



SUBSTITUTED CONSTITUTION

of the

VOLUNTARY CLUB

known as

ATC MULTISPORT

**As adopted by resolution passed at the Annual General Meeting of the Club
held at Cape Town on the 9th day of October 2019**



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RECITALS

- A. The Recreational Club described as the ATC Multisport Club was established in terms of a written Constitution adopted by the initial Membership on 1 July 2006, and subsequently amended by resolution passed at an Annual General Meetings held on 16 February 2011, 22 March 2012, 26 October 2016 and 26 July 2017 ("the Present Constitution").
- B. In terms of clause 20 of the Present Constitution, any amendments or additions thereto may be adopted by a resolution of the Members duly passed at an Annual or Special General Meeting, provided due notice thereof has been given, and subject to such resolution being adopted by a majority representing not less than two-thirds (2/3) of the Members present at a quorate general meeting.
- C. In order to comply with legislation with respect to the tax exemption of Recreational Clubs, constituting section 30A of the Income Tax Act No. 58 of 1962, as amended, it has become necessary to effect certain amendments to the Present Constitution. At the same time, it is deemed opportune to make provision also for the incorporation within the Constitution of certain prescriptive requirements of the Nonprofit Organisations Act No. 71 of 1997; and to amend various other provisions of the Present Constitution, in the light of changed circumstances, and to provide more appropriately for the objects, structure, and future governance of the Club.
- D. Accordingly, at the Annual General Meeting held at Cape Town on the 26th day of July 2017, it was resolved to substitute the Present Constitution in its entirety with a new Constitution as hereafter stipulated, after due compliance with the procedural requirements in the Present Constitution, as stipulated in terms of clause 20 thereof.

1. CONTINUANCE

- 1.1 The Voluntary Association originally established in terms of the Present Constitution shall continue to exist, and shall continue to be known as

ATC MULTISPORT

but the Association shall henceforth be constituted and governed by the terms of the new Constitution as hereinafter set forth.

2. LEGAL STATUS

- 2.1 The Voluntary Association constituting the Club shall be a juristic person separate and distinct from its Members and officers; and it shall continue to exist indefinitely notwithstanding any changes that may occur from time to time in the composition of its membership, until dissolved by decision of its Members duly passed in accordance with the formalities set forth in clause 20.
- 2.2 The Activities of the Club will be carried on in a nonprofit manner and for the mutual benefit of all its Members.
- 2.3 In accordance with the provisions of section 16(1)(a) of the Nonprofit Organisations Act, and pursuant to registration thereunder, the Association is likewise deemed to be a Body Corporate; and as such may, in its own name, enter into contracts, sue or be sued, acquire and hold assets, undertake liabilities, and engage in other transactions, as may be deemed appropriate from time to time.

3. DEFINITIONS AND INTERPRETATION

In this Constitution, unless the context clearly otherwise indicates:

- 3.1 "**The Club**" means the Voluntary Association described as ATC Multisport, a triathlon, running, cycling, and swimming sporting organisation.
- 3.2 "**The Commissioner**" means the Commissioner for The South African Revenue Service ("SARS").
- 3.3 "**Income Tax Act**" means the Income Tax Act No. 58 of 1962, as amended.
- 3.4 "**Incorporated Clubs**" means the informal associations (and their individual members) which are admitted to this status by the Management Committee at its discretion from time to time, including the associations described as Atlantic Triathlon Club, ATC Running, ATC Cycling and ATC Swimming.
- 3.5 "**The Management Committee**" means the body vested with executive responsibility for the administration of the Club and the exercise of the powers of the Association.
- 3.6 "**Members**" means the persons admitted to membership of the Club from time to time in terms of the Constitution of the Club, including all such persons as may hereafter be admitted to membership in accordance with the provisions of this Constitution.

