

**CONSTITUTION
OF
AUCKLAND CITY TRIATHLON CLUB INCORPORATED**

AUCKLAND CITY TRIATHLON CLUB INCORPORATED

Constitution

Contents

1. Definitions and interpretation	2
2. Club details	4
3. Purpose and powers	4
4. Members	5
5. General Meetings	7
6. Committee	9
7. Committee meetings	10
8. Officers Appointment and Duties	10
9. Patrons	12
10. Finances	12
11. Amendments	13
12. Bylaws and Integrity	14
13. Dispute resolution	14
14. Information	14
15. Liquidation and removal	14
16. Club Championships	15
17. Matters not provided for	15
18. Transition	15

AUCKLAND CITY TRIATHLON CLUB INCORPORATED Constitution

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 or any Act which replaces it (including any amendments to it from time to time, and any regulations made under the Act or under any Act which replaces it).

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

Bylaws means any bylaws, policies, regulations and codes of the Club made under clause 12.1.

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

Chairperson shall be the Club president; and in their absence the vice president; and in their absence such person as the meeting may elect, unless otherwise stated in this Constitution.

Club means the Auckland City Triathlon Club Incorporated.

Committee means the Club's governing body.

Committee Member means a duly elected member of the Committee.

Constitution means this constitution of the Club, including any schedules and amendments to it from time to time.

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

Diversity, Equity and Inclusion means ensuring fair and equitable opportunities are available to everyone to participate in sport and recreation irrespective of age, ability, ethnicity, gender, national origin, race, religion, sexual orientation, beliefs, or socio-economic status.

General Meeting means either an AGM or SGM of the Club.

Integrity Code means an integrity code issued by Triathlon New Zealand under section 3 of the Triathlon New Zealand Member Protection Policy Manual.

Interested Member has the meaning given in section 62 of the Act.

Interests Register means register of interests of Officers, kept under this Constitution and as required by section 73 of the Act.

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

Member means a fully paid up member of the Club who falls within the categories as defined in clause 4.3 and has not ceased to a member of the club under clause 4.11.

Member Register means the register of Members kept under this Constitution as required by section 79 of the Act.

Officer means a Committee Member or any natural person occupying a position in the Club that allows the person to exercise significant influence over the management or administration of the Club.

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

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 a majority of 75 per cent of votes cast by Members entitled to vote and voting on the question.

Working Day has the meaning given to that term under the Legislation Act 2019 and excludes the day observed as the anniversary in Auckland.

1.2 **Clause references:** A reference to a clause is to that clause in this Constitution.

1.3 **Interpretation:** Unless the context otherwise requires:

- (a) Words referring to the singular include the plural and vice versa.
- (b) Headings are for reference only.
- (c) Expressions referring to “written” and “writing” includes any means of reproducing words, figures or symbols:
 - (i) in a tangible and visible form in any medium; or
 - (ii) In a visible form in any medium by electronic means that enables them to be stored in a permanent form and be retrieved and read.
- (d) Expressions referring to “signature” includes, in relation to a document in electronic form, an electronic signature created by a method which identifies the signatory and indicates the signatory’s approval of the information contained in the document.
- (e) Reference to a person includes any other entity or association recognised by law and vice versa and any reference to a particular entity includes a reference to that entity’s successors.
- (f) A reference to any legislation includes any secondary legislation, statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.
- (g) All periods of time or notice exclude the days on which they are given.

1.4 **Notices:** Subject to any other notice requirements in this Constitution, any notice or other communication given under this Constitution must be in writing and will be given to:

- (a) a Member if delivered by hand to the Member or sent to the address set out in their Contact Details;
- (b) the Club if sent to info@aucklandcitytri.co.nz or by post to the Club’s registered office set out on the Incorporated Societies register.

- 1.5 **Receipt of notices:** A notice is deemed to have been received:
- (a) if delivered by hand, at the time of delivery;
 - (b) if given by post, when left at the address of that party or five Working Days after being put in the post; or
 - (c) if given by email, upon production of a physical copy of the email detailing the time and the date the email was sent (provided that the sender does not receive any "out of office" auto-reply or other indication of non-receipt),
- provided that any notice or communication received or deemed received after 5pm on a Working Day, or on a day which is not a Working Day, will be deemed not to have been received until the next Working Day.

