

Constitution

Fencing New Zealand Incorporated

Contents

1	Definitions and interpretation
2	Details of Fencing New Zealand Incorporated
3	Purpose and powers
4	Members
5	General Meetings
6	Board
7	Board Meetings
8	Officers' Duties
9	Interests
10	Patron
11	Chief Executive
12	Indemnity and insurance
13	Finances
14	Method of contracting
15	Amendments
16	Bylaws
17	Integrity
18	Dispute resolution
19	Liquidation and removal
20	Matters not provided for
21	Transition

1 Definitions and Interpretations

Definitions

- 1.1 In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

Act means the Incorporated Societies Act 2022, including any amendments, and any regulations made under that Act.

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

Application means an application for membership as set out in Clause 4.1.

Board means Fencing NZ's governing body.

Board Member means a member of the Board as set out in Clause 6.3.

Bylaw means any bylaws, policies, regulations and codes of Fencing NZ.

Competitive means Fencing training, events and activities conducted at international, national, regional and local level by Fencing NZ.

Complaint means a person has started a procedure for resolving a dispute in accordance with Clause 18.

Constitution means this Constitution, including any amendments and any schedules to this Constitution.

Contact Details means an electronic address and a telephone number.

Contact Person means a person holding the position of contact person for Fencing NZ being the person the Registrar of Incorporated Societies can contact when needed.

Disciplinary & Appeals Committee means a sub-committee appointed under Clause 18.

Elected Board Member means a Board Member elected under Clauses 6.4 and 6.10.

Fees Default has the meaning specified in Clause 4.18.

Fencing means a sport involving the action of using a sword scientifically as a weapon of offence and defence in friendly combat.

Fencing NZ means Fencing New Zealand Incorporated.

FIE means the Federation Internationale d'Escrime (International Fencing Federation), which is the recognised international organisation governing the sport of Fencing.

A Member is **Financial** if they have paid all their membership fees or other amounts payable to Fencing NZ at the relevant date.

Full Member means an Individual Member as specified in Clause 4.11(a).

General Meeting means an AGM or SGM of Fencing NZ.

High Performance means Fencing training, events and activities conducted at national and international level.

Individual Member has the meaning specified in Clause 4.11.

Intellectual Property means all rights or goodwill in copyright, names, trade- marks (or signs) service marks, devices, logos, designs, patents, and confidential information relating to Fencing NZ or any event, or Fencing activity or programme of or conducted, promoted or administered by Fencing NZ.

Interest Register means the register of interest disclosures made by Officers kept under this Constitution.

Interested has the meaning given to that term in Clause 9.1.

Junior Members means an Individual Member as specified in Clause 4.11(b).

Life Member means an Individual Member as specified in Clause 4.11(c).

Matter (for the purposes of Section 64 of the Act) means:

- (a) Fencing NZ's performance of its activities or exercise of its powers; or

- (b) an arrangement, an agreement or a contract made or entered (or proposed to be made or entered) into by Fencing NZ.

Member has the meaning specified in Clause 4.3.

Member Register means the register of Members kept under this Constitution.

Member Region has the meaning specified in Clause 4.4.

Member Club has the meaning specified in Clause 4.7.

Misconduct has the meaning specified in Clause 18.4(a).

Officer means a member of the Board and any natural person occupying a position in Fencing NZ that allows the person to exercise significant influence over the management or administration of Fencing NZ.

Ordinary Resolution means a resolution passed by a simple majority of votes properly cast.

Patron means a person who has agreed to be associated with Fencing NZ as a patron to show their support for Fencing NZ and to help establish or maintain public credibility of Fencing NZ.

Postal or Electronic Vote means a vote exercised by post, email or such other means of communication as established by the Board, and **Postal or Electronic Voting** has the same meaning.

Purpose means the purpose of Fencing NZ described in Clause 3.1.

President means the Board Member elected as President of Fencing NZ under this Constitution.

Region Board Member means a Board Member appointed by a Member Region under Clause 6.5

Secretary General means the Board Member elected as Secretary General of Fencing NZ under this Constitution.

SGM or **Special General Meeting** means a meeting of the members, other than an AGM, called for a specific purpose or purposes.

Special Resolution means a resolution passed by two thirds of the votes properly cast.

Sport Integrity Commission means the Crown entity empowered under the Integrity Sport and Recreation Act 2023 to, among other functions, be an independent body in New Zealand to implement the World Anti-Doping Code including undertaking testing, investigation and other activities, including educational programmes, to deter and punish for doping.

Sport New Zealand is the Crown agency established under the Sport and Recreation New Zealand Act 2002 and its amendments.

Treasurer means the Board Member elected as Treasurer of Fencing NZ under this Constitution.

Voting Members means Financial Full Members and Life Members.

Working Day has the meaning given to that term under the Legislation Act 2019 and excludes the day observed as the anniversary in the province where the registered office is.

Interpretations

1.2 Unless the context otherwise requires:

- (a) Words referring to the singular include the plural and vice versa.

- (b) Clause headings are for reference only.
- (c) Expressions referring to writing include references to words visibly represented, copied, or reproduced, including by email.
- (d) Reference to a person includes any other entity or association recognised by law and vice versa and any reference to a particular entity includes a reference to that entity's successors.
- (e) A reference to any legislation includes any statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.
- (f) All periods of time or notice exclude the days on which they are given.
- (g) Where this Constitution or any Bylaw of Fencing NZ is inconsistent with a rule, regulation, bylaw or directive of the FIE that has been adopted by Fencing NZ, that rule, regulation, bylaw or directive of FIE prevails to the extent of the inconsistency, unless otherwise required by law.

Notices

1.3 Subject to any other notice provision in this Constitution, any notice or other communication given under this Constitution must be in writing and will be given to:

- (a) a Member to the email address set out in their Contact Details;
- (b) Fencing NZ to secretary@fencing.org.nz or by post to Fencing NZ's registered office set out on the Register of Incorporated Societies.

1.4 A notice is deemed to have been received:

- (a) if given by post, when left at the address of a person or five Business Days after being put in the post; or
- (b) if given by email, upon production of a physical copy of the email detailing the time and the date the email was sent,

provided that any notice or communication received or deemed received after 5pm on a Working Day, or on a day which is not a Working Day, will be deemed not to have been received until the next Working Day.

2. Details of Fencing New Zealand

Name

2.1 The name of the society is Fencing New Zealand Incorporated ("**Fencing NZ**").

Status

2.2 Fencing NZ is the governing body in New Zealand for Fencing.

Registered Office

2.3 The registered office of Fencing NZ is at the place in New Zealand determined by the Board from time to time.

Contact person

- 2.4 The President and Secretary General will be the Contact Persons, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of the Incorporated Societies of any change in a Contact Person or a person's Contact Details.

3. Purpose and powers

Purpose

- 3.1 The purpose of Fencing NZ is to:
- (a) be the national body in New Zealand to promote, develop, foster and administer High Performance, Competitive and recreational Fencing, mainly as an amateur sport, for the health, well-being, benefit and recreation of the general public in New Zealand;
 - (b) support, assist and build the capability of its Members to deliver Fencing throughout New Zealand;
 - (c) promote opportunities and develop programmes and facilities to enable, encourage and enhance the participation, enjoyment and performance of individuals of all ages and abilities in Fencing in New Zealand;
 - (d) lead, promote and enable diversity, equity and inclusion across the whole organisation including governance and participation in Fencing;
 - (e) encourage, promote and regulate Fencing as a sport and activity to be undertaken in a manner which upholds the principles of fair play;
 - (f) establish, promote, develop and co-ordinate international, national, regional and other Fencing competitions and events;
 - (g) publish and enforce the rules of Fencing as enacted by the FIE and adopted or amended by Fencing NZ;
 - (h) protect and enhance the integrity and reputation of Fencing and Fencing NZ by developing and enforcing rules, standards of conduct, ethical behaviour and implementing good governance that fulfil the Purpose of Fencing NZ;
 - (i) establish suitable qualifications and facilitate training for Fencing coaches, referees, technical directors, weapon controllers and other officials in New Zealand;
 - (j) provide a registration scheme for Fencing professionals, leaders, coaches, referees technical directors, weapons controllers and other officials in New Zealand;
 - (k) develop, co-ordinate and manage High Performance programmes for Members of Fencing NZ;
 - (l) give and seek recognition for individuals to obtain awards or public recognition for their services to Fencing and/or Fencing NZ;
 - (m) encourage, and advocate for, the development of facilities for all fencers;
 - (n) act as an advocate for its Members and for the sport of Fencing;
 - (o) work collaboratively and cooperatively with other bodies and organisations concerned with Fencing, and sport and recreation more generally, in New Zealand

- (p) be the member federation representing New Zealand on the FIE and be a member of and/or cooperate with other Fencing bodies internationally; and
- (q) be the national sporting organisation for the sport of Fencing in New Zealand and point of contact for FIE, Commonwealth Fencing Federation and Oceania Fencing Confederation and other international Fencing organisations and contact point for Fencing with Sport New Zealand, High Performance Sport NZ, Women in Sport Aotearoa, the Sport Integrity Commission, New Zealand Olympic Committee and the Sports Tribunal of New Zealand.

