

MARION MASTERS SWIMMING CLUB INCORPORATED

CONSTITUTION (2022)

1. CLUB NAME AND COLOURS

1.1 Club name: Marion Marlins Masters Swimming Club Incorporated

1.2 Club colours: Green, Yellow and Maroon

2. DEFINITIONS AND INTERPRETATION

Act: Associations Incorporation Act 1985

ADI accounts: Authorised deposit-taking institution (usually bank) accounts

Club: Marion Marlins Masters Swimming Club Incorporated

Club Member: fully paid-up (or 'financial') member of the Club, who is consequently entitled to take part in elections and other formal decisions of the Club

MSA: Masters Swimming Australia

NSO: National office of MSA

The Sport: Masters swimming

SSO: State Branch of MSA

3. OBJECTS OF THE CLUB

The objects of the Club are, within the Local Area and South Australia generally (where applicable), to:

conduct, encourage, promote, advance and administer the Sport;

act, at all times, on behalf of and in the interest of the Members and the Sport;

affiliate and otherwise liaise with the SSO (and NSO where applicable) and comply with the constitutions, regulations and rules of these bodies to further these Objects;

adopt and implement such policies as may be developed by the SSO or the NSO, including (as relevant and applicable) Member protection, anti-doping, health and safety, player and child welfare, junior sport, infectious diseases and such other matters as may arise as issues to be addressed in the Sport;

abide by, promulgate, enforce and secure uniformity in the application of the rules of the Sport;

advance the operations and activities of the Club;

maintain and enhance the reputation of the Club and the Sport and the standards of play and behaviour of participants in the Sport;

promote at all times mutual trust and confidence between the Club, the SSO, the NSO and the Members in pursuit of these Objects;

promote the economic and community service success, strength and stability of the Club, the Members and the Sport;

use and protect the Intellectual Property appropriately;

pursue such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the interests of the Club;

have regard to the public interest in the operations of the Club;

undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects;

do all that is reasonably necessary to enable these Objects to be achieved and enable Members to receive the benefits which these Objects are intended to achieve; and

promote the health and safety of Members and all other participants in the Sport.

4. POWERS OF THE CLUB

Solely for furthering the Objects, the Club has the rights, powers and privileges conferred on it under section 25 of the Act, namely to:

acquire, hire, hold, deal with, and dispose of, any real or personal property;

administer any property on trust;

open and operate ADI accounts;

invest its moneys —

- (a) in any security in which trust moneys may, by Act of Parliament, be invested; or
- (b) in any other manner authorised by the rules of the Club;

borrow money upon such terms and conditions as the Club thinks fit;

give such security for the discharge of liabilities incurred by the Club as the Club thinks fit;

appoint agents to transact any business of the Club on its behalf;

print and publish such newspapers, periodicals, books, leaflets or other documents as the Executive Committee or the members in General Meeting may think desirable for the promotion of the objects and purposes of the Club;

accept any gift, whether subject to a special trust or not, for any one or more of the objects or purposes of the Club;

make gifts, subscriptions, or donations to any charitable funds;

enter into any other contract or arrangement it considers necessary or desirable; and

do all such lawful things as are incidental or conducive to the attainment of the basic objects of the Club or of any of its objectives.

5. MEMBERSHIP

5.1 Types of Membership

The Members of the Club shall consist of:

Individual Members, who subject to this Constitution, shall have the right to receive notice of Meetings and to be present, to debate and to vote at Meetings;

Life Members, who subject to this constitution, shall have the right to receive notice of Meetings and to be present, to debate and to vote at Meetings;

such new categories of Members as may be created by the Board. Any new category of Member created by the Board cannot be granted voting rights without the approval of the Club in a Meeting.

5.2 Applications for Individual Membership

An applicant candidate for individual membership must apply to the Executive Committee in writing.

The application must:

be in a form approved by the Executive Committee;

contain full particulars of the name and address and contact details of the applicant;

identify the category of membership for which the applicant is applying; and

contain any other information required by the Executive Committee.