2. **Club details**

- 2.1 **Name:** The name of the society is **Auckland City Triathlon Club Incorporated**.
- 2.2 **Charitable status:** The Club is already, or intends after incorporation to be, registered as a charitable entity under the Charities Act 2005.
- 2.3 **Registered office:** The registered office of the Club is at the place the Committee decides. The postal address of the club shall be PO Box 99187, Newmarket, Auckland or such other place as the committee may, from time to time, determine.
- 2.4 **Contact person:** At its first Committee meeting following an AGM, the Committee 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 Committee 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 for which the Club is established are**
- (a) To engage in, promote, sponsor, develop and encourage multisports which include one or more disciplines of swimming, cycling, running and athletics.
 - (b) To foster competition and championships of any one or more of the disciplines referred to in clause 3.1(a) above.
 - (c) To promote social activities and good comradery amongst the Members.
 - (d) To use the funds of the Club in such a manner as may be considered necessary or proper in carrying out the purposes of the Club.
 - (e) To promote the formation of regional and national bodies with similar purposes to the Club.
 - (f) To affiliate with any society, club or association having similar purposes or to join, co-operate with or subscribe to the funds of any such clubs, associations or societies for the purpose of better attaining or otherwise furthering the objects or interests of the Club or the Members.

- (g) To promote the recognition and support of the Club's purposes by government local authorities and other statutory bodies.
 - (h) To raise money in any manner to further any of the Club's purposes.
 - (i) To do all such things that are conducive or incidental to the attaining of all or any of the Club's objects.
- 3.2 The Club shall be operated exclusively as a not-for-profit organisation without financial gain to the Members and all profits and other accretions to the assets of the Club shall be accumulated and used to promote the purposes as set forth in this Constitution.
- 3.3 Clause 3.2 is to be entrenched in the rules of the club as a purpose not capable of being altered.
- 3.4 **Capacity and powers:** The Club has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter into any transaction, subject to this Constitution, the Act, any other legislation, and the general law.

4. **Members**

- 4.1 **Membership:** Membership of the club shall consist of individuals who, having applied for membership, have been admitted as such.
- 4.2 **Application:** An applicant for membership of the Club must apply using the national membership system provided for the Club by Triathlon New Zealand and pay all relevant fees for the applicable membership period.
- 4.3 **Acceptance:** Within 20 Working Days of an applicant applying to become a member, the Committee 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, the fees will be refunded. The Committee must advise the applicant of its decision.
- 4.4 **Member consent:** A person or entity consents to become a Member by submitting a written application to the Club via the national membership system provided by Triathlon New Zealand and paying the required membership fees, unless otherwise specified in this Constitution.
- 4.5 **Membership entitlements not transferable:** A right, privilege or obligation, which a person has by reason of being a Member is not capable of being transferred or assigned to another person and terminates on cessation of that Member's membership.
- 4.6 **Members:** The Members of the Club are:
 - (a) Honorary Life Members

Any person who has rendered eminent service to the club may be elected an honorary life member of the club at any AGM or SGM provided that it shall be necessary that the proposal to elect such a person as an honorary life member of the club be carried by a two thirds majority of the Members constituting such meeting.

An honorary life member is entitled to the privileges of the Club same as a Club Member under the rights and obligations listed under clause 4.7.

(b) Club Members

Shall comprise persons who are fully paid up and entitled to the privileges of the Club.

(c) Junior Members

Shall comprise of members who are aged under nineteen at 31 December of each year and entitled to the privileges of the Club.

4.7 Member rights and obligations: Members acknowledge and agree that:

- (a) they are bound by, and will comply with, this Constitution and the Bylaws, and to the extent they apply, the rules, procedures or policies of Triathlon New Zealand.
- (b) they are entitled to all rights and entitlements granted by this Constitution or as determined by the Committee;
- (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 Committee, including payment of any membership or other fees within the required time period;
- (d) if they fail to comply with sub-clause (c) the Committee may terminate their membership, but the Member continues to be bound by this Constitution;
- (e) they do not have any rights of ownership of, or the automatic right to use, the Club's property; and
- (f) they will promote the interests and purposes of the Club and must not do anything to bring the Club into disrepute.

4.8 Suspension of Member: If a Member is, or may be, in breach under clause 4.7, and the Committee believes it is in the best interests of the Club to do so, the Committee may suspend the Member until final determination of the matter under the dispute resolution process applicable to the matter. Before imposing any suspension, the Member must be given notice of the suspension.

4.9 Suspension of Member rights: Unless otherwise determined by the Committee, 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 as a Member and is not entitled to continue to hold office in any position within the Club, until such time as the alleged breach is resolved or determined.

