be held to confirm the nominee's election;

- (h) if no written nominations have been received in accordance with clause 9.4(b) above, nominations may be taken from the floor and a vote held to confirm any nominee's election; and
- (i) if a position remains unfilled following the AGM, the Board may appoint a person of their choice to fill the position.

9.5 **Appointment of Board Members:** Appointed Board Members are appointed as follows:

- (a) The Appointment Panel must call for applications for any Appointed Board Member positions that are to be vacated by a date set by the Board and if no date is set, at least 60 Days before the AGM.
- (b) Applications are made in the forms decided by the Appointment Panel and must be received by the Appointment Panel by the date set by the Board and if no date is set, at least 30 Days before the AGM.
- (c) The Appointment Panel must undertake its responsibilities as set out in the clause headed "Appointment Panel" (clause 9.6).
- (d) At least 14 Days before the AGM, the Appointment Panel must notify the Board of the Appointed Board Member(s) who are to assume office.
- (e) In turn, the Board must, at least 7 Days before the AGM, notify the Members of the Appointment Panel's decision regarding any Appointed Board Members it has appointed.
- (f) If the Appointment Panel does not appoint a person to a vacant Appointed Board Member position by 14 Days before the AGM, the Board may, by majority resolution, appoint a suitable person to fill the vacancy, provided that person meets the eligibility criteria under this Constitution.

9.6 **Appointment Panel:**

- (a) There will be a Board Appointment Panel (**Appointment Panel**) comprising of the following people (each a **Panel Member**):
 - (i) the Chair, or if the Chair is not eligible or willing to serve on the Appointment Panel or is seeking reappointment or re-election to the Board, then another Board Member selected by the Chair who is eligible to serve on the Appointment Panel and is not seeking re-appointment or re-election to the Board as determined by the Board;
 - (ii) two other persons nominated by the Chair and who are eligible to serve on the Appointments Panel and who are not seeking appointment or election to the Board as determined by the Board.
- (b) A person will not be eligible to be a Panel Member or remain as a Panel Member if any of the circumstances listed in the clause headed "Disqualification" (clause 9.8) or sub-clause (c) below have occurred or occur.
- (c) Panel Members remain in office for the period necessary to fulfil their responsibilities in relation to each vacancy of a Board Member for which the Appointment Panel was established. A person is not eligible to serve on the

Appointment Panel following the fifth anniversary of their first appointment to the Appointment Panel.

- (d) The Appointment Panel is independent of the Board and is responsible for:
 - (i) advertising, identifying and inviting suitable candidates to apply for appointment as an Appointed Board Member;
 - (ii) receiving and assessing applications from candidates for appointment as Appointed Board Members, including undertaking such enquiries and holding interviews and meetings as it sees fit; and
 - (iii) deciding the candidates to be appointed as Appointed Board Members.
- (e) In determining the Appointed Board Members, the Appointment Panel will do so based on merit and will consider the following factors about the candidate and the Board as a whole:
 - (i) prior experience as a director, trustee, officer or experience in any other governance role;
 - (ii) knowledge of, and experience in Athletics in the Centre generally;
 - (iii) understanding of the legal, regulatory, fiduciary and ethical obligations of Board Members;
 - (iv) the desire for conflicts of interest on the Board to be minimised;
 - (v) the desire for a wide range of knowledge, skills, and experience on the Board; and
 - (vi) the desire for diversity and inclusion on the Board.
- (f) No Panel Member may seek to become a Board Member while a Panel Member.
- (g) Unless otherwise set out in this Constitution, the Appointment Panel may decide its own process.
- (h) The quorum for a meeting of the Appointment Panel is two Panel Members.
- (i) Any decision of the Appointment Panel regarding the appointment of Appointed Board Members must be unanimous.
- (j) All information received by the Appointment Panel and its discussions must be kept confidential except to the extent required by law. Panel Members must notify the convenor of any potential conflict of interest in considering any candidate. If the convenor considers it appropriate to do so, they may require that Panel Member to vacate their position. If the convenor considers they may have a potential conflict of interest, they must notify the other Panel Members and the Board. If the Board considers it appropriate to do so, it may require that convenor to vacate their position.
- (k) The Board may remove any Panel Member if the Board considers, in its sole discretion, that:

- (i) the Panel Member has a conflict of interest which has not been satisfactorily resolved to the satisfaction of the Board; or
- (ii) there are circumstances which may give rise to a question of actual or apparent bias in the Appointment Panel's composition and/or process.