5.3 Discretion to Accept or Reject Application

The Club may accept or reject an application for individual membership whether or not the applicant has complied with the requirements. The Club shall not be required or compelled to provide a reason for accepting or rejecting the application.

Where the Club accepts an application, the applicant shall become an Individual Member. Individual Membership shall be deemed to commence upon acceptance of the application by the Club. The Secretary shall amend the register accordingly as soon as practicable.

Where the Club rejects an application, any fees forwarded with the application will be refunded and the application shall be deemed rejected.

5.4 Appointment of Life Members

The Executive Committee may, with Annual General Meeting approval, award an Honorary Life Membership of the Club to any member who in the opinion of the Executive Committee, has rendered eminent services to the Club over a significant period of time.

Such Life Members shall be:

(a) exempted from the payment of annual subscriptions to the Club;

(b) entitled to all the privileges of Individual Membership in the Club.

5.5 Renewal

If Members (other than Life Members) wish to maintain their membership, they must renew their membership annually in accordance with the procedures set down by the Club or in the Regulations from time to time.

5.6 Resignation

A Member of the Club may at any time resign from the Club by delivering, emailing or sending by post to the Secretary, a written notice of resignation.

Upon receipt of a notice of resignation, the Secretary shall ensure that the name of the member by whom the notice was given is removed from the Register of Members, whereupon that member ceases to be a member of the Club.

5.7 Obligations of Members

Each Member must:

treat all staff, contractors and representatives of the Club, the SSO, the NSO and all those involved with the Sport with respect, decency and courtesy at all times;

maintain and enhance the standards, quality and reputation of the Club, the SSO, the NSO and the Sport;

not act in a manner:

unbecoming of a Member or prejudicial to the Objects or the interests or reputation of the Club, the SSO, the NSO or the Sport; or

that is likely to bring the Club, the SSO, the NSO or the Sport into disrepute or which might adversely affect or derogate from the standards, quality and reputation of the Club, the SSO, the NSO or the Sport and its maintenance and development; and

recognise the Club as the authority for the Sport in the local area and the SSO as the authority for the Sport in South Australia and the NSO as the authority for the Sport Nationally.

adopt and implement such policies as may be developed by the Club;

have regard to the Objects in any way pertaining to the Sport.

5.8 Non-transferability and termination of membership rights and obligations

A right, privilege or obligation of a person by virtue of membership of the Club:

is not capable of being transferred or transmitted to another person; and

terminates upon the cessation of membership, whether by death, resignation or otherwise;

save and except that any notice of intention to resign shall not in itself operate to release such a Member from any obligation to the Club until any subscriptions and/or levies or other fees payable as a result of his or her membership up to the date of resignation, are paid in full.

5.9 Club to Keep Register

Subject to the Act, confidentiality considerations and privacy laws:

the Club must keep and maintain a register of Members, which shall contain, at least:

the full name, address, category of membership and date of entry to membership of each Member and Officer; and

where applicable, the date of termination of membership of each previous Member.

the Register may contain such other information as the Executive Committee considers appropriate;

Members must provide the Club with the details required by the Club to keep the register complete and up to date; and

Members shall provide notice of any change and required details to the Club within one month of such change.

5.10 Inspection of Register

Subject to the Act, confidentiality considerations and privacy laws, an extract of the register, excluding the address or other direct contact details of any Member, shall be available for inspection (but not copying) by Members who make a reasonable request for a proper purpose.

5.11 Use of Register

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

5.12 Effect of Membership

Members acknowledge and agree that:

this Constitution forms a contract between each of them and the Club and that they are bound by this Constitution and the Regulations and policies of the Club (as well as the constitutions, regulations and policies of the RSO, the SSO and the NSO, where applicable);

they shall comply with and observe this Constitution and the Regulations and policies of the Club and also any determination, resolution or decision, which may be made or passed by the Board or other entity with delegated authority on behalf of the Club;

by submitting to this Constitution and the Regulations and policies of the Club, they are subject to the jurisdiction of the Club, the RSO, the SSO and the NSO (where applicable);

the Constitution and the Regulations and policies of the Club are necessary and reasonable for promoting the Objects and particularly the advancement and protection of the Sport in the Region and South Australia; and

they are entitled to all benefits, advantages, privileges and services of being a Member of the Club.