4.10 Termination by Committee: The Committee 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 rights and obligations under clause 4.7,

by following the dispute resolution process set out in clause 13 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.

- 4.11 **Ceasing to be Member:** A Member ceases to be a Member:
- (a) on death;
 - (b) by giving notice to the Committee of their resignation;
 - (c) if their membership is terminated under clause 4.10;
 - (d) if their membership is terminated following a dispute resolution process; or
 - (e) such other process set out or referred to in this Constitution.
- 4.12 **Consequences of ceasing to be a Member:** A Member who ceases to be a Member:
- (a) remains responsible to pay all of their outstanding membership and other fees to the Club;
 - (b) must return all the Club's property in their possession, if required; and
 - (c) ceases to be entitled to any rights of a Member.
- 4.13 **Membership fees:** The amount of the annual subscription for each member (except honorary life members) shall be fixed at an annual or special general meeting.
- 4.14 **Member Register:** As per the Triathlon New Zealand's Membership and Database Regulations, the Committee will keep an up-to-date Members Register within the Triathlon New Zealand 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. A Member must provide notice to the Club of any change to their Contact Details by updating their member profile on the Triathlon New Zealand Membership System. The Committee 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.

5. **General Meetings**

- 5.1 **AGM:** The annual general meeting for the Club shall be held each year, no later than one month after Triathlon New Zealand's annual general meeting on a date to be determined by the Committee. At least 10 days' written notice of such annual general meeting will be given to members by the secretary, electronically advised to every Member.
- 5.2 **Notice of AGM:** At least 10 days written notice of such annual general meeting will be given to Members by the secretary, electronically advised to every Member.
- 5.3 **Business of AGM:** The business transacted at the Club's AGM shall be:
- (a) apologies;
 - (b) confirmation of the minutes of the previous AGM;
 - (c) matters arising from the previous AGM and any SGM(s) held since the previous AGM;

- (d) annual reports;
 - (e) treasurers financial statements;
 - (f) notices of motion;
 - (g) fixing of subscriptions for the coming year;
 - (h) election of Committee and Officers;
 - (i) general business;
- 5.4 **Notice of proposed motions:** Members must give notice of any proposed motions and other items of business to the Club at least 2 before the date of the AGM.
- 5.5 All other general meetings of the club shall be special general meetings.
- 5.6 **Calling of SGM:** The committee may, at any time, call a special general meeting of the members on giving not less than 10 days' notice electronically to every member. The secretary shall also in the aforesaid manner call a special general meeting on receiving a requisition of not less than 15 members. The requisition and the notices convening the meeting shall specify the subjects which shall alone be considered at the meeting.
- 5.7 **Notice of SGM:** At least 10 days written notice of such annual general meeting will be given to members by the secretary, electronically advised to every member.
- 5.8 **Method of holding meeting:** A General Meeting may be held by a quorum of people being assembled at the time and place appointed for the meeting, participating by audio link, audio-visual link or other electronic communication or by a combination of those methods.
- 5.9 **Quorum:** The quorum for a General Meeting shall be ten Members, with no proxy votes allowed.
- 5.10 **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 Chairperson of the 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.
- 5.11 **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. The quorum for a SGM of the Committee shall be 10. Each attendee shall be entitled to one vote with the Chairperson having an additional casting vote in the event of a tie.
- 5.12 **Voting:** At any General Meeting of the Club, voting shall be by show of hands unless a ballot of those present and entitled to vote is demanded by ten or more Members. In the event of a tie the president shall be entitled to a casting vote in addition to his or her individual vote.
- 5.13 Only Members shall be entitled to be present, be heard, or vote at any meeting of the club.
- 5.14 In case any irregularity shall occur in the convening or holding of any meeting or in any election or other proceedings at such meetings and the same shall not be

noticed and objected to at the time all proceedings of such meeting shall be of the same force and validity as if no such irregularity had occurred, but if any irregularity shall be noticed and objected to the meeting shall decide thereon and such decision shall be final, conclusive and binding.

- 5.15 Business not specified in the notice called on an AGM or SGM may be transacted by leave of the president if not opposed by any Member present.
- 5.16 **Control of General Meetings:** The Club president chairs General Meetings. If that person is unavailable, a Committee Member (appointed by the Committee) will preside. In the absence of both of those persons, the Members present will elect a person to chair the General Meeting.
- 5.17 **Minutes:** The Committee shall cause minutes to be duly recorded and filed, both in respect of the Committee meetings and all meetings of the Club.
- (a) For all appointments of Committee Members;
 - (b) Of the names of the Committee Members present at any meetings of such Committee; and
 - (c) Of all resolutions and proceedings of any meeting of the Committee of the Club.
- 5.18 A record of the minutes shall be available for inspection by any Member on giving the secretary at least 10 days' notice.
- 5.19 **Resolution:** An Ordinary Resolution of Members at a General Meeting is sufficient to pass a resolution, except as otherwise specified in the Act or this Constitution.