(I) The Chair will nominate a person to fill any vacancy in the Appointment Panel.

9.7 **Qualification:** Every Board Member must, in writing:

- (a) consent to be a Board Member; and
- (b) certify that they are not disqualified from being elected, appointed or holding office as a Board Member by this Constitution or under section 47 of the Act.

9.8 **Disqualification:** The following persons are disqualified from holding office as a Board Member, or a Panel Member:

- (a) A person who is an employee, or independent contractor, of the Centre;
- (b) A person who is disqualified from being elected, appointed or holding office as a Board Member under section 47 of Act; and
- (c) A person who has been removed as a Board Member following a process under this Constitution or any Bylaw.

If an existing Board Member becomes or holds any position in clause 9.8(a) or (c) above then upon appointment to such a position, they are deemed to have vacated their office as a Board Member. If any of the circumstances contemplated in clause 9.8(b) above occur to an existing Board Member, they are deemed to have vacated their office upon the relevant authority making an order or finding against them of any of those circumstances.

9.9 **Term of office:** The term of office for all Board Members is two years, expiring at the end of the relevant AGM. A Board Member may be re-elected or reappointed to the Board for a maximum of three consecutive terms of office. Prior to each AGM, the Board will advise the Appointment Panel of the schedule of rotation and the vacancies arising in Board Member positions at the AGM. The term of any period served to fill a Casual Vacancy is disregarded for the purposes of calculating the total term served.

9.10 **Board Member vacancy:** If a Casual Vacancy of a Board Member arises, the remaining Board Members may:

- (a) appoint a person of their choice to fill the Casual Vacancy until the expiry of the term of the person they replace;
- (b) appoint a person of their choice to fill the Casual Vacancy only until the next AGM, at which a person is elected or appointed to fill the remainder of the term of the Casual Vacancy; or
- (c) leave the Casual Vacancy unfilled until the next AGM, at which a person is elected or appointed to fill the remainder of the term of the Casual Vacancy.

9.11 **Suspension of Board Member:** If any Board Member is or may be the subject of an allegation, notice or charge described in the clause headed "**Disqualification**"

(clause 9.8) or any circumstances arise in relation to a Board Member which are or may be of concern to the Board, the other Board Members may by Special Resolution suspend the Board Member in question from the Board and set conditions it requires pending the final determination of the allegation, notice, charge or circumstances. Before imposing any suspension, the Board Member must be given notice of the suspension.

9.12 Removal of Board Member:

- (a) The Board may, by Special Resolution, remove any Board Member from the Board before the expiry of their term of office if the Board considers the Board Member concerned:
 - (i) has seriously breached duties under this Constitution or the Act; or
 - (ii) is no longer a suitable person to be a Board Member; or
 - (iii) is involved with, interested in, or otherwise closely connected to a person or activity which has or may bring the Centre or Athletics into disrepute or which may be prejudicial to the purposes or the interests of the Centre and/or Athletics if they remain as a Board Member.
- (b) The Board Member who is the subject of the motion is counted for the purpose of reaching a quorum but will not participate in the vote on the motion.
- (c) Before considering a motion for removal, the Board Member who is the subject of the motion must be given:
 - (i) notice that a Board meeting is to be held to discuss the motion to remove the Board Member;
 - (ii) adequate time to prepare a response;
 - (iii) the opportunity prior to the Board meeting to make written submissions; and
 - (iv) the opportunity to be heard at the Board meeting.

9.13 Board Member ceasing to hold office: A person ceases to be a Board Member if:

- (a) their term expires;
- (b) the person resigns by delivering a signed notice of resignation to the Board;
- (c) the person is removed from office under this Constitution;
- (d) the person becomes disqualified from being an officer under section 47(3) of the Act; or
- (e) the person passes away.

10. Board meetings

10.1 Calling meetings: Board meetings may be called at any time by the Chair or by two Board Members, but generally the Board meets no less than seven times per year.

