



SURFING AUSTRALIA INCORPORATED

CONSTITUTION

APPROVED AT AGM 9 NOV 2007

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ASSOCIATIONS INCORPORATION ACT (1981) (VIC)

CONSTITUTION

OF

SURFING AUSTRALIA INCORPORATED

PART I – OBJECTS, POWERS AND INTERPRETATION

1. NAME OF ASSOCIATION

The name of the association is Surfing Australia Incorporated ("**Association**").

2. OBJECTS OF ASSOCIATION

The Association is the peak body for the administration of the sport of surfing in Australia. The objects for which the Association is established and maintained are to:

- (a) provide for the conduct, encouragement, promotion and administration of surfing throughout Australia;
- (b) ensure the maintenance and enhancement of the Association, its Members and surfing, its standards, quality and reputation for the benefit of the Members and surfing;
- (c) at all times promote mutual trust and confidence between the Association and the Members in pursuit of these Objects;
- (d) affiliate and otherwise liaise with the International Surfing Association, in the pursuit of these objects and the objects of surfing;
- (e) issue rules and regulations to be followed in National competitions, arrange for the conduct of National Championships and the selection of National Teams and training squads;
- (f) recognise surfing values and the implications on surfing in recreational and natural resource planning and management;
- (g) at all times act on behalf of and in the interest of the Members and surfing;
- (h) promote the success, strength and stability of the Association, the Members, and surfing;
- (i) use and protect the Intellectual Property;
- (j) apply the property and capacity of the Association towards the fulfilment and achievement of these Objects;

- (k) further develop surfriding into an organised institution and with these Objects in view, to foster, regulate, organise and manage competitions, displays and other activities and to issue certificates and award trophies to successful Members;
- (l) review and/or determine any matters relating to surfriding in Australia which may arise, or be referred to it, by any Member;
- (m) act as arbiter on all matters pertaining to the conduct of surfriding in Australia, including disciplinary matters;
- (n) pursue through itself or other such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of surfriding in Australia;
- (o) formulate or adopt and implement appropriate policies, including in relation to harassment, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, and such other matters as arise from time to time as issues to be addressed in surfriding;
- (p) represent the interests of its Members and of surfriding generally in any appropriate forum in Australia and internationally;
- (q) have regard to the public interest in its operations;
- (r) do all that is reasonably necessary to enable these Objects to be achieved and to enable the Members to receive the benefits which these Objects are intended to achieve;
- (s) promote the health and safety of Members and all other users of the aquatic environment;
- (t) encourage Members to realise their potential and athletic abilities by extending to them the opportunity of education and participation in surfriding competition and to award trophies and rewards to successful competitors;
- (u) encourage and promote competitions which are free from performance-enhancing drugs;
- (v) construct or engage in research, either solely or jointly with any other body or organisation, pertaining to any matter including surfing education, marketing, science, sports performance, artificial reefs or other matters that might further the interests of the Association and or the sport of surfing;
- (w) to establish and operate a hall of fame and museum for the preservation, storage and exhibition of information and objects illustrating and relating to the sport of surfing.
- (x) represent and promote the interests of Members to the International Surfing Association;
- (y) actively support the preservation and conservation of the environment, and join with or affiliate with bodies or organisations concerned with the conservation and preservation of the environment; and

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

3. POWERS OF ASSOCIATION

Solely for furthering the objects set out above the Association has, in addition to the rights, powers and privileges conferred on it under the Act, the legal capacity and powers of a company as set out under section 124 of the Corporations Act.

4. INTERPRETATION

4.1 Definitions

In this Constitution unless the contrary intention appears, these words shall have the following meanings:

“**Act**” means the Associations Incorporation Act 1981 (Vic) or any other act under which the Association may be incorporated from time to time.

“**Affiliated Club**” means a club (whether incorporated, unincorporated or otherwise) which is a member of a State Association.

“**Affiliated Region**” means a group (whether incorporated, unincorporated or otherwise) which is a member of a State Association and recognised by that State Association as representing the State Association in a particular geographic area.

“**Board**” means the body consisting of the Directors under **Rule 24**.

“**By-Law**” means any by-law, regulation or policy made by the Board under **Rule 32**.

“**Chairperson**” means the chairperson of the Association appointed by the Board in accordance with **Rule 24.2**.

“**Chief Executive Officer**” means the person who is appointed under this Constitution to carry out the duties set out in **Rule 30**.

“**Delegate**” means the persons elected or appointed from time to time by a State Association or Voting Committee to act for and on behalf of that State Association or Voting Committee and represent the State Association or Voting Committee at General Meetings or otherwise.

“**Director**” means a member of the Board elected or appointed in accordance with this Constitution and includes the Interested Directors and the Independent Directors.

“**Financial Year**” means the year commencing 1 July and ending 30 June in any year.

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

“**Independent Director**” means a Director appointed under **Rule 26**.

“**Individual Member**” means a registered financial individual member of a State Association and the Association under **Rule 7.1**.

“**Intellectual Property**” means all rights or goodwill subsisting in copyright, business names, names, trade marks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to the Association or any event, competition or activity of or conducted, promoted or administered by the Association.