6. **Committee**

- 6.1 **Functions and Powers of the Committee:** The Committee shall have the power to:
- (a) Fill any vacancy in their number or in any sub-committee during the year. Any member so appointed shall hold office until the next AGM.
 - (b) Purchase, lease or otherwise acquire any land or property that may be necessary or convenient for the purpose of the Club and to hold, manage, demise, let, sell, exchange, improve and deal therewith.
 - (c) Borrow or give security for not more than a total of five thousand dollars either on a secured or unsecured basis. Should the Committee wish to borrow, either by way of an unsecured loan or a mortgage, any amount which when added to the Club's then existing borrowings exceeds five thousand dollars or is in excess of five thousand dollars, then the Committee shall before borrowing such amount obtain the consent of the majority of the Members at the AGM or a special general meeting.
 - (d) To enter into such negotiations, contracts and agreements and rescind, vary, execute and do all such acts, deals, matters and things in the name of or on behalf of the Club as they consider expedient or in relation to any of the matters stated in this Constitution for the purpose of the Club and which are not, by this Constitution or statute, expressly directed or required to be exercised or done by the Club in a General Meeting.

- 6.2 The management of the Club shall be undertaken by the Committee.
- 6.3 The Committee shall have the power to co-opt Members to form sub-committees to undertake specific assignments within the objects of the Club. Unless otherwise resolved by the Committee, a sub-committee must not:
- (a) commit the Club to any financial expenditure without express authority from the Committee; and
 - (b) further delegate any of its powers.
- 6.4 Meetings of the Committee shall be held at such time and places as the Committee shall determine. The president or any three Committee Members may at any time convene a meeting upon giving notice.

7. **Committee meetings**

- 7.1 **Calling meetings:** Committee meetings may be called at any time by the Chairperson or by Committee Members, but generally the Committee is to meet once a month.
- 7.2 **Meeting procedure:** Except to the extent specified in the Act or this Constitution, the Committee may regulate its own procedure.
- 7.3 **Quorum:** The quorum for a Committee meeting is 3 Committee Members. Any Committee Member may be counted for the purposes of a quorum, participate in any and vote on any proposed resolution at a Committee meeting without being physically present. This may only occur at Committee meetings by audio or audio-visual link or other electronic communication provided that all persons participating in the Committee meeting can hear each other effectively and simultaneously.
- 7.4 **Chairperson:** The president will chair the Committee meetings and General Meetings. If the president is unavailable, another Committee Member must be appointed by the Committee to undertake the Chairperson's role during the period of unavailability.
- 7.5 **Voting:** Each Committee Member has one vote. Voting is by voices or on request of any Committee 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 Chairperson does not have a casting vote. If something does not gain the required support to pass, it should not pass.

8. **Officers Appointment and Duties**

- 8.1 **Election:** Each AGM of the Club shall elect a president, a vice president, a secretary, a treasurer and up to five persons to comprise the Committee to manage the Club.
- 8.2 **Qualification:** Every Officer must, in writing:
- (a) consent to be an Officer; and

