

# **Western Australian Tennis Association (INC)**

## **Constitution - 2021**

**ADOPTED AT THE SPECIAL GENERAL MEETING HELD ON 20 JULY 2021**



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# THE WESTERN AUSTRALIAN TENNIS ASSOCIATION INCORPORATED

## CONSTITUTION

### 1. NAME

The Association shall be called Western Australian Tennis Association Inc. trading as Tennis West (**Tennis West**).

### 2. DEFINITIONS

2.1 The Association means Tennis West.

2.2 The Members refers to those bodies described in Article 5.1.

2.3 In this Constitution:

**"Act"** means the *Associations Incorporation Act 2015* (WA) as amended;

**"Affiliated Bodies"** means:

- (a) Metropolitan Affiliated Clubs;
- (b) Country Affiliated Clubs;
- (c) Associate Bodies;
- (d) Seniors Association; and
- (e) Tennis Related Bodies;

**"Affiliated Club"** means any tennis club which is admitted to membership of the Association;

**"Alternate delegate"** is a committee member of the Ordinary Member, appointed in place of the president or secretary only for the purposes to attend and vote on behalf of the Ordinary Member at a General Meeting of the Association. They must be appointed and notified in accordance with any processes determined by the Board from time to time.

**"Appeals Committee"** means a committee constituted as contemplated in Article 9;

**"Appointed Director"** means a person appointed to the Board pursuant to Article 12.1(b);

**"Associate Body"** means any organisation or body formed for the purpose of furthering or assisting in the development of Tennis (other than the Senior's Association or organisations or bodies for which the primary purpose is the playing of Tennis) which has applied for and been granted membership as an Associate Body by the Board and paid the appropriate affiliation fee;

**"Association"** means the association referred to in Article 1;

**“attend/attendance”** in relation to attendance at General Meetings, meetings of the Board or subcommittees, means attendance either in person or via a form of effective, instantaneous and simultaneous communication, including but not limited to, telephone or video conferencing.

**"Auditor"** means the person appointed as the auditor of the Association;

**"Board"** means that group as described in Article 12.1 or contemplated in Article 34.

**"By-Laws"** means by-laws of the Association created or adapted using the procedures outlined in the Constitution;

**"Chief Executive Officer"** means the person appointed as such pursuant to Article 13.3;

**"Club Member"** means an individual person who is a member of any Affiliated Body except a Tennis Related Body;

**"Constitution"** means this constitution;

**"Country Affiliated Club"** means an Affiliated Club situated outside the boundaries of the Perth Metropolitan Region (defined by the Sport and Recreation Division of the Western Australian Government), from time to time;

**"Country Zone"** means a geographical territory situated outside the boundaries of the Perth Metropolitan Region (defined by the Sport and Recreation Division of the Western Australian Government), determined from time to time by the board and shall include the Affiliated Clubs specified by the Board in that determination;

**"Current Registered Tennis User"** means a Registered Tennis User who has used the Affiliated Club within the last 12 months.

**"Delegate"** means a person appointed, subject to this Constitution, as a delegate to the General Meeting by a Member;

**"Director"** means an Appointed Director or an Elected Director or a Director contemplated in Article 34;

**"Elected Directors"** means the person elected to the Board pursuant to Article 12.1(a);

**"Financial Year"** shall run from the 1<sup>st</sup> day of July to the following 30<sup>th</sup> day of June;

**"General Meeting"** includes –

(a) The Annual General Meeting (**"AGM"**); and

(b) Any special general meeting;

**"Life Member"** means any person elected as contemplated in Article 5.4;

**"Management Committee"** has the meaning given in the *Associations Incorporation Act 2015* (WA), or if the Affiliated Body is not an incorporated association under that Act, then the group of persons who have the authority to manage and make decisions regarding the affairs of the Affiliated Body;

**"Member"** means a body or person referred to in Article 5.1;

**"Member Forum"** means a forum convened by the Chief Executive Officer as contemplated in Article 21.5;

**"Member Protection Policy"** means the policy of that name adopted by Tennis Australia from time to time and applicable to the Association pursuant to Article 33;

**“Metropolitan Affiliated Club”** means an Affiliated Club situated within the boundary which applies to the Perth Metropolitan Region (defined by the Sport and Recreation Division of the Western Australian Government), from time to time;

**“Non-playing Club Member”** means a Club Member who does not have regular playing rights associated with membership (including but not limited to a social membership).

**“Objects”** means the objects of the Association in Article 4;

**“Office Bearer”** means;

(a) The President; and

(b) The Vice-President;

**“Ordinary Member”** has the meaning given in Article 5.2(a)(i);

**“present/presence”** in relation to being present at a General Meeting, meeting of the Board or subcommittees, means to be present either in person or via a form of effective, instantaneous and simultaneous communication, including but not limited to, telephone or video conferencing.

**“President”** means the President of the Association appointed from time to time pursuant to Article 12.2(a)(i);

**“Registered Tennis User”** means a person whose name appears in the register of users of an Affiliated Club;

**“Secretary”** means the Secretary appointed from time to time pursuant to Article 13.1;

**“Seniors Association”** means the Seniors Tennis Association of Western Australia (Inc.) as renamed from time to time;

**“Special Resolution”** means a special resolution passed in accordance with the Act;

**“subcommittee”** means a subcommittee of the Association;

**“Tennis”** means the sport of tennis;

**“Tennis Australia”** means Tennis Australia- Limited, ABN 61 006 281 125, of Melbourne-Park, Batman Avenue, Melbourne, Victoria, Australia trading as Tennis Australia;

**“Tennis Related Body”** means an incorporated or unincorporated entity which has one or more objects consistent with those of the Association but which does not otherwise qualify for membership of the Association and which has applied for and been granted membership as a Tennis Related Body by the Board and paid the appropriate affiliation fee. A Tennis Related Body may include, but is not limited to, schools and local councils;

**“Vice-President”** means the Vice-President of the Association appointed from time to time pursuant to Article 12.2(a)(ii); and

**“Zone”** means, for each Country Zone, the Affiliated Clubs within that Country Zone.

2.4 In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function *is* a power, authority or duty, a reference to the exercise of the power or authority or performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) a word which suggests one gender includes the other gender;
- (e) references to persons includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
- (f) if a word or phrase is defined, then any other grammatical form of that word or phrase has a corresponding meaning;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction);
- (h) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing; and
- (i) a reference to "writing" shall, unless the contrary intention appears, be construed as including references to printing, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

2.5 If any provision of this Constitution or any phrase in it is invalid or unenforceable in any jurisdiction, the phrase or provision must be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be read down it shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution or affecting the validity or enforceability of that provision in any other jurisdiction.

### **3. INTERPRETATION**

3.1 The interpretation of this Constitution and any By-Laws made under it shall be at the determination of the Board and in accordance with the Act and Article 2.

### **4. OBJECTS**

The objects of the Association shall be:

4.1 To foster, administer and develop the game of Tennis in Western Australia;

- 4.2 To sanction, control and promote the holding of appropriate Tennis events;
- 4.3 To affiliate with Tennis Australia Limited or any other body of similar nature formed for the purpose of promoting and controlling Tennis;
- 4.4 To devote the reserves, profit and other income of the Association for the promotion and betterment of Tennis; and
- 4.5 To do all such other acts, matters and things as are incidental and conducive to the above objects.