“**Interested Director**” means a Director elected under **Rule 25**.

“**Life Member**” means an individual upon whom life membership of the Association has been conferred under **Rule 7.3**.

“**Longboarding Standing Committee**” means the committee established by the Association under **Rule 31.3** to represent the interests of longboard surfing and advise the Board on matters pertaining to such interests.

“**Member**” means a member for the time being of the Association under **Part III** of this Constitution.

“**Seal**” means the common seal of the Association and includes any official seal of the Association.

“**Special Resolution**” means a resolution passed:

- (a) at a General Meeting of the Association of which 21 days notice, accompanied by notice of intention to propose resolution as a special resolution, has been given to the Member in accordance with this Constitution; and
- (b) by at least three quarters of votes of those State Associations who, being entitled to vote, vote in person at the meeting.

“**Standing Committee**” means a delegated body of the Association appointed by the Board from time to time and includes the Women's Surfing Standing Committee and the Longboarding Standing Committee.

“**State**” means a State of Australia and includes the territories of Australia.

“**State Acts**” means the state associations incorporation legislation (by whatever name called) governing the Members, including the Act.

“**State Association**” means an entity recognised under **Rule 5.1** to administer the sport of surfing in its particular State or territory.

“**Technical Committee**” means the technical committees established by the Board under **Rule 31.3(a)** and any other technical committees established by the Board from time to time.

“**Voting Committee**” means and includes the Women's Surfing Standing Committee and the Longboarding Standing Committee, as established under **Rule 31.3**.

"Women's Surfing Standing Committee" means the committee established by the Association under **Rule 31.3** to represent the interests of women's surfing and advise the Board on matters pertaining to such interests.

4.2 Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

4.3 Severance

If any provision of this Constitution or any phrase contained in them is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If the rule or phrase can not be so read down it shall be severed to the extent of the invalidity or unenforceability. Such severance shall not affect the remaining provisions of this Constitution or affect the validity or enforceability of any provision in any other jurisdiction.

4.4 Expressions in Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act.

PART II – STATE ASSOCIATIONS

5. STATE ASSOCIATIONS

5.1 Recognition of State Associations

The entity which is recognised as the only official representative of and controlling authority for the sport of surfing in a State (in the Board's sole discretion) is or shall be recognised as a Member and shall administer the sport of surfing in that particular State in accordance with the objects of the Association. Each State Association shall be named according to the State in which it is located.

5.2 Compliance of State Associations

Each State Association shall:

- (a) be incorporated in its particular State;
- (b) elect or appoint 1 Delegate to represent it at General Meetings in accordance with this Constitution;
- (c) provide the Association with copies of its audited accounts, annual report and other associated documents within 30 days of the State Association's annual general meeting;
- (d) adopt in principle, the objects of the Association and adopt rules which reflect and which are, to the extent permitted or required by the State Acts, generally in conformity with this Constitution; and
- (e) apply its property and capacity solely in pursuit of the objects of the Association, the State Association and the sport of surfing;
- (f) do all that is reasonably necessary to enable the objects of the Association to be achieved;
- (g) act in good faith and loyalty to ensure the maintenance and enhancement of the Association and the sport of surfing, its standards, quality and reputation for the collective and mutual benefit of the Members and the sport of surfing;
- (h) at all times operate with, and promote, mutual trust and confidence between the Association and the Members in pursuit of these objects; and
- (i) at all times act on behalf of and in the interests of the Members and the sport of surfing.

5.3 Operation of Rules

The Association and the State Associations agree:

- (a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the objects of the Association and the sport of surfing are to be conducted, encouraged, promoted and administered in Australia;

- (b) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of the sport of surfing, its standards, quality and reputation for the collective and mutual benefit of the Members and the sport of surfing;
- (c) not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of the sport of surfing, and its maintenance and enhancement;
- (d) to make full and proper disclosure to each other of all matters of importance to the Association and the sport of surfing;
- (e) not to acquire a private advantage at the expense of the Association or any other State Association or the sport of surfing;
- (f) to operate with mutual trust and confidence in pursuit of the objects of the Association;
- (g) to promote the economic and sporting success, strength and stability of each other and to act interdependently with each other in pursuit of the objects of the Association;
- (h) to act for and on behalf of the interests of the sport of surfing, the Association and the Members; and
- (i) that should a State Association have administrative, operational or financial difficulties, including but not limited to where a State Association:
 - (i) takes or has taken or has instituted against it any action or proceeding, whether voluntary or compulsory, having as its object the winding up of the State Association; or
 - (ii) enters into a composition or arrangement with its creditors, other than a voluntary winding up by members for the purpose of reconstruction or amalgamation; or
 - (iii) a mortgagee or other creditor takes possession of any of its assets;

the Association may, in its absolute discretion act to assist that State Association in whatever manner and on such conditions as the Association considers appropriate, including, but not limited to the appointment of an administrator.

6. STATE ASSOCIATION CONSTITUTIONS

6.1 Constitution

The constituent documents of each State Association shall clearly reflect the objects of the Association and shall be in a form acceptable to the Board, with such incidental variations as are necessary or appropriate, having regard to the State Act applicable to each State Association.