- 3.7 **"Membership Fees"** means such annual or other periodic levies and fees that are payable by Members to maintain their affiliation to the Club.
- 3.8 **"Nonprofit Organisation Act"** means the Nonprofit Organisations Act, No. 71 of 1997, as amended.
- 3.9 **"Prescribed Fiscal Conditions"** means the provisions prescribed by section 30A of the Income Tax Act, as being the conditions applicable to Recreational Clubs approved by the Commissioner for purposes of tax exemption provided for under section (1)(cO) of such Act. Such provisions as are presently applicable at the date of substitution of this new Constitution, are repeated and referred to in Schedule "A", but remain subject to any such amendments or additions thereto as may from time to time be enacted or prescribed.
- 3.10 **"Present Constitution"** means the Constitution in terms of which the Club was originally established and adopted on 1 July 2006, as subsequently amended.
- 3.11 **"The Republic"** means the Republic of South Africa.
- 3.12 The masculine shall include the feminine; the singular shall include the plural; and terms referring to persons shall include juristic persons; and vice versa in each instance.
- 3.13 Unless otherwise stated or necessarily implied, any reference to the Income Tax Act, the Nonprofit Organisations Act, or any other Act mentioned or referred to hereunder, and including the Schedules and Regulations applicable thereto, shall be deemed to denote such Acts, Schedules, and Regulations, as amended from time to time, including legislation constituting a re-enactment or substitution therefor.

4. SOLE OBJECT

- 4.1 The Sole Object of the Club shall be the promotion of and the provision of support services and facilities in respect of the sporting disciplines associated with triathlon, swimming, cycling and running, including (but without limitation thereto):
- 4.1.1 the provision of social, recreational, and training amenities or facilities for its Members;
- 4.1.2 the provision of support for Members and prospective Members of the Club, and initiatives directed to attracting new and beginner athletes to the related disciplines;

- 4.1.3 offering coaching and competitive opportunities to its Members in triathlon, duathlon and related individual disciplines;
- 4.1.4 supporting talented poorly resourced Members with equipment and access to the Club and competitions;
- 4.1.5 to seek affiliation with, and conform, to the minimum criteria and guidelines of, the regional governing bodies of the related sporting codes; and to support and collaborate with similar recreational clubs.

5. MEMBERSHIP

- 5.1 All persons hitherto admitted to membership in terms of the Present Constitution, in whatever class or category shall henceforth be deemed to be Ordinary Members of the Club, and shall enjoy the same rights, status, and prerogatives as hereinafter stipulated.
- 5.2 Further, Ordinary Members may be admitted from time to time at the discretion of the Management Committee, subject to compliance with any such eligibility criteria and conditions for membership as may be prescribed from time to time in terms of the By-Laws of the Club.
- 5.3 All new applications for membership must be submitted electronically via the website or email, including the undertaking to accept the applicable provisions of the Constitution and By-laws of the Club.
- 5.4 Existing Members are not permitted to sell or transfer their membership rights or any entitlement arising therefrom to non-members.
- 5.5 Any Member may resign membership of the Club at any time upon notice in writing to the Secretary of the Club. Such resignation shall not release the resigning Member from liability for any unpaid subscriptions or other monies due to the Club at the time of resignation. No re-application for membership shall be considered until all outstanding amounts owing to the Club have been duly paid in full. A re-application shall be treated in the same manner, and subject to the same procedures as are applicable to a new Applicant.
- 5.6 For the avoidance of doubt, it is hereby confirmed that the Management Committee shall have a complete and unfettered discretion with regard to the acceptance or refusal of applications for membership; and with regard to the suspension or termination of membership, as the Management Committee may deem to be in the best interests of the

Club. Neither the Club nor its Management Committee shall be under any obligation, express or implied, to provide reasons with respect to any such decisions affecting membership of the Club.

6. HONORARY LIFE MEMBERS

6.1 An existing Member who has rendered distinguished service to the Club, or to any sport or activity which is of benefit to Members of the Club, may be nominated by the Management Committee for admission as an Honorary Life Member. The appointment of an Honorary Life Member may only be effected upon the recommendation of the Management Committee supported by decision of the Members adopted by resolution passed at a duly convened quorate Special or Annual General Meeting of the Club, with the support of no less than a two-thirds (2/3) majority of the Members present at the meeting.