5.13 Subscriptions and Fees

The Executive Committee may:

Fix annual membership subscriptions;

fix such other fees or levies as the Executive Committee considers prudent for the effective and sustainable management of the affairs of the Club; and

determine the time for and manner of payment of the subscriptions, fees and levies by Members to the Club.

The Executive Committee may fix subscriptions, fees or levies at different rates for different categories of membership and may determine that no subscriptions are payable by one or more of the categories for any year.

The Executive Committee may also authorise payment of subscriptions, fees or levies by instalments for some or all of the categories of membership and it may prescribe different terms of instalments for different categories of membership.

On admission to membership, a new Member must pay the current full year's subscription unless the Executive Committee agrees to accept payment in instalments.

The Executive Committee may waive all or part of a Member's subscriptions, fees or levies and may agree terms of payment for a Member different from those applicable to other Members of the same category if the Executive Committee is satisfied that there are special reasons to do so.

5. DISCIPLINE AND DISPUTES RESOLUTION

6.1 Regulations

The Executive Committee may make Regulations governing the hearing and determination of internal disputes, protests or complaints made by or against Members or participants or the Club or disciplinary matters generally or any other matter involving the enforcement of this Constitution or the Regulations or policies of the Club against Members or participants or the Club (including, but not limited to, matters which involve Members acting in a manner unbecoming of a Member or prejudicial to the Objects or interests of the Club and/or Sport or Members bringing other Members, the Club and/or Sport into disrepute).

A Regulation made may:

provide for one or more judiciary committees or tribunals to hear and resolve cases;
prescribe penalties for breaches of this Constitution or the Regulations or policies of the Club;
invest a judiciary committee or tribunal with power to impose penalties; and
otherwise prescribe the procedures for dealing with cases.

Despite any Regulation made and unless otherwise specified, the Executive Committee may itself deal with any disciplinary matter referred to it or appoint a judiciary committee or tribunal to do so.

6.2 Natural Justice and Procedural Fairness

All proceedings must be conducted according to the rules of natural justice in accordance with the Act and procedural fairness generally.

6.3 Disputes

Subject to the foregoing rules concerning Regulations, Natural Justice and Procedural Fairness, a dispute between a member of the Club, in his or her capacity as a member, and the Club shall be determined by arbitration in accordance with the provisions of the Commercial Arbitration Act 1986, as amended.

Nothing in this rule effects the operation or effect of the rule relating to expulsion of members.

6.4 Expulsion of Members

(1) Should any member fail to pay any subscription, levy or other debt or liability due to the Club within three months of the date the same falls due, such Member may be removed from the Club by the Executive Committee.

(2) Subject to this rule, the Executive Committee may expel a Member from the Club if, in the opinion of the Executive Committee, the Member has been guilty of conduct detrimental to the interests of the Club.

(3) The expulsion of a Member pursuant to this sub-rule (2) does not take effect:

a. until the expiration of fourteen days after the service on the member of a notice under sub-rule (4) of this Rule; or

b. if the member exercises his or her right of appeal under this rule, until the conclusion of the Special General Meeting convened to hear the appeal, whichever is the later date.

(4) Where the Executive Committee expels a member from the Club pursuant to sub-rule (2), the Secretary of the Club shall, without undue delay, cause to be served on the member a notice in writing:

a. stating that the Executive Committee has expelled the member;

b. specifying the grounds for the expulsion; and

c. informing the member that if he or she so desires, he or she may within fourteen (14) days after the service of the notice on him or her, appeal against the expulsion as provided in this rule.

(5) A member on whom a notice under sub-rule (4) of this rule is served, may appeal against the expulsion to a Special General Meeting by delivering or sending by post to the Secretary of the Club, within fourteen days after the service of that notice, a requisition in writing demanding the convening of such a meeting for the purpose of hearing his or her appeal.

(6) Upon receipt of a requisition under sub-rule (5) of this rule, the Secretary shall forthwith notify the Executive Committee of its receipt and the Executive Committee shall thereupon cause a Special General Meeting of members to be held within twenty-eight (28) days after the date on which the requisition is received by the Secretary.