6.2 Amendments to State Association Constitutions

- (a) Each State Association shall take all steps necessary to ensure its constituent documents and rules are in a form acceptable to the Board and shall ensure its documents are amended in conformity with future amendments made to this Constitution, subject to any prohibition or inconsistency in any relevant State Act.
- (b) State Associations shall have 2 years from the approval of this Constitution under the Act in which to amend their constitution in accordance with this Constitution, and for such time as their constitutions do not conform shall not be unduly penalised for such non-compliance, to the extent that such non-compliance is not wilful or calculated to cause harm or prejudice to the Association.

6.3 Register of Members

Each State Association shall maintain, in a form and with such details as are acceptable to the Association, a register of all Affiliated Clubs and Individual Members in its State. Subject to privacy considerations, each State Association shall provide a copy of the register at a time and in a form acceptable to the Association, and shall provide prompt and regular updates of that register to the Association when requested by the Board.

PART III – MEMBERSHIP

7. MEMBERS

7.1 Category of Members

The Members of the Association shall consist of:

- (a) the State Associations, which subject to this Constitution, shall be represented by their Delegates who shall have the right to attend, debate and vote at General Meetings for and on behalf of the State Associations;
- (b) Life Members, who subject to this Constitution, may attend and debate at General Meetings, but have no right to vote at General Meetings;
- (c) Affiliated Clubs and Affiliated Regions, who subject to this Constitution, may appoint a representative to attend General Meetings, but have no right to debate or vote at General Meetings;
- (d) Individual Members, who subject to this Constitution, may attend General Meetings, but have no right to debate or vote at General Meetings;
- (e) such new categories of Members, created in accordance with **Rule 7.2** below.

and shall have such qualifications as the Board may determine from time to time.

7.2 Creation of New Categories

The Board has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined

applicable (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership may be granted voting rights.

7.3 Life Members

- (a) The Board may nominate a person who has rendered distinguished or special service to the sport of surfing at the national level, for life membership. The nomination must be on the prescribed form (if any) and must be submitted to the Chief Executive Officer at least 60 days before the date set down for the Annual General Meeting.
- (b) The nomination for Life Member shall be considered at the Annual General Meeting. A resolution of the Annual General Meeting to confer life membership must be passed by Special Resolution. The vote on such resolution will be taken by secret ballot.
- (c) Conditions, obligations and privileges of life membership shall be as prescribed in the By-Laws.

8. AFFILIATED CLUBS, REGIONS AND INDIVIDUAL MEMBERS

8.1 Deeming Provisions

- (a) All persons who were individual members (howsoever described) of a State Association prior to the time of approval of this Constitution under the Act, shall be deemed Individual Members from the time of approval of this Constitution under the Act, and will be entitled to such benefits as are conferred on them by the Association, whether directly or indirectly.
- (b) All affiliated club and region members (howsoever described) of State Associations prior to the time of approval of this Constitution under the Act, shall be deemed Affiliated Clubs and Affiliated Regions from the time of approval of this Constitution under the Act, and will be entitled to such benefits as are conferred on them by the Association, whether directly or indirectly.
- (c) The State Associations shall, whenever requested by the Association and subject to privacy considerations, provide to the Association, such details of Individual Members, Affiliated Clubs and Affiliated Regions as are required by the Association under this Constitution.

8.2 Application for Membership

- (a) An application for membership by an Individual Member must be:
 - (i) in writing on the form prescribed from time to time by the Board, from the applicant and lodged with a State Association; and
 - (ii) accompanied by the appropriate fee.
- (b) An application for membership by an Affiliated Club or Affiliated Region must be:

- (i) in writing on the form prescribed from time to time by the Board, from the applicant and lodged with a State Association; and
- (ii) accompanied by the appropriate fee.

8.3 Discretion to Accept or Reject Application

- (a) The State Association may accept or reject an application and shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Where the State Association accepts an application, the applicant shall become a Member. Membership of the Association shall be deemed to commence upon acceptance of the application by the relevant State Association. The Chief Executive Officer shall amend the register accordingly as soon as practicable.
- (c) Where a State Association rejects an application the State Association shall refund any fees forwarded with the application and the application shall be deemed rejected by it.

8.4 Membership Renewal

In order to remain Members, Individual Members, Affiliated Clubs and Affiliated Regions must:

- (a) renew their membership with their respective State Association annually;
- (b) otherwise remain registered financial members of their State Association in accordance with the procedures applicable from time to time; and
- (c) must pay the annual fees prescribed by the Association from time to time (if any) to the Association through their respective State Association.

9. SUBSCRIPTIONS AND FEES

- 9.1 The annual membership subscription (if any), fees and any levies payable by Members (or any category of members) to the Association, the basis of, the time for and manner of payment shall be as determined by the Board from time to time.
- 9.2 Any Member which or who has not paid all monies due and payable by that Member to the Association shall (subject to the Board's discretion) have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until such time as the monies are fully paid or otherwise in the Board's discretion. In the meantime, the Member shall have no automatic right to resign from the Association, and shall be dealt with in the Board's discretion, which includes the right to expel, suspend, disqualify, fine, discipline or retain that Member as a Member, or impose such other conditions or requirements as the Board considers appropriate.