- 10.2 **Meeting procedure:** Except to the extent specified in the Act or this Constitution, the Board may regulate its own procedure.
- 10.3 **Quorum:** The quorum for a Board meeting is a majority of Board Members. Any Board Member may be counted for the purposes of a quorum, participate in any Board meeting and vote on any proposed resolution at a Board meeting without being physically present. This may only occur at Board meetings by audio or audio-visual link or other electronic communication provided that all persons participating in the Board meeting can hear each other effectively and simultaneously.
- 10.4 **Chair:** At its first meeting following an AGM, the Board must elect a Chair. The role of the Chair is to chair meetings of the Board. If the Chair is unavailable, another Board Member must be appointed by the Board to undertake the Chair's role during the period of unavailability.
- 10.5 **Voting:** Each Board Member has one vote. Voting is by voices or on request of any Board Member by a show of hands or by a ballot. Proxy and postal votes are not permitted. Voting by electronic means is permitted. If there is an equality of votes, the Chair does not have a casting vote.
- 10.6 **Resolution in writing:** A resolution in writing signed or consented to by email or other electronic means by a majority of Board Members is valid as if it had been passed at a Board meeting. Any resolution may consist of several documents in the same form each signed by one or more Board Members.

11. President and Officers other than Board Members

- 11.1 **President:** The President is elected at the AGM in accordance with clause 9.4 (read as if the President was an Elected Board Member). The President is not an Officer. No President shall hold office for more than three consecutive years.
- 11.2 **Appointment of Officers:** Any Officer other than a Board Member must be appointed by the Board. The Board may appoint as an Officer on terms determined by the Board any person who is not disqualified from so being appointed under section 47 of the Act.
- 11.3 **Ceasing to hold office:** An Officer other than a Board Member ceases to hold office:
 - (a) if removed by Ordinary Resolution of the Board; or
 - (b) otherwise in accordance with section 50 of the Act.
- 11.4 **Treasurer:** The Board may appoint a Treasurer. The role of the Treasurer is to:
 - (a) receive all money paid to or received by the Centre and pay all accounts approved by the Board. The Board may delegate levels of payment to the Treasurer by written authority;
 - (b) invest all funds of the Centre in the manner directed by the Board;

- (c) keep the Centre's financial accounts, ensure that financial statements are prepared and reviewed, submit financial statements at the AGM and undertake other tasks required by the Board; and
- (d) comply with this Constitution and the Bylaws.

12. Conflicts of Interests

- 12.1 **Register of interests:** The Board must keep a register of interest disclosures made by Officers. The Board must present a summary at each AGM of the nature and extent of any disclosures recorded during the year (such summary does not need to disclose the identity of the Interested party nor the details of the interest disclosed).
- 12.2 **Duty to disclose interest:** An Officer who is Interested in a Matter being considered by or affecting the Centre must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) to the Board and include in the interests register, as soon as practicable after the Officer becomes aware that they are Interested in the Matter.
- 12.3 **Consequences of being Interested:** A Board Member who is Interested in a Matter:
 - (a) must not vote or take part in a decision of the Board relating to the Matter, unless all non-interested Board Members consent;
 - (b) must not sign any document relating to the entry into a transaction or the initiation of the Matter, unless all non-interested Board Members consent;
 - (c) may be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered.
- 12.4 **Calling of SGM:** Despite clause 12.3, if a majority of Board Members are Interested in a Matter, an SGM must be called to consider and determine the Matter.
- 12.5 **Notice of failure to comply:** The Board must notify Members of a failure to comply with section 63 or 64 of the Act, and of any transactions affected, as soon as practicable after becoming aware of the failure.

13. Subcommittees

- 13.1 **Appointment:** The Board may appoint subcommittees for such purposes as it thinks fit. Subcommittees will consist of such persons as determined by the Board or, where authorised by the Board, the chair of the subcommittee.
- 13.2 **Procedure:** Unless otherwise resolved by the Board:
 - (a) meetings of a subcommittee may be held in person or by teleconference or by audio or electronic communications or other means by which those participating may hear each other simultaneously;
 - (b) the quorum of every subcommittee is a majority of the members of the subcommittee;

- (c) the subcommittee shall have power to co-opt additional members to the extent the subcommittee resolves that it is necessary to fulfil the applicable purpose of the subcommittee's formation;
- (d) no subcommittee shall have the authority to commit the Centre to any obligation or financial expenditure without express written authority from the Board; and
- (e) no subcommittee may delegate any of its powers or responsibilities.