(7) At the Special General Meeting convened for the purpose of this rule:

a. no business other than the question of the expulsion shall be transacted;

b. the Executive Committee may place before the meeting details of the grounds of the expulsion and the Committee's reasons for the expulsion;

c. the expelled member shall be given an opportunity to be heard; and

d. the members present shall vote by secret ballot on the question whether the expulsion shall be lifted or confirmed.

(8) If at the Special General Meeting a majority of the members present vote in favour of the lifting of the expulsion, the expulsion shall be lifted and the expelled member is entitled to continue membership of the Club.

(9) If at the Special General Meeting a majority of the members present vote in favour of the confirmation of the expulsion, the expulsion takes effect and the expelled member ceases to be a member of the Club.

7. MEETINGS

7.1 Types of Meetings

The Meetings that can be convened where Members have the opportunity to express opinions and vote on various matters are:

General Meetings: which may be held on a regular basis

Annual General Meeting: which must be held in accordance with the Act and this Constitution and no later than the 31st March each year and at a venue to be determined by the Board; and

Special General Meeting: which are special meetings that are convened to discuss extraordinary issues.

7.2 Attendance

Unless this Constitution expressly provides otherwise, Members (including the Executive Committee) and the Auditor are entitled to attend Meetings but only Members are entitled to vote at Meetings.

7.3 Notice

Notice of Meetings must be given to Members and the auditor by the means authorised in 7.4.

A notice of a Meeting must specify the place, day and hour of the Meeting and state the nature and order of the business to be transacted at the Meeting.

At least twenty-one (21) days' notice of a General Meeting or Annual General Meeting must be given to each financial Member, together with:

the agenda for the Meeting; and

any notice of motion received from financial Members entitled to vote.

At least fourteen (14) days' notice of a Special General Meeting shall be given to each financial member.

7.4 Form of Notice

Any notice to a member for any purpose shall be deemed to be properly given if:

(1) delivered personally or;

(2) posted to the member's last known address. In which case it shall be deemed to have been received on delivery or on the next week day (other than a public holiday) after postage or;

(3) sent to the last known email address with acknowledgment that the email was received.

7.5 Business

The ordinary business to be discussed at the Annual General Meeting shall be:

- a. to confirm the minutes of the previous Annual General Meeting;
- b. to receive the annual report and audited financial statement ;
- c. to elect the officers of the club as listed below;
- d. general business

Other than the foregoing matters, all business discussed at any Meeting is special business.

No business other than that stated on the notice for an Annual General Meeting or Special General Meeting may be discussed at those meetings.

Special or other business can be tabled without notice at a General Meeting.

7.6 Amendments to the Constitution

(1) This constitution shall not be added to or amended excepting by an affirmative vote of two-thirds of the total financial members (at least 15 persons) present at a general meeting which has been called for this purpose.

(2) Any proposed amendment shall be notified in writing to all financial members at least twenty-one (21) days before such meeting is to be held.

7.7 Notices of Motion

Members entitled to vote may submit notices of motion for inclusion as special business at a Meeting. All notices of motion must be submitted in writing to the Executive Committee not less than fourteen (14) days prior to the Meeting.

7.8 Quorum for Meetings of the Club

No business may be discussed or transacted at a General Meeting, Annual General Meeting, or Special Meeting of the Club unless a quorum is present at the time when the Meeting proceeds to business. A quorum for Club Meetings shall be eight (8) Members. (For the quorum for meetings of the Executive Committee, see 8.11.)

7.9 Chairperson to Preside

The President will, subject to this Constitution, preside as chairperson at every General Meeting except:

in relation to any election for which the chairperson of the Executive Committee is a nominee; or

where the President has a conflict of interest.

If the President is not present or is unwilling or unable to preside, the Members present must appoint another officer of the Executive Committee to preside as chair for that General Meeting only.

7.10 Voting Procedure

At any Meeting a resolution put to the vote of the Meeting will be decided on a show of hands unless a poll is (before the show of hands) demanded by:

the chairperson; or

a simple majority of Members present at the General Meeting.