Capacity and powers

- 3.2 Fencing NZ has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter into any transaction, subject to this Constitution, the Act, any other legislation, and the general law. This includes, but is not limited to, the power to:
- (a) Make, alter rescind or enforce this Constitution, and any Bylaws for the governance, management and operation of Fencing NZ;
 - (b) Determine its membership including withdrawing, suspending, or terminating Members;
 - (c) Purchase, lease, hire or otherwise acquire, hold, manage, maintain, insure, sell or otherwise deal with property and other rights, privileges and licences;
 - (d) Control and raise money including borrow, invest, loan or advance monies and secure the payment of such money by way of mortgage or charge over all or part of any of its property and enter into guarantees;
 - (e) Sell, mortgage, charge or otherwise dispose of any property as it considers appropriate;
 - (f) Determine, raise and receive money by subscriptions, donations, fees, levies, entry or usage charges, sponsorship, government funding, community and/or trust funding, or otherwise;
 - (g) Produce, develop, create, license and otherwise exploit, use and protect the property of Fencing NZ, including intellectual property;
 - (h) Enter into, manage, and terminate contracts or other arrangements with employees, sponsors, members and other persons and organisations;
 - (i) Make, alter, rescind or enforce rules for Fencing competitions consistent with the rules of the FIE;
 - (j) Determine, implement and enforce disciplinary, disputes and appeal rules, regulations, policies and procedures (including those which impose sanctions and penalties) and establish or appoint any tribunals, committees, or other persons to hear and determine such matters;
 - (k) Organise and manage internal and national Fencing events and programmes, consistent with the rules of the FIE;
 - (l) Select national and other representative Fencing NZ squads, teams, athletes and officials;
 - (m) Assign or delegate functions to and/or enter into agreements with government organisations including Sport New Zealand, the Sports Tribunal, and the Sport Integrity Commission;
 - (n) Delegate powers of Fencing NZ to the Board, any committee, or other person in accordance with this Constitution;

- (o) Establish, maintain and have an interest in corporate or other entities to carry on and conduct all or any part of the affairs of Fencing NZ and for that purpose to utilise any of the assets of or held on behalf of Fencing NZ;
- (p) Purchase or otherwise acquire all or any part of the property, assets and liabilities of any one or more companies, institutions, incorporated societies, or organizations whose activities or purposes are similar to those of Fencing NZ or with which Fencing NZ is authorised to amalgamate or generally for any purpose designed to benefit Fencing in New Zealand; and
- (q) Do any other acts or things that are incidental to or conducive to the attainment of the Purpose of Fencing NZ.

4. Members

Member application

- 4.1 An application to become a Member must be in the form required by Fencing NZ (**Application**). All Applications are decided by the Board (or a delegated person or committee), which may accept or decline an Application in its absolute discretion. A person or entity becomes a Member when their Application has been accepted and they have paid the membership fees, if applicable, and satisfied any other preconditions set by the Board or prescribed in Bylaws.

Member consent

- 4.2 A person or entity consents to become a Member by submitting an Application to Fencing NZ, unless otherwise specified in this Constitution. In the case of a Junior Member, at least one parent or legal guardian consents to the membership.

Member categories

- 4.3 The Members of Fencing NZ are:
- (a) Member Regions;
 - (b) Member Clubs;
 - (c) Individual Members; and
 - (d) any other categories of member as the Board determines.

Member Regions

- 4.4 The number of Member Regions, and the boundaries of each Member Region may be amended by the Board with the approval of an Ordinary Resolution of Voting Members. Subject to Clause 21.5, on adoption of this Constitution, the following are the Member Regions of Fencing NZ:
- (a) Fencing North, which shall include the portion of the North Island north of the 39th parallel;
 - (b) Fencing Central, which shall include the balance of the North Island south of the 39th parallel;
 - (c) Fencing Mid South, which shall include the portion of the South Island north of the Waitaki River; and
 - (d) Fencing South, which shall include the balance of the South Island south of the Waitaki River.

Responsibilities and obligations of Member Regions

- 4.5 The responsibility of Member Regions is to administer, promote, and develop Fencing in their assigned regions on behalf of Fencing NZ.
- 4.6 In addition to the obligations as a Member under Clause 4.15, Member Regions will:
- (a) administer, promote and develop Fencing in accordance with the purposes of Fencing NZ and this Constitution;
 - (b) be an incorporated society;
 - (c) have as its members Member Clubs and Individual Members and other members (which may include clubs, schools, fencers, officials or other persons or organisations) it considers appropriate, provided that such membership is consistent with this Constitution;
 - (d) maintain a register of members and, on request, provide Fencing NZ with full access to that register, in compliance with privacy law;
 - (e) have a board or regional executive (**Member Region Board**) comprising a minimum of 3 people, including a president elected by Voting Members residing in that Member Region at a general meeting and any other representatives as the Member Region may decide;
 - (f) ensure its constitution is not inconsistent with the Constitution and provide Fencing NZ with a copy of its constitution and all proposed amendments to it. The Board may require a Member Region to amend its constitution if it, or any proposed amendment, is inconsistent or in conflict with, this Constitution or any Bylaws;
 - (g) be responsible to observe and act in all respects in accordance with this Constitution and Fencing NZ requirements;
 - (h) comply with any written agreement entered into with Fencing NZ, subject to Fencing NZ also complying with any such agreement;
 - (i) provide Fencing NZ with information, including financial information, relating to its operation that is necessary to fulfil its obligation to Fencing NZ as permitted by law and as by the Board;
 - (j) act in good faith to Fencing NZ and the Members to ensure the maintenance and enhancement of Fencing in New Zealand for the collective and mutual benefit of Fencing NZ and the Members;
 - (k) not knowingly do anything that might adversely affect the strategies, standards, quality and reputation of Fencing NZ and/or Fencing in New Zealand;
 - (l) use and have access to resources, programmes, and the intellectual property of Fencing NZ in accordance with terms agreed by the Board;
 - (m) encourage its members to participate in the events and activities of Fencing NZ provided the members are eligible for, and comply with, the terms and conditions of such activities and events;
 - (n) appoint a Region Board Member from among their Member Region Board members in accordance with Clause 6.5;
 - (o) have in its constitution clauses stating that on a deregistration or liquidation of the Member Region, any surplus assets of the Member Region must be disposed of to Fencing NZ, provided that Fencing NZ will accept such assets, to hold and use for the benefit of Fencing in the region associated with that Member Region.

Member Clubs

- 4.7 An incorporated entity (**Incorporated Entity**) or an education provider that is subject to the Education and Training Act 2020 (**Education Provider**) may apply to be a Member Club by making an Application under Clause 4.1.
- 4.8 In addition to the obligations as a Member under Clause 4.15, each Member Club will:
- (a) administer, promote, and develop the sport in the Member Club in accordance with the Purposes, this Constitution and any Bylaws;
 - (b) abide by the Constitution and any Bylaws;
 - (c) have, as its members, Individual Members, and other members it considers appropriate, provided that such membership is consistent with this Constitution;
 - (d) if it is an Incorporated Entity, maintain its registered status as an incorporated entity;
 - (e) if it is an Incorporated Entity, ensure its constitution is not inconsistent with this Constitution and provide Fencing NZ with a copy of its constitution and all proposed amendments to it. The Board may require a Member Club to amend its constitution if it, or any proposed amendment, is inconsistent with or in conflict with, this Constitution, any Bylaws or the constitution of its Member Region;
 - (f) if it is an Education Provider, continue to be subject to the Education and Training Act 2020;
 - (g) be a member of its Member Region;
 - (h) if it is an Incorporated Entity, have in its constitution clauses stating that it is a condition of membership of the Member Club that its own individual members are also members of its Member Region and Fencing NZ;
 - (i) maintain an updated register of members and, on request, provide Fencing NZ with full access to that register, in compliance with the privacy laws;
 - (j) act in good faith with loyalty to Fencing NZ to ensure the maintenance and enhancement of Fencing NZ and Fencing, and its reputation, and to do so for the collective and mutual benefit of the Members and Fencing.