13.3 **Resolution in writing:** A resolution in writing, signed or consented to by email or other electronic means by all members of the subcommittee for the time being entitled to receive notice of a meeting of the subcommittee, shall be valid and effectual as if it had been passed at a meeting of the subcommittee properly convened and held. Any such resolution may consist of:

- (a) several documents in similar form each signed by one or more members of the subcommittee; or
- (b) several emails in similar form each sent or transmitted by a separate member of the subcommittee.

14. Finances

- 14.1 **Control and management of finances:** The funds and property of the Centre are controlled, invested and disposed of by the Board, subject to this Constitution and devoted solely to the promotion of the purposes of the Centre set out in clause 3.
- 14.2 **Balance date:** The Centre's balance date is 31 March or on the date as the Board decides.
- 14.3 **Financial reporting:** The Board shall ensure that annual financial statements are prepared and registered in accordance with the Act and all other regulatory requirements.
- 14.4 **Annual Return:** The Board shall ensure that an annual return is filed with the Registrar for registration within 6 months of the Balance Date and contain the prescribed information in accordance with the regulations prescribed pursuant to the Act.
- 14.5 **No personal benefit:** The Officers and Members may not receive any distributions of profit or income from the Centre. This does not prevent Officers or Members:
 - (a) receiving reimbursement of actual and reasonable expenses incurred, or
 - (b) entering into any transactions with the Centre for goods or services supplied to or from them, which are at arms' length, relative to what would occur between unrelated parties,

provided no Officer or Member is allowed to influence any such decision made by the Centre in respect of payments or transactions between it and them, their direct family or any associated entity.

15. **Indemnity and insurance**

15.1 **Indemnity for liability:** The Centre shall indemnify each Board Member and may indemnify its employees in respect of:

- (a) liability to any person other than the Centre for any act or omission in their capacity as a Board Member or employee, not being criminal liability or a liability that arises out of a failure to act in good faith and in what the Board Member or employee believes is the best interests of the Centre when acting in the capacity as a Board Member or employee; and
- (b) costs incurred by that Board Member or employee in defending or settling any claim or proceeding relating to any such liability.

15.2 **Indemnity for costs**

The Centre shall indemnify each Board Member and may indemnify its employees for any costs incurred by any of them in defending or settling any proceeding:

- (a) that relates to the liability for any act or omission in their capacity as a Board Member or employee of the Centre, not being criminal liability or a liability that arises out of a failure to act in good faith and in what the Board Member or employee believes is the best interests of the Centre when acting in the capacity as a Board Member or employee; and
- (b) where judgment is given in their favour, or where they are acquitted, or is discontinued.

15.3 **Insurance:** With the prior approval of its Board, the Centre may effect insurance for its current and former Officers, Members and employees as permitted by section 97 of the Act.

16. **Information**

16.1 **Request for information:** A Member may at any time make a written request to the Centre for information held by the Centre, including the annual financial statement or the minutes presented at the most recent AGM. Such request must specify the information sought in sufficient detail to enable it to be identified. The Centre must, within a reasonable time after receiving the request, provide, agree to provide, or refuse to provide, the information requested in accordance with the Act.

17. **Amendments**

17.1 **Amendments:** This Constitution may only be amended or replaced by an Ordinary Resolution of Members at a General Meeting.

17.2 **No amendment:** No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals. \\

18. Bylaws and Integrity

18.1 Bylaws: The Board may make and amend Bylaws for the conduct and control of the Centre's activities and codes of conduct applicable to Members. Any Bylaw must be consistent with this Constitution, the purposes of the Centre, the constitution of Athletics New Zealand, the Act and any other laws. All Bylaws are binding on the Centre, Board Members, other Officers and the Members. The making, amendment, revocation, or replacement of a Bylaw is not an amendment of this Constitution. A copy of the Bylaws for the time being, shall be available for inspection at the registered office of the Centre by any Member during ordinary business hours.

19. Notices

19.1 Notices: A notice may be given by the Centre to any Member either personally, by posting on the Centre's website or social media account, or by sending it to the Member at the address supplied by the Member (including by email or other electronic communication).

