

OFFICIAL



Constitution of Dragon Boat Association of South Australia Incorporated

ABN 40 579 674 377

Dated: 7 February 2024



OFFICIAL

Contents

Preamble	5
1. Definitions and Interpretation	6
1.1 Definitions	6
1.2 Interpretation	6
1.3 Board Sole Authority.....	7
2. Name, Objects and Powers of The Association	7
2.1 Name	7
2.2 Objects.....	7
2.3 Powers	8
3. Membership	8
3.1 Classes of Membership	8
3.2 Fees and Subscription.....	8
3.3 Refusal of Admission as Member	8
3.4 Life Membership.....	8
3.5 Eligibility Criteria.....	9
4 Rights of Members	9
4.1 Rights, Privileges and Obligations	9
4.2 Eligible Members.....	9
4.3 Membership not Transferable	9
5 Cessation of Membership	10
5.1 Unpaid fees, Subscriptions and Other Payments	10
5.2 Resignation	10
5.3 Other	10
6 Suspension and Expulsion of Members	10
6.1 Suspension and Expulsion	10
6.2 Refusal of Renewal of Membership.....	10
6.3 Grievances and Appeals Committee	11
7. General Meetings	11
7.1 Annual General Meeting (AGM).....	11
7.2 Business at AGM.....	11
7.3 Special General Meetings (SGM)	11
7.4 Notice of AGM	12
7.5 Contents of Notice.....	12
7.6 Use of Technology at AGMs	12
7.7 Direct Voting.....	12
8. Proceedings at General Meetings	13

DBSA Constitution 7 February 2024

8.1 Quorum	13
8.2 If Quorum Absent	13
8.3 Voting at General Meetings	13
8.4 Casting Vote.....	13
8.5 Decisions to be Binding	13
8.6 Rescission of Decisions	13
8.7 Minutes of Meetings	13
9. Voting at General Meetings.....	13
9.1 Entitlement to Vote	13
9.2 Right to Appoint Proxy	14
10. Board of Directors	14
10.1 Powers and Functions of Board.....	14
10.2 Composition of the Board	14
10.3 Rotation of Member Elected Directors	14
10.4 Membership Qualification for Member Elected Directors	14
10.5 Nominations for Election to Board	15
10.6 Insufficient Board Nominations	15
10.7 Nominations in Excess of Positions	15
10.8 Board Appointed Directors.....	16
10.9 Persons not Eligible for Election or Appointment as Directors.....	16
10.10 Resignation of Directors	16
10.11 Removal of Directors	16
10.12 Remuneration of Directors.....	16
11. Casual Vacancies on the Board.....	17
11.1 Casual Vacancy.....	17
11.2 Filling Casual Vacancy.....	17
11.3 Insufficient Directors	17
12. President and Vice President	18
12.1 Appointment of President and Vice President.....	18
12.2 Vacancies of Offices of President and Vice President.....	18
12.3 Removal of President or Vice-President	18
12.4 Presiding at Meetings.....	18
13. Association Secretary and Association Treasurer	18
13.1 Appointment of Association Secretary and Association Treasurer.....	18
14. Board Meetings	19
14.1 Time and Place of Meeting	19
14.2 Notice of Meeting	19
14.3 Meetings using Electronic Means	19

DBSA Constitution 7 February 2024

14.4 Quorum	19
14.5 Resolution in Writing.....	19
14.6 Voting at Meetings of the Board.....	19
15. Delegation of Powers	19
15.1 Board may Delegate.....	19
15.2 Withdrawal or Restriction.....	19
15.3 No Derogation	19
15.4 Register of Delegations	20
16. Committees	20
16.1 Appointment of Committees	20
16.2 Membership of Committees.....	20
16.3 Determinations of Committees	20
16.4 Committee Procedures.....	20
17. Common Seal	20
18. Auditor	20
18.1 Appointment of Auditor	20
18.2 Qualifications of the Auditor	20
18.3 Audit of Associations Accounts	20
19. Public Officer.....	20
19.1 Appointment of Public Officer	20
20. Notices	20
20.1 Method of Service of Notices.....	20
21. Indemnity and Insurance	21
21.1 Indemnity against Liabilities.....	21
21.2 Indemnity for Costs and Expenses	21
21.3 Insurance	21
22. Register.....	21
23. Regulations	21
24. Alteration of Constitution.....	21
25. Winding Up	22
25.1 No Distribution to Members	22
25.2 Voluntary Winding Up.....	22
25.3 Surplus Assets	22
26. Transitional Provisions	22
26.1 Constitution in Force	22
26.2 Former Rules of the Association.....	22
26.3 Former Resolutions and Regulations.....	22

Constitution of Dragon Boat Association of South Australia

Preamble

Dragon Boat Association of South Australia Incorporated known as Dragonboat SA (DBSA), has been recognised by Australian Dragon Boat Federation (AusDBF) as having exclusive right to govern Dragon Boating in South Australia. DBSA is the sole state sporting authority entitled to make and enforce regulations for the governance, regulation, and racing of Dragon Boats in South Australia. DBSA has drawn up the rules and regulations governing Dragon Boating in South Australia.