- (b) certify that they are not disqualified from being elected or holding office as an Officer either by this Constitution or under section 47 of the Act or under section 36B of the Charities Act 2005.
- 8.3 **Appointment:** Nominations for the positions of president, vice president, secretary, treasurer and committee members shall be proposed and seconded in writing by Members entitled to vote at the AGM of the Club.
 - (a) Such nominations should be delivered to the secretary no later than 10 days before such a meeting provided however the Chairperson of the relevant meeting is empowered to waive the ten day requirement for nomination and accept nominations from the floor if the Chairperson in his/her absolute discretion considers such action appropriate in the circumstances.
 - (b) Where possible the president and vice president must serve at least one term on the Committee before accepting nomination to either office.
- 8.4 All Officers shall be elected by secret ballot, if contested, at the AGM.
- 8.5 All Officers and Committee Members must be a Member or honorary life member.
- 8.6 **Term:** The Committee shall remain in office from the conclusion of the AGM at which they are elected to the conclusion of the next AGM, representing a term of one year(s), unless they offer their resignation and it is accepted by the Committee before that period is up.
 - (a) No Officer shall service for more than [3] consecutive terms; and
 - (b) No Chairperson shall service for more than [3] consecutive years as Chairperson.
- 8.7 **Officers' duties:**
 - (a) when exercising powers or performing duties as an Officer, must act in good faith and in what the Officer believes to be the best interests of the Club;
 - (b) must exercise a power as an Officer for a proper purpose;
 - (c) must not act, or agree to the Club acting, in a manner that contravenes the Act or this Constitution;
 - (d) when exercising powers or performing duties as an Officer, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances, taking into account, but without limitation the nature of the Club, the nature of the decision and the position of the Officer and the nature of the responsibilities undertaken by them;
 - (e) must not agree to the activities of the Club being carried on in a manner likely to create a substantial risk of serious loss to the Club's creditors or cause or allow the activities of the Club to be carried on in a manner likely to create a substantial risk of serious loss to the Club's creditors;
 - (f) must not agree to the Club incurring an obligation unless the Officer believes at that time on reasonable grounds that the Club will be able to perform that obligation when it is required to do so; and

- (g) when exercising powers or performing duties as an Officer, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - (i) an employee whom the Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (ii) a professional adviser or expert in relation to matters that the Officer believes on reasonable grounds to be within the person's professional or expert competence; or
 - (iii) any other Officer or subcommittee of Officers on which the Officer did not serve in relation to matters within the Officer's or subcommittee's designated authority,

if the Officer acts in good faith, makes proper inquiry where the need for inquiry is indicated by the circumstances, and has no knowledge that the reliance is unwarranted.

8.8 Ceasing to hold office: A person ceases to be an Officer if:

- (a) their term expires;
- (b) the person resigns by delivering a signed notice of resignation to the Committee;
- (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 section 36B of the Charities Act 2005; or
- (e) the person dies.

8.9 Conflicts of interest: An Officer or member of a sub-committee who is an Interested Member in respect of any Matter being considered by the Club, must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) -

- (a) to the Committee and or sub-committee; and
- (b) in an Interests Register kept by the Committee,

disclosure must be made as soon as practicable after the Officer or member of a sub-committee becomes aware that they are interested in the Matter.

9. Patrons

9.1 Club patron: A person may be invited by the Committee to be a Patron to show their support for the Club and to help establish or maintain public credibility of the Club. A Patron is entitled to attend and speak at General Meetings but has no right to vote.

10. Finances

10.1 Control and management of finances: The funds and property of the Club are controlled, invested and disposed of by the Committee, subject to this Constitution

and devoted solely to the promotion of the purposes of the Club as set out in clause 3.

- 10.2 **Balance date:** The financial year of the club shall commence on the 1st day of July in each year and end on the 30th June of the following year. The Club's balance date is the 30th of June.
- 10.3 **Review of financial statements:** The Club's financial statements must be reviewed each year and the reviewed financial statements must be presented at the AGM.
- 10.4 **Financial reporting:** The Committee shall ensure that annual financial statements are prepared and registered in accordance with the Act, other regulatory requirements as may be required from time to time, and correctly record the Transactions of the Club.
- 10.5 **No personal benefit:** The Officers and Members may not receive any distributions of profit or income from the Club. This does not prevent Officers or Members:
- (a) receiving reimbursement of actual and reasonable expenses incurred;
 - (b) entering into any transactions with the Club for goods or services supplied to or from them, which are at arms' length, relative to what would occur between unrelated parties; or
 - (c) provided no Officer or Member is allowed to influence any such decision made by the Club in respect of payments or transactions between it and them, their direct family or any associated entity.
- 10.6 Moneys belonging to the Club shall be deposited in such bank or banks and under such conditions as the Committee may decide.
- 10.7 The Committee shall authorise payments of Club expenses.
- 10.8 Any payments of Club expenses authorised under clause 10.7 are to be made via electronic banking.
- 10.9 The treasurer shall keep proper accounts as required by the Charities Commission and include a profit & loss, balance sheet and a schedule of assets.
- 10.10 The borrowing powers are to be those powers as set out in clause 6.1(d) hereof.

11. **Amendments**

- 11.1 **Amendments:** This Constitution shall not be amended, altered, rescinded or added to, except with the consent of the majority of the Members at a General Meeting of the Club. The secretary shall give not less than 10 days' notice of such proposed alteration, rescission or addition.
- 11.2 **No amendment:** No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals.
- 11.3 **Notification:** Any amendment(s) of this Constitution consented to under clause 11.1 must also be notified to the Charities Services as required by section 40 of the Charities Act 2005.