## **5. MEMBERSHIP**

### **5.1 CLASSES OF MEMBERS**

The Members of the Association shall consist of:

- (a) Ordinary Members;
- (b) Associate Bodies;
- (c) Seniors Association;
- (d) Life Members; and
- (e) Tennis Related Bodies.

### **5.2 MEMBERS**

- (a) Ordinary Members:
  - (i) Ordinary Members may only be Metropolitan Affiliated Clubs or Country Affiliated Clubs within Western Australia that have been approved by the Board to become an Affiliated Body pursuant to Article 7 and that have paid the appropriate affiliation fee as determined by the Board from time to time.
  - (ii) Ordinary members shall be entitled to exercise the number of votes at General Meetings allowed in Article 5.3.
- (b) Associate Bodies shall be entitled to each exercise one vote at General Meetings and for this purpose may appoint its president or secretary as its Delegate to act and/or vote on its behalf by notifying the Association of the name of such Delegate and the duration of the appointment in writing.
- (c) The Seniors Association shall be entitled to exercise one vote at General Meetings and for this purpose may appoint its president or secretary as its Delegate to act and/or vote on its behalf by notifying the Association of the name of such Delegate and the duration of the appointment in writing.
- (d) Life Members shall have the right to be present at General Meetings, but shall have no voting or debating rights.
- (e) Tennis Related Bodies shall have the right to appoint a representative as its Delegate to be present at General Meetings, but shall have no voting or debating rights. The Tennis Related Body must notify the Association of the name of such representative in writing.



### 5.3 ORDINARY MEMBERS' VOTING RIGHTS

- (a) Subject to Article 5.3(b), Ordinary Members shall be entitled to exercise the following number of votes at General Meetings:

- (i) One vote for each Ordinary Member; and
- (ii) One additional vote for every 50 Club Members (excluding Non-Playing Club Members) of the Ordinary Member (as at the 30 June falling within the 12 months preceding the General Meeting).

[WORKED EXAMPLES:

- an Ordinary Member with 30 Club Members (excluding Non-Playing Club Members) as at 30 June 2019 would be entitled to exercise one vote at the 2019 Annual General Meeting;
- an Ordinary Member with 82 Club Members (excluding Non-Playing Club Members) as at 30 June 2019 would be entitled to exercise two votes at the 2019 Annual General Meeting;
- an Ordinary Member with 759 Club Members (excluding Non-Playing Club Members) as at 30 June 2019 would be entitled to exercise 16 votes at the 2019 Annual General Meeting.]

- (b) Any Ordinary Member which has not completed the Affiliation Renewal process pursuant to Article 6.2, or has outstanding fees, shall not be entitled to vote at a General Meeting.
- (c) For the purpose of attending and voting at General Meetings, the president or secretary of an Ordinary Member is authorised to be the Delegate of the relevant Ordinary Member. The Ordinary Member must notify the Chief Executive Officer of the appointment of its Delegate as required by the Board from time to time. The appointment of the president or secretary of the Ordinary Member as a Delegate is a standing appointment and will be updated when the Association is advised of a change to such offices.

In circumstances where the president or secretary of an Ordinary Member are unable to attend a General Meeting for whatever reason, the Ordinary Member can appoint a Delegate in place of the president or secretary (known as an **Alternate Delegate**) to attend and vote on behalf of the Ordinary Member at that General Meeting of the Association. Such Alternate Delegate is to be appointed and notified in accordance with any processes determined by the Board from time to time. An Alternate Delegate must be a committee member of the Ordinary Member. For the avoidance of doubt, a nomination of an Alternate Delegate is effective only for the purposes of the General Meeting for which the Alternate Delegate is nominated.

### 5.4 LIFE MEMBERS

- (a) As a reward for services rendered to the Association by a natural person, the Association may confer on such person the courtesy title of Life Member of the Association.
- (b) The number of Life Members shall at no time exceed twenty.
- (c) The nomination of a person for Life Membership shall be in writing signed by a proposer and seconder both of whom shall be Delegates or Directors and shall

be lodged with the Chief Executive Officer who shall refer same by way of resolution to the next General Meeting.

- (d) A person may only be elected a Life Member if three quarters of those present and entitled to vote at the General Meeting vote in favour thereof.
- (e) A Life Member shall have the same rights and privileges as a Club Member of an Affiliated Club and shall be entitled to admission free of charge to all tennis fixtures conducted by the Association.

## 5.5 EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

- (a) This Constitution is a contract between each of them and the Association and that they are bound by this Constitution and the By-Laws made under it;
- (b) They shall comply with and observe this Constitution, the By-Laws, any policy adopted by the Association in accordance with Article 33 and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;
- (c) By submitting to this Constitution and By-Laws made under it they are subject to the control and jurisdiction of the Association;
- (d) This Constitution, the By-Laws made under it and any policy adopted by the Association in accordance with Article 33 are necessary and reasonable for promoting the Objects and particularly the advancements and protection of Tennis;
- (e) They are, subject to this Constitution, entitled to all the benefits, advantages, privileges and services of Association membership;
- (f) Any change to this Constitution made in accordance with this Constitution and the Act will bind the Member; and
- (g) They will not become a party to any suit, at law or equity, against the Association, any Director or any other Member until all remedies and avenues of appeal allowed by this Constitution have been exhausted, save with written consent of the Association.

## 5.6 COUNTRY ZONES

- (a) The purpose of the Zones is to develop and implement strategies that promote and grow the sport of tennis within the relevant Country Zone, and to ensure the Association has a strong and thriving country membership base within the whole of Western Australia.
- (b) The Board will delegate functions and powers to the Zones from time to time in accordance with this Constitution.
- (c) Each Zone may establish a management committee in accordance with any By-Laws prepared by the Board.
- (d) The Board may delegate any one or more of the following powers to a Zone:
  - (i) To accept such directions for the purpose of the sport of Tennis as the Association may issue from time to time;

- (ii) To manage competitions between clubs;
- (iii) To control and manage staff, property and assets of the Zone;
- (iv) To ensure that the administrative and membership records of the Zone are properly maintained;
- (v) To fill any casual vacancy occurring on the Zone Management Committee provided such appointee shall hold office only until the next Zone meeting; and
- (vi) To approve annual operating budgets and Zone fees payable by Affiliated Clubs in the zone; and
- (vii) Be responsible for all financial transactions of the Zone and, for such purposes, the Treasurer shall keep, or cause to be kept, a correct record of all monies received and expended and shall submit financial statements for each fiscal year of the Zone to the annual meeting of the Zone for adoption together with an auditor's report thereon.

## **6. FEES AND DATA**

### **6.1 AFFILIATION FEES**

- (a) In respect of Affiliated Clubs:
  - (i) The affiliation fees payable by Metropolitan Affiliated Clubs shall be the amount determined, from time to time, by the Board or the amount calculated pursuant to any applicable By-Law passed pursuant to Article 31; and
  - (ii) The affiliation fees payable by Country Affiliated Clubs shall be the amount determined, from time to time, by the Board or the amount calculated pursuant to any applicable By-Law passed pursuant to Article 31.
- (b) In respect of the Seniors Association the affiliation fees shall be the same as for Affiliated Clubs or shall be such sum as fixed by the Board from time to time at its absolute discretion.
- (c) The affiliation fees payable by each Associate Body and each Tennis Related Body shall be such sum as fixed by the Board from time to time at its absolute discretion.
- (d) The affiliation fees for each class of Membership are payable annually by each Member and shall be paid to Tennis West by the 30<sup>th</sup> November of the current financial year. For those joining after 30<sup>th</sup> November of that financial year the payment must be made with the application.
- (e) Failure by any Affiliated Body to pay its affiliation fee by 30<sup>th</sup> November in any year will preclude such Affiliated Body and its Club Members from representation or voting at any General Meeting of the Association or from participation in any event or competition controlled by or on behalf of the Association. If the Affiliated Body has not paid its affiliation fee within three months after 30<sup>th</sup> November in any year, then unless the Board determines otherwise such Affiliated Body shall cease to be a member of the Association.