10. REGISTER OF MEMBERS

10.1 Chief Executive Officer to Keep Register

The Chief Executive Officer shall keep and maintain a register of Members in which shall be entered such information as is required under the Act from time to time.

10.2 Inspection of Register

Having regard to confidentiality considerations, an extract of the register, excluding the address of any Delegate, Life Member or Individual Member shall be available for inspection (but not copying) by Members, upon reasonable request.

11. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Association and that they are bound by these Rules and the By-Laws;
- (b) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;
- (c) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of the Association;
- (d) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of the Association, the Members and the sport of surfing;
- (e) this Constitution and By-Laws are necessary and reasonable for promoting the objects of the Association and particularly the advancement and protection of the sport of surfing; and
- (f) they are entitled to all benefits, advantages, privileges and services of Association membership.

12. DISCONTINUANCE OF MEMBERSHIP

12.1 Notice of Resignation

Subject to this Constitution any Member which has paid all monies due and payable to the Association and has no other liability (contingent or otherwise) to the Association may resign from the Association by giving 3 months' notice in writing to the Association of such intention to withdraw or resign and upon the expiration of that period of notice, the Member shall cease to be a Member. A Life Member who has paid all monies due and payable to the Association may resign by notice in writing with immediate effect.

12.2 Expiration of Notice Period

Subject to **Rule 12.5** upon the expiration of any notice period applicable under **Rule 12.1** an entry, recording the date on which the Member who or which gave notice ceased to be a Member shall be recorded in the register.

12.3 Forfeiture of Rights

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon the Association and its property including Intellectual Property. Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association immediately.

12.4 Membership may be Reinstated

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Board, on application in accordance with this Constitution and otherwise on such conditions as it sees fit.

12.5 Cessation of Membership

Where a State Association ceases to be a Member in accordance with this Constitution or the Act, the Individual Members, Affiliated Clubs and Affiliated Regions of that State Association may cease or remain Members to the extent (if any) and for such time (if any) as is determined in the sole discretion of the Board.

13. DISCIPLINE OF MEMBERS

13.1 Disciplinary Action

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

- (a) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any resolution or determination of the Board or any duly authorised committee; or
- (b) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of the Association and/or the sport of surfing; or
- (c) brought the Association or the sport of surfing into disrepute;

the Board may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms (if any) of the Association set out in the By-Laws.

Such grounds do not constitute a Grievance and **Rule 43** does not apply.

The Board may appoint a judiciary committee to deal with any disciplinary matter referred to it. Such a judiciary committee shall operate under the principles and in accordance with the procedures set down by the Board from time to time.

PART IV - GENERAL MEETINGS

14. DELEGATES

14.1 Appointment of Delegates

Each State Association, the Women's Standing Committee and the Longboarding Standing Committee ("Voting Committees") shall appoint 1 Delegate for such term as is deemed appropriate by the State Association or Voting Committee. A Delegate must:

- (a) be an Individual Member;
- (b) be appropriately empowered by the appointing State Association or Voting Committee to consider, make decisions and vote at General Meetings;
- (c) not be a Director.

14.2 State Association and Voting Committees to Advise

Each State Association and Voting Committee shall, at least 48 hours prior to any General Meeting, advise the Chief Executive Officer of its appointed Delegate.

15. GENERAL MEETINGS

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

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

16. NOTICE OF GENERAL MEETING

16.1 Notice of General Meetings

- (a) Notice of every General Meeting shall be given to State Associations and Voting Committees at the address appearing in the register kept by the Association. No other person shall be entitled as of right to receive notices of General Meetings.
- (b) Notice to Individual Members, Affiliated Clubs and Affiliated Regions (where appropriate or required) shall be deemed given by notice being given in accordance with this Constitution to the State Association of that Individual Member, Affiliated Club or Affiliated Region.
- (c) Notice of General Meeting shall be given at least sixty (60) days prior to the General Meeting and shall specify the place and day and hour of the General Meeting.
- (d) The agenda for the General Meeting stating the business to be transacted at the General Meeting shall be given at least thirty (30) days prior to the General Meeting, together with any notice of motion received from State Associations or Voting Committees.

16.2 Entitlement to Attend General Meeting

Notwithstanding any other Rule, no Member shall be represented at, or take part in a General Meeting, unless all monies (including, but not limited to those set in accordance with **Rule 9**) then due and payable to the Association are paid, unless otherwise determined by the Board in its discretion.

17. BUSINESS

17.1 Business of General Meetings

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts, reports of the Board (including in relation to the activities of the Association during the last preceding Financial Year) and auditors and the election of Directors and Life Members.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at the Annual General Meeting, with the exception of those matters set out in **Rule 17.1(a)** shall be special business. "Special business" is business of which a notice of motion has been submitted in accordance with **Rule 18**.

17.2 Business Transacted

No business other than that stated on the notice shall be transacted at that meeting.