Each Member is entitled to one (1) vote at Meetings.

The chairperson may not exercise a casting vote at Meetings.

7.11 Special General Meetings

The Executive Committee may, whenever it thinks fit, convene a Special General Meeting of the Club.

On the requisition in writing of at least eight (8) Members, the Executive Committee must, within twenty-eight (28) days after the receipt of the requisition (and provided notice is given in accordance with 7.3 and 7.4), convene a Special General Meeting for the purpose specified in the requisition.

Every requisition for a Special General Meeting must be signed by requisitioning Members, state the purpose of the meeting and be sent to the Club. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisitions.

If the Executive Committee does not cause a Special General Meeting to be held within twenty-eight (28) days after the receipt of the requisition, the Members making the requisition may convene a Special General Meeting to be held not later than three (3) months after the receipt of the requisition.

A Special General Meeting convened by the Members under this Constitution must be convened in the same manner, or as nearly as practical to the same manner, as a meeting convened by the Executive Committee and for this purpose the Executive Committee must ensure that the Members making the requisition are supplied free of charge with particulars of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting must be borne by the Club.

8. MANAGEMENT

8.1 Deemed Executive Committee

The Members of the Executive Committee in office immediately prior to approval of this Constitution under the Act shall continue in those positions until the next Annual General Meeting following such adoption of this Constitution, and thereafter the positions of Board shall be filled, vacated and otherwise dealt with in accordance with this Constitution.

8.2 General powers and duties of Executive Committee

The Executive Committee constitutes the Committee for the purposes of the Act.

Subject to the Act and this Constitution, the business and affairs of the Club must be managed by the Executive Committee, which may exercise the powers of the Club for that purpose.

The Executive Committee must perform its functions in the pursuit of the Objects and in the interests of the Club and Members as a whole, having regard to the Club's position and role in the structure and reputation of the Sport in the Region and South Australia.

The Executive Committee may not cause the Club to disaffiliate from the SSO or NSO or the Sport in any way unless decided by resolution of the Members at a Meeting.

The Executive Committee may appoint individuals or sub-committees to carry out specified tasks (see also 8.14 below).

8.3 Composition of the Executive Committee

The Executive Committee shall consist of at least six (6) officers filling among them the following positions:

President
Vice President
Secretary
Treasurer
Nominations Officer/Recorder/Registrar
Safety Officer

And at the direction of the Annual General Meeting the Executive Committee shall include up to a further eleven (11) officers filling all or some of the following positions:

Club Captain(s) [up to two Captains can be selected]
Coaching Coordinator
Open Water Swim Coordinator
Public Relations Officer
Social Coordinator
Webmaster
Up to four (4) General Committee persons

All the above officers, together with an Auditor (who is preferably not a member of the Club) shall be elected by the Annual General Meeting.

Any other officers required by the Club shall be appointed by the Executive Committee.

In the event of a casual vacancy in any office of the Executive Committee, the Executive Committee may appoint one of the Club's members to the vacant office and the member so appointed may continue in office up until and including the conclusion of the Annual General Meeting next following the date of appointment.

8.4 Executive Committee position duties

Detailed descriptions of the Executive Committee positions are available on the Club website.

8.5 Nominations for Elected Officers

(1) Nominations for office shall be called for twenty- one (21) days prior to the Annual General Meeting.

(2) Only financial members may nominate for office or vote for candidates (excepting for the auditor).

(3) The Chair of the meeting may appoint a returning officer and two (2) scrutineers from those present at the meeting who are not nominating for any office.

(4) All voting shall be determined by a simple majority of financial members present.

8.6 Form of Nominations

Nominations must:

- (1) be in writing;
- (2) be in the prescribed form (if any) provided for that purpose;
- (3) be signed by the nominee;
- (4) disclose any position the nominee holds in the Club, including as an officer, a participant, a Delegate or an employee; and
- (5) be requested to be delivered to the Club, in writing, not less than seven (7) days before the date fixed for the Annual General Meeting.
- (6) Notwithstanding (5) above, nominations may be accepted at the Annual General Meeting.