1. Definitions and Interpretation

1.1 Definitions

In this Constitution, the following terms have the following meanings unless the context otherwise requires:

Act means the *Associations Incorporation Act 1985* (SA)

Association means Dragon Boat Association of South Australia Incorporated known as Dragonboat SA (DBSA)

Australian Dragon Boat Federation (AusDBF) means the national non- governmental organisation for Dragon Boating in Australia, recognised by the International Dragon Boat Federation

Board means the Board of Directors of the Association

Board Appointed Director means a Director described in Clause 10.8.

Committee means a committee of management delegated by the Board

DBSA Associate means an individual registered with DBSA and not a member of a Member Organisation

Delegate means the persons elected or appointed from time to time by a Full Member – Member Organisation, to act for and on behalf of that Member Organisation and represent the Member Organisation

Director means a member of the Board

Dragon Boating means the sport and racing of Dragon Boating as determined by the Australian Dragon Boat Federation with such variations as may be recognised by the Association from time to time

Eligible Member means a financial Member of the class prescribed by the Board as entitled to attend and vote at meetings of Members and do not hold Office in the Association **Financial Year** means the year commencing 1 July and ending 30 June in any year **Full Term** means:

- a) in respect of an Elected Director, the period described in Clause 10.3(a) and
- b) in respect of an Appointed Director, the period described in Clause 10.8(c)

International Dragon Boat Federation (IDBF) means the international non- governmental, nonprofit world organisation for Dragon Boating

Member means a Full Member - Member Organisation (Dragon Boat Clubs) including their members who are Registered Participants, Life Members and DBSA Associates

Member Business Date Means the date determined by the Board in accordance with Clause 7.1(b)(ii)

Member Elected Director means a Director described in Clause 10.4

Member Organisation means a Full Member whose members are Registered Participants, also known as Dragon Boat Clubs

Notice means any form of written communication in accordance with Clause 20.1(a)

Person includes a natural person, an incorporated body or an unincorporated partnership or association

Prescribed Deadline means any deadline given by the Association for any request made to its members

Registered Participant means any person registered with the Association

Sanctioned Regatta means any race event endorsed by DBSA or AusDBF

Special Resolution has the same meaning as in the Act

1.2 Interpretation

In this Constitution:

DBSA Constitution 7 February 2024

(a) headings are for convenience only and do not affect interpretation (b) unless the context otherwise requires:

- (i) the singular includes the plural
- (ii) one gender includes all genders
- (iii) a reference to any legislation includes an amendment or reenactment of it, any legislation substituted for it and any regulations and statutory instruments made under it
- (iv) a reference to a Clause is to a clause of this Constitution and
- (v) a reference to Member Organisation is the class of Membership, Full Member - Member Organisation.

1.3 Board Sole Authority

The Board is the sole authority for the interpretation of this Constitution and the decision of the Board on any question of interpretation or on any matter affecting the Association or members, for which no provision is made in this Constitution, is final and binding on all members.

2. Name, Objects and Powers of The Association

2.1 Name

The name of the Association is Dragon Boat Association of South Australia, **known as Dragonboat SA Incorporated. (DBSA).**

2.2 Objects

The objects of the Association are:

- (a) to act as the sole South Australian full member of AusDBF
- (b) to foster public interest and participation in Dragon Boating under the banner of friendship and sporting endeavour
- (c) to conduct, encourage, promote as a ceremonial, social as well as a racing sport
- (d) to advance and manage Dragon Boating, through and by the Member Organisations in the interests of Dragon Boating throughout South Australia
- (e) to adopt, formulate, issue, interpret and amend policies in consultation with the Member Organisations for the control and conduct of Dragon Boating in South Australia
- (f) to promote, control, manage and conduct Dragon Boating events, programs, competitions and championships at the state and national level, and where appropriate, international level
- (g) to be the only body entitled to prepare and enter South Australian teams in AusDBF sanctioned national Dragon Boat competitions
- (h) to maintain and enhance standards, quality and reputation of Dragon Boating for the collective and mutual benefit and interests of Members and Dragon Boating
- (i) to promote the sport of Dragon Boating for commercial, government and public recognition and benefits
- (j) to pursue through itself or others, such commercial arrangements, including sponsorship and marketing opportunities, government funding, fundraising and media rights as are appropriate to further Dragon Boating, and the Association
- (k) to have regard to the public interest in its operations
- (l) to encourage the provision and development of appropriate facilities for participation in Dragon Boating
- (m) to use and protect physical and intellectual property
- (n) to undertake and/or do all things or activities which are necessary, incidental or to the advancement of Dragon Boating, and the Association; and

DBSA Constitution 7 February 2024

- (o) to enforce disciplinary action against Association Members and/or Registered Participants including, but not limited to, sanctions, penalties and any combination of disciplinary actions.

2.3 Powers

The Association has, in addition and without prejudice to the powers conferred by Section 25 of the Act, power:

- (a) to retain and employ persons for the purposes of the Association
- (b) to obtain and raise money by means of subscriptions, levies and fees of any kind
- (c) to invest and deal with the funds of the Association in such manner as the Board may determine from time to time
- (d) to form or take part in the formation of companies, associations or partnerships, joint ventures, trusts or other arrangements for the purpose of giving effect to the objects of the Association
- (e) to make, amend and repeal regulations for the purpose of the Association and
- (f) to do all such other lawful things as are incidental to the objects of the Association or any of them.

3. Membership

3.1 Classes of Membership

Membership of the Association consists of classes of members as the Board determines.