18. NOTICES OF MOTION

All notices of motion for inclusion as special business at a General Meeting must be submitted in writing (in the required form) to the Chief Executive Officer not less than 45 days (excluding receiving date and meeting date) prior to the General Meeting.

19. SPECIAL GENERAL MEETINGS

19.1 Special General Meetings May be Held

The Board may, whenever it thinks fit, convene a Special General Meeting of the Association and, where, but for this Rule more than 15 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

19.2 Requisition of Special General Meetings

- (a) The Board shall on the requisition in writing of the majority of the combined number of State Associations and Voting Committees convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the State Associations and Voting Committees making the requisition and be sent to the Association. The requisition may consist of several documents in a like form, each signed by 1 or more of the State Associations and Voting Committees making the requisition.

- (c) If the Board does not cause a Special General Meeting to be held within 3 months after the date on which the requisition is sent to the Association, the State Associations and Voting Committees making the requisition, or any of them, may convene a Special General Meeting to be held not later than 3 months after that date.
- (d) A Special General Meeting convened by State Associations and Voting Committees under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

20. PROCEEDINGS AT GENERAL MEETINGS

20.1 Quorum

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of the Association shall be the majority of the combined number of State Associations and Voting Committees.

20.2 Chairperson to Preside

The Chairperson shall, subject to this Constitution, preside as chair at every General Meeting of the Association. If the Chairperson is not present, or is unwilling or unable to preside, the Directors shall choose one of their number present who shall, subject to this Constitution, preside as chair for that meeting only.

20.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the General Meeting a quorum is not present the meeting shall be adjourned to such other day and at such other time and place as the chair may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting will lapse.
- (b) The chair may, with the consent of any General Meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **Rule 20.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

20.4 Voting Procedure

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

- (a) by the chair; or
- (b) by the majority of the Delegates.

20.5 Recording of Determinations

Unless a poll is demanded under **Rule 20.4**, a declaration by the chair that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

20.6 Where Poll Demanded

If a poll is duly demanded under **Rule 20.4** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

20.7 Resolutions at General Meetings

Except where a Special Resolution is required, all questions at General Meetings shall be determined by the majority of votes (as set out in **Rule 21**). Except as otherwise provided in this Constitution, in the case of an equality of votes on a question at a General Meeting, the chair is entitled to a casting vote.

20.8 Minutes

The Chief Executive Officer shall keep minutes of the resolutions and proceedings of each General Meeting in books provided for that purpose, together with a record of the names of persons present at all meetings.

21. VOTING AT GENERAL MEETINGS

- (a) Each State Association in attendance shall, subject to this Constitution, be entitled to 1 vote at General Meetings. No other Member shall be entitled to vote, but shall subject to this Constitution have, and be entitled to exercise, those rights set out in **Rule 7.1**.
- (b) The Voting Committees shall, subject to this Constitution, each be entitled to 1 vote at General Meetings. For the avoidance of doubt, no other Standing Committee shall be entitled to vote at General Meetings.

22. PROXY AND POSTAL VOTING

22.1 Proxy Voting

Proxy voting shall NOT be permitted at General Meetings.

22.2 Postal Ballot

Should an issue arise between General Meetings which requires a decision or ratification by State Associations and Voting Committees the Board may call a postal vote in such manner as it considers necessary.

PART V - THE BOARD

23. POWERS OF THE BOARD

Subject to the Act and this Constitution the business of the Association shall be managed, and the powers of the Association shall be exercised, by the Board. In particular, the Board as the controlling authority of the Association shall be responsible for acting on all national issues in accordance with the objects of the Association and shall operate for the collective and mutual benefit of the Association and the sports of surfing throughout Australia and shall:

- (a) govern the sport of surfing in Australia in accordance with the objects of the Association;
- (b) determine major strategic directions of the Association;
- (d) review the Association's performance in achieving its pre-determined aims, objectives and policies;
- (e) manage the financial performance of the Association; and
- (d) manage international responsibilities.

24. COMPOSITION OF THE BOARD

24.1 Board Composition

The Board shall comprise:

- (a) Five (5) Interested Directors elected by the State Associations and Voting Committees in accordance with **Rule 25**;
- (b) Two (2) Independent Directors which may be appointed by the Board in accordance with **Rule 26**.

24.2 Chairperson

The Board shall appoint the Chairperson from amongst its numbers as soon as practical after each Annual General Meeting. The appointee will hold the position of Chairperson until the conclusion of the next Annual General Meeting following their appointment. A Director may be reappointed as Chairperson.

25. ELECTION OF INTERESTED DIRECTORS

25.1 Qualifications for Interested Directors

- (a) Nominees for Interested Director positions on the Board must meet the qualifications as prescribed from time to time by the Board.
- (b) Nominees for Interested Director positions on the Board must declare any position they hold in a State Association or Voting Committee, including as an office bearer, director or a paid appointee. If the nominee is elected they must resign from any paid position in the State Association or Voting Committee.