20. Dispute resolution

20.1 Definitions: In this clause 20:

- (a) **Dispute** means a disagreement or conflict between and among any one or more Members, any one or more Officers and the Centre, that relates to an allegation that:
 - (i) a Member or an Officer or the Centre has engaged in misconduct; or
 - (ii) a Member or an Officer has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (iii) a Member's rights or interests as a Member have been damaged or Members' rights or interests generally have been damaged.
- (b) **Disputes Procedure** means the procedure for resolving a Dispute set out in clauses 20.4 to 20.13;
- (c) a **Member** is a reference to a Member acting in their capacity as a Member; and
- (d) an **Officer** is a reference to a Board Member or other Officer acting in their capacity as an Officer.

20.2 Application of other legislation to a Dispute: The Disputes Procedure will have no effect to the extent that it contravenes, or is inconsistent with, any law applicable to the Centre.

20.3 Application of other procedures under this Constitution or in a Bylaw: If the Dispute is dealt with by a separate procedure under this Constitution or in a Bylaw (**Other Procedure**), that Other Procedure applies to the exclusion of the Disputes Procedure. If any part of the Other Procedure is inconsistent with the rules of natural justice, that part will not apply, but the remainder of the Other Procedure will continue

to apply together with adjustments as determined by the Board in its sole discretion so that the Other Procedure is consistent with the rules of natural justice.

20.4 Raising a complaint:

- (a) A Member or an Officer may start the Disputes Procedure by giving written notice (a **Complaint**) to the Board setting out:
 - (i) that the Member or Officer is starting a Dispute Procedure;
 - (ii) the allegation to which the Dispute relates and who the allegation is against; and
 - (iii) any other information reasonably required by the Centre.
- (b) The Centre may make a Complaint involving an allegation against a Member or an Officer by giving written notice to the person concerned setting out:
 - (i) that the Centre is starting a Dispute Procedure; and
 - (ii) the allegation to which the Dispute relates.
- (c) The information given must be enough to ensure a person against whom the Complaint is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

20.5 Investigating and determining Disputes: The Board must as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure the Dispute is investigated and determined, or referred pursuant to clause 20.7. Disputes must be dealt with in a fair, efficient, and effective manner. The Board will promptly notify Athletics New Zealand in writing upon receipt of any Complaint.

20.6 Decision to not proceed with a matter: Despite the contents of the Disputes Procedure, the Board may decide not to proceed with a Complaint if:

- (a) the Complaint is trivial; or
- (b) the Complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct; or
 - (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act; or
 - (iii) any material damage to a Member's rights or interests; or
- (c) the Complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the Complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under this Constitution; or
- (f) there has been an undue delay in making the Complaint.

20.7 **Referral of Complaints:** Subject to clause 20.8, the Board may refer a Complaint to:

- (a) a hearing body or person authorised, delegated or appointed by the Board to hear and resolve Disputes, and includes an arbitral tribunal (**Hearing Body**); or
- (b) a subcommittee or an external person to investigate and report; or
- (c) an Applicable Disputes Body constituted by Athletics New Zealand; or
- (d) any type of consensual dispute resolution with the consent of all parties to the Complaint.

20.8 **Mandatory Referrals of Complaints:** The Board must refer a Complaint to the Applicable Disputes Body where the Dispute relates to a breach of the rules, regulations and policies of Athletics New Zealand, including its code of conduct.

20.9 **Hearing Body:** The Board may determine the composition, jurisdiction, functions and procedures of, and any sanctions which can be imposed by, any Hearing Body. A Hearing Body has delegated authority by the Board to resolve, or assist to resolve Complaints.

20.10 **Bias:** A person may not act as a decision maker in relation to a Complaint if two or more members of the Board or the Hearing Body consider there are reasonable grounds to believe that the individual may not be:

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.

20.11 **Complainant's right to be heard:**

- (a) The Member or Officer making the Complaint has a right to be heard before the Complaint is resolved or any outcome is determined.
- (b) If the Centre makes a Complaint, the Centre has a right to be heard before the Complaint is resolved or any outcome is determined, and an Officer may exercise that right on behalf of the Centre.
- (c) A Member or Officer or the Centre must be taken to have been given the right to be heard if:
 - (i) they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - (ii) an oral hearing is held if the Board, Hearing Body or other decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (iii) an oral hearing (if any) is held before the Board, Hearing Body or other decision maker; and
 - (iv) the Member's or Officer's or the Centre's written statement or submission, if any, are considered by the Board, Hearing Body or other decision maker.