3.2 Fees and Subscription

The Board may determine from time to time:

- (a) annual subscription fees and levies and other fees (if any) payable by members and the manner of payment
- (b) other qualifications for membership and
- (c) any concessions, loadings, remissions and exemptions that may be provided by the Association to members or classes of members.

The annual subscription, fees and levies payable by Membership Organisations shall be approved by the Board.

The annual subscription fees and levies payable by Registered Participants and DBSA Associates to the Association shall be approved by the Board prior to each Annual General Meeting for the following season.

3.3 Refusal of Admission as Member

Subject to its obligations under the Act or any other applicable law, the Board has an unfettered discretion to refuse admission as a member.

3.4 Life Membership

An individual may be granted life membership of the Association as follows:

- (a) Individual nominated by the Board

Nominations must be put to the membership at a General Meeting together with a written report supporting the nomination meeting criteria provided by the Association or (b) Individual nominated by Registered Participants or by Life Member

Nominations must be put to the Board together with a written report supporting the nomination referring to criteria provided by the Association.

3.5 Eligibility Criteria

The Board may determine from time to time any criteria or qualification for a class or classes of membership that a person must meet to become and remain a member. a) Formation of a new Member Organisation

- (i) Shall be an incorporated Association in accordance with the Act
- (ii) Shall have twelve (12) members including a sweep and coach
- (iii) Application for membership shall be in writing and signed by the applicant and proposer
- (iv) Upon the Association recognising a new Member Organisation, all participants shall be required to pay all fees due

b) Continuance as an existing Member Organisation

- (i) Shall have twelve (12) members including a sweep and coach
- (ii) Where a Member Organisation does not meet the criteria in (b)(i), membership of the Association is placed on hold until such time (b)(i) is met

4 Rights of Members

4.1 Rights, Privileges and Obligations

- (a) Members and classes of members will have such rights, privileges and obligations as the Board may fix from time to time.
- (b) Individuals who were granted Life Membership prior to August 2022 have one vote at a General Meeting (they cannot vote as Life Member and as Club Representative). Life Members post August 2022 do not get a vote.
- (c) In order to remain Registered Participants and DBSA Associates each shall:
 - (i) Renew their membership with their Member Organisation annually by the prescribed deadline
 - (ii) Pay the registration fees prescribed by the Association from time to time to the Association.
- (c) Members acknowledge and agree that:
 - (i) this Constitution constitutes a contract between each of them and the Association
 - (ii) they shall comply with and observe this Constitution, the Policies and any determination or resolution which may be made or passed by the Board
 - (iii) this Constitution, Rules, Policies and Procedures are necessary and reasonable for the Objects and particularly the advancement and protection of Dragon Boating
 - (iv) are subject to disciplinary action, sanctions, or penalties for any breach of this Constitution, Rules, Association Regulations, Policies and Procedures and (v) shall be bound by the Code of Conduct.
- (d) Each Member Organisation shall ensure prompt and regular updates of member information within the Association Register. The use of information within the Register shall be governed by the Association and Member Organisations.

4.2 Eligible Members

The Board may determine which class or classes of members are Eligible Members.

4.3 Membership not Transferable

The rights and privileges of membership are attached to the member and are not capable of being transferred or assigned.

5 Cessation of Membership

5.1 Unpaid fees, Subscriptions and Other Payments

Unless otherwise decided by the Board's discretion, a member who has not paid all monies due to the Association by the due date, can be either suspended until reinstated by the Board or the Board may resolve to terminate the membership.

5.2 Resignation

- (a) A Member Organisation may resign from the Association by providing Notice to the Association in writing and/or by nonpayment of future subscription fees
- (b) A life member who has paid all monies due and payable to the Association may resign by notice in writing with immediate effect.

Subject to the discretion of the Board, any member ceasing to be a member:

- (a) will not be entitled to any refund (or part refund) of a subscription or any other monies due and payable to the Association and
- (b) shall remain liable for and will pay to the Association all subscriptions and monies which were due at the date of ceasing to be a Member Organisation.

5.3 Other

- (a) A Member Organisation (including Registered Participants), Life Members or DBSA Associates that cease to be a member, shall immediately return any Association documents, records or other property in the possession, custody, or control of that member to the Association.

6 Suspension and Expulsion of Members

6.1 Suspension and Expulsion

- (a) A Member Organisation (including Registered Participants), Life Member or DBSA Associate will cease to be a member if:
 - (i) the member engages in conduct which, in the opinion of the Board, is unbecoming or prejudicial to the interests of the Association or (ii) other reasonable basis exists.
- (b) The Board must provide the member written reasons for any such suspension or expulsion at least one month before the meeting of the Board at which the matter will be determined
- (c) A suspended member is not entitled to participate in any member activities or events until the determination of the Board
- (d) If a member is expelled, the membership ceases fourteen (14) days after the Board has communicated the determination to the member
- (e) The member can appeal to the Association
- (f) In the event of an appeal, the appellants membership to the Association shall not be terminated unless the determination of the Board is upheld by the Grievances & Appeals Committee
- (g) Where a Member Organisation ceases to be a member in accordance with this Constitution or the Act, the continuing membership of Registered Participants of that Member Organisation shall be determined at the sole discretion of the Board.