25.2 Elections of Interested Directors

- (a) The Chief Executive Officer shall call for nominations sixty (60) days before the date of the Annual General Meeting. All State Associations and Voting Committees shall be notified of the call for nominations.
- (b) Nominations for Interested Directors must be:
 - (i) in writing;
 - (ii) on the prescribed form (if any) provided for that purpose;
 - (iii) signed by a Delegate of a State Association or Voting Committee; and
 - (iv) certified by the nominee (who must be a Member) expressing his or her willingness to accept the position for which he or she is nominated.
- (c) Nominations must be received by the Chief Executive Officer at least forty five (45) days prior to the Annual General Meeting.
- (d) If the number of nominations received for the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall only be elected if they are elected by the Members by secret ballot in such usual and proper manner as the chair directs. If the nominees are not elected or if there are vacancies to be filled, further nominations shall be called for at the Annual General Meeting from the floor.
- (e) If the number of nominations exceeds the number of vacancies to be filled, a secret ballot shall be taken in such usual and proper manner as the chair directs.
- (f) The voting shall be conducted by exhaustive ballot, the procedure for which will be detailed in By-Laws.

25.3 Term of Appointment

- (a) Interested Directors shall be elected in accordance with this Constitution for a term of 2 years, which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the second Annual General Meeting following.
- (b) 3 Interested Directors shall be elected in each year of odd number and 2 Interested Directors shall be elected in each year of even number.
- (c) Should any adjustment to the term of Interested Directors elected under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. Elections to subsequent Boards shall then proceed in accordance with the procedures in this Constitution with approximately half the Board retiring each year.

26. APPOINTMENT OF INDEPENDENT DIRECTORS

26.1 Appointment of Independent Directors

The Interested Directors may appoint 2 Independent Directors.

26.2 Qualifications for Independent Directors

The Independent Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which compliment the Board composition, but need not have experience in or exposure to the sport of surfing. They do not need to be Members of the Association.

26.3 Term of Appointment

Independent Directors shall hold office for such term as is determined by the Directors appointing them but in any event for a maximum of two years.

27. VACANCIES OF BOARD MEMBERS

27.1 Grounds for Termination of Director

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

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns his office in writing to the Association;
- (e) is absent without the consent of the Board from 2 consecutive meetings of the Board;
- (f) holds any office of employment of the Association;
- (g) without the prior consent or later ratification of the Members in General Meeting holds any office of profit under the Association;
- (h) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest;
- (i) is removed from office by Special Resolution under **Rule 27.2**; or
- (j) would otherwise be prohibited from being a director of a corporation under the Corporations Act or is disqualified from office under the Act.

27.2 Removal of a Director

- (a) The Association in a General Meeting may by Special Resolution remove any Director, before the expiration of their term of office. If a Director is removed in accordance with this Rule the office of the Director becomes vacant and shall be filled in accordance with the procedure set out in **Rule 27.3**.
- (b) Where the Director to whom a proposed resolution referred to in **Rule 27.2(a)** makes representations in writing to the Chief Executive Officer and requests that such representations be notified to the Members, the Chief Executive Officer may send a copy of the representations to each State Association and Voting Committee or, if they are not so sent, the Director may require that they be read out at the meeting, and the representations shall be so read.

27.3 Casual Vacancies

- (a) A vacancy in the position of an Interested Director shall be filled by the Directors until the next Annual General Meeting of the Association. If the term of the Director has not expired, the Members shall fill the vacancy for the remainder of the Directors term.
- (b) Any Independent Director casual vacancy may be filled by the remaining Directors from among appropriately qualified persons, for the remainder of the Director's term.
- (c) A vacancy in the position of the Chairperson shall be filled by the Directors until the conclusion of the next Annual General Meeting of the Association.

27.4 Remaining Directors May Act

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

28. MEETINGS OF THE BOARD

28.1 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business and may adjourn and, subject to this Constitution otherwise regulate, its meetings as it thinks fit. The Chief Executive Officer shall, on the requisition of 2 Directors, convene a meeting of the Board within a reasonable time.

28.2 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and all questions so decided shall for all purposes be deemed a determination of the Board. All Directors shall have 1 vote on any question. The chair shall also have a casting vote where voting is equal.

28.3 Resolutions not in Meeting

- (a) A resolution in writing, signed or assented to by telegram, cablegram, radiogram, facsimile, telex, electronic mail or other form of visible or other electronic communication by all the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by 1 or more of the Directors.
- (b) Without limiting the power of the Board to regulate their meetings as they think fit, a meeting of the Board may be held where 1 or more of the Directors is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board and such notice specifies that Directors are not required to be present in person;
 - (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held, then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated;
 - (iv) any meeting held where 1 or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the chair is located.

28.4 Quorum

At meetings of the Board the number of Directors whose presence (or participation under **Rule 28.3**) is required to constitute a quorum is the majority of the Directors but shall be a minimum of 3 Directors.

28.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than 7 days' oral or written notice of the meeting of the Board shall be given to each Director by the Chief Executive Officer. The agenda shall be forwarded to each Director not less than 3 days prior to such meeting.

28.6 Validity of Board Decisions

A procedural defect in decisions taken by the Board shall not result in such decision being invalidated.