6.2 Honorary membership may also be conferred in the same manner upon individuals who have held distinguished positions in the Incorporated Clubs, or who have given valuable public service to the multisport community.

6.3 An Honorary Life Member shall be entitled to enjoy all the rights and privileges of Membership, but shall be exempted from liability for all Membership Fees.

7. OTHER CATEGORIES OF MEMBERS

7.1 Other categories of Member may be established from time to time on the recommendation of the Management Committee, supported by resolution duly adopted by a two-thirds (2/3) majority of the Members present at a quorate Annual General Meeting or Special General Meeting. Any such other category of membership shall confer upon its constituent Members such rights, and impose such obligations, as may be stipulated from time to time by a General Meeting with respect thereto.

7.2 Without derogating from the generality of the foregoing, such other categories of membership may include:

- 7.2.1 Senior Multisport Full Members;
- 7.2.2 Senior Multisport Country Members;
- 7.2.3 Student Multisport Full Members;
- 7.2.4 Junior Multisport Full Members;
- 7.2.5 ATC Running, Cycling or Swimming Members.

8. MEMBERSHIP AND ENTRANCE FEES

- 8.1 Annual or other periodic Membership Fees and new admissions fees shall be determined and periodically reviewed by a Special or General Meeting of the Club, on the recommendation of the Management Committee, and must be approved by a majority of the Members present at a duly convened and quorate General Meeting.
- 8.2 At the discretion of the Management Committees, such Fees may be waived in part, and may be prorated upon admission of a new Member, having regard to the balance of the period to which such fees are applicable.

9. MANAGEMENT COMMITTEE

- 9.1 The management and administrative responsibility for the Club shall be undertaken by a body to be known as the Management Committee, which shall be elected from year to year by the Members of the Club at its Annual General Meeting, in accordance with the succeeding provisions.
- 9.2 The Management Committee shall comprise such Members as may be elected from time to time by an Annual General Meeting, but shall at no time comprise less than five (5) nor more than eleven (11) persons, of whom certain persons may be designated as office bearers by the General Meeting, including such of the following as may be deemed appropriate from time to time:
- 9.2.1 a Chairperson;
 - 9.2.2 a Vice Chairperson;
 - 9.2.3 a Secretary;
 - 9.2.4 a Treasurer;
 - 9.2.5 Development Officer;
 - 9.2.6 Communications Officer;
 - 9.2.7 Ordinary Members.
- 9.3 Unless removed earlier in terms of the provisions of this Constitution, each person elected to serve on the Management Committee, shall serve for a two (2) year term; but shall be eligible, if so elected, to serve for one (1) or more further terms of two (2) years each.
- 9.4 Accordingly, at each Annual General Meeting following the adoption of this substituted Constitution, one-half ($\frac{1}{2}$) of the members of the Management Committee shall retire, but those retiring shall be eligible for re-election. The Management Committee members retiring

at each Annual General Meeting shall be such as may have then completed a two (2) year term; provided that no more than one-half (½) of the Management Committee members then serving shall retire at any Annual General Meeting; and those to retire shall be identified by agreement inter se, but failing agreement those to retire shall be determined by the drawing of lots between them.

9.5 Subject to the maximum stated above, the Management Committee may from time to time by majority decision co-opt up to two (2) other Members to serve as additional Members of the Committee, who shall hold office until the next occurring Annual General Meeting, but shall be eligible for re-appointment or co-option, as the case may be.

9.6 Notwithstanding anything to the contrary set out above, the Management Committee, by resolution adopted by a majority of at least two-thirds (2/3) of its Members (excluding the person concerned), shall be entitled at any time to suspend or remove any of serving its Members, whether elected or co-opted. The Management Committee shall be under no obligation to furnish reasons for, or to justify, its decision(s) regarding any such removal.