6.2 Refusal of Renewal of Membership

- (a) If:
 - (i) a member has, on any prior occasion, been expelled from the Association; or (ii) some other reasonable basis exists.
- (b) The Board may, in their absolute discretion:
 - (i) refuse to accept a renewal of membership; or

DBSA Constitution 7 February 2024

- (ii) cancel any renewal of membership.
- (c) The Board must give the member written reasons for any such refusal or cancellation of renewal of membership.
- (d) Upon such refusal or cancellation, the member ceases to be a member and forfeits all claims upon the Association and its property and funds, other than a claim to refund monies (if any) paid in respect of the renewal which has been refused or cancelled.

6.3 Grievances and Appeals Committee

The Board will establish a Grievances and Appeals Committee as required, with a minimum of 4 independent members. They shall have no conflict of interest with the appellant for the purpose of dealing with a member who disagrees with a decision.

- (a) Any grievance or appeal to the Grievances and Appeals Committee must:
 - (i) be in writing, include the name of the appellant and be addressed to the Grievances and Appeals Committee at the head Office of the Association.
 - (ii) set out the decision appealed from, the date of the decision and the grounds of appeal.
- (b) The Grievance and Appeals Committee must meet and determine any appeal lodged in accordance with this clause within 28 days of receipt of the appeal.
- (c) Notice of the Grievances and Appeals Committee's determination of the grievance and/or appeal, including reasons, must be sent to the appellant at the address provided.

7. General Meetings

7.1 Annual General Meeting (AGM)

- (a) The AGM of the Association must be held within 5 months after the end of the financial year of the Association, at a time and place determined by the Board.
- (b) Before the end of each financial year of the Association, the Board must determine the date of the next AGM.

7.2 Business at AGM

The business at the AGM meeting will be:

- (a) To confirm the minutes of the last preceding AGM and of any special general meeting held since that meeting.
- (b) To receive from the Board a report of the proceedings of the Association and audited accounts for the preceding financial year. (c) Appointment of the auditors.
- (d) To fill vacancies of the Board
- (e) To deal with any business raised by the Board.
- (f) No business (except of a formal nature) can be transacted at a general meeting unless such business has been specified in the Notice convening the meeting.
- (g) The President together with the Association Secretary shall prepare the agenda for all Meetings.

7.3 Special General Meetings (SGM)

- (a) The Board may convene an SGM at any time.
- (b) If the Board receive a requisition from 10 percent (10%) of the total number of Eligible Members of the Association, the Board must convene a SGM for the purpose specified in the requisition (c) Such a requisition must:
 - (i) state the purpose or purposes of the meeting.
 - (ii) set out legibly the names and addresses and membership details of the Eligible Members making it.

DBSA Constitution 7 February 2024

- (iii) be signed by the Eligible Members making it and
- (iv) be delivered to the head Office of the Association addressed to the Association Secretary.
- (d) No resolution can be passed at the SGM unless its subject matter was specified in the requisition.
- (e) If the Board fails to convene an SGM within one month of such a requisition being delivered, the Eligible Members making the requisition may themselves convene a meeting.
- (f) A Notice of a SGM shall be given at least fourteen (14) days prior to the Meeting to every eligible member (including every Director) and shall specify the place and day and hour of the Meeting.

7.4 Notice of AGM

Not less than 21 days' Notice of the AGM must be given to every member (including every Director); and must be served in a manner authorised by Clause 20.1. The non-receipt of Notice by an Eligible Member will not invalidate the meeting, or any resolutions passed.

7.5 Contents of Notice

A Notice of an AGM must specify the place, day and hour of the meeting, the general nature of business to be conducted at the meeting, the wording of the proposed resolution and information as to the appointment of Delegates by Eligible Members.

7.6 Use of Technology at AGMs

- (a) Subject to any applicable law:
 - (i) the Association may hold a general meeting using any technology approved by the Board that gives Eligible Members who wish to participate, a reasonable opportunity to participate including by using one or more, including a combination, of telephone, audio- or audiovisual communication and
 - (ii) an AGM conducted using such technology may be held at multiple venues or not held at any specified venue, and participation by an Eligible Member in such a meeting will constitute presence as if in person at the meeting.
- (b) If, before or during an AGM, any technical difficulty occurs, such that the Eligible Members as a whole do not have a reasonable opportunity to participate, the person presiding at the meeting may:
 - (i) adjourn the meeting until the difficulty is remedied or
 - (ii) where a quorum remains present (either at the place at which the person presiding at the meeting is present or by technology as contemplated by Clause 7.8(a)) and able to participate, subject to any applicable law, continue the meeting.
- (c) Where an AGM is held using technology, the Eligible Members need not be physically present at the same place (or at any place) for the purposes of the quorum requirement in Clause 8.1.
- (d) The Board may prescribe rules to regulate the conduct of any AGM held pursuant to this Clause 7.8. Subject to those rules, the provisions of the Constitution that apply to AGMs and the principles of law that apply to AGMs, apply to any such general meeting with the necessary adaptations.

7.7 Direct Voting

- (a) The Board may determine that at any AGM at which a resolution is to be considered, a Member is entitled to a direct vote in respect of that resolution. A 'direct vote' includes a vote delivered to the Association by post or any electronic means approved by the Board.
- (b) The Board may prescribe rules to regulate direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes, including in what circumstances a direct vote is taken to be withdrawn if a member participates in the meeting.