## 6.2 TENNIS DATA

- (a) Each Affiliated Body shall, on request from the Association in the timeframes prescribed as per the annual Affiliation cycle, provide the Association with a report of:
  - (i) Club Members, including Non-Playing Club Members;
  - (ii) Current Registered Tennis Users and Registered Tennis Users; and
  - (iii) Such other information as may be reasonably required by the Board, Association or under any applicable By-Law passed pursuant to Article 31.

## 7. ADMISSION AND REJECTION OF MEMBERS

- 7.1 Any club or other organisation properly constituted within the meaning of this Constitution may apply in writing to the Association to become an Affiliated Body in the appropriate category. The Board shall be the final arbiter of such acceptability.
- 7.2 The Board may grant membership to Associate Bodies on such terms and conditions determined by the Board.
- 7.3 The Board may only grant membership to Tennis Related Bodies without voting rights and otherwise on such terms and conditions determined by the Board.
- 7.4 At the next meeting of the Board after the receipt of any application and the fee applicable for any membership, such application shall be considered by the Board, who shall thereupon determine (in its absolute discretion) upon the admission or rejection of the applicant.
- 7.5 Upon the acceptance or rejection of an application for any class of membership Tennis West shall forthwith give the applicant notice in writing of such acceptance or rejection.
- 7.6 A decision by the Board to reject an applicant's application for membership of the Association under Article 7.5 is final. The Board is under no obligation to provide reasons for its decision.

## 8. TERMINATION OF MEMBERSHIP

- 8.1 Any Member may terminate its membership of the Association by giving written notice, not later than the last day of the Financial Year that it does not intend to renew its membership for the following Financial Year.
- 8.2 Where membership has been terminated pursuant to Article 8.1, no application for re-admittance to the Association will be considered before the expiration of two (2) years from the date of termination.
- 8.3 Any Member which terminated its membership under Article 8.1 remains liable to pay to the Association any fees, levies or other monies due and payable to the Association but unpaid at the date of termination.
- 8.4 If the Board considers that the conduct of a Member has breached this Constitution or is detrimental, injurious or prejudicial to the interests of the Association or the sport of tennis, which conduct may include but is not limited to:
  - (a) Neglecting or failing to pay any fine, fee, call or levy payable under this Constitution or any By-Law;
  - (b) Where the Member is, or has its Delegate, a person who has committed an indictable offence, or

- (c) Failing to comply with any of the provisions of this Constitution or any By-Law

but excludes conduct governed by the Member Protection Policy, the Board may reprimand the Member engaging in such conduct or act in accordance with Article 8.5. For the avoidance of doubt, where conduct falls within the scope of the Member Protection Policy the procedures and penalties in the Member Protection Policy apply to the exclusion of this Article 8 and Article 9.

- 8.5 In the case of conduct contemplated under Article 8.4, if the Board considers that the Member should be subject to a fine, suspension, expulsion or any other penalty (other than a reprimand as set out in Article 8.4), then the Board shall give written notice to the Member of:

- (a) The proposed fine, suspension, expulsion or other penalty the Board proposes should be applied and of the time, date and place of the Board meeting at which the question of that fine, suspension, expulsion or other penalty shall be decided; and

- (b) Particulars of the conduct complained of,

not less than 14 days before the date of the Board meeting referred to in Article 8.5(a).

- 8.6 The Member concerned may attend the Board meeting referred to in this Article 8.5 and shall have the right to be represented by any person other than a certified legal practitioner and shall be given a full and fair opportunity of presenting their case including:

- (a) A reasonable opportunity to be heard by the Board;

- (b) A reasonable opportunity to correct or contradict any relevant prejudicial statement; and

- (c) The opportunity to bring any relevant evidence.

- 8.7 Alternatively to the process in Article 8.6, a Member to which notice has been given pursuant to Article 8.5 may elect to make a representation in writing to the Board containing any submissions why the proposed or any fine, suspension, expulsion or other penalty should not be imposed. The representation must state that the Member is electing not to attend the Board meeting pursuant to Article 8.6 and be given to the Board not less than 14 days before the of the Board meeting referred to in the notice.

- 8.8 At the Board meeting referred to in a notice under Article 8.5, the Board may impose a fine, resolve to suspend or terminate the Member's membership, impose any other penalty it considers appropriate or decline to impose a penalty and shall forthwith instruct the Chief Executive Officer to notify the member in writing accordingly. The notice shall be sent by prepaid registered post, electronic communication (such as email) or facsimile transmission to the most recent address as advised by the Association. The fine, suspension or termination (as applicable) will, subject to Article 9, take effect three (3) days after the date such notice, or the date a notice by an Appeals Committee pursuant to Article 9, is posted or transmitted.

## **9. APPEALS COMMITTEE**

- 9.1 An appeals committee consisting of three non-Board members appointed by the Board shall be set up when required. The Board shall nominate the chairperson of the Appeals Committee from time to time.

- 9.2 Any body whose application for membership has been rejected or which has been fined or whose membership has been suspended or terminated may within seven (7) days of receiving written notification thereof lodge with the Chief Executive Officer written notice of its intention to appeal against the decision of the Board enclosing the applicable fee as

determined by the Board from time to time.

- 9.3 The appellant shall lodge with the Chief Executive Officer a statement in writing of the grounds of appeal within 14 days after notification of intention to appeal and the Board shall within 14 days of receipt of the statement lodge with the Chief Executive Officer a reply in writing to that statement.
- 9.4 Upon receipt of a notification of intention to appeal against rejection, suspension or termination of membership and on receipt of the appropriate fee (if applicable), the statement of the grounds of appeal and the reply, the Chief Executive Officer shall convene within 14 days of the date of the receipt of the reply, an Appeals Committee meeting to determine the appeal.
- 9.5 At any Appeals Committee meeting the applicant shall be given the opportunity to fully present its case and the Board shall likewise have the opportunity of presenting its case. Both the applicant and the Board shall have the right to be represented by any person other than a certified legal practitioner. The appeal shall be determined by the majority vote of the Appeals Committee members present at such meeting and if the appeal is upheld any appeal fees will be refunded. The decision of the Appeals Committee will be final.

## **10. REGISTER OF MEMBERS**

- 10.1 The Board shall cause a Register to be kept in which shall be entered:
- (a) The name and contact details of all Members admitted to membership of the Association;
  - (b) The dates of the each Member's admission to membership;
  - (c) The Delegate of each Member; and
  - (d) Any other information in relation to the Member as reasonably required by the Board.
- 10.2 All Members must supply information to the Association that is requested by them for the appropriate administration of Tennis and the Association.
- 10.3 The Association must comply with the Australian Privacy Principles in the *Privacy Act 1988 (Commonwealth)* and any other applicable legislation regarding privacy, in dealing with information supplied to it pursuant to Article 10.2.
- 10.4 Pursuant to the Act, the register of Members shall (upon request of a Member), be made available for the inspection of the Member and the Member may at its cost make a copy or take an extract from same but shall have no right to remove the register for that purpose.
- 10.5 A Member must not use information about another Member obtained from the register to contact or send material to that Member, other than for:
- (a) the purposes of sending a notice in respect of a meeting or other event relating to the Association or other material relating to the Association; or
  - (b) any other purpose necessary to comply with a requirement of the Act or this Constitution.