9.7 An existing or former Member of the Management Committee, who has rendered distinguished service to the Club, may be nominated by the Management Committee for selection as an **Honorary Life Vice-Chairperson**. The appointment of one or more Honorary Life Vice-Chairperson(s) may only be effected upon the recommendation of the Management Committee supported by decision of the Members adopted by resolution passed at a duly convened quorate Special or Annual General Meeting of the Club, with the support of no less than a two-thirds (2/3) majority of the Members present at the meeting. Honorary Life Vice-Chairperson(s) shall serve in an advisory capacity only, may attend Management Committee Meetings but shall not have a vote unless entitled in some other capacity.

10. MANAGEMENT COMMITTEE MEMBER VACATING OFFICE

Members of the Management Committee shall vacate office if such Member:

- 10.1 dies or tenders her/his resignation in writing;
- 10.2 completes the term of office for which such person has been appointed, without re-appointment; or
- 10.3 becomes in the opinion of the Management Committee of unsound mind; or otherwise unfit or incapable of acting in such capacity; or
- 10.4 becomes disqualified in terms of the Trust Property Control Act, or the Companies Act, or any equivalent legislation in force from time to time, from acting as a Trustee, Director, or in any other fiduciary capacity; or
- 10.5 is removed, replaced or substituted in terms of a resolution duly passed in accordance with the provisions of clause 9.6 above.

11. PROCEDURE AT MANAGEMENT COMMITTEE MEETINGS

The Management Committee shall conduct its meetings and regulate its proceedings as it may find convenient from time to time, provided that:

- 11.1 A Chairperson shall be elected from time to time by and from amongst the Members of the Management Committee; and it may at its discretion also elect a Vice-Chairperson. The Chairperson, or in his/her absence, the Vice-Chairperson, if any, shall preside at all meetings of the Management Committee; and shall also preside at General Meetings of Members of the Club, unless they shall otherwise determine. In the absence of both the Chairperson and Vice-Chairperson, if any, the Members of the Management Committee or the Members of the Club, as the case may be then present shall elect a Chairperson for that meeting from amongst their number.
- 11.2 The Chairperson or Vice-Chairperson (if any) may at any time convene a meeting of the Management Committee; and shall be obliged, if so requested by any two (2) Members of the Management Committee, to convene such a meeting.
- 11.3 The quorum necessary for the transaction of any business by the Management Committee shall be at least two-thirds (2/3) of its Members.
- 11.4 At all meetings of the Management Committee, each of its Members shall have ONE (1) vote.
- 11.5 Questions arising shall be decided by a simple majority of votes, unless otherwise stipulated

in terms of this Constitution. In the event of deadlock, the Chairperson shall have a casting vote.

- 11.6 Minutes shall be kept of all proceedings of the Management Committee, including a record of all persons present at each meeting. The minutes shall be signed by the Chairperson or other person who chairs the meeting, and shall be available at all times for inspection or copying by any Member of the Management Committee.
- 11.7 A "round robin" resolution - that is a resolution addressed in writing to all Members of the Management Committee, and supported by no less than two-thirds (2/3) of its number - shall be as valid as if passed at a duly convened meeting of the Management Committee, and, unless stated to the contrary, shall be deemed to have been passed as at the date of the last signature thereto.
- 11.8 For the avoidance of doubt, it is stipulated that Meetings of the Management Committee may be held at any time or times, and at any place or places, subject to due notice having been given; and such meetings may be held simultaneously in more than one place, provided the parties concerned are linked by telephone, video, teleconference or other facilities, enabling them to communicate and participate directly in the business of such meetings, as if actually present together at the same time and place, without reliance upon an intermediary.
- 11.9 The Management Committee may delegate any of its powers and duties to one or more of its number, or to a special-purpose Sub-Committee, or to any Member or agent of the Club as may be deemed appropriate from time to time; provided that the person/s or Sub-Committee to which such delegation is made, shall conform to any procedural or other directions and limitations stipulated by the Management Committee from time to time, and the Management Committee shall not be deemed to have been divested of such powers and duties as it may delegate as aforesaid.
- 11.10 In effecting any such delegation to a Sub-Committee, the Management Committee may at its discretion:
- 11.10.1 appoint, remove and substitute the persons to whom such delegation has been made, or any one or more of them; and include appointees who are not themselves Members;
 - 11.10.2 nominate the person(s) who shall serve as Chairperson (and, if deemed necessary, as Vice-Chairperson) of any such Sub-Committee; and
 - 11.10.3 stipulate the period of notices, the quorum, the voting, and any other procedural

formalities affecting meetings and decisions of such Sub-Committee.