8. Proceedings at General Meetings

8.1 Quorum

A quorum for a general meeting is 50% plus one of the voting members. No business can be transacted at any general meeting unless the required quorum is present in person.

8.2 If Quorum Absent

If, within 30 minutes of the time appointed for a general meeting, a quorum is not present, the members present (both physically and online) must adjourn the meeting to a date within the following 28 days and notice of the adjourned meeting must be given to members in the same manner as notice of the original meeting was given, or in such other manner as the Board may decide. If a quorum is not present at the adjourned meeting, it must be adjourned indefinitely.

8.3 Voting at General Meetings

- (a) A resolution put to a vote at a general meeting will be determined by a show of hands, unless a poll is taken.
- (b) Before a vote is taken, or on the declaration of the result, a poll may be demanded by the person presiding or any Delegate present. Any such poll must be taken in the manner directed by the person presiding.
- (c) A declaration by the person presiding that a resolution has been carried or lost will be conclusive and final.

8.4 Casting Vote

A question for decision at a general meeting, other than an SGM, must be determined by a majority of Members Organisations who vote.

The person presiding at the meeting has a casting vote on all questions, both on the show of hands and on the poll, in addition to the deliberative vote or votes to which he or she is entitled as a member.

8.5 Decisions to be Binding

Decision arrived at and resolutions carried by a general meeting are conclusive and binding on all members.

8.6 Recission of Decisions

No decision or resolution of a general meeting of the Association can be rescinded, added to or amended within the period of 1 year following the date of that meeting unless passed by a majority of not less than three quarters of the Member Organisations at another general meeting of the Association.

8.7 Minutes of Meetings

- (a) Minutes must be kept of all general meetings and of meetings of the Board.

9. Voting at General Meetings

9.1 Entitlement to Vote

- (a) No member organisation shall be represented at or take part in a meeting.
 - (i) Unless all monies due and payable to the Association are paid. This rule does not apply where the monies alleged due and payable are the subject of a legitimate dispute or investigation.
 - (ii) Where continuance as a Member Organisation is placed on hold as outlined in 3.5 (b).

DBSA Constitution 7 February 2024

- (b) Each Member Organisation shall appoint up to two delegates (by written notice to the Association Secretary) and be entitled to one (1) vote only.
- (c) A delegate shall be appropriately empowered by the appointing Member Organisation, to consider, make decisions and vote at meetings.
 - (i) A delegate must be a registered participant of an eligible Member Organisation (ii) A delegate is entitled to:
 - (a) exercise at a meeting all the powers which the Member Organisation which appointed them could exercise if it were a natural person and
 - (b) be counted towards a quorum on the basis that the Member Organisation is to be considered personally present at a meeting by its delegates.
 - (iii) A committee delegate shall be appropriately empowered by the appointing Member Organisation to consider, make decisions and vote at Committee Meetings. Each Member Organisation, shall, subject to this Constitution, be entitled to one vote at Committee Meetings.

9.2 Right to Appoint Proxy

There will be no Proxy Voting at any meetings of the Association.

10. Board of Directors

10.1 Powers and Functions of Board

The management and control of the funds and other property of the Association are vested in the Board which may exercise all the powers of the Association except those which must, under this Constitution or by law, be exercised by the Association in general meeting.

10.2 Composition of the Board

The Board may comprise:

- (a) up to 9 Directors consisting of:
 - (i) not fewer than five and not more than 7 Member Elected Directors
 - (ii) up to 2 Board Appointed Directors and (iii) aim for inclusiveness and gender equality.

10.3 Rotation of Member Elected Directors

- (a) Member Elected Directors shall be elected in accordance with this Constitution for a term of two years, which shall commence from the conclusion of the AGM at which the election occurred and end at the conclusion of the AGM in the second year of such term.
- (b) All Board Elected Directors shall upon the expiration of their respective terms of Office be eligible for re-election for a maximum of 2 additional consecutive terms.

10.4 Membership Qualification for Member Elected Directors

- (a) To be eligible to be elected or appointed as a Member Elected Director a person must be:
 - (i) A natural person and be a Registered Participant of a member of the Association.
 - (ii) be at least 18 years old.
 - (iii) not be an employee of a Member Organisation and/or of the Association.
 - (i) not be otherwise ineligible or disqualified from holding Office under this Constitution or the Act.
 - (ii) shall ordinarily reside in South Australia and
 - (iii) must meet the qualifications as prescribed from time to time by the Board and set out in the Policies.

DBSA Constitution 7 February 2024

- (b) Any Member Elected Director who is a member of the AusDBF Board or Management Committee, must resign that position immediately should they be elected.
- (c) No more than 2 Board members at any time shall be Members of any one Member Organisation except by resolution of the Association at a general meeting.

10.5 Nominations for Election to Board

- (a) The Board must determine procedures for the calling of nominations for Member Elected Directors including the date by which nominations for election to the Board as a Member Elected Director must be received ("the Nomination Date"), being a date not less than thirty five (35) days prior to the date of the annual general meeting. Any publications or notice calling for nominations must note the number of vacancies to be filled as determined by the Board.
- (b) All nominations for election to the Board as a Member Elected Director must be made in writing in such a form and accompanied by such supporting information and documents (for example police checks) as may be prescribed by the Board from time to time.
- (c) No Eligible Member is eligible for election (or re-election) as a Member Elected Director unless he or she provides to the Association, in or with the nomination form, such information and such declarations as the Board may require for the purpose of establishing the candidates experience and suitability to be a Director.
- (d) The nomination form must be signed by the nominee.
- (e) The nomination form and any required supporting information and documents must be received by the Association Secretary on or before the Nomination Date, being at least fourteen (14) days prior to the AGM.
- (f) All nominations, including the names of retiring Member Elected Directors seeking re-election, must be notified to the members of the Association in the Notice of the AGM.