28.7 Chair of Board Meeting

The Chairperson shall preside at every meeting of the Board. If the Chairperson is not present, or is unwilling or unable to preside, the Directors shall choose one of their number to preside as chair for that meeting only.

29. CONFLICTS**29.1 Directors' Interests**

A Director is disqualified by holding any place of profit or position of employment in the Association, any State Association, Voting Committee or in any company or incorporated association in which the Association is a shareholder or otherwise interested or from contracting with the Association either as vendor, purchaser or otherwise except with express resolution of approval of the Board. Any such contract or any contract or arrangement entered into by or on behalf of the Association in which any Director is in any way interested and has not made disclosure under **Rule 29.3** will be voided for such reason.

29.2 Conflict of Interest

A Director shall declare his interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) disciplinary matter; or
- (d) other financial matter;

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

29.3 Disclosure of Interests

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

29.4 General Disclosure

A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **Rule 29.3** as regards such Director and the said

transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

29.5 Recording Disclosures

It is the duty of the Chief Executive Officer to record in the minutes any declaration made or any general notice given by a Director in accordance with **Rule 29.3 and 29.4.**

30. CHIEF EXECUTIVE OFFICER

30.1 Appointment of Chief Executive Officer

The Chief Executive Officer shall be appointed by the Board for such term and on such conditions as it thinks fit. The Chief Executive Officer, shall be entitled to notice of, attend and participate in debate at, all meetings of the Board, but shall have no entitlement to vote.

30.2 Chief Executive Officer to Act as Secretary

The Chief Executive Officer shall act as and carry out the duties of secretary and public officer (unless prohibited by law) and shall administer and manage the Association in accordance with this Constitution.

30.3 Specific Duties

The Chief Executive Officer shall:

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

30.4 Broad Power to Manage

Subject to the Act, this Constitution, the By-Laws and any directive of the Board, the Chief Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of the Association.

30.5 Chief Executive Officer may Employ

The Chief Executive Officer, in consultation with the Board, may employ such office personnel as are deemed necessary from time to time and such appointments shall be for such period and on such conditions as the Chief Executive Officer and the Board determine.

PART VI – MISCELLANEOUS

31. DELEGATIONS

31.1 Board may Delegate Functions to Committees

The Board may by instrument in writing create or establish or appoint from among its own members, the Members, or otherwise, committees to carry out such duties and functions, and with such powers, as the Board determines.

31.2 Delegation by Instrument

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

- (a) this power of delegation; and
- (b) a function imposed on the Board by the Act or any other law, or this Constitution.

31.3 Standing Committees

- (a) The Board shall at least establish the following Standing Committees under this power of delegation:
 - (i) Longboarding;
 - (ii) Women's Surfing.
- (b) The Board, in consultation with the Standing Committees, shall establish a charter for each Committee, including the objects, role, powers and responsibilities of each Committee.
- (c) The following procedure shall apply in relation to the appointment of members of the Standing Committees:
 - (i) The Board shall call for nominations for members of the Standing Committees from Members.
 - (ii) Nominations shall be called for the position of chair and general committee members.
 - (iii) The Board is to appoint the chair, and the other members of the Standing Committee after considering the recommendation of the chair.
 - (iii) If insufficient nominations are received from the Members or the nominations are considered inappropriate by the Board, the Board shall appoint the positions on the Standing Committee in its discretion.
- (d) Each Standing Committee shall be required to provide regular reports to the Board in such form as required from the Board from time to time including (but not limited to) the following matters:
 - (i) minutes of Standing Committee meetings;

- (ii) annual operational plans; and
- (iii) annual operational report containing performance compared to the operational plan.

31.4 Delegated Function Exercised in Accordance With Terms

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

31.5 Procedure of Delegated Entity

- (a) The procedures for any committee established shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **Rule 28**. The quorum shall be determined by the committee, but shall be no less than the majority of the total number of committee members.
- (b) A Director or the Chief Executive Officer shall be ex-officio members of any committee so appointed.
- (c) Within 7 days of any meeting of any committee, the committee shall send a copy of the minutes and any supporting documents to the Chief Executive Officer.

31.6 Delegation may be Conditional

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

31.7 Revocation of Delegation

The Board may by instrument in writing, revoke wholly or in part any delegation made under this Rule, and may amend, repeal or veto any decision made by such committee under this Rule where such decision is contrary to this Constitution, the By-Laws, the Act, the objects of the Association or the committee's delegation.

32. BY-LAWS

32.1 Board to Formulate By-Laws

The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such by-laws, regulations and policies ("By-Laws") for the proper advancement, management and administration of the Association, the advancement of the objects of the Association and the sport of surfing as it thinks necessary or desirable. Such By-Laws must be consistent with this Constitution.

32.2 By-Laws Binding

All By-Laws made under this Rule shall be binding on the Association and Members.

32.3 By-Laws Deemed Applicable

All by-laws, regulations and policies of the Association in force at the date of the approval of this Constitution under the Act in so far as such by-laws, regulations and policies are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-Laws under this Rule.