The Chairperson of the Club shall be deemed ex officio to be a Member of all Sub-Committees, and may attend meetings thereof and exercise a vote at his/her discretion.

12. BY-LAWS

12.1 In order to provide for other procedural and administrative matters effecting the membership, activities and affairs of the Club, By-Laws may be established, and amended from time to time; provided that such By-Laws are proposed by the Management Committee, notified to all Members at least fourteen (14) business days prior to the holding of a General Meeting, and duly adopted by a majority of Members at a quorate Annual General Meeting or Special General Meeting, as the case may be.

12.2 For the avoidance of doubt, once duly adopted, such By-Laws shall be and become binding upon all Members, as if incorporated herein.

13. GENERAL MEETINGS

13.1 Annual General Meeting

13.1.1 Annual General Meetings shall be held within no more than three (3) months of the end of each financial year. At least twenty-one (21) business days' prior written notice of such meetings shall be given to all Members entitled to attend and vote.

13.1.2 The business of an Annual General Meeting shall include, *inter alia*:

13.1.2.1 the presentation and adoption of the Annual Report of the Management Committee;

13.1.2.2 the consideration of the Annual Financial Statements;

13.1.2.3 the election of persons to serve on the Management Committee; and the election of the Chairperson and all other officers, for the following year;

13.1.2.4 the review and determination of annual Membership Fees or Levies, and all other ad hoc fees or levies;

13.1.2.5 the appointment of management accountants; and

13.1.2.6 such other matters as may be considered appropriate.

13.2 Special General Meetings

13.3 Special General Meetings may be convened from time to time as may be considered necessary, at the request of:

13.3.1 the Management Committee; or

13.3.2 the Chairperson; or

13.3.3 any ten (10) other Members of the Club.

13.4 Any Special General Meeting, other than the Annual General Meeting, shall be convened on not less than fourteen (14) business days' written notice to all Members entitled to attend and vote at General Meetings; and such notice shall state in broad terms the nature of the business to be transacted at the Meeting; provided that should the Chairperson, having been duly requested to give such notice, fail to do so within seven (7) business days of written request, the Members requesting the Meeting shall be entitled themselves to give notice of and to convene the Meeting.

13.5 Resolutions and Voting

13.5.1 At all General Meetings, a resolution put to the vote shall be decided only by a poll. A poll shall be taken as directed by the Chairperson, and the result of the poll shall constitute the resolution of the Meeting.

13.5.2 Each Member present or represented at a General Meeting shall be entitled to one (1) vote. All matters arising shall be determined by simple majority, unless otherwise stipulated in terms of this institution. The Chairperson shall be entitled to a second or casting vote in the event of an equality of votes.

13.6 Quorum

13.7 The quorum at a General Meeting of the Association shall be the lesser of:

13.7.1 Fifteen (15) Members; or

13.7.2 one-tenth (1/10) of all the Members at the relevant time.

13.8 In the event of any General Meeting having been duly convened but no quorum being present, such Meeting shall stand adjourned to another date, not less than five (5) business days thereafter, as may be determined by the Management Committee, and written notice reflecting such adjournment shall be given to all persons entitled to notice of General Meetings. At such reconvened General Meeting, the Members then present or represented shall be deemed to constitute a quorum notwithstanding any provision to the contrary.