## **11. VOTING AND VOTING RIGHTS AT BOARD MEETINGS**

- 11.1 Except where otherwise mentioned all matters arising at Board meetings shall be determined by a simple majority of votes cast for and against.
- 11.2 Each Director shall have one vote only provided that in the event of a tied vote the President

or other person presiding shall have a casting vote as well as a deliberative vote and has a discretion both as to whether or not to use the casting vote and as to the way in which it is used.

## **12. MEMBERSHIP OF THE BOARD**

12.1 The Board of the Association shall consist of:

- (a) Six persons elected by the Members (**Elected Director**); and
- (b) Up to three persons appointed by the Board as Directors (**Appointed Director**) for their particular skills as determined by the Board when required for a specific period of time up to a maximum of three years (after which they may be reappointed in accordance with and subject to the other provisions of this Constitution).

12.2 The Office Bearers of the Association shall consist of the President and the Vice-President. The President and Vice President shall be appointed in the following manner:

- (a) At or before the first Board meeting following each Annual General Meeting:
  - (i) if there is a vacancy in the position of President, the Board will appoint one of the Elected Directors to the position of President for a period to be determined by the Board not exceeding three years and at the end of that period they will be eligible for reappointment to the position of President by the Board (but subject to the other provisions of this Constitution); and
  - (ii) if there is a vacancy in the position of Vice President, the Board will appoint one of the Directors to the position of Vice President for a period to be determined by the Board not exceeding three years and at the end of that period they will be eligible for reappointment to the position of Vice President by the Board (but subject to the other provisions of this Constitution).
- (b) The President shall:
  - (i) Preside at all meetings of the Board; and
  - (ii) Generally ensure that the well-being and objects and the Constitution of the Association are upheld.
- (c) The Vice-President shall:
  - (i) Assist the President in every manner possible; and
  - (ii) In the absence of the President at any time, have and exercise all the powers, authorities and duties of the President.
- (d) Rules regarding the President and Vice President:
  - (i) If either the President or Vice President ceases to be a Director, he or she will immediately cease to hold office as President or a Vice President (as the case may be).
  - (ii) The Board may remove the President from the role of President, or remove the Vice President from the role of Vice President, before the expiry of his or her term (as the case may be), however he or she may remain as a Director (subject to the other provisions of this Constitution).

- (iii) If the President resigns as President, he or she may remain as a Director (subject to the other provisions of this Constitution).
- (iv) If the Vice President resigns as Vice President, he or she may remain as a Director (subject to the other provisions of this Constitution).

12.3 The election of Elected Directors shall take place, subject to Article 12.4, in the following manner:

- (a) Any Club Members shall be at liberty to nominate any person who is 18 years and over to serve as an Elected Director;
- (b) The nomination, which shall be completed utilising the prescribed form, must be authorised by the nominated person, as well as their proposer and a seconder (both of whom must be a Club Member). The nomination form must be submitted to the Chief Executive Officer by the due date and time in the prescribed form (which will not be later than 30 days prior to the Annual General Meeting);
- (c) Balloting lists shall be prepared (if necessary) containing the names of the candidates for each office or position to be presented in random drawn order and to the extent the Member has votes pursuant to Article 5 each Member through its Delegate shall be entitled to vote for any number of such candidates in respect of each office or position to be filled (not exceeding the number of vacancies);
- (d) Subject to Article 34, Elected Directors are appointed for a three (3) year period;
- (e) Elections for Elected Directors (as applicable) are to be held in line with the annual cycle of Annual General Meetings;
- (f) In the event of there being the same number or fewer nominations than there are vacant Elected Director positions, an election will not be held and the individuals nominated will be automatically elected to the Board;
- (g) Should an insufficient number of candidates for Elected Director be available the Board shall have the right to fill the vacancy by nominating Directors;
- (h) Subject to article 12.3(i) below, each Director may serve a maximum continuous period of service of nine (9) years under these rules, provided that:
  - (i) If the Director has served seven (7) or more consecutive years, and subsequently retires, resigns or is removed, they will be deemed to have served nine (9) consecutive years for the purpose of this Article 12.3; and
  - (ii) They may be again elected as an Elected Director (or appointed as an Appointed Director) if at least two years has passed since the expiry of their last tenure as a Director of the Association;
- (i) Each Appointed Director may serve a maximum period of continuous service of six (6) years as an Appointed Director under these rules, provided that:
  - (i) If they haven't served the maximum continuous period of service set out in Article 12.3(h), they may be nominated for the position of an Elected Director in accordance with this Constitution and, if elected, serve a maximum further period of three years as an Elected Director; and
  - (ii) They may be again elected as an Elected Director or appointed as an Appointed Director if at least two years has passed since the expiry of their last tenure as a Director of the Association; and



- (j) A person who has been the Chief Executive Officer of the Association at any time within the three (3) years prior to the date of the proposed election or appointment is not eligible for nomination or election or appointment as a Director.
  - (k) All Board nominees must complete a statutory declaration that they are of 'good character' prior to the election commencing. The Board reserves the right to request all Board Directors to complete additional screenings (by way of example, a Working With Children Check and/or a National Police Clearance).
  - (l) A Director may not be a member of the Management Committee of an Affiliated Body, provided that if a Director is a member of the Management Committee of an Affiliated Body at the time of their initial appointment or election to the Board then they may continue to hold such office until the earlier of the expiry of their current term on the Management Committee or the date that is 12 months from the date of their appointment or election to the Board.
- 12.4 The process for determining the election of Elected Directors shall be by a secret ballot and shall be conducted by such means as prescribed by the Board from time to time (including but not limited to the use of online voting). Elections for Elected Directors (as applicable) are to be held annually, or as required by the board, either:
- (a) at the Annual General Meeting; or
  - (b) if the Board prescribes online voting, within the 30 days prior to a Board or General Meeting with the results of such elections for Elected Directors tabled at the Meeting following the relevant election.

### **13. OTHER OFFICIAL POSITIONS:**

- 13.1 The Board may from time to time appoint and remove any person to the position of Secretary to the Association on such terms as it sees fit. The Secretary shall:
- (a) keep full and correct minutes of the proceedings of the Board and General Meetings of the Association, such minutes to be available for inspection by Members on request during normal Association operating hours. The Member may at its cost make a copy or take an extract from same but shall have no right to remove it for that purpose;
  - (b) consult with the president regarding the business to be conducted at each Board meeting and General Meeting;
  - (c) prepare the notices required for meetings and for the business to be conducted at meetings;
  - (d) maintain on behalf of the Association the register of Members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;
  - (e) maintain on behalf of the Association an up-to-date copy of this Constitution, as required under section 35(1) of the Act;
  - (f) unless another member is authorised by the committee to do so, maintain on behalf of the Association a record of Directors and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act; and
  - (g) carry out any other duty given to the Secretary under this Constitution or by the Board.
- 13.2 An Auditor shall be appointed at the Annual General Meeting.