10.6 Insufficient Board Nominations

If insufficient numbers are received for the number of vacancies any unfilled vacancies remaining after the AGM will be deemed to be casual vacancies and may be filled by appointment by the Board in accordance with Clause 11.2(a).

10.7 Nominations in Excess of Positions

If the number of nominations received by the Nomination Date exceeds the number of vacancies in the position of Member Elected Director on the Board, an election is to be held to fill the vacancies:

- (a) The Board must:
 - (i) determine the form of election material.
 - (ii) provide for the scrutiny and counting of the votes by a suitably qualified person to act in the capacity and supervise the election.
 - (iii) adopt election procedures and
 - (iv) cause election materials to be distributed to every single Eligible Member in such a manner as the Board decides.
- (b) Any Eligible Member who has been nominated as a Delegate and the one voting member for their Member Organisation, must complete the ballot and any accompanying material and return or submit it to the Returning Officer in the designated manner no later than the close of the ballot.
- (c) The non-receipt by an Eligible Member of election material or the non-receipt of any vote of any Eligible Member will not invalidate the election.
- (d) The Board may determine that the ballot is to be conducted by direct voting using any form or method as may be determined by the Board under Clause 7.9 but with such changes that the Board considers necessary to reflect the vote being on the ballot rather than a resolution.

DBSA Constitution 7 February 2024

- (e) The person presiding over the AGM must declare elected the successful candidates in accordance with the result of the ballot.

10.8 Board Appointed Directors

- (a) The Board may, by resolution, appoint up to two persons as Board Appointed Directors in accordance with Clause 11.2.
- (b) A Board Appointed Director has the same rights, powers and duties as the other Directors.
- (c) A Board Appointed Director will be appointed as a Director for a fixed term of up to two years as decided by the Board unless their appointment ends earlier under this Constitution.
- (d) The Board Appointed Director will have specific skills as determined by the Board to complement the Board composition.
- (e) An employee of a Member Organisation and/or Association and/or AusDBF cannot also be a Board Appointed Director. A Board Appointed Director, who is a member of the board or management committee of AusDBF, must resign that position immediately should they be appointed a Director.
- (f) A Board Appointed Director who is not re-appointed at the conclusion of their fixed term is deemed to have retired upon expiry of their fixed term.
- (g) A maximum of one Board Appointed Director is not required to be an Eligible Member but must, prior to being appointed as Director, agree to be bound by the Constitution, Rules, Association Regulations and Policies of the Association.

10.9 Persons not Eligible for Election or Appointment as Directors

No person who has been elected as an Elected Board Director or appointed as a Board Appointed Director for three consecutive Full Terms shall be eligible for re-election or re-appointment as a Director. Re-election cannot be enacted until the following AGM.

10.10 Resignation of Directors

A Director may resign from Office by notice in writing to the President.

10.11 Removal of Directors

- (a) A Director who:
 - Is or becomes ineligible for election or appointment within the meaning of Clause 10.9(b) or Is, in the opinion of the Board, guilty of dishonorable conduct or conduct likely to bring the Board or the Association into disrepute, may be removed from Office by resolution of the Board.
- (b) A Director may be removed from Office by special resolution passed at a general meeting of the Association.

10.12 Remuneration of Directors

No payment will be made to any Director other than payment for:

- (a) out-of-pocket expenses incurred by the Director in the performance of any duty as Director in accordance with any Policy.
- (b) for any service rendered to the Association by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service.
- (c) relating to an indemnity in favour of the Director and permitted by the *Act* or a contract of insurance permitted by the *Act* or
- (d) otherwise as approved by the Association.

11. Casual Vacancies on the Board

11.1 Casual Vacancy

If a Director:

- (a) dies, becomes bankrupt or insolvent.
- (b) becomes of unsound mind or otherwise permanently incapable of acting.
- (c) resigns in writing from the Office of Director.
- (d) is removed from the Office of Director in accordance with this Constitution.
- (e) becomes or is otherwise prohibited under the Act from being a Director.
- (f) in the case of a Board Appointed Director, ceases to be an eligible Member.
- (g) is deemed to have retired under Clause 10.8(f).
- (h) holds any Office of employment of the Association.
- (i) is absent for four consecutive meetings of the Board, without leave of absence having been granted by the Board.
- (j) has a direct or indirect material interest in any contract or proposed contract with the Association and fails to declare the nature of their interest, the Director will be deemed to have vacated the Office of Director (and if applicable, any position on a committee of the Association), creating a casual vacancy.