14. POWERS AND DISCRETIONS OF MANAGEMENT COMMITTEE

Subject to due compliance with the relevant Prescribed Fiscal Conditions, the Management Committee shall be vested with the undermentioned powers and discretions, namely:

- 14.1 The power to determine which activities and projects the Club shall undertake or support from time to time.
- 14.2 The power to determine in what manner, and for what purpose, and upon what terms, the funds of the Club, shall be applied and appropriated in furtherance of the Objects of the Club; provided that all income and property of the Club howsoever derived shall be applied solely towards the promotion of its stated Objects, and no portion thereof shall be paid or transferred, directly or indirectly, to the Members or Officers of the Club; provided that nothing herein contained shall prevent the payment in good faith by the Club of reasonable remuneration commensurate with services actually rendered to any Member or Officer of the Club in return for service actually rendered as aforesaid, but subject to due compliance with the Prescribed Fiscal Conditions referred to in Schedule "A".
- 14.3 Any such further powers and discretions as the Management Committee may find necessary in order to undertake its functions and exercise its mandate in the best interests of the Club.

15. CONFLICTS OF INTEREST

In accordance with the law governing fiduciary responsibilities, Members of the Management Committee shall be obliged forthwith to declare any self-interest or conflict of interest that may arise with respect to matters to be considered and/or decided. In any such event, the person concerned, after declaring his/her interest, shall promptly recuse him/herself, and take no further part in the deliberations concerning that matter; and such person shall subsequently refrain from participating in further discussions or decisions affecting that matter; unless the continued presence and participation of such person is unanimously requested and approved by all other Members of the Management Committee. The Minutes of the Meeting shall record any such declaration of interest, recusal, and (if applicable) the continued presence and participation of the person concerned.

16. ANNUAL FINANCIAL YEAR

The Financial Year of the Club shall commence on 1 March and terminate on 28 February in each year. With the prior approval of the Commissioner, as required by law, the Club may change its Financial Year should it deem this appropriate.

17. NOTICES

- 17.1 Notices of Meetings shall be delivered personally, or electronically, or by prepaid registered post, or in such other manner as may be deemed appropriate by the Chairperson (or Vice-Chairperson), and shall be directed to the last known address of the person concerned, as recorded with the Club.
- 17.2 The inadvertent, but bona fide omission to address notices to any Member of the Management Committee, shall not invalidate the proceedings of the ensuing meeting.
- 17.3 If despatched electronically, such notices shall be deemed to have been received twenty-four (24) hours after data transmission.
- 17.4 If despatched by prepaid registered post to an address in the Republic, such notices shall be deemed to have been received five (5) business days after the date of posting.

18. BOOKS OF ACCOUNT AND ANNUAL FINANCIAL STATEMENTS

The Members of the Management Committee shall be responsible to ensure that the Club keeps proper accounting records and maintains effective systems and controls. Financial Statements shall be prepared at least once a year in accordance with generally accepted accounting practice in the Republic and shall reflect the financial position and affairs of the Club. Such accounting records and Financial Statements shall be submitted to, and reported upon, in the customary manner by management accountants.

19. BANKING ACCOUNT AND SIGNATURES

- 19.1 The financial affairs of the Club shall at all times be conducted by means of a banking account.
- 19.2 All cheques, promissory notes, and other documents requiring signature on behalf of the Club shall be signed by such person(s) as the Management Committee may resolve from time to time.

20. AMENDMENTS TO CONSTITUTION AND DISSOLUTION

20.1 By decision of the Members in General Meeting:

20.1.1 the terms of this Constitution may be amended;

20.1.2 the name of the Association may be changed; and

20.1.3 the Association may be dissolved;

provided that written notice of the proposed resolution is duly given not less than twenty-eight (28) business days prior to the date of the meeting; and provided further that such notice states the nature of the resolution to be proposed.

20.2 Any such resolution shall be deemed to have been duly adopted if it is supported by no less than two-thirds (2/3) of the Members present at the Meeting, being not less than the minimum necessary to constitute a quorum.