Individual Members

- 4.9 Any person who is a member of a Member Club(s) or Member Region will also be an Individual Member of Fencing NZ.
- 4.10 Except in the case of Life Members, a person may apply to be an Individual Member through the Member Region where they reside in the case where they do not have a Member Club, or through Fencing NZ directly when they reside outside New Zealand.
- 4.11 The categories of Individual Membership are:
- (a) **Full Member:** Individuals who are 16 years of age or older as at 1 January of the year of membership and who pay the membership fee to Fencing NZ.
 - (b) **Junior Members:** Individuals under the age of 16 years as at 1 January of the year of membership who pay a membership fee to Fencing NZ.

- (c) **Life Member:** Life Membership may be granted in recognition and appreciation of outstanding service by an individual to Fencing NZ.

Rights of Voting Members

4.12 Voting Members have the right to:

- (a) speak and vote on questions placed for voting at General Meetings (including AGMs and SGMs);
- (b) nominate, second or vote for candidates for election as Board Members;
- (c) submit resolutions and items for discussion and consideration at General Meetings;
- (d) request the Secretary-General to call a SGM in accordance with Clause 5.11.

Life Members

- 4.13 Any Voting Member may nominate an individual to become a Life Member by giving notice to the Board setting out the grounds for the nomination. The Board must then determine whether the nomination should be forwarded to a General Meeting for determination by the Voting Members. A person may only be elected as a Life Member by Ordinary Resolution at a General Meeting. A person consents to becoming a Life Member on acceptance of their life membership.
- 4.14 Life Members have such rights and benefits as determined by the Board and shall have voting rights.

Member rights and obligations

4.15 All Members agree that they:

- (a) are bound by the Constitution including any Bylaw enacted under the Constitution and by the FIE's constitution, rules, procedures and policies;
- (b) must comply with any obligations resulting from any agreement between Fencing NZ and another entity;
- (c) in order to receive or continue to receive entitlements, must meet all the requirements of membership set out in this Constitution and the Bylaws or as otherwise decided by the Board, including payment of any membership or other fees within the required time period;
- (d) if they fail to comply with sub-Clause (c) the Board may terminate their membership;
- (e) must act in good faith to Fencing NZ and not knowingly do anything that would adversely affect the reputation of, or strategies and standards set by, Fencing NZ, or affect the reputation, standard or quality of Fencing within or outside New Zealand;
- (f) have the rights and privileges provided under this Constitution and set out in any Bylaw for that category of membership; and
- (g) remain a Member of Fencing NZ until their membership ceases under Clause 4.17.

4.16 Any Member can attend any General Meeting.

Termination of Membership

4.17 A Member will cease to be a Member:

- (a) if an individual, on death, or a body corporate on liquidation or de-registration, or in the case of an Education Provider, on failing to be to be subject to the Education and Training Act 2020;

- (b) if their membership is terminated following a Fees Default under Clause 4.18;
- (c) if their membership is terminated following a dispute resolution process or such other process set out or referred to in this Constitution, including in respect of which the Disciplinary and Appeals Committee decides to terminate the Member;
- (d) if an Individual Member or a Member Club, if their membership with their Member Region is terminated for any reason; or
- (e) with immediate effect by giving written notice of their resignation to the Board, except:
 - (i) where any Member owes unpaid fees to Fencing NZ Clause 4.18 will apply instead and resignation will only be effective upon the full payment of the unpaid fees or upon Board waiving the unpaid fees in part or full.
 - (ii) where any Member owes any payment other than unpaid fees to Fencing NZ, the Member's resignation will not be effective until any such payment has been made in full or Board decides to waive any such payment in part or full.
 - (iii) where a Complaint has been or is about to be made against that Member under Clause 18, the Member's resignation will not be effective until a final decision has been made in respect of the Complaint under Clause 18 and any penalty imposed has been complied with.

Fees Default

- 4.18 A Member who fails to pay or delays in paying fees set by the Board under Clause 4.25 will have their membership terminated if they commit a Fees Default as follows:
- (a) Fencing NZ must give the Member written notice specifying the fees due and demanding payment by a due date, being not less than 7 days from the date of the demand.
 - (b) If full payment is not made by the due date, membership will be suspended pending payment, unless Board decides to waive any outstanding fees.
 - (c) If such suspension continues for a further thirty days, the Member will have their membership automatically terminated on the expiry of thirty days, unless Board decides to waive any outstanding fees or sub-Clause (d) applies.
 - (d) Where a Complaint has been or is about to be made against that Member under Clause 18, automatic termination of membership by Fees Default will not be effective until a final decision has been made in respect of the Complaint under Clause 18 and any penalty imposed has been complied with.

Suspension of Member or Officer

- 4.19 The Board may suspend a Member or Officer pending determination of a Complaint under a complaints or disputes procedure set out or referred to in this Constitution where:
- (a) the allegations could constitute serious Misconduct;
 - (b) allowing the Member or Officer to continue in their role could bring reputational damage to Fencing NZ; or
 - (c) the continued involvement of the Member or Officer in activities related to Fencing and/or Fencing NZ would likely cause distress to others.

- 4.20 Any suspension shall be reviewed periodically and shall not exceed the time necessary to determine the matter.

Reinstatement

- 4.21 A Member whose membership has been suspended or terminated may seek reinstatement by Special Resolution of the Board.

Member Register

- 4.22 The Board will ensure an up-to-date Member Register is kept and the register must include:
- (a) each Member's name;
 - (b) each Member's Contact Details;
 - (c) the date each person became a Member.
- 4.23 A Member must provide notice to Fencing NZ of any change to their Contact Details. The Member Register will be updated as soon as practicable after the Board becomes aware of changes to be recorded in the Member Register.
- 4.24 The Board will keep a record of the name of each person who has ceased to be a Member of Fencing NZ within the previous seven years and the date on which they ceased to be a Member.

Membership Fees

- 4.25 The Board may set membership fees payable by the different categories of Members and if it does so, it shall determine the nature and amount of any membership fee or fees payable, including the manner for payment of such fees.

Other Fees

- 4.26 The Board may set any fees for specific purposes in addition to those specified in Clause 4.25 that are payable by Members and other participants for events and activities held by or under the auspices of Fencing NZ.

Annual Membership Fees

- 4.27 Prior to 30 November the Board shall determine the annual fees due for payment by the different membership categories for the next financial year. The annual fees shall become due on 1 January for payment on or before 31 March.

Record of Payment of Fees

- 4.28 The Board shall maintain a register of all fees received by Fencing NZ.

Final Reminder

- 4.29 Should annual membership fees not be paid by 31 March, the Board shall send a final reminder to Members whose fee has not been received stating that the fee is now in arrears and if not received by 30 June they will be deemed to have resigned from Fencing NZ as of 31 December of the previous year.

Reimbursement of Fees Paid

- 4.30 The Board may in exceptional circumstances remit any part of the fees paid by any Member and will ensure that the reasons for decisions on remittances are recorded and retained for public scrutiny.

5. General Meetings

Control of General Meetings

- 5.1 General Meetings shall be presided over by the President if in attendance or in their absence by another Board Member as determined previously by the Board, however the Board may invite any Member or other person as may be arranged prior, to chair the whole or part of a meeting.

Quorum

- 5.2 A quorum for any General Meeting is ten Voting Members personally present and no business shall be transacted at such meeting unless a quorum is present.
- 5.3 If a quorum is not reached within 30 minutes of the scheduled start time of an AGM, the AGM is adjourned to a day, time and place determined by the chairperson of the AGM. If no quorum is achieved at the further AGM, the Voting Members present, in person or through audio, audio visual link or other electronic communication, 15 minutes after the scheduled start time of that further AGM are deemed to constitute a valid quorum.
- 5.4 If within 30 minutes of the appointed time for a SGM a quorum is not present, the meeting shall be dissolved.