32.4 Notices Binding on Members

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to State Associations by means of notices approved by the Board and prepared and issued by the Chief Executive Officer. State Associations shall be obliged to draw such notices to the attention of their respective Members. Notices are binding upon all Members.

33. RECORDS AND ACCOUNTS**33.1 Chief Executive Officer to Keep Records**

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

33.2 Records Kept in Accordance with Act

- (a) Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct. The books of account shall be kept in the care and control of the Chief Executive Officer;
- (b) All accounts, books, securities and any other relevant documents of the Association shall be made available for inspection free of charge by any Member upon reasonable notice.

33.3 Association to Retain Records

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

33.4 Board to Submit Accounts

The Board shall submit to the Annual General Meeting the accounts of the Association in accordance with the Act.

33.5 Negotiable Instruments

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

34. AUDITOR

A properly qualified auditor or auditors shall be appointed and the remuneration of such auditor or auditors fixed by the Board. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with generally accepted accounting principles and/or any applicable codes of conduct.

35. NOTICE**35.1 Manner of Notice**

- (a) Notices may be given by the Chief Executive Officer to any Member by sending the notice by post or facsimile transmission or where available, by electronic mail, to the Member's registered address, facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected 2 days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

36. SEAL**36.1 Safe Custody of Seal**

The Chief Executive Officer shall provide for safe custody of the Seal.

36.2 Affixing Seal

The Seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by 2 Directors or a Director and the Chief Executive Officer.

36.3 Director's Interest

A Director may not sign a document to which the seal of the Association is fixed where the Director is interested in the contract or arrangement to which the document relates.

37. ALTERATION OF CONSTITUTION

- (a) This Constitution shall not be altered except by Special Resolution.

- (b) In addition, there shall be no alteration or amendment to **Rules 38 or 39** without the consent of the relevant Minister or other authority under the Act.

38. INDEMNITY

38.1 Directors to be Indemnified

Every Director, auditor, manager, employee or agent of the Association shall be indemnified to the extent provided under the directors and officers insurance policy of the Association (if any) against any liability incurred by him/her in his/her capacity as Director, auditor, manager, employee or agent in defending any proceedings, whether civil or criminal, in which judgement is given in his/her favour or in which he/she is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him/her by the Court.

38.2 Association to Indemnify

The Association shall indemnify its Directors and employees to the extent provided under the directors and officers insurance policy of the Association (if any) against all damages and costs (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) in the case of a Director performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his/her employment by the Association.

39. WINDING UP

39.1 Winding Up of the Association

Subject to this **Rule 39**, the Association may be wound up in accordance with the provisions of the Act.

39.2 Liability of Members

The liability of the Members of the Association is limited.

39.3 Members' Contributions

Every Member of the Association undertakes to contribute to the assets of the Association in the event of it being wound up while a Member, or within 1 year after ceasing to be a Member for payment of the debts and liabilities of the Association contracted before the time at which he or she ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding \$1.00.

39.4 Distribution of Property on Winding Up

If upon winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members of the Association but shall be given or transferred to some body or bodies having objects similar to the objects of the Association and which prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Association by this Constitution and which is also not carried on for profit and which is similarly exempt (or entitled to be exempt) from income tax. Such body or bodies to be determined by the Members of the Association at or before the time of dissolution, and in default thereof by such judge of the relevant Supreme Court or such other court as may have or acquire jurisdiction in the matter.

40. AUTHORITY TO TRADE

The Association is authorised to trade in accordance with the Act.

41. SOURCE OF FUNDS

The funds of the Association may be derived from annual membership subscriptions, fees and levies payable by Members, donations, grants, sponsorships and such other sources as the Board determines.

42. APPLICATION OF INCOME

42.1 Income and Property Applied to Objects

The income and property of the Association shall be applied solely towards the promotion of the objects of the Association as set out in this Constitution.

42.2 No Income to Members

Except as prescribed in this Constitution:

- (a) no portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member; and
- (b) no remuneration or other benefit in money or money's worth shall be paid or given by the Association to any Member who holds any office of the Association.

42.3 Payments in Good Faith

Nothing contained in **Rule 42.2** shall prevent payment in good faith of or to any Member for:

- (a) any services actually rendered to the Association whether as an employee or otherwise;
- (b) goods supplied to the Association in the ordinary and usual course of operation;

- (c) interest on money borrowed from any Member;
- (d) rent for premises demised or let by any Member to the Association;
- (e) any out-of-pocket expenses incurred by the Member on behalf of the Association; or
- (f) any other reason;

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

43. GRIEVANCE PROCEDURES

- (a) The grievance procedure set out in this Rule applies to disputes under this Constitution between:
 - (i) a Member and another Member; or
 - (ii) a Member and the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- (d) The mediator must be:
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - (A) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
 - (B) in the case of a dispute between a Member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (e) A Member of the Association can be a mediator.
- (f) The mediator cannot be a Member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The mediator, in conducting the mediation, must:
 - (i) give the parties to the mediation process every opportunity to be heard; and

- (ii) allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (i) The mediator must not determine the dispute.
- (j) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.