8.7 Elections

Those nominated shall be declared elected only if approved by the majority of Members entitled to vote at the Annual General Meeting.

Voting shall be conducted in such a manner and by such a method as determined by the Executive Committee from time to time.

If at the close of the Annual General Meeting, vacancies on the Executive Committee remain unfilled, the vacant position(s) will be deemed casual vacancies.

If a person nominated at the Annual General Meeting is not approved by the majority of Members, he or she will not be entitled to take office until approved by the Members at an Annual General Meeting.

8.8 Chairperson

Meetings of the Executive Committee shall be chaired by the current President. The President shall be the nominal head of the Club and will act as chair of any Executive Committee meeting at which they are present. If the President is not present or is unwilling or unable to preside at an Executive Committee meeting, the remaining members of the Executive Committee shall appoint another member of the Executive Committee to preside as chair for that meeting only.

8.9 Duties of members of the Executive Committee

In accordance with Division 3A of the Act, members of the Executive Committee must:

not, in the exercise of their powers or the discharge of their duties, commit an act with intent to deceive or defraud the Club, Members or creditors of the Club or creditors of any other person or for any fraudulent purpose;

not make improper use of information acquired by virtue of their position in the Club so as to gain, directly or indirectly, any pecuniary benefit or material advantage themselves or any other person, or so as to cause a detriment to the Club;

not make improper use of their position as such an officer or employee so as to gain, directly or indirectly, any pecuniary benefit or material advantage for themselves any other person, or so as to cause a detriment to the Club; and

at all times act with reasonable care and diligence in the exercise of their powers and the discharge of the duties of their office.

8.10 Executive Committee to Meet

The Executive Committee must meet as often as it considers necessary in every calendar year for the dispatch of business (and must meet at least as often as is required under the Act) and in accordance with principles of good governance. Subject to this Constitution, the Executive Committee may adjourn and otherwise regulate its meetings as it thinks fit.

Any member of the Executive Committee may at any time convene a meeting of the Board on reasonable notice to the other members of the Executive Committee.

Subject to this Constitution, questions arising at any meeting of the Executive Committee may be decided by resolution of its members. Each member has one (1) vote on any question. The chair does not have a casting vote.

8.11 Executive Committee Quorum

Four (4) members of the Executive Committee, including any two of the President, Vice-president, Secretary and Treasurer, shall constitute a quorum at Executive Committee meetings.

8.12 Conflict of Interest

The members of the Executive Committee must comply with sections 31 and 32 of the Act regarding disclosure of interests and voting on contracts in which a member has an interest.

A member of the Executive Committee shall declare his or her interest in any contractual, selection, disciplinary, or financial matter in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Executive Committee, absent themselves from discussions of such matters and shall not be entitled to vote in respect of such matters. If the member casts a vote, the vote shall not be counted.

In the event of any uncertainty as to whether it is necessary for a member of the Executive Committee to absent themselves from discussions and refrain from voting, the issue should be immediately determined by vote of the Executive Committee. If this is not possible, the matter shall be adjourned or deferred.

8.13 Disclosure of Interests

The nature of the interest of a member of the Executive Committee must be declared at the meeting of the Executive Committee at which the relevant matter is first taken into consideration, if the interest then exists. In any other case, the interest should be revealed to the Executive Committee at the next meeting of the Executive Committee. If a member of the Executive Committee becomes interested in a matter after it is made or entered into, the declaration of the interest must be made at the first meeting of the Executive Committee held after the member becomes interested.

All disclosed interests must also be disclosed to each Annual General Meeting in accordance with the Act.

8.14 Delegations

Executive Committee may delegate functions

The Executive Committee may, by instrument in writing, create or establish or appoint special committees, individual officers and consultants to carry out such duties and functions. The Executive Committee will also determine what powers these entities are given.

Delegation by Instrument

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

this power of delegation; and

a function imposed on the Executive Committee or the Executive Officer by the Act or any other law, or this Constitution or by resolution of the Club in a Meeting.