AGM

- 5.5 Fencing NZ must hold an AGM once a year at the time, date and place as the Board decides, but not more than 6 months after the balance date of Fencing NZ and not more than 15 months after the previous AGM.
- 5.6 Members must be given at least 60 days' notice of the AGM. Notice to Members of an AGM may be given by posting on the website of Fencing NZ. The notice shall set out:
- (a) the date, time and venue for the AGM;
 - (b) the number of vacancies, if any, of any Elected Board Members for which nominations are sought;
 - (c) the closing date(s) for nominations for any elections, proposed resolutions and other items of business to be submitted to the Secretary General from Voting Members and the Board.

Items of AGM Business

- 5.7 Not less than 30 days before the date set for the AGM, any nominations for any elections, proposed resolutions and other items of business must be received in writing by the Secretary General from Voting Members and the Board.
- 5.8 The following business will be discussed at the AGM:
- (a) Apologies;
 - (b) Confirmation of the minutes of the previous AGM;
 - (c) Matters arising from minutes of the previous AGM;
 - (d) The Board's presentation of the annual report;
 - (e) Presentation of Awards (if appropriate);

- (f) The Board's presentation of the annual financial statements;
- (g) The auditor or reviewer's report to members on the annual financial statements (if any);
- (h) The notice of any disclosures of conflicts of interest made by Officers;
- (i) The election of any Elected Board Members and the announcement of the appointment of any Region Board Members;
- (j) The appointment of an auditor (if required);
- (k) The consideration of any motions proposing to amend this Constitution that have been properly submitted for consideration at the AGM;
- (l) Consideration of any other items of business that have been properly submitted for consideration at the AGM.

AGM Agenda

- 5.9 An agenda containing the business to be discussed at an AGM shall be sent by the Secretary General to the Board and Members by no later than 21 days before the AGM. At the same time the Secretary General shall send the link to the voting form to Voting Members. No additional items of business not on the agenda can be voted on but may be discussed by Ordinary Resolution of the Voting Members present at the meeting.

AGM Notices of Motion

- 5.10 Only notices of motion at an AGM that have been properly submitted for consideration at the AGM may be adopted, with any substantive changes being ruled out of order by the chairperson.

SGM

- 5.11 The Board must call a SGM if it receives a written request stating the purpose of the SGM including any proposed resolution or resolutions from:

- (a) the Board itself; or
- (b) 15 Voting Members.

- 5.12 Members must be given at least 30 days' notice of the SGM, which notice shall include:

- (a) the time, date and venue and/or the manner in which the meeting is to be held;
- (b) the proposed resolution or resolutions that have been properly submitted for consideration.

- 5.13 A SGM may only consider and deal with the business specified in the request for the SGM.

Minutes

- 5.14 Full minutes shall be kept of all General Meetings and made available on request by any Member.

Errors

- 5.15 Any irregularity, error or omission in notices, agendas and relevant papers of General Meetings or the omission to give notice within the required time frame or the omission to give notice as specified in this Constitution, and any other error in the organisation of the meeting shall not invalidate the meeting nor prevent the meeting from considering the business of the meeting provided that:

- (a) the chairperson in their discretion determines that it is still appropriate for the meeting to proceed despite the irregularity, error or omission, and a resolution to proceed is put to the meeting and carried;
- (b) the proposed resolution or resolutions for consideration have been properly submitted.

Attendees

- 5.16 In addition to Board Members, any Member is entitled to and may, at their cost, attend a General Meeting. Without the prior approval of the Board at General Meetings, only Voting Members are entitled to speak. In addition, other persons including employees, contractors and advisors to Fencing NZ may, upon invitation by the Board, attend and speak at General Meetings with the permission of the chairperson of the meeting.

Meeting Procedure

- 5.17 Meetings shall be conducted in accordance with the recognised rules of debate and meeting procedure.

Voting

- 5.18 Each Voting Member is eligible to vote at a General Meeting and is entitled to one vote. Every question submitted to a meeting shall be decided in the first instance on the voices, and in the case of decisions being in doubt, by a show of hands. All Voting Members (except Life Members) must be Financial Members to be eligible to vote. Proxy voting is not permitted at a General Meeting.
- 5.19 Every question submitted to a meeting shall be decided in the first instance on the voices, and in the case of decisions being in doubt, by a show of hands. Unless a secret ballot is demanded by the chairperson, a declaration by the President that a resolution has been carried or not as the case may be, shall be sufficient. If a secret ballot is demanded, it shall be taken in such manner and at such time as the chairperson of the meeting may direct. The demand for a secret ballot may be withdrawn.
- 5.20 An Ordinary Resolution of Voting Members at a General Meeting is sufficient to pass a resolution, except as specified in the Act or this Constitution.
- 5.21 The President shall, in the case of an equality of votes, also have the casting vote.

Resolution passed in lieu of a meeting

- 5.22 A resolution in writing signed or consented to by electronic means by 75% of Voting Members is valid as if it had been passed at a General Meeting provided the requirements under sections 89 to 92 of the Act are complied with. Any resolution may consist of several documents in the same form each signed by one or more Voting Members.

6. Board

Functions and powers

- 6.1 Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution the affairs of Fencing NZ shall be managed by a Board, which will have full responsibility for the management and organisation of Fencing NZ, including:
- (a) Governance responsibility for Fencing NZ, subject to the Constitution, and doing all things that are expressly required to be undertaken by Fencing NZ;

- (b) Using the funds of Fencing NZ as are necessary or proper in payment of costs and expenses in carrying out the Purposes of Fencing NZ;
- (c) Keeping the public and Members of Fencing NZ aware of the Purposes and work of Fencing NZ by all suitable means;
- (d) Investing monies from time to time in such forms of investments as are authorised for investment of monies held in trust by and for Fencing NZ;
- (e) Doing all such lawful acts and things as in the opinion of the Board may be incidental or conducive to the attainment of any projects approved by the Board.

6.2 Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution the Board has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of Fencing NZ, including, but not limited to, the power to:

- (a) Delegate in writing such authority the Board may decide from time to time to any specified Board Member;
- (b) Adopt and regularly review a strategic plan for Fencing NZ, which shall include goals and objectives for Fencing in New Zealand and measures for short and long term success;
- (c) Adopt and regularly monitor and review an annual plan and budget, including a programme for New Zealand national and regional tournaments;
- (d) Make, repeal and amend any Bylaws as it thinks appropriate, provided such Bylaws are not inconsistent with this Constitution, including for the control of any competitions or events under its jurisdiction including conditions of entry outside the FIE's jurisdiction;
- (e) Monitor the performance of Member Regions and, as necessary, request a Member Region to ensure it adheres to the Constitution of Fencing NZ;
- (f) Establish such sub-committees or persons as it considers appropriate to undertake specific duties and to delegate such powers and responsibilities as it considers appropriate;
- (g) Control expenditure and raise any money to assist in fulfilling the purposes of Fencing NZ;
- (h) Approve the criteria and procedures to apply in respect of the appointment of coaches, selectors, managers and other officials of High Performance and related Fencing squads and teams;
- (i) Ensure that Fencing NZ has in place all the necessary internal reporting systems and controls together with the means of monitoring performance and results;
- (j) Open and operate in the name of Fencing NZ such bank accounts as deemed necessary;
- (k) Establish such corporate and other entities to carry on and conduct all or any part of the affairs of Fencing NZ that is considered by the Board to be capable of directly or indirectly benefiting Fencing NZ;
- (l) Engage, contract or otherwise agree to obtain the assistance or advice of any person or organisation for the Board;
- (m) Approve the yearly calendar for international, national and regional High Performance and competitive competitions and events in New Zealand or otherwise;
- (n) Discipline Members in accordance with this Constitution and Bylaws;

- (o) Fill any Casual Vacancy of Elected Board Members;
- (p) Call General Meetings;
- (q) Review its own processes and effectiveness.