11.2 Filling Casual Vacancy

- (a) If a casual vacancy on the Board arises, subject to Clause 10.2 and this Clause 11.1, the Board may:
 - (i) Where the casual vacancy arose from the vacation of Office of a Board Appointed Director:
 - A. appoint an Eligible member to fill the casual vacancy as a Board Appointed Director; or
 - B. appoint a person to fill the casual vacancy as a Board Appointed Director or
 - (ii) where the casual vacancy erodes from the vacation of Office of the Board Appointed Director, appoint a person to fill the casual vacancy as a Board Appointed Director.
- (b) A Board Appointed Director under this Clause 11.2 will:
 - (i) be deemed to have held Office for the same period from the most recent date of appointment, election or re-election (as applicable) as the Director in whose place he or she is appointed
 - (ii) hold Office for the balance of that former Director's term and (iii) be eligible for re-election.
- (c) A Board Appointed Director under this Clause 11.2 will be appointed for a fixed term determined by the Board in accordance with Clause 10.8.
- (d) Without limiting Clause 11.2(a), where a casual vacancy arises from the resignation of a Board Appointed Director under Clause 11.1(c), the Board may, with effect upon or after that resignation taking effect, appoint that same person to fill the casual vacancy as a Board Appointed Director.
- (e) Where a Board Appointed Director is appointed in accordance with Clause 11.2(d), any service by the person as a Director before that appointment will be counted in determining the person's period of service as Director for the purposes of Clause 10.9
- (f) A person must not be appointed as a Director to fill a casual vacancy unless:
 - (i) Except in the case of an appointment under Clause 11.2(d), the person has first provided such documentation and information as is required to be provided by a candidate for election as a Board Appointed Director in accordance with Clause 10.5.

11.3 Insufficient Directors

In the event of a vacancy, or vacancies, in the Office of Director, the remaining Directors may act, but if the number of remaining Directors is not sufficient to constitute a quorum for a meeting of the Board,

DBSA Constitution 7 February 2024

they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or convening a general meeting of the Association.

12. President and Vice President

12.1 Appointment of President and Vice President

- (a) The Board must appoint a Member Elected Director as President at the first meeting after the annual general meeting.
- (b) The Board must appoint a Director as Vice President (Maximum of 2) from within the Board.
- (c) If the President or Vice President ceases to hold Office as a Director, that person will be deemed to have vacated the Office (as applicable).
- (d) The President shall act as spokesperson for the Association unless an alternative spokesperson has been nominated by the Board.

12.2 Vacancies of Offices of President and Vice President

If for any reason the Office of President or Vice President becomes vacant, the Board must appoint a successor under Clause 12.1(a) or 12.1(b) (as applicable) as soon as possible.

12.3 Removal of President or Vice-President

The Board may, by resolution, remove the President or Vice President from Office.

12.4 Presiding at Meetings

- (a) The position of Chair of the Board shall be the President and, in their absence, the Vice President.
- (b) The Chair shall preside as the Chair at every Meeting of the Association (except Committees, where an alternate Member can be appointed). If the Chair is not present for the Board meetings, then the Vice President will preside. For all other Committees, if the Chair is not present or is unwilling or unable to preside, the Directors shall choose one of their number present who shall preside as the Chair (and have the rights of the Chair) for that Committee meeting only.

13. Association Secretary and Association Treasurer

13.1 Appointment of Association Secretary and Association Treasurer

- (a) The Board must appoint an Association Secretary and Association Treasurer from within the Board.
The appointment will take effect on and from a time determined by the Board.
- (b) The Association Secretary shall call meetings in accordance with the provision of this Constitution.
- (c) The Association Secretary shall ensure proper records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board are established and maintained and shall produce these as appropriate at each Board meeting or Meeting.
- (d) The Association Treasurer shall ensure proper records are kept of all receipts and payments and other financial transactions, preparation of financial budgets and statements at each board meeting and present audited accounts to the AGM.
- (e) The Board may, by resolution, remove the Association Secretary and Association Treasurer from office.

DBSA Constitution 7 February 2024

14. Board Meetings

14.1 Time and Place of Meeting

- (a) The Board may meet at such time and place as it decides for a minimum of ten times in every calendar year.
- (b) The Association Secretary shall, on the requisition of two Directors, convene a meeting of the Board within thirty (30) days of receiving the requisition.

14.2 Notice of Meeting

- (a) Notice of every meeting of the Board must be given to each Director by electronic means, but no such notice needs to be given to a Director who has been granted leave of absence by the Board.
- (b) Unless all Directors agree to hold a meeting within seven days, the agenda shall be forwarded to each Director not less than three days prior to such meeting.

14.3 Meetings using Electronic Means

- (a) The Board may meet in person face-to-face, or by electronic means.
- (b) A Director taking part in a meeting by any electronic means:
 - (i) is deemed to be present
 - (ii) must not leave the meeting without first advising the person presiding and
 - (iii) will conclusively be presumed to have been present and to have formed part of the quorum at all times unless that director has previously given such advice.

14.4 Quorum

A quorum for a meeting of the Board is 50% plus one.

14.5 Resolution in Writing

Resolutions addressed outside of Board meetings are as valid and effectual as if they had been passed at a meeting of the Board duly convened and held.

14.6 Voting at Meetings of the Board

Questions arising at any meeting of the Board will be decided by a majority of votes, each Director having one vote. In the event of equality of votes the Presiding Member or Chair of the meeting will have a casting vote.

15. Delegation of Powers

15.1 Board may Delegate

The Board may delegate any of its powers in such a manner as it thinks fit, either generally or in any particular case, to:

- (a) a Director
- (b) a committee or (c) any other person and may authorise sub delegation.

15.2 Withdrawal or Restriction

The Board may at any time withdraw any delegation or impose restrictions on its exercise.