12. Bylaws and Integrity

- 12.1 **Bylaws:** The Committee may make and amend Bylaws for the conduct and control of the Club's activities and codes of conduct applicable to Members. Any Bylaw must be consistent with this Constitution, the Club's purposes set out in clause 3, the Act and New Zealand laws. All Bylaws are binding on the Club and the Members. The making, amendment, revocation, or replacement of a Bylaw is not an amendment of this Constitution.
- 12.2 **Integrity Code Binding:** The Club agrees to the application of the Integrity Code to it and agrees to be bound by it.
- 12.3 **Application to Members:** All Members of the Club agree to the application of the Integrity Code to them and agree to be bound by it.

13. Dispute resolution

- 13.1 **Definitions:** In this clause 13:
- (a) **Dispute** means a disagreement or conflict between and among any one or more Members, any one or more Officers and the Club, that relates to an allegation that:
 - (i) a Member or an Officer or the Club has engaged in misconduct; or
 - (ii) a Member or 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 13.4 to 13.13;
 - (c) a **Member** is a reference to a Member acting in their capacity as a Member;
 - (d) an **Officer** is a reference to a Committee Member or other Officer acting in that capacity.
- 13.2 **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 Club.
- 13.3 **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 Committee in its sole discretion so that the Other Procedure is consistent with the rules of natural justice.
- 13.4 **Raising a complaint:**
- (a) A Member or an Officer may start the Disputes Procedure by giving written notice (a **Complaint**) to the Committee 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 Club.

- (b) The Club 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 Club 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.
- 13.5 **Investigating and determining Disputes:** The Committee 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 13.7. Disputes must be dealt with in a fair, efficient, and effective manner. The Committee will promptly notify Triathlon New Zealand in writing upon receipt of any Complaint.
- 13.6 **Decision to not proceed with a matter:** Despite the contents of the Disputes Procedure, the Committee 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.
- 13.7 **Referral of Complaints:** The Committee may refer a Complaint to an Applicable Disputes Body constituted by Triathlon New Zealand. The dispute resolution process for Triathlon New Zealand is set out at the following website, <https://triathlon.kiwi/aboutus/organisational-resources/> as may be amended or replaced from time to time.
- 13.8 **Bias:** A person may not act as a decision maker in relation to a Complaint if two or more members of the Committee 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.
- 13.9 **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 Club makes a Complaint, the Club 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 Club.
 - (c) A Member or Committee Member or the Club 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 Committee, 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 Committee, Hearing Body or other decision maker; and
- (iv) the Member's, Officer's or the Club's written statement or submission, if any, are considered by the Committee, Hearing Body or other decision maker.

13.10 Respondent's right to be heard:

- (a) This clause 13.10 applies if a complaint involves an allegation that a Member, an Officer, or the Club (**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 Club, an Officer may exercise the right on behalf of the Club.
- (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 Committee, 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 Committee, Hearing Body or other decision maker; and
 - (v) the Respondent's written statement or submissions, if any, are considered by the Committee, Hearing Body or other decision maker.

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

14. Information

- 14.1 Request for information:** A Member may at any time make a written request to the Club for information held by the Club, 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 Club 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.

15. Liquidation and removal

15.1 **Notice:** The Committee must give notice to all Members at least 20 Working Days of a proposed motion:

- (a) to appoint a liquidator;
- (b) to remove the Club from the Register of Incorporated Societies; or
- (c) for the distribution of the Club's surplus assets,

and the notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.

15.2 **Special Resolution:** Any resolution for a motion set out in clauses 15.1(a) to (c) must be passed by a Special Resolution of Members.

15.3 **Surplus assets:** The surplus assets of the Club, after the payment of all costs, debts and liabilities, must be disposed of and the proceeds donated to the charitable purposes of the Hilary Commission or its successor, or to Triathlon New Zealand.

16. Club Championships

16.1 The championship of the Club shall be open to all Members who have been a Member for not less than two months on the date the championships are held.

17. Matters not provided for

17.1 If any matter arises that, in the opinion of the Committee, 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 Committee.

18. Transition

18.1 **Transition:** This clause 18 applies to facilitate transition of the Club from the previous rules 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.

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

18.3 **Transition of Committee Members:**

- (a) Committee members appointed under the previous rules will continue their term.

- (b) The number of terms served under the previous rules count towards any maximum number of terms set out in this Constitution.