- 13.3 The Chief Executive Officer shall be appointed and removed by the Board on such terms as it sees fit. The Chief Executive Officer will report to the Board.
- 13.4 Subject to any policies which have been established and/or specific directions of the Board, the Chief Executive Officer shall manage the day to day running of the Association.
- 13.5 The term, remuneration and conditions of employment of the Chief Executive Officer shall be determined by the Board from time to time.

#### **14. RESIGNATION OR REMOVAL FROM OFFICE OF MEMBER OF THE BOARD**

- 14.1 Any Director may resign from membership of the Board at any time by giving notice in writing to the Chief Executive Officer but such resignation shall take effect at the time such notice is received by the Chief Executive Officer unless a later date is specified in the notice when it shall take effect on that later date.
- 14.2 Any Director may be removed from office with a motion carried by a 75% majority of the votes of Members present through their Delegates and entitles to vote at a General Meeting.
- 14.3 A vacancy occurs in any office of the Board if the office-holder:
- (a) resigns pursuant to Article 14.1 or is removed pursuant to Article 14.2;
  - (b) dies;
  - (c) is convicted of an indictable offence or an offence under the Act;
  - (d) becomes ineligible to accept an appointment or act as a Director pursuant to section 39 of the Act;
  - (e) is permanently incapacitated by mental or physical ill-health; or
  - (f) is absent for:
    - (i) Three consecutive meetings of the Board; or
    - (ii) Three meetings of the Board in a 12 month period,of which he or she has received notice, without tendering an apology to the person presiding at each of those meetings which has been accepted by the Board, and a motion passed by simple majority at a General Meeting declares the office to be vacant.

#### **15. VACANCIES ON THE BOARD**

- 15.1 In the event of a casual vacancy for the position of a Director, the Board shall have the right to fill the vacancy for that position. The Board has absolute discretion on the appointment and its decision is final. The person appointed to fill the position of Director as a casual vacancy shall hold that position for the balance of the term in office of the Director who created the casual vacancy.
- 15.2 Any period of office served as a casual vacancy shall count towards the Director's maximum period of continuous service as set out in Article 12.3.
- 15.3 The continuing Board members may act notwithstanding any casual vacancy of the Board, but if and so long as, their number is reduced below the number fixed by or pursuant to these rules as the necessary quorum of the Board, the continuing members may act for the purpose of increasing the number of members of the Board to that number or of summoning a General Meeting of the Association, but for no other purpose.

## **16. POWERS OF THE BOARD**

16.1 The Board shall govern the affairs of the Association and has the power (in addition to any other powers in this Constitution or at law) to:

- (a) Manage the property and assets of the Association
- (b) Manage the business and affairs of the Association, including:
  - (i) Determining and approving budgets, key performance indicators and financial delegations;
  - (ii) The control, management and approval of contracts (including leases and liquor licences);
  - (iii) The general day to day administration of the sport of Tennis in Western Australia; and
  - (iv) The control, management and approval of public relations and tennis related communications;
- (c) Appraise and set the remuneration for the Chief Executive Officer of the Association;
- (d) Appoint and dismiss two Directors as Tennis Australia Delegates or Member Representatives and appoint other representatives of the Association on bodies from time to time;
- (e) Control, manage and approve the financial affairs of the Association including:
  - (i) Raising affiliation fees, fines and levies;
  - (ii) Investing monies on behalf of the Associations; and
  - (iii) Purchasing, taking on lease or otherwise acquiring real or personal property;
- (f) Subject to Article 31, make, alter and repeal By-Laws not being inconsistent with this Constitution;
- (g) Appoint subcommittees and delegate such powers as it may deem necessary;
- (h) Disqualify, suspend or otherwise discipline any player for any breach of rules whilst playing in a sanctioned event;
- (i) Develop and implement or oversee the implementation of the Association's strategies from time to time, within a Board agreed risk profile;
- (j) Control and management of the use of the common seal for the Association;
- (k) Develop and enforce other Board approved policies for the core governance of the organisation;
- (l) Report to Members at General Meetings, through the President;
- (m) Propose to the Members any addition, alteration or deletion of this Constitution;
- (n) Exercise all the powers and perform all the functions of the Association, other than those powers and functions that are required by the Act or this Constitution to be exercised by General Meetings of Members of the Association provided that any sale or disposal by the Directors of the Association's main undertaking or a

substantial proportion of its assets will be subject to approval by the Association in General Meeting;

- (o) To do anything that appears to the Board to be essential for the proper management of the business and affairs of the Association; and
- (p) Delegate any of the powers set out above in this Article 16.1 as the Board deems appropriate, including but not limited to under Article 17 of this Constitution.

## **17. DELEGATION OF POWERS BY THE BOARD TO A SUBCOMMITTEE**

- 17.1 The Board may delegate any of its powers to a subcommittee consisting of such person as the Board thinks fit.
- 17.2 Any subcommittee so formed shall have such powers as are defined by the Board and in the exercise of the powers so delegated conform to any regulations that may be imposed by the Board.
- 17.3 The mission statement and aims for each subcommittee shall be determined by the Board and may be changed subsequently by approval of the Board.
- 17.4 The Board will elect the chairperson of each subcommittee.
- 17.5 If no such chairperson is elected, or if at any meeting the chairperson is not present within 10 minutes after the time appointed for holding the meeting, the members present may, subject to approval of the Board, choose one of their number to be chairperson of the meeting.
- 17.6 Unless otherwise directed by the Board, a subcommittee may meet and adjourn as it thinks proper.
- 17.7 Questions arising at any subcommittee meeting shall be determined by a majority of votes of the members present and, in the case of an equality of votes, the question shall be deemed to be decided in the negative.
- 17.8 The Board may overrule any decision of one of its subcommittees.
- 17.9 The Board shall appoint one or more subcommittees to oversee and check the finances of, and risks to, the association and its objects.
- 17.10 The Board must issue an instrument of delegation to the Chief Executive Officer covering key areas of responsibility delegated to the Chief Executive Officer and the retained authorities of the Board.
- 17.11 The Board must retain responsibility for risk, compliance and approving strategy with regard to the competitive forces and business and commercial challenges facing Tennis in Western Australia.
- 17.12 The appointment of personnel to each subcommittee shall be the responsibility of the Board and it may direct that specific persons (or that only specific persons) shall be members of a subcommittee.
- 17.13 The Association:
  - (a) May by way of resolution at a General Meeting authorise the payment of directors fees; and
  - (b) Shall reimburse any authorised out of pocket expenses incurred by Directors or members of subcommittees or Committees in the conduct of their duties.

- 17.14 The Chief Executive Officer shall maintain a register showing the title of each subcommittee and the names, addresses (including email addresses) and phone numbers of all subcommittee members.

## **18. FUNCTIONS OF THE BOARD**

- 18.1 Except as otherwise provided by these rules and subject to prior resolutions of the Members of the Association carried at any General Meeting, the Board:
- (a) Shall have the authority to resolve any matter relating to the Association on which these rules are silent;
  - (b) May authorise the Association to affiliate with and subscribe to Tennis Australia or any other body of a similar nature formed for the purpose of promoting and controlling the game of tennis or whose objects are similar to the objects of the Association;
  - (c) May authorise the Association to hold and operate a liquor licence in accordance with the *Liquor Control Act 1988* (as amended);
  - (d) May authorise the Association to borrow or raise or secure the payment of money in such manner as the Board may think fit and secure the same or the payment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Association in any way and in particular by the issue of debentures, perpetual or otherwise, charged upon all or any of the Association's property, both present and future, and to purchase, redeem or pay off any such securities; and
  - (e) May authorise the Association to borrow amounts from members and pay interest on the amount borrowed and mortgage or charge the Association's property or any part thereof and issue debentures and other securities, whether outright or as security for any debt, liability or obligation of the association, and provide and pay off any such securities.
- 18.2 For Article 18.1(e) the rate of interest must not be more than the rate of the time being charged for overdrawn accounts for money lent (whatever the term of the loan) by:
- (a) The financial institution for the Association; or
  - (b) If there is more than one financial institution for the Association – the financial institution nominated by the Association.