20.12 **Respondent's right to be heard:**

- (a) This clause 20.12 applies if a complaint involves an allegation that a Member, an Officer, or the Centre (**Respondent**):
 - (i) has engaged in misconduct; or
 - (ii) has breached, or is likely to breach, a duty under the Constitution, Bylaws or the Act; or
 - (iii) has damaged the rights or interests of a Member or the rights or interests of Members generally.
- (b) The Respondent has a right to be heard before the Complaint is resolved or any outcome is determined.
- (c) If the Respondent is the Centre, an Officer may exercise the right on behalf of the Centre.
- (d) A Respondent must be taken to have been given the right to be heard if:
 - (i) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and
 - (ii) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing, if one is to be held; and
 - (iii) an oral hearing is held if the Board, Hearing Body or other decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (iv) an oral hearing (if any) is held before the Board, Hearing Body or other decision maker; and
 - (v) the Respondent's written statement or submissions, if any, are considered by the Board, Hearing Body or other decision maker.

20.13 **Appeals:** Subject to law, there is no right of appeal or right of review of a decision unless specified.

21. **No financial gain**

21.1 **No financial gain:** Without limiting section 24 of the Act, no financial gain shall be made from the Centre by any of its Members, except that:

- (a) any Member may receive full reimbursement for reasonable expenses legitimately incurred by that Member in connection with the affairs of the Centre;
- (b) the Centre may pay reasonable and proper remuneration to any Board Member or employee of the Centre in return for services actually rendered to the Centre;
- (c) any Member may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by the Member or by any firm or entity that the Member is a member, employee or associate in connection with the affairs of the Centre; and

(d) any Member may retain any remuneration properly payable to that Member by any company or undertaking with which the Centre may be in any way concerned or involved for which that Member has acted in any capacity whatever, notwithstanding that that Member's connection with that company or undertaking is in any way attributable to that Member's connection with the Centre.

22. Liquidation and removal

22.1 **Decision to liquidate or remove from register:** At a General Meeting, the Members may, by a Special Resolution, resolve to:

- (a) appoint a liquidator;
- (b) request that the Registrar remove the Centre from the Register of Incorporated Societies pursuant to section 175 of the Act,

and that decision shall be effective from the date of that resolution (or such later date specified in that resolution).

22.2 **Notice:** The Board must give notice in accordance with section 228 of the Act to all Members at least 30 Days prior to the General Meeting at which a resolution under clause 22.1 is to be considered.

22.3 **Surplus assets:** In the event of the liquidation of the Centre or its proposed removal from the Incorporated Societies Register, any surplus assets of the Centre, after the settlement of all liabilities, must be distributed to Athletics New Zealand Incorporated or any other not-for-profit entity that shares similar purposes to the Centre.

23. Matters not provided for

23.1 If any matter arises that, in the opinion of the Board, is not provided for in this Constitution or any Bylaws, or if any dispute arises out of the interpretation of this Constitution or the Bylaws, the matter or dispute will be determined by the Board.

24. Transition

24.1 **Transition:** This clause 24 applies to facilitate transition of the Centre from the previous constitution to this Constitution. If this clause is inconsistent with any other clause in this Constitution, this clause applies to the extent of the inconsistency and the other clause will not.

24.2 **Power of Board during transition period:** Subject to the Act, the Board may amend any requirement for and/or the date by which this Constitution requires anything to be done. This clause applies for 18 months and is solely to enable flexibility in the transition of the Centre from the previous constitution to this Constitution and to correct any unintended consequences occurring through different wording being used.

24.3 **Transition of Board Members:**

- (a) Each person who was a member of the Board immediately before the adoption of this Constitution continues as a Board Member.
- (b) At its first meeting of the Board following the adoption of this Constitution, the Board shall determine for each Board Member whether the Board Member is to retire at the first, second or third immediately following AGM, with a view to ensuring that approximately one third of those Board Members retires at each such AGM.
- (c) The number of terms served by a board member under the previous constitution shall count towards any maximum number of terms in this Constitution.

24.4 **Transition of President and Treasurer:** The persons who were the President and Treasurer immediately before the adoption of this Constitution continue as the President and Treasurer.

24.5 **Transition of Life Members:** Each person who was a Life Member immediately before the adoption of this Constitution shall be deemed to be a person elected as a life member of the Centre under clause 5.7.