15.3 No Derogation

A delegation does not derogate from the power of the Board to act.

DBSA Constitution 7 February 2024

15.4 Register of Delegations

The Association Secretary must record delegations in such a manner and form as the Board decides.

16. Committees

16.1 Appointment of Committees

The Board may appoint committees for such purposes and with such powers as the Board determines.

16.2 Membership of Committees

Members of the Committee need not be members of the Board.

16.3 Determinations of Committees

- (a) The determination of any committee is subject to confirmation by the Board unless the committee is given full power to act.
- (b) Within Fourteen (14) days after any meeting of any committee, the committee shall send a copy of the minutes and any supporting documents to the Association Secretary.

16.4 Committee Procedures

The procedures for any Committee established shall be the same as that applicable to meetings of the Board under Clause 14. The quorum shall be determined by the committee but shall be no less than the majority of the total number of Committee members.

17. Common Seal

The Board has chosen not to have a Common Seal.

18. Auditor

18.1 Appointment of Auditor

The Board must appoint an auditor or auditors who will hold Office for such time as the Board decides.

18.2 Qualifications of the Auditor

An auditor so appointed must be duly qualified under the Act and must not be a Director.

18.3 Audit of Associations Accounts

The auditor or auditors must examine and audit the accounts of the Association in accordance with the Act and report on the accounts at such times as the Board requires.

19. Public Officer

19.1 Appointment of Public Officer

The Board must appoint, for the purposes of the Act, a Public Officer of the Association, who will hold Office for such time as the Board decides.

20. Notices

20.1 Method of Service of Notices

- (a) Notices may be given by the Association to any Member.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be affected by properly addressing and posting the notice. Service of the notice is deemed to have been affected two days after posting.

DBSA Constitution 7 February 2024

- (c) Where a notice is sent by electronic mail or posted onto social media, service of the notice shall be deemed to be effected upon receipt at the electronic mail address server to which it was sent or uploaded.

21. Indemnity and Insurance

21.1 Indemnity against Liabilities

Every Director will be indemnified out of the property of the Association against any liability incurred by him or her in that capacity in defending any proceedings, whether civil or criminal, in which judgement is given in his or her favour or in which he or she is acquitted.

21.2 Indemnity for Costs and Expenses

Every person who is or has been a Director or other Officer of the Association (and his or her executors or administrators) will be indemnified out of the property of the Association from and against all costs, losses and expenses which that person properly incurred or became liable to pay by reason of any contract entered into or other act or thing done in the discharge of that person's duties on behalf of the Association.

21.3 Insurance

- (a) The Association may, to the extent permitted by the Act:
- (i) purchase and maintain insurance and
 - (ii) pay and agree to pay a premium for insurance for any individual to whom this clause applies against any liability incurred as a Director or other Officer of the Association including, but not limited to, liability for negligence or for reasonable costs and expenses incurred in defending legal proceedings, whether civil or criminal, and whatever the outcome.
- (b) To the extent permitted by law and without limiting its other powers under this Constitution, the Association may enter deeds or other documents in favour of any person to whom this clause applies agreeing:
- (i) to effect and maintain insurance for the purposes of this clause during such person's term of Office and for the period of up to 7 years after that person ceases to be an Officer of the Association, and
 - (ii) to permit such person, subject to any applicable legal professional privilege, to have access to documents and records of the Association for the purpose of defending such legal proceedings.
- (c) The Board is responsible for ensuring appropriate insurance policies are in place for Member Organisations.

22. Register

The Association shall retain a state register of Registered Participants including:

- (a) the name and address of each member
- (b) the date on which each member was admitted to the Association and (c) if applicable, the date of, and reason(s) for, termination of membership.

23. Regulations

The Board may from time to time make, amend, and repeal regulations not inconsistent with this Constitution, for the purposes of the Association.

24. Alteration of Constitution

This Constitution may only be altered, rescinded, or replaced by a resolution passed by two thirds of voting members as, being entitled to do so, in person at a general meeting.

25. Winding Up

25.1 No Distribution to Members

The Association is not carried on for the purpose of profit or gain to individual members and no distribution, whether in money, property or otherwise, may be made to a member.

25.2 Voluntary Winding Up

The Association may be wound up voluntarily by a special resolution passed in accordance with the Act.

25.3 Surplus Assets

If, upon completion of the winding up, there are any surplus assets, they must not be paid or distributed among the members of the Association but must be given or transferred to another institution or institutions having objects similar to those of the Association and which prohibits the distribution, whether in money, property or otherwise to members, and such institution or institutions must be nominated by the members at or before the time of dissolution of the Association or, in default of such nomination, by a Judge of the Supreme Court of South Australia or another court having jurisdiction.

26. Transitional Provisions

26.1 Constitution in Force

This Constitution comes into force immediately after it has been adopted.

26.2 Former Rules of the Association

The adoption of the Constitution will not affect anything done or permitted under the former Rules, or any right or title accrued, or obligation or liability incurred, or duty or restriction imposed before the adoption of this Constitution and will not interfere with the prosecution or affect the course or validity of any legal proceedings then pending, or otherwise, under the former Rules.

26.3 Former Resolutions and Regulations

All resolutions of the Board and all regulations of the Association made under the former Rules and in force or current at the time of the adoption of this Constitution are to continue in full force and effect.