## **19. MEETINGS OF THE BOARD**

- 19.1 The Board shall meet at least eight times in each calendar year to exercise its functions.
- 19.2 The Board must decide how a meeting is to be called.
- 19.3 Notice of a meeting is to be given in the way described by the Board.
- 19.4 A special meeting of the Board shall be convened by the President or the requisition in writing signed by not less than one-third of the members of the Board, which requisition shall clearly state the reasons why such special meeting is being convened and the nature of the business to be transacted thereat.
- 19.5 At every meeting of the Board a simple majority of the Board shall constitute a quorum.
- 19.6 Subject as previously provided in this section, the Board may meet together and regulate its proceedings as it thinks fit.

- 19.7 The President shall preside as chairperson at every meeting of the Board, or if there is no President, or if at any meeting the President is not present within 10 minutes after the time appointed for holding the meeting, the Vice-President shall be chairperson or if the Vice-President is not present at the meeting then the Board members may choose one of their number to be chairperson of the meeting.
- 19.8 If within half an hour from the time appointed for the commencement of a Board meeting a quorum is not present it shall stand adjourned to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall lapse.
- 19.9 If three of the Board Members present at a Board meeting request a secret ballot on any particular motion then the chairperson shall direct a secret ballot to occur.
- 19.10 The Board may pass a written resolution without a Board meeting on the basis that the written resolution is signed by all the Directors entitled to vote on the resolution. For the purposes of written resolutions, the receipt of electronic email in favour of the written resolution with the name, date and time of the sending Director shall be construed to meet the requirement for signing a written resolution without the need for a Board meeting. For the avoidance of doubt:
- (a) Subject to Article 19.10(b), the written resolution is passed when the last Director signs the resolution; and
  - (b) If all Directors entitled to vote have not signed the resolution within 21 days after the date it was first received by a Director, the resolution will lapse and will be deemed not to have been passed, even if it is subsequently signed by all Directors entitled to vote on the resolution.
- 19.11 Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or committee of Directors may be held where one or more of the Directors is not physically present at the meeting, provided that:
- (a) All Directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
  - (b) Notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the Directors;
  - (c) In the event that a failure in communications prevents Article 19.11(a) from being satisfied by that number of Directors which constitutes a quorum, then the meeting will be suspended until Article 19.11(a) is satisfied again. If Article 19.12(a) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
  - (d) Any meeting held where one or more of the Directors is not physical present will be deemed to be held at the location specified in the notice of meeting
  - (e) A Director who participates in a meeting as allowed under this Article 19.11 is taken to be present at the meeting and, if the Director votes at the meeting, the member is taken to have voted in person.
- 19.12 A person who is not a Director may attend a Board meeting if invited to do so by the Board. A person invited under this Article 19.12 has no right to any agenda, minutes or other document circulated at the meeting and cannot vote on any matter that is decided at the meeting.

- 19.13 The Board must cause minutes of meetings to be made and kept in accordance with the Act.
- 19.14 The minutes must record the following:
- (a) the names of the Directors present at the meeting;
  - (b) the name of any person attending the meeting under Article 19.12;
  - (c) the business considered at the meeting;
  - (d) any interest of a Director notified under Article 23;
  - (e) any motion on which a vote is taken at the meeting and the result of the vote.
- 19.15 The minutes of a Board meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- 19.16 The President must ensure that the minutes of a Board meeting are reviewed and signed as correct by the chairperson of the meeting or the chairperson of the next Board meeting.

## **20. ACTS NOT AFFECTED BY DEFECTS OR DISQUALIFICATIONS**

- 20.1 All acts done by any meeting of the Board or of a subcommittee or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that the directors or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

## **21. GENERAL MEETINGS AND FORUMS**

- 21.1 Unless otherwise determined by the Board, the Annual General Meeting shall be held not later than December 31<sup>st</sup> in each year.
- 21.2 Notice of the Annual General Meeting including an agenda shall be circulated to the Members 21 days prior to the date of the proposed meeting.
- 21.3 The business to be transacted at every Annual General Meeting shall be:
- (a) To confirm the minutes of the last preceding Annual General Meeting and any General Meetings held since then;
  - (b) The receiving of the President's report for the preceding financial year;
  - (c) The receiving of the Chief Executive Officer's report and statement of income and expenditure, assets and liabilities and mortgages, charges and securities affecting the property of the Association for the preceding financial year;
  - (d) The receiving of the auditor's report upon the books and accounts for the preceding financial year;
  - (e) The election of Elected Directors; and
  - (f) To consider any other resolution for which 21 days' notice has been given, provided that no other matters may be discussed without the 21 day notice in Article 21.3(e) except as in the balance of Article 21.3.
- 21.4 At each Annual General Meeting of the Association, the Members shall appoint an Auditor who is not a Director of the Board to audit accounts for the ensuing year and report thereon.
- 21.5 The Chief Executive Officer shall convene no fewer than two Member Forums each year

provided that the Member Forums shall not be General Meetings and will have no power to pass resolutions.

21.6 The Chief Executive Officer shall convene a special general meeting:

- (a) When directed to do so by the President;
- (b) On the requisition in writing and signed by not less than three of the Board Members; or
- (c) On the requisition in writing signed by the Delegates of not less than 10% of Affiliated Clubs.

Notice of such special general meetings shall be circulated to the Members 21 days prior to the date of the proposed meeting and shall contain all matters to be discussed – no other matters may be discussed at these meetings without 21 days' notice. If the Board does not convene a special general meeting within that 21 day period, the members making the requirement (or any of them) may convene the special general meeting.

21.7 At any General Meeting a quorum shall consist of a total of at least 25 Delegates present. A General Meeting may be held where one or more of the Delegates is not physically present at the meeting, provided that all Delegates participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication.

21.8 No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. Members are allowed one Delegate who shall have the number of votes allowed for that Member pursuant to Article 5.

21.9 If:

- (a) within half an hour from the time appointed for the commencement of any General Meeting a quorum is not present; or
- (b) a General Meeting commences, but during the General Meeting, a failure in communications prevents a quorum from present for more than 15 continuous minutes from when the time the General Meeting was interrupted,

the chairperson shall declare the meeting adjourned for any period which he or she may think fit. Should a quorum not be present at such adjourned meeting within half an hour from the time appointed for the meeting, those present may hold the meeting and transact business as if a quorum were present, except in the case of a special general meeting called in accordance with Article 21.6, in which case the meeting will lapse.

21.10 The chairperson may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of the original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Subject to Article 14.2 and the Act, resolutions at any General Meeting must be passed by a simple majority including proxies except for a change to this Constitution then by not less than three-quarters of the votes submitted.