Composition of the Board

6.3 The Board shall comprise:

- (a) Five (5) persons being Voting Members elected under Clauses 6.4 and 6.10 (**Elected Board Members**);
- (b) Four (4) persons being Voting Members appointed by their respective Member Region under Clause 6.5 (**Region Board Members**).

Elected Board Members

6.4 The Elected Board Members as provided for in Clause 6.3(a) shall be elected in accordance with Clause 6.10 and comprise:

- (a) One Voting Member as the President for a term of three years and who shall be eligible for re-election for further terms each of three years.
- (b) One Voting Member as the Secretary General for a term of three years and who shall be eligible for re-election for further terms each of three years.
- (c) One Voting Member as the Treasurer for a term of three years and who shall be eligible for re-election for further terms each of three years.
- (d) Two Voting Members for a term of two years and who shall be eligible for re-election for further terms each of two years.

Region Board Members

6.5 Each Member Region will appoint its president to be a Region Board Member under Clause 4.6(n) to hold office until they are replaced by their Member Region Board or they cease to be a board member of their Member Region. If a president of a Member Region declines the appointment, another Member Region Board member will be appointed. Each Member Region will notify the person it will appoint as a Region Board Member to the Secretary General.

Criteria for Board Members

6.6 Every Board Member must, in writing:

- (a) demonstrate an understanding of this Constitution and be experienced and committed to issues relating to Fencing in New Zealand;
- (b) consent to be a Board Member; and
- (c) certify that they are not disqualified from being elected or holding office as a Board Member by this Constitution or under section 47 of the Act.

Ineligibility for Board

6.7 The following persons shall not be eligible for appointment, election, or to remain in office as a Board Member:

- (a) A person who is not a New Zealand resident for at least 6 months in each calendar year.
- (b) A person who is disqualified under section 47 of the Act.
- (c) A person who is involved with, interested in, or otherwise closely connected to a person or activity which, in the Board's opinion, has or may bring Fencing NZ or Fencing into disrepute or which may be prejudicial to the objects or the interests of Fencing NZ and/or Fencing if they were appointed, elected or to remain in office.
- (d) A person who has been removed as a Board Member following a process under this Constitution or any Bylaw.

6.8 If any of the circumstances of Clauses 6.7(a) or 6.7(b) occur to a Board Member, that Board Member shall be deemed to have vacated their office upon the relevant authority making an order or finding against them of any of those circumstances. This Clause does not limit the right to suspend a Board Member under Clause 6.17.

Effective Date

6.9 The term of office for Board Members shall be effective from the date of election or other appointment.

Election of Elected Board Members

6.10 The election of Elected Board Members shall be achieved by ballot with voting counted and announced at the AGM and the process shall be as follows:

- (a) Nominations for candidates for election to the Board must be received by the Secretary General not less than thirty (30) days prior to the AGM.
- (b) Nominations shall be in writing and shall show the names, addresses and signatures of the candidate, proposer and seconder, all of whom must be Voting Members. Nominations may be made for more than one position. Each nomination submitted must be accompanied by brief background notes limited to not more than 200 words on the nominee and specifically, a history of their involvement in Fencing NZ.
- (c) If there is more than one nomination for a position, the Secretary General shall cause a ballot form to be prepared, setting out the names in alphabetical order of the candidates for each position. The ballot form or link to the electronic voting ballot, together with the background notes on candidates, shall be sent to each Financial Member at least 14 days prior to the date of the AGM. The ballot will be conducted in such form that scrutineers shall be able to confirm that each Voting Member has voted no more than once.
- (d) The closing date for ballots must be clearly stated on the ballot notification and form. The President shall appoint two scrutineers who are not themselves candidates for election. The scrutineers shall be given access to the ballot form and shall announce the result of the ballot.
- (e) Each Voting Member shall indicate the name of the candidate or candidates for whom they wish to vote on the ballot paper or electronic voting form. The highest polling candidate or candidates shall be declared elected.
- (f) Should votes be cast for a greater number of persons than there are vacancies, that ballot paper or electronic voting shall be invalid.
- (g) Should any person be elected to a position, any votes for that person for any subsequent positions shall be declared null and void. In determining the result of any ballot, the scrutineers shall have regard only to the votes cast on that particular ballot. The scrutineers shall declare

invalid any vote not received on an official ballot paper or not entered correctly on the electronic voting form.

- (h) At the completion of counting, the scrutineers shall provide the President with the results of the ballot including the numbers of votes recorded for each candidate.

Vacancies on the Board

- 6.11 The Board may act notwithstanding any vacancy in its body until such time as the vacancy is filled.
- 6.12 A Casual Vacancy arises if:
 - (a) a Board Member resigns from office prior to the expiry of their term of office;
 - (b) a Board Member dies;
 - (c) a Board Member is removed under Clause 6.20;
 - (d) a Board Member is absent from more than two successive meetings unless prior leave of absence is granted by the President/chairperson; or
 - (e) any of the circumstances relating to ineligibility apply, or in the case of disrepute that disrepute is determined to have occurred.
- 6.13 If there is a Casual Vacancy on the Board of a Region Board Member, the respective Member Region will appoint a board member of their Member Region to fill the Casual Vacancy in accordance with Clause 6.4.
- 6.14 If there is a Casual Vacancy on the Board of an Elected Board Member, the remaining Board Members may:
 - (a) appoint a person of their choice to fill the Casual Vacancy until the expiry of the term of the person they replace;
 - (b) appoint a person of their choice to fill the Casual Vacancy only until the next AGM, at which a person is elected under Clause 6.10 to fill the remainder of the term of the Casual Vacancy;
 - (c) may leave the Casual Vacancy unfilled until the next AGM, at which a person is elected under Clause 6.10 to fill the remainder of the term of the Casual Vacancy.
- 6.15 In filling a Casual Vacancy the Board shall have regard to its commitment to promote and enable diversity, equity and inclusion across the whole organisation including in its governance and participation arrangements.

Disrepute by Board Member

- 6.16 Without limiting Clause 6.17, if the Board considers, upon reasonable enquiry, that a Board Member may bring or has brought Fencing and/or Fencing NZ into disrepute, the Board shall give the person the right to be heard before making a determination of their eligibility to hold office as a Board Member.

Suspension of a Board Member

- 6.17 Without limiting Clause 4.19, if any Board Member is alleged to have, or is charged with, or is given notice by a relevant authority (including the Board) of a proposal to make an order or finding against that Board Member or any other circumstances arise in relation to a Board Member which are or may be of concern to the Board, the remaining Board Members may, by Special Resolution of the remaining Board

Members, after reasonable enquiry and giving the Board Member concerned the right to be heard, suspend the Board Member from the Board pending determination of such allegation notice or charge.

Removal of Board Member by Board

- 6.18 The Board may, by Special Resolution of the remaining Board Members, remove a Board Member from the Board before the expiry of their term of office if the Board considers the Board Member concerned:
- (a) has seriously breached duties under this Constitution or the Act; or
 - (b) is no longer a suitable person to be a Board Member; or
 - (c) is involved with, interested in, or otherwise closely connected to a person or activity which has or may bring Fencing NZ or Fencing into disrepute or which may be prejudicial to the Purposes or the interests of Fencing NZ and/or Fencing if they remain as a Board Member.

The Board Member who is the subject of the motion is counted for the purpose of reaching a quorum but will not participate in the vote on the motion.

- 6.19 Before considering a motion for removal, the Board Member who is the subject of the motion must be given:
- (a) notice that a Board Meeting is to be held to discuss the motion to remove the Board Member; and
 - (b) adequate time to prepare a response; and
 - (c) the opportunity prior to the Board Meeting to make written submissions; and
 - (d) the opportunity to be heard at the Board Meeting.

Removal of Board Member by Members

- 6.20 The Members present at a SGM called for this purpose may by Special Resolution, remove any Board Member or the Board as a whole, before expiration of their term.
- 6.21 Upon the Secretary General receiving a request for a SGM to remove a Board Member or the Board as a whole, the Secretary General shall send the notice of the SGM to the Board Member concerned or the Board (as the case may be), and any other affected persons specified.
- 6.22 The persons the subject of the motion for removal at the SGM shall be given:
- (a) adequate time to prepare a response; and
 - (b) the opportunity prior to the SGM to make written submissions; and
 - (c) the opportunity to be heard at the SGM.