Delegated Function Exercised in Accordance with Terms

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

Procedure of Delegated Entity

The procedures for any entity exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Executive Committee. The entity exercising delegated powers shall make decisions in accordance with the Objects. It shall promptly provide the Executive Committee with details of all material decisions and shall provide any other reports, minutes and information as the Executive Committee may require from time to time.

Delegation May be Conditional

A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function. These may be specified in the delegation.

Revocation of Delegation

By instrument in writing, the Executive Committee may at any time revoke wholly or in part any delegation made under this clause and it may amend or repeal any decision made by such body or person under this clause.

8.15 Appointment of Secretary

There must be at least one Secretary who is to be elected at the Annual General Meeting.

The Executive Committee may suspend or remove a Secretary from that office.

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to them by the Club.

9. RECORDS AND ACCOUNTS

9.1 Accounts to be Kept and Distributed

The Club must keep such accounting records as correctly record and explain the transactions and financial position of the Club.

The Executive Committee will cause proper accounting and other records to be audited and distributed in accordance with Division 2 of the Act, including all documents required to be distributed to the Members for the purpose of the Annual General Meeting.

9.2 Transaction Accounts

The Club shall open and keep at least one transaction account as the Executive Committee may from time to time determine, and all monies belonging to the Club shall, as soon as practicable after the same shall be received, be paid and deposited to the credit of those account(s) of the Club.

No withdrawal shall be made from, and no cheques shall be drawn on, any transaction account in the name of the Club unless the withdrawal form, cheques or electronic transfer is signed or password-activated, as appropriate, by any two of the persons appointed by the Executive Committee for such purposes. All extraordinary and capital expenditure must be unequivocally ratified by the Executive Committee.

9.3 Auditor

A properly qualified auditor or auditors shall be appointed by the Executive Committee and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Act.

The following people may not be appointed as an auditor:

an officer of the Club, including a member of the Executive Committee (and any partners, employers or employees of officers); or

an employee of the Club (and any partners, employers or employees of employees).

The auditor may be removed by the Executive Committee.

The auditor has a right of access at all reasonable times to the accounting records and other records of the Club and is entitled to require from any officer of the Club such information and explanations as he or she desires for the purpose of an audit.

The auditor must provide the Executive Committee with reports that comply with the Act with sufficient time for the Executive Committee to lay such material before the Members as and when required (including for the Annual General Meeting).

The reasonable fees and expenses of the auditor are payable by the Club.

9.4 Application of Income

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

Except as prescribed in this Constitution or the Act:

no portion of the income or property of the Club shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member; and

no remuneration or other benefit in money or money's worth shall be paid or given by the Club to any Member who holds any office of the Club.

Nothing in clause 9.4 shall prevent payment to any Member for:

any services actually rendered to the Club whether as an employee, a member of the Executive Committee or otherwise; or

goods supplied to the Club in the ordinary and usual course of operation; or

interest on money borrowed from any Member; or

rent for premises demised or let by any Member to the Club; or

any out-of-pocket expenses incurred by the Member on behalf of the Club;

provided that any such payments shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction and there is no conflict of interest in making the payment.

10. DISSOLUTION

10.1 Winding Up

The Association may be wound up in a manner provided for in the Act.

10.2 Members not Liable

In the event of the Club being wound up, no member is liable to contribute towards the payment of the debts or liabilities of the Club or the costs, charges and expenses of the winding up.

10.3 Distribution of Assets and Property on Winding Up

If upon winding up or dissolution of the Club, there remains, after satisfaction of all its debts and liabilities, any assets or property, the same shall not be paid to or distributed to its Members, but instead, those assets or property must be given or transferred to such charitable institutions, or applied for such charitable purposes, as the members at the time of dissolution of the Club decide.

Those organisation(s) must prohibit the distribution of income and property among its members to an extent at least as great as that imposed on the Club by this Constitution.

The organisation(s) is to be determined by the Members in a Meeting at or before the time of dissolution. If this does not occur, the decision will be made by a judge of the Supreme Court of South Australia or other court as may have or acquire jurisdiction in the matter.

**Prepared by George Crowder on behalf of Marion Marlins Masters Swimming Club
Committee**

Approved at 2021 AGM, 26 March 2022