21.11 The manner by which any notice of a General Meeting shall be given to members shall be determined by the Board and be in accordance with this Constitution. The notice must:

- (a) specify the date, time and place of the meeting;
- (b) indicate the general nature of each item of business to be considered at the meeting;



- (c) if the meeting is the Annual General Meeting, include the names of the candidates who have been nominated for election to the Board under Article 12; and
- (d) if a Special Resolution is proposed:
  - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act;
  - (ii) state that the resolution is intended to be proposed as a Special Resolution; and
  - (iii) comply with section 53(7) of the Act.

21.12 Only Members who are fully paid up at the time the notice of meeting is circulated shall be entitled to vote at any General Meeting.

## **22. VOTING AND PROXY VOTES AT GENERAL MEETINGS**

22.1 Each Delegate present, in person or by proxy, at a General Meeting shall have the number of votes allowed for his or her respective Member pursuant to Article 5.

22.2 No Member is allowed to vote on any matter or nominate or be nominated for any position if they owe monies to the Association for more than one (1) month or have been suspended. It is not until all owed monies are repaid or suspension has been revoked that voting by the relevant Member will be allowed.

22.3 The President or other chairperson at a General Meeting shall have deliberative and casting vote.

22.4 All voting at General Meetings shall be, in the first place, but subject to Article 22.4(b), by show of hands (including a virtual equivalent) of those present and then, if required, by ballot as follows:

- (a) On a show of hands (including a virtual equivalent) each person present and entitled to vote has one vote and cannot give another vote in respect of an absent member for which he holds a proxy and no person can give more than one vote; and
- (b) The Chairperson or any Delegate, who is present in person and entitled to vote, may before or after voting under Article 22.4(a) demand a ballot be taken and the Chairperson shall forthwith require a secret ballot to be held. In a secret ballot each Delegate shall cast the number of votes allowed for his respective Member under Article 5 and all persons who have been validly appointed as proxies pursuant to this Constitution shall be entitled to vote and, in voting, may cast his or her own votes (as allowed under Article 5) in addition to the proxy votes which he or she holds,

Provided that the election of Directors must take place in accordance with Article 12.4.

22.5 In the event that an Affiliated Body's Delegate is unable to be present at a General Meeting then:

- (a) The Affiliated Body may appoint a Delegate of another Affiliated Body other than a Tennis Related Body to be the proxy of that absentee Delegate and to exercise the Delegate's votes, provided that staff of the Association and the directors may not be appointed as Delegates or as proxies;
- (b) In each instance, the Affiliated Body shall forthwith notify the Chief Executive Officer by an instrument proxy in a form specified by the Board from time to time, completed as specified by the Board from time to time;

- (c) The Affiliated Body may instruct its proxy to vote in favour of or against any proposed resolutions but unless otherwise instructed the proxy may vote as he or she sees fit;
- (d) The instrument appointing a proxy shall be deposited at the offices of the Association or at the place of the meeting, at any time prior to the appointed starting time of such meeting or meetings; and
- (e) A vote, given in accordance with the terms of an instrument of proxy, shall be valid notwithstanding the revocation of the instrument, if no notice in writing of such revocation has been received by the Association before the commencement of the meeting at which the instrument is used.

## **23. CONFLICT OF INTEREST**

- 23.1 A Member at any General Meeting must acknowledge any conflict of interest prior to the discussion of an item. Members, subject to a majority decision to exclude them, may still be eligible to be present during discussion or to vote.
- 23.2 If a Director has a material interest in a matter that relates to the affairs of the Association (other than an interest that does not have to be disclosed under the Act) then the Director must:
- (a) Disclose the nature and extent of the interest and its relation to the affairs of the Association to the other Directors, in accordance with the Act (if applicable);
  - (b) Not be present while the matter is being considered at the Board meeting or General Meeting; and
  - (c) Not vote on the matter, unless permitted by the Act to do so, in which case the Director may:
    - (i) Be counted in determining whether or not a quorum is present at any meeting of the Board considering that contract or arrangement or proposed contract or arrangement;
    - (ii) Sign or countersign any document relating to that contract or arrangement or proposed contract or arrangements; and
    - (iii) Vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

## **24. FUNDS AND ACCOUNTS**

- 24.1 The financial affairs of the Association shall be carried out in a proper manner using recognised accounting methods and procedures.
- 24.2 The income and property of the Association whencesoever derived shall be used and applied solely in promotion of its objects and in the exercise of its powers as set out herein and no portion thereof shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to or amongst the members of the Association provided that nothing herein contained shall prevent the payment in good faith of interest to any such member in respect of moneys advanced by him to the Association or otherwise owing by the Association to him or of remuneration to any officers or servants of the Association to any member of the Association or other person in return for any services actually rendered to the Association provided further that nothing herein contained shall be construed so as to prevent the payment or repayment to any member of out of pocket expenses, money lent, reasonable and proper charges for goods hired by the Association or reasonable and proper rent for premises demised or let to the Association.

- 24.3 The financial affairs of the association shall be examined by the auditor who shall present their report upon such audit to the Chief Executive Officer prior to holding of the Annual General Meeting next following the financial year in respect of which such audit was made.
- 24.4 The financial year of the association shall close on 30<sup>th</sup> June in each year.

## **25. RECORDS**

- 25.1 Minutes of all meetings are to be entered by the Secretary in a manner as determined by the Board in accordance with the Act.
- 25.2 Proper records of the financial affairs of the Association shall be kept by or at the direction of the Chief Executive Officer who shall furnish interim financial statements to the meetings of the Board and who shall prepare statements of income and expenditure and balance sheets for the financial year for submission to the Auditors and the Annual General Meeting.
- 25.3 The record of Directors and other persons authorised to act on behalf of the Association that is required to be maintained under section 58(2) of the Act must be kept in the Chief Executive Officer's custody or under the Chief Executive Officer's control. Under section 58 of the Act, the Association must maintain a record of:
- (a) the names and addresses of the persons who are Directors or hold other offices of the Association provided for by this Constitution;
  - (b) the name and address of any person who is authorised to use the common seal of the Association pursuant to Article 26; and
  - (c) the name and address of any person who is appointed or acts as trustee on behalf of the association.
- 25.4 Under section 58 of the Act the Association must, upon the request of a Member of the Association, make available the record for the inspection of the Member. The Member may make a copy of or take an extract from the record but does not have a right to remove the record for that purpose.

## **26. COMMON SEAL**

- 26.1 The Association shall have a Common Seal, which shall be in the custody of the President. The seal shall only be affixed to any deed, instrument or document by persons so authorised by the Board and in accordance with its direction as required. The Chief Executive Officer must make a written record of each use of the common seal.
- 26.2 Except when required by the Act, the Association need not have or use the Common Seal to execute documents or deeds.
- 26.3 The Association may validly execute a document (including a deed) without using the common seal if the document is signed by:
- (a) two Directors; or
  - (b) one Director and the Chief Executive Officer; or
  - (c) one Director and another person appointed by the Directors to sign that document or a class of documents in which that document is included.
- 26.4 The Association may validly execute a document (including a deed) by fixing the common seal to the document and the fixing being witnessed by a Director and countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

- 26.5 Article 26.3 or 26.4 do not limit the ability of the Board to authorise a Director, or other person who is not an officer of the Association, to execute a document for an on behalf of the Association.

## **27. INDEMNITIES**

- 27.1 Every Director, officer, employee of the Association, Delegate and member of a subcommittee of the Association shall be indemnified out of the property and assets of the Association against any liability incurred by them in such capacity in defending any proceedings (whether civil or criminal) in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the Court.
- 27.2 The Association shall indemnify its Directors, officers, employees, Delegates and members of a committee or subcommittee of the Association, performed or made whilst acting on behalf of and with the authority (express or implied) of the Association; and
- 27.3 In the case of an employee, performed or made in the course of, and within the scope of, their employment of the Association.