7. Board Meetings

- 7.1 Board meetings may be called at any time by the President or two Board Members but generally the Board shall meet at regular intervals agreed by the Board. Except to the extent specified in this Constitution, the Board shall regulate its own procedure.

Meetings using Technology

- 7.2 Any one or more Board Members may participate in any meeting of the Board and any vote on any proposed resolution at a meeting of the Board without physically being present. This may occur by telephone, through video conference facilities or by other means of electronic communication (other than email communication) provided that prior notice of the meeting is given to all Board Members and all persons participating in the meeting are able to hear each other effectively and simultaneously. Participation by any Board Member in this manner at a meeting shall constitute the presence of that Board Member at the meeting.

Quorum

- 7.3 The quorum for a Board meeting shall be five Board Members.

Voting

- 7.4 Each Board Member shall have one vote at Board meetings. In the event of equality of votes the President shall have the casting vote. Except for resolutions passed outside of a Board meeting under Clause 7.6, voting at Board meetings shall be by voice, or upon request of any Board Member, by a show of hands or by ballot. Proxy and postal voting are not permitted.
- 7.5 A Board Member appointed by a Member Region who is unable to attend a Board meeting may appoint an alternate to take part in a Board meeting and vote on behalf of that Board Member subject to:
- (a) that Member Region's board agreeing to the alternative nominated;
 - (b) the Secretary General being informed of the alternate at least five Working Days before the Board meeting which the alternate will attend; and
 - (c) on the understanding that the Board Member is under an obligation to make reasonable efforts to attend all Board meetings personally and the use of an alternate should only occur on an occasional basis.

Resolutions

- 7.6 A resolution in writing signed and consented to by email or other forms of visible or other electronic communication by five or more Board Members shall be valid as if it had been passed at a meeting of the Board. Any such resolution may consist of several documents in the same form each signed by one or more Board Members.

Expenses

- 7.7 The Board may, by Ordinary Resolution, reimburse Board Members for their actual and reasonable expenses incurred in the conduct of Fencing NZ's business. Prior to doing so the Board must establish a policy to be applied to the reimbursement of any such expenses which must comply with Clause 13.4.

Duties of Board Members

- 7.8 The duties of each Board Member are to:
- (a) Not disclose information that the Board Member would not otherwise have available other than in their capacity as a Board Member, to any person, or make use of or act on the information except:
 - (i) as agreed by the Board for the purposes of Fencing NZ;
 - (ii) as required by law; or

- (iii) to persons, or for reasons identical to those specified in sections 145(2) and 145(3) of the Companies Act 1993 but read as if references to a director of a company as to references to a board member of an incorporated society;
- (b) Make reasonable efforts to attend all Board Meetings and General Meetings of Fencing NZ;
- (c) Use their best efforts to consult widely with Members and others in the Fencing community to keep abreast of the issues facing them provided that this Clause shall not waive the duty of confidentiality in respect of information disclosed to them as Board Members under sub-Clause (a);
- (d) Participate in an annual review of the Board's performance.

Responsibilities of Specific Board Members

7.9 At a General Meeting, Board Members as provided for in this Constitution shall be elected to undertake particular responsibilities for Fencing NZ including:

- (a) **President:**
 - (i) The President is responsible for being the leader of Fencing NZ, chairing meetings of the Board and General Meetings or appointing a chair to chair meetings of the Board and General Meetings, representing the Board and committees and being the chief spokesperson for Fencing NZ.
 - (ii) The President or their nominee shall have the right to attend any meeting of any Board subcommittee. In the event of the unavailability of the President for any reason, then a person appointed by the Board shall act as the President during the period of unavailability.
- (b) **Secretary General:** The Secretary General will undertake the responsibilities delegated by the Board from time to time for day to day management of the business and affairs of Fencing NZ including:
 - (i) issuing all notices of meetings;
 - (ii) maintaining minutes of all Board and related committee meetings and distributing a copy of all such minutes to each Board Member within twenty-one (21) days of the closing of any such meeting;
 - (iii) conducting correspondence as directed by the Board;
 - (iv) maintaining the Member Register;
 - (v) ensuring that all non-financial declarations required by agencies (both government and private) are prepared and furnished to the relevant agency within the required time frame.
- (c) **Treasurer:** The Treasurer will undertake the responsibilities delegated by the Board from time to time including:
 - (i) keeping such books of accounts as requested by the Board and reporting as required on the financial affairs of Fencing NZ;
 - (ii) ensuring full account of all money received and paid out by Fencing NZ is maintained;
 - (iii) preparing and providing financial statements to satisfy Board expectations;

- (iv) ensuring that all financial declarations required by agencies (both government and private) are prepared and furnished to the relevant agency within the required time frame.

Auditor

- 7.10 Such audit advice as required from time to time may be sought and if appropriate the Board may appoint an Honorary Auditor.

Legal Advisor

- 7.11 Such legal advice as required from time to time may be sought and if appropriate the Board may appoint an Honorary Legal Advisor.

Investment Advisor

- 7.12 When the Board uses the powers conferred on it by Clause 6.1(d) the Board shall seek a review from an independent investment advisor as to the merit of continuing with the arrangements and the risk involved and the Board shall take appropriate action to minimise or discharge any indebtedness indicated to be at risk in the said review.

Committees Appointed By The Board

- 7.13 The Board shall have the power to co-opt or to appoint to any committee, with or without power of voting, any person or persons whose advice or assistance it may consider of special value, whether or not such a person is a member of Fencing NZ.

8. Officers' Duties

- 8.1 An Officer:
- (a) when exercising powers or performing duties as an Officer, must act in good faith and in what the Officer believes to be the best interests of Fencing NZ;
 - (b) must exercise a power as an Officer for a proper purpose;
 - (c) must not act, or agree to Fencing NZ acting, in a manner that contravenes the Act or this Constitution;
 - (d) when exercising powers or performing duties as an Officer, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances, taking into account, but without limitation the nature of Fencing NZ, the nature of the decision and the position of the Officer and the nature of the responsibilities undertaken by them;
 - (e) must not agree to the activities of Fencing NZ being carried on in a manner likely to create a substantial risk of serious loss to Fencing NZ's creditors or cause or allow the activities of Fencing NZ to be carried on in a manner likely to create a substantial risk of serious loss to Fencing NZ's creditors;
 - (f) must not agree to Fencing NZ incurring an obligation unless the Officer believes at that time on reasonable grounds that Fencing NZ will be able to perform the obligation when it is required to do so; and

- (g) when exercising powers or performing duties as an Officer, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - (i) an employee whom the Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (ii) a professional adviser or expert in relation to matters that the officer believes on reasonable grounds to be within the person's professional or expert competence; or
 - (iii) any other Officer or subcommittee of Officers on which the Officer did not serve in relation to matters within the Officer's or subcommittee's designated authority,if the Officer, acts in good faith, makes proper inquiry where the need for inquiry is indicated by the circumstances, and has no knowledge that the reliance is unwarranted.

9. Interests

9.1 An Officer is **Interested** in a Matter if the Officer:

- (a) may obtain a financial benefit from the Matter; or
- (b) is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, sibling, nephew, niece, uncle, aunt, or first cousin of a person who may obtain a financial benefit from the Matter; or
- (c) may have a financial interest in a person to whom the Matter relates; or
- (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the Matter relates,

but an Officer is not interested in a Matter:

- (e) merely because the Officer receives an indemnity, insurance cover, remuneration, or other benefits authorised under the Act; or
- (f) if the Officer's interest is the same or substantially the same as the benefit or interest of all or most other Members of Fencing NZ due to the membership of those Members; or
- (g) if the Officer's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Officer in carrying out their responsibilities under the Act or this Constitution.

9.2 The Board must keep an Interests Register

9.3 An Officer who is Interested in a Matter relating to Fencing NZ must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) to the Board, as soon as practicable after the officer becomes aware that they are interested in the Matter and include it in the Interests Register

9.4 A Board Member who is Interested in a Matter:

- (a) must not vote or take part in a decision of the Board relating to the Matter, unless all non-interested Board Members consent;
- (b) must not sign any document relating to the entry into a transaction or the initiation of the Matter, unless all non-interested Board Members consent;

- (c) must not take part in any Board discussion relating to the Matter or be present at the time of the Board decision, unless all non-interested Board Members consent;
 - (d) may be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered.
- 9.5 Despite Clause 9.4, if 50% or more Board Members are Interested in a Matter, an SGM must be called to consider and determine the Matter.
- 9.6 The Board must notify Members of a failure to comply with section 63 or 64 of the Act, and of any transactions affected, as soon as practicable after becoming aware of the failure in the manner set out in the Regulations.