20.3 For the avoidance of doubt, and notwithstanding anything to the contrary contained in this Constitution, it is confirmed that a resolution signed by all Members of the Association, shall be valid as if passed at a duly convened General Meeting of the Association.

20.4 A copy of the amending Deed, or resolution, as the case may be, shall be submitted forthwith upon its adoption to the Commissioner; and if applicable, also to the Director appointed in terms of the Nonprofit Organisations Act.

20.5 In the event of the dissolution of the Association, any net residue of the funds of the Association remaining after dissolution of grants and awards, and after provision for liabilities and expenses, shall be given or transferred to one or more other tax-exempt Recreational Club(s) approved by the Commissioner, having the same or similar objects as this Association, or to another approved Public Benefit Organisation as may be determined by a General Meeting at its discretion; and provided further that each such disposition upon dissolution of the Association shall be subject to approval by the Commissioner, as required in terms of the Income Tax Act.

21. INDEMNITY

21.1 Subject to the provisions of any relevant statute, each person serving on the Management Committee, and all office bearers shall be indemnified by the Club for the consequences of acts done in good faith on the Club's behalf; and it shall be the duty of the Club to pay all costs and expenses, which any such person incurs, or becomes liable for, as a result of contracts entered into, or acts or deeds done in his/her capacity, and with the authority of the Management Committee.

21.2 Subject to the provisions of any relevant statute, no Member of the Management Committee or other office bearer of the Club shall be liable for the acts, receipts, neglects or defaults of any other Member or office bearer, or for having joined in any receipt or other act for conformity, or for any loss or expense suffered by the Club through the insufficiency or deficiency of title to any property acquired by the Club; or for the insufficiency or deficiency of any security in or on which the monies of the Club may be invested; or for any loss or damage arising from the bankruptcy, insolvency or delictual act of any person with whom any monies, securities or effects are deposited or for any loss or damage caused in any other way, which occurs in the execution of the duties of her or his office or in relation thereto, unless it arises in consequence of her or his dishonesty, or failure to exercise the degree of care, diligence and skill required by law.

22. AMBIT OF DISCRETIONS

Where discretions are vested in the Management Committee and/or in a General Meeting of the Club in terms of this Constitution, such discretions, except where expressly limited, shall be complete and absolute, and no Member affected by any such decision shall be entitled to challenge the decision, provided that the Management Committee or Board Meeting, as the case may be, conforms to the Objects of the Club, and generally complies with the terms and conditions of this Constitution.

23. REGISTRATION: NONPROFIT ORGANISATIONS ACT

23.1 It is intended that the Club shall apply for registration under the Nonprofit Organisations Act, No. 71 of 1997.

23.2 Accordingly, having regard to the requirements of that Act, it is hereby recorded with respect to the Club (hereinafter referred to as "the Organisation"), as follows:

23.2.1 the Organisation's name shall be as stated in clause 1.1;

23.2.2 the Organisation's sole object shall be as stated in clause 4;

- 23.2.3 the Organisation's income and property shall not be distributable to its Management Committee or office bearers, save insofar as they may be reimbursed for reasonable out of pocket expenses incurred in the execution of their duties and with the authority of the Management Committee;
- 23.2.4 the Organisation shall be deemed to be a body corporate, and shall have an identity separate and distinct from its Members, as envisaged by clause 2.2;
- 23.2.5 the Organisation shall continue to exist notwithstanding changes that may occur in the composition of its membership, its Management Committee, or its office-bearers, as envisaged by clause 2.1;
- 23.2.6 the Members and office-bearers shall have no rights in the property or other assets of the Organisation by virtue of their membership or office;
- 23.2.7 the powers of the Organisation shall be as set forth in this Constitution, including clauses 12 and 14, as read with Schedule "A" thereof;
- 23.2.8 the organisational structure and mechanisms for the Organisation's governance shall be as set forth in this Constitution, including clauses 5 and 7;
- 23.2.9 the rules for convening and conducting meetings, including quorums required for and the minutes to be kept of those meetings, shall be as stated in clauses 11, 13 and 17;
- 23.2.10 the manner in which decisions are to be made shall be as stated in clauses 11 and 13;
- 23.2.11 the Organisation's financial transactions must be conducted by means of a banking account, as stated in clause 19.1;
- 23.2.12 the date for the end of the Organisation's financial year shall be as stated in clause 16;
- 23.2.13 the procedure for changing the constitution shall be as stated in clause 20;
- 23.2.14 the procedure by which the Organisation may be wound up or dissolved shall be as stated in clause 20; and
- 23.2.15 if the Organisation is wound up or dissolved, any asset remaining after all its liabilities have been met, must be transferred to some other eligible Nonprofit Organisation or institution, having the same or similar objectives, as stated in clause 20 as read with Schedule "A".