## **28. NOTICES**

- 28.1 A notice may be served by or on behalf of the Association on any member by any means as determined by the Board.

## **29. ALTERATION OF CONSTITUTION**

- 29.1 If the Association wants to alter, amend or rescind any of this Constitution, or to make additional rules, the Association may do so only by Special Resolution and by otherwise complying with:
- (a) Part 3 Division 2 of the Act;
  - (b) The requirements set out in the Western Australian liquor licensing laws; and
  - (c) Article 29 of this Constitution.
- 29.2 Any amendment to this Constitution shall be decided by a three-quarters majority of the votes of Members eligible to vote, voting by show of hands (including a virtual equivalent) of those present, unless they resolve by a three-quarter majority of the votes of Members eligible to vote to have the vote carried on a secret ballot, immediately following the closure of debate.

## **30. DISSOLUTION OF THE ASSOCIATION**

- 30.1 The Association shall be deemed to have been dissolved if and when a special general meeting has been held to discuss the proposition, and a Special Resolution is passed in favour of such dissolution, and in favour of any surplus of monies of the Association (after payment of expenses) being paid to some other person or persons or institution or institutions having objects similar to the objects of the Association.
- 30.2 The Association must not distribute its surplus property among its members unless permitted under section 24(1)(e) of the Act.

## **31. BY-LAWS**

- 31.1 The Board may from time to time make, amend or repeal By-Laws of the Association, not inconsistent with this Constitution.

31.2 Any By-Law which is inconsistent with this Constitution when made, or which becomes inconsistent with this Constitution by virtue of an amendment to this Constitution under Article 29, is void to the extent of that inconsistency.

31.3 All By-Laws in force on the date this Constitution comes into operation shall remain in force until the first Board meeting after the coming into effect of this Constitution when they shall lapse unless endorsed at that Board meeting, subject to any changes passed at that Board meeting.

## **32. GRIEVANCE PROCEDURE**

32.1 The grievance procedure set out in this Article 32 applies to disputes under this Constitution between:

- (a) a Member and another Member; or
- (b) a Member and the Association.

32.2 This Article does not apply to disputes that relate to a Tennis Australia national policy referred to in Article 33 of this Constitution.

32.3 The parties to the dispute must meet and discuss the matter in good faith, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.

32.4 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 28 days, hold a meeting in the presence of a mediator.

32.5 The mediator must be:

- (a) a person chosen by agreement between the parties; or
- (b) in the absence of agreement:
  - (i) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
  - (ii) in the case of a dispute between a Member and the Association, a person who is a mediator appointed or employed by the WA Sport and Active Recreation Dispute Resolution Service.

32.6 The person appointed as mediator may be a Club Member or Registered Tennis User or former Club Member or former Registered Tennis User but must not:

- (a) have a personal interest in the matter that is the subject of the mediation;
- (b) be a party to the dispute; or
- (c) be biased in favour of or against a party to the mediation.

32.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

32.8 The mediator, in conducting the mediation, must:

- (a) give the parties to the mediation process every opportunity to be heard; and
- (b) allow due consideration by all parties of any written statement submitted by any party; and
- (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

- 32.9 The mediator must not settle or determine the dispute.
- 32.10 The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- 32.11 The costs of the mediation are to be borne equally between the parties to the dispute.
- 32.12 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

### **33. ADOPTION OF TENNIS AUSTRALIA NATIONAL POLICIES**

- 33.1 By virtue of its membership with Tennis Australia, the Association agrees to adopt and abide by the national by-laws and policies of Tennis Australia, as implemented and amended from time to time, including the Member Protection Policy, the Anti-Doping Policy, the Disciplinary Policy, the Code of Behaviour Tournaments and Weekly Competitions and such other national by-laws and policies of Tennis Australia adopted by Tennis Australia from time to time. The Association, its Members and its officers and employees will be bound by each of these policies. Each Member of the Association agrees that its members are also bound by each of these policies.

### **34. TRANSITIONAL PROVISIONS**

- 34.1 Notwithstanding any other Article in this Constitution, to ensure:
- (a) elections and appointments of Directors and the Office Bearers are aligned with the requirements under this Constitution;
  - (b) continuity of membership of the Board; and
  - (c) a regular and consistent number of positions on the Board becoming available for election each year;
- the transitional provisions set out in this Article 34 shall apply and will, for the relevant period of time as set out in this Article 34, override any other rule in this Constitution in relation to the election and terms of appointment of Directors and the Office Bearers.
- 34.2 The Directors of the Association at the time of the adoption of this Constitution:
- (a) shall be able to continue in their positions as either an Elected Director or Appointed Director until the expiry of their current term;
  - (b) subject to Article 34.2(c) and in order to account for the variabilities set out in Article 34.4, shall be entitled to serve as a Director for a maximum period of continuous service of up to ten (10) years, provided that if they have served more than eight (8) consecutive years and they then subsequently retire, resign or are removed, they will be deemed to have served ten (10) consecutive years for the purpose of this Article 34.2(b); and
  - (c) for the purposes of calculating their period of service pursuant to Article 34.2(b):
    - (i) shall not have any period of service served as a Director prior to the 2013 Annual General Meeting count towards such calculation; and
    - (ii) shall have any period of service served as a casual vacancy after the 2013 Annual General Meeting count towards such calculation.
- 34.3 The Office Bearers of the Association at the time of the adoption of this Constitution shall continue in that position until their term ends at the completion of the 2019 Annual General

Meeting. After such time, the appointment of the Office Bearers of the Association shall proceed in accordance with Article 12.2. Any casual vacancy occurring in the position of an Office Bearer during the period up to the completion of the 2019 Annual General Meeting shall be appointed by the remaining Directors from within their own number until the completion of the 2019 Annual General Meeting.

34.4 Following the adoption of this Constitution, the following shall apply:

- (a) Until the 2019 Annual General Meeting, the Board of the Association may consist of up to seven Elected Directors and up to two Appointed Directors. Following the 2019 Annual General Meeting the make-up of the Board of the Association must be consistent with Article 12.1 of this Constitution;
- (b) At the 2018 Annual General Meeting, one of the Elected Directors will be elected for a term of three (3) years and two of the Elected Directors will be elected for a term of two (2) years. For the purposes of determining the term of office of each of the Elected Directors elected pursuant to this Article 34.4(a), the candidate who receives the highest number of votes at the 2018 Annual General Meeting shall hold office following the 2018 Annual General Meeting for three (3) years and the other two candidates shall hold office following the 2018 Annual General Meeting for two (2) years.
- (c) At the 2019 Annual General Meeting two of the Elected Directors will be elected for a term of three (3) years and one of the Elected Directors will be elected for a term of two (2) years. For the purposes of determining the term of office of each of the Elected Directors elected pursuant to this Article 34.4(a), the candidate who receives the lowest number of votes at the 2019 Annual General Meeting shall hold office following the 2019 Annual General Meeting for two (2) years and the other two candidates shall hold office following the 2019 Annual General Meeting for three (3) years.
- (d) At the 2020 Annual General Meeting, the rotational terms and process for electing and appointing Directors will continue in accordance with the articles of this Constitution and in particular Article 12.