10. Patron

- 10.1 A Patron may be invited by the Board to be the Patron for such period as deemed necessary or appropriate. The Patron is entitled to attend and speak at General Meetings but has no right to vote.

11. Chief Executive

- 11.1 The Board may engage a Chief Executive.
- 11.2 The Chief Executive is under the direction of the Board and is responsible for the day-to-day management of the affairs of Fencing NZ under this Constitution and the Bylaws and within any delegated authority from the Board.
- 11.3 The Chief Executive may attend Board Meetings on and when required by the Board but has no voting rights.

12. Indemnity and insurance

- 12.1 Fencing NZ may indemnify its current and former Officers, Members and employees as permitted by section 96 of the Act.
- 12.2 With the prior approval of its Board, Fencing NZ may purchase insurance for its current and former Officers, Members and employees as permitted by section 97 of the Act.
- 12.3 Fencing NZ is authorised to indemnify an Officer under section 96 of the Act or effect insurance for an Officer under section 97 of the Act for the following matters:
 - (a) liability (except occurring as a result of their gross negligence or wilful misconduct or criminal liability) for a failure to comply with a duty under sections 54 to 61 of the Act or any other duty imposed on the Officer in their capacity as an Officer; and
 - (b) costs incurred by the Officer for any claim or proceeding relating to that liability.

13. Finances

- 13.1 The funds and property of Fencing NZ are:
 - (a) controlled, invested and disposed of by the Board, subject to this Constitution; and

(b) devoted solely to the promotion of the Purposes.

13.2 Fencing NZ's balance date is 31 December or on the date as the Board decides.

13.3 Fencing NZ's financial statements must be reviewed each year and must be submitted to the AGM. The reviewer will be appointed by the Board.

No personal benefit

13.4 The Officers and Members may not receive any distributions of profit or income from Fencing NZ. This does not prevent Officers or Members:

(a) receiving reimbursement of actual and reasonable expenses incurred, or

(b) entering into any transactions with the organisation for goods or services supplied to or from them, which are at arms' length, relative to what would occur between unrelated parties,

provided no Officer or Member is allowed to influence any such decision made by Fencing NZ in respect of payments or transactions between it and them, their direct family or any associated entity.

14. Method of contracting

14.1 A contract or other enforceable obligation may be entered into by Fencing NZ:

(a) by deed by:

(i) 2 or more Officers; or

(ii) an Officer, or other person or class of persons, whose signature or signatures must be witnessed; or

(b) by agreement by a person acting under Fencing NZ's express or implied authority.

15. Amendments

15.1 This Constitution may only be amended or replaced by Special Resolution at a General Meeting.

15.2 No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals.

15.3 If an amendment to this Constitution would have no more than a minor effect or is to correct errors or makes similar technical alterations, the Board may give notice of the amendment to every Member stating the text of the amendment and the right of Members to object to the amendment. If the Board does not receive any objections from Members within 20 Working Days after the date on which the notice is sent, or any longer period of time that the Board decides, the Board may make that amendment. If it does receive an objection, the Board may not make the amendment.

16. Bylaws

16.1 The Board may make and amend Bylaws for the conduct and control of Fencing NZ's activities and codes of conduct applicable to Members. Any Bylaw must be consistent with the Purposes, the Act and any other laws. All Bylaws are binding on Fencing NZ and the Members.

- 16.2 The making, amendment, revocation, or replacement of a Bylaw is not an amendment of this Constitution.

17. Integrity

Anti-doping

- 17.1 Fencing NZ adopts the Sports Anti-Doping Rules (**SADR**) made by the Sport Integrity Commission under the Integrity Sport and Recreation Act 2023, and any amendments to or replacements of SADR, as its Bylaws on anti-doping. All Members:
- (a) agree to the application of SADR; and
 - (b) must require in their constitutions that their members agree to the application of SADR.

Integrity Code

- 17.2 In this Clause 17, **Integrity Code** means the Code of Integrity for Sport and Recreation issued by the Sport Integrity Commission under section 19 of the Integrity Sport and Recreation Act 2023.
- 17.3 If Fencing NZ adopts the Integrity Code, the Members of Fencing NZ are bound by the Integrity Code.
- 17.4 All Member Regions must include in their constitution that if Fencing NZ adopts the Integrity Code the members of the Member Regions agree to the application of the Integrity Code to them and agree to be bound by it and must require that its members include a similar clause in their constitutions.

18. Dispute resolution

Scope and Jurisdiction

- 18.1 The following can make a Complaint (each a **Complainant**):
- (a) Members;
 - (b) Officers;
 - (c) Fencing NZ; and
 - (d) any other person or entity with a legitimate interest in the sport of Fencing, subject to the provisions of this Constitution.
- 18.2 Complaints may only be made against the following:
- (a) Members;
 - (b) Officers;
 - (c) Fencing NZ;
 - (d) the Board;
 - (e) any Committee appointed by the Board; and
 - (f) any person or entity who has expressly or implicitly agreed to comply with this Constitution or any Bylaws.

18.3 Complaints may be made regarding:

- (a) Misconduct by a Member or Officer;
- (b) a Member or Officer's breach, or likely breach, of a duty under this Constitution, any Bylaw or the Act;
- (c) Fencing NZ's breach, or likely breach, of a duty under this Constitution, the Bylaws or the Act;
- (d) damage to a Member's rights or interests, or to Members' rights or interests generally.

Definitions

18.4 For the purposes of this Clause 18:

- (a) **"Misconduct"** means conduct that would be regarded by reasonable Members as:
 - (i) negatively affecting the health, safety, or wellbeing of Members;
 - (ii) reflecting negatively on the sport of Fencing; or
 - (iii) likely to bring reputational damage to Fencing NZ or the sport of Fencing.
- (b) **"Complaints Assessment Committee"** means a committee of at least three persons appointed by the National Complaints Manager (or the Board if the National Complaints Manager is unable to act) from the Welfare Panel for each Complaint to assess, triage, and direct the appropriate handling of that Complaint.
- (c) **"Disciplinary and Appeals Committee"** means a committee of at least three persons recommended by the National Complaints Manager and approved by the President, or if the President is unable to act by the Secretary General, appointed for each matter to determine Complaints and hear appeals as specified in this Constitution and the Bylaws.
- (d) **"National Complaints Manager"** means a person appointed by the Board with responsibility for ensuring Complaints and appeals are properly processed according to this Constitution and the Bylaws, including appointing Complaints Assessment Committee members and recommending appropriate Disputes and Appeals Committee members for each matter.
- (e) **"Complaints Procedure"** means the procedure for resolving a Complaint set out in Clauses 18.10 to 18.28.
- (f) **"Complaint Framework"** means the Fencing NZ Multi-Level Complaint Management Framework adopted by the Board which establishes a coordinated approach for handling complaints and disputes across all levels of the Fencing NZ membership structure
- (g) **"Welfare Panel"** means a panel of no fewer than six persons appointed by the Board.

Application of other legislation to a Complaint

18.5 The Complaints Procedure will not apply to a Complaint to the extent that other legislation requires the Complaint to be dealt with in a different way. The Complaints Procedure will have no effect to the extent that it contravenes, or is inconsistent with, that legislation.

Application of other procedures

18.6 If the Complaint is dealt with by a separate procedure under the Complaint Framework, this Constitution or in a Bylaw (**Other Procedure**), that Other Procedure applies to the exclusion of the Complaints Procedure set out in this Constitution.

- 18.7 If any part of an Other Procedure is inconsistent with the rules of natural justice, that part will not apply, but the remainder of the Other Procedure will continue to apply together with adjustments as determined by the Regional Board in its discretion so that the Other Procedure is consistent with the rules of natural justice.
- 18.8 If the conduct, incident, event or issue does not meet the criteria of a Complaint under Clause 18.3 and is managed by any Other Procedure, that Other Procedure applies to the exclusion of the Complaints Procedure.