24. PRESCRIBED FISCAL CONDITIONS

Notwithstanding anything to the contrary hereinbefore contained, this Constitution shall be subject to due compliance with the conditions prescribed in terms of section 30A of the Income Tax Act in respect of Recreational Clubs, which conditions as presently prescribed at the date of adoption of this Substituted Constitution have been recapitulated for convenience in Schedule "A" hereto. Accordingly, all such prescribed conditions as are presently applicable or as they may be subsequently enacted from time to time shall be deemed to be incorporated in this Substituted Constitution, and accordingly shall be binding upon the Club, its Members, and the Management Committee.

25. ADOPTION

THIS CONSTITUTION WAS ADOPTED AT A DULY CONVENED AND QUORATE ANNUAL GENERAL MEETING OF THE CLUB HELD AT CAPE TOWN ON THE 9TH DAY OF OCTOBER 2019.

CHAIRPERSON

VICE-CHAIRPERSON

SCHEDULE "A" – PRESCRIBED FISCAL CONDITIONS - RECREATIONAL CLUBS
[In terms of section 30A of the Income Tax Act No. 58 of 1962, as amended]

In consequence of the approval of the Club by the Commissioner, in terms of section 30A of the Income Tax Act, the Club, and its Management Committee acting on its behalf, shall conform at all times to the conditions prescribed from time to time with respect to "Recreational Clubs", in terms of the relevant provisions of the Act.

Accordingly, such Prescribed Fiscal Conditions as are applicable at the date of adoption of this Schedule as part of the Constitution, are summarised hereunder; but remain subject to any amendments or additions thereto that may at any time be enacted or prescribed, namely:

1. The Club shall be required to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Club; and no single person shall directly or indirectly control the decision-making powers relating to the Club.
2. The activities of the Club must at all times be carried out in a non-profit manner.
3. The Club shall be prohibited from directly or indirectly distributing any surplus funds to any person, other than in terms of the next subparagraph.
4. The Club shall be required on dissolution to transfer any residual assets and funds to an entity approved in terms of the Income Tax Act, including the following:

"(aa) any other recreational club which is approved by the Commissioner in terms of this section; or

(bb) a public benefit organisation contemplated in paragraph (a)(i) of the definition of "public benefit organisation" in subsection 30(1) which has been approved in terms of section 30(3); or

(cc) any institution board or body which is exempt from tax under the provisions of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity."

5. The Club may not pay any remuneration to any person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered; nor may any remuneration be determined as a percentage of any amounts received by or accrued to the Club.

6. All Members must be entitled to annual or seasonal membership.
7. No Members shall be allowed to sell their membership rights or any entitlement in terms thereof.
8. The Club must submit to the Commissioner a copy of any amendment to its Constitution or other written instrument under which it is established.
9. The Club shall at no time knowingly be a party to, or knowingly permit itself to be used as part of, any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been, or would have become, payable by any person under the Income Tax Act, or any other Act administered by the Commissioner.
10. Where the Constitution or other written instrument under which the club is established does not comply with the provisions of paragraph (a) of subsection (2), it shall be deemed to so comply if a person responsible in a fiduciary position for the funds and assets of such club furnishes the Commissioner with a written undertaking by such club that such club will be administered in compliance with the provisions of this section.