Application of the Complaints Procedure

- 18.9 If the Complaint is not required by other legislation to be dealt with in a different way and it is not dealt with by any Other Procedure, the Complaints Procedure applies to the Complaint.

Process

- 18.10 A person may make a Complaint by giving written notice to the Board or to the National Complaints Manager setting out:
- (a) the allegation to which the dispute relates and who the allegation is against; and
 - (b) any other information reasonably required by Fencing NZ.
- 18.11 Fencing NZ may make a Complaint involving an allegation against a Member or an Officer by giving notice to the person concerned setting out the allegation to which the Dispute relates.
- 18.12 The information given must be enough to ensure a person against whom the Complaint is made (**Respondent**) is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.
- 18.13 Despite the contents of this Clause 18, the National Complaints Manager or Complaints Assessment Committee may decide not to proceed with a matter if:
- (a) the Complaint is trivial; or
 - (b) the Complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct; or
 - (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act; or
 - (iii) any material damage to a Member's rights or interests or Members' rights or interests generally; or
 - (c) the Complaint appears to be without foundation or there is no apparent evidence to support it; or
 - (d) the person who makes the Complaint has an insignificant interest in the matter; or
 - (e) the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under this Constitution; or
 - (f) there has been an undue delay in making the Complaint; or
 - (g) the Complaint is required to be dealt with by another Member pursuant to the Complaint Framework.

- 18.14 Unless otherwise provided, the National Complaints Manager must as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure the Complaint is investigated and determined. Complaints must be dealt with in a fair, efficient, and effective manner. If the National Complaints Manager is unable to act, the Board will appoint another person. The Complaints Assessment Committee may be requested to assess, triage, and direct the appropriate handling of a Complaint.
- 18.15 The Complaints Assessment Committee may refer a Complaint to:
- (a) the Disciplinary and Appeals Committee appointed by the National Complaints Manager to hear and resolve Disputes; or
 - (b) a subcommittee or an external person to investigate and report; or
 - (c) any type of consensual dispute resolution with the consent of all parties to the Complaint.
- 18.16 Any decision maker shall observe the principles of natural justice, including:
- (a) The Complainant has a right to be heard before the Complaint is resolved or any outcome is determined. If Fencing NZ is the Complainant, Fencing NZ has a right to be heard before the Complaint is resolved or any outcome is determined, and a Board Member may exercise that right on behalf of Fencing NZ.
 - (b) A Complainant must be taken to have been given the right if:
 - (i) the Complainant has a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and
 - (ii) an oral hearing is held before the decision maker if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (iii) the Complainant's written statement or submission, if any, are considered by the decision maker.
 - (c) The Respondent has a right to be heard before the Complaint is resolved or any outcome is determined. If the Respondent is Fencing NZ, a Board Member may exercise the right on behalf of Fencing NZ. A Respondent must be taken to have been given the right if:
 - (i) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and
 - (ii) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing, if one is to be held; and
 - (iii) an oral hearing is held before the decision maker if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (iv) the Respondent's written statement or submissions, if any, are considered by the Disciplinary and Appeals Committee.
- 18.17 The Disciplinary and Appeals Committee shall issue written decisions with reasons and such decisions shall be provided to all parties to the Complaint and the Board.

Appeals to the Sports Tribunal

- 18.18 The following parties have a right to appeal decisions of the Disciplinary and Appeals Committee to the Sports Tribunal:

- (a) The Respondent;
- (b) The Complainant;
- (c) Fencing NZ.

Grounds for Appeal

18.19 An appeal may be made to the Sports Tribunal on the following grounds:

- (a) in respect of a decision relation to the selection or non-selection of the appellant as a New Zealand representative in Fencing or to a New Zealand representative team or squad, the following additional grounds apply:
 - (i) the applicable selection criteria have not been properly followed and/or implemented;
 - (ii) the person seeking selection was not afforded a reasonable opportunity by Fencing NZ to satisfy the applicable selection criteria;
 - (iii) the selection decision was affected by actual bias;
 - (iv) there was no material on which the selection decision could reasonably be based;
- (b) the decision maker or decision-making body based its decision on erroneous or irrelevant information that was material to the decision reached;
- (c) substantial new evidence became available after the decision, which is being appealed, was made;
- (d) the decision maker or decision-making body acted outside of its powers and/or jurisdiction;
- (e) natural justice was denied;
- (f) in the case of a decision relating to Misconduct, the penalty was either excessive or inappropriate;
- (g) the decision maker or decision-making body made an error of law;
- (h) the Fencing NZ Board has not implemented the Disciplinary and Appeals Committee's decision.

Process

- 18.20 Appeals must be lodged with the Sports Tribunal within 30 days from the date the decision was provided.
- 18.21 The decision of the Disciplinary and Appeals Committee remains in effect unless suspended, reversed, or modified by the Sports Tribunal.
- 18.22 Appeals shall be conducted in accordance with the rules of the Sports Tribunal.

Confidentiality

18.23 All information gathered in relation to a Complaint shall be kept confidential except:

- (a) As authorised in writing by the parties;
- (b) As required by law; or
- (c) As necessary to deal effectively with the Complaint.

- 18.24 The Board shall establish secure information management systems for Complaints.
- 18.25 The Disciplinary and Appeals Committee, and any other decision maker, may direct that its decisions be kept confidential in whole or in part.

Complaint Framework

- 18.26 Clause 18 is to be read in conjunction with the Complaint Framework. Where any inconsistency exists between this Constitution and the Complaint Framework except to the extent that clause 18.7 applies, the provisions of the Complaint Framework will prevail.
- 18.27 A Complaint may be escalated to Fencing NZ by a Member where permitted or required under the Complaint Framework.
- 18.28 A Complaint may be de-escalated to a Member Region or a Member Club where permitted or required under the Complaint Framework.

19. Liquidation and removal

- 19.1 The Board must give notice to all Members at least 20 Working Days of a proposed motion:
- (a) to appoint a liquidator;
 - (b) to remove Fencing NZ from the Register of Incorporated Societies; or
 - (c) for the distribution of Fencing NZ's surplus assets.
- 19.2 The notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.
- 19.3 Any resolution for a motion set out in Clauses 19.1(a) to (c) must be passed by a Special Resolution of Members.
- 19.4 The surplus assets of Fencing NZ after the payment of all costs, debts and liabilities, shall be given or transferred to some other not-for-profit organisation(s) having purposes similar to the objects of Fencing NZ or to some other not-for-profit sports organisation with an interest in Fencing.

20. Matters not provided for

- 20.1 If any matter arises that, in the opinion of the Board, is not provided for in this Constitution or any Bylaws, or if any dispute arises out of the interpretation of this Constitution or the Bylaws, the matter or dispute will be determined by the Board.

21. Transition

- 21.1 This Clause 21 applies to facilitate transition of Fencing NZ from the previous constitution to this Constitution. If this Clause is inconsistent with any other Clause in this Constitution, this Clause applies to the extent of the inconsistency and the other Clause will not.
- 21.2 Subject to the Act, the Board may amend any requirement for and/or the date by which this Constitution requires anything to be done. This Clause applies for a period of 18 months and is solely to enable

flexibility in the transition of Fencing NZ from the previous constitution to this Constitution and to correct any unintended consequences occurring through different wording being used.

Transition of Board Members

- 21.3 Board Members will continue until their term under the previous constitution ends, unless they become ineligible to remain in office under Clause 6.7 or resign.

Transition of Individual Members

- 21.4 Subject to this Constitution, every Individual Member who was a member of Fencing NZ and recorded on the Member Register immediately prior to the adoption this Constitution, continues as a Member.

Transition of Member Regions and Member Clubs

- 21.5 Subject to this Constitution, Regions will become Member Regions on their re-registration under the Act.
- 21.6 Following adoption of this Constitution and prior to the start of the next membership year, all clubs that were recognised as members of Fencing NZ under the previous constitution are required to renew their membership as a Member Club under Clause 4.

Transition of Bylaws

- 21.7 All bylaws, policies, regulations of Fencing NZ which were in force immediately prior to this Constitution or any previous constitution coming into force continue in force, until such time as they are revoked by the Board. If any of those bylaws, policies, regulations are inconsistent with this Constitution (whether in whole or in part), the Board will determine the matter as it sees fit, to the extent of any such inconsistency.