

DATE:

**TOUCH FOOTBALL AUSTRALIA
INCORPORATED**

“A”

CONSTITUTION

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ASSOCIATIONS INCORPORATION ACT (1991) (ACT)

CONSTITUTION

of

TOUCH FOOTBALL AUSTRALIA INCORPORATED

PREAMBLE

1. NAME

The name of the association is Touch Football Australia Incorporated (**“Association”**).

2. INTERPRETATION

(a) In this Constitution unless the contrary intention appears:

Act means the Association Incorporations Act 1991 (ACT).

Affiliate means a local entity that conducts and/or administers Touch Football competitions and which is a Member of the Association as described under **clauses 12 and 15**.

Appointed Director means a Director appointed under **clause 42**.

Board means the Directors of the Association acting as a body.

Chairman means the chairman for the time being of the Association.

Chief Executive Officer means a chief executive officer appointed by the Board having such functions as are set out under this Constitution.

Claim means any action, suit, proceeding, claim, demand, damage, penalty, cost or expense however arising but does not include any claim made available to a Member under this Constitution or Regulations.

Constituent Body means those entities formerly recognised as Members of the Association.

Constitution means this Constitution of the Association.

Delegate means the person(s) appointed from time to time:

- (a) by NSWTA, to act for and on behalf of NSWTA and represent NSWTA at General Meetings;
- (b) where a State Council is established by the Board under **clause 11(a)**, by that State Council to act for and on behalf of all Affiliates in that State and represent those Affiliates at General Meetings; .
- (c) where there is no State Council established in a State, by all Affiliates in that State to act for and on behalf those Affiliates and represent those Affiliates at General Meetings.

Director means a member of the Board.

Elected Director means a Director elected under **clause 41** and includes an Alternate Elected Director only whilst that Alternate Elected Director is acting in the place of his Elected Director.

Financial Year means the year ending 30 June in each year.

General Meeting means the Annual or any Special General Meeting of the Association.

Individual Member means a natural person who is a registered financial member of the Association, NSWTA and/or an Affiliate and includes Participants.

Intellectual Property means all rights subsisting in copyright, trade names, trade marks, logos, designs, equipment, images (including photographs, videos or films) or service marks (whether registered or registrable) relating to the Association, the words "Touch" or "Touch Football" or any event or competition or equipment, product, publication or activity (including but not only all Australian Touch Championships, the National Touch League and the National Calendar) developed, conducted, promoted or administered by the Association.

Life Member means an individual appointed as a Life Member of the Association under **clause 13**.

Member means a member for the time being of the Association under **clause 12**.

NSWTA means the New South Wales Touch Association Inc.

Objects means the Objects of the Association in **clause 3**.

Participant means a person who participates, including but not only as officials, coaches, players or referees, in a Touch competition organised, controlled or sanctioned by the Association, an Affiliate or NSWTA.

Regional Council means a body established and recognised by the Association under **clause 11**.

Regulations means any regulations made by the Board under **clause 73**.

Special Resolution means a resolution which is passed:

- (a) at a General Meeting, being a meeting of which at least 21 days notice, accompanied by notice of intention to propose the resolution as a special resolution, has been given to the Members; and
- (b) by at least $\frac{3}{4}$ of the votes of those Members who, being entitled to vote, vote in person or, where this Constitution permits, voting by proxy, vote by proxy at the meeting.

State means the States of Australia and includes the Australian Capital Territory and the Northern Territory.

State Council means a body established and recognised by the Association under **clause 11**.

State Acts means the legislation governing the incorporation of associations in each State, by whatever name called, including the Act.

Touch or Touch Football means the sport or game played under the rules determined or adopted from time to time by the Association.

- (b) Expressions referring to “writing” shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.
- (c) In this Constitution:
- (i) a reference to a function includes a reference to a power, authority and duty;
 - (ii) 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 of the performance of the duty;
 - (iii) a word importing the singular includes the plural and vice versa;
 - (iv) a word importing any gender includes all other genders;
 - (v) a reference to persons includes corporations and bodies politic;
 - (vi) a reference to a person includes the legal personal representatives, successors and permitted assigns of that person;
 - (vii) 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).
- (d) If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, that phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it can not be read down, the phrase or provision shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of the Constitution or affecting the validity or enforceability of that provision in any other jurisdiction.
- (e) Except where the contrary intention appears in this Constitution, an expression in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act.
- (f) The replaceable rules referred to in the Act are displaced by this Constitution.
- (g) The Association is established solely for the Objects.

3. OBJECTS

The Association is established solely to:

- (a) create a single uniform entity through and by which Touch can be conducted, promoted and administered;
- (b) conduct, encourage, administer, promote, advance and manage the sport of Touch (in any form) in Australia through competition and commercial means;
- (c) affiliate and otherwise liaise with the Federation of International Touch and such other bodies as may be desirable, in the pursuit of these Objects;

- (d) ensure that all Touch in Australia is carried out in a manner which secures and enhances the safety of Participants, spectators and the public and which allows the sport to be competitive and fair;
- (e) establish, support and regulate State Councils and Regional Councils of the Association;
- (f) formulate, issue, interpret, implement and amend from time to time such Regulations as are necessary for the control and conduct of Touch in Australia;
- (g) determine, arrange and publish an annual Australian Touch National Calendar of events;
- (h) maintain a central registry of Members;
- (i) pursue through itself or other entities commercial arrangements including sponsorship and marketing opportunities as are appropriate to further these Objects;
- (j) strive for and maintain government, commercial and public recognition of the Association as the authority on Touch in Australia;
- (k) promulgate, and secure uniformity in, such rules and standards as may be necessary for the management and control of Touch, Touch competitions and related activities, including but not limited to playing rules, refereeing, selecting and coaching standards;
- (l) further develop the Association and Touch into an organised institution and having regard to these objects, to foster, regulate, organise, control, conduct and manage tournaments, competitions, displays and other activities and to issue certificates and award trophies;
- (m) ensure that environmental considerations are taken into account in all Touch and related activities conducted by the Association;
- (n) select and control teams or sides to represent Australia or the Association;
- (o) develop, implement and manage elite or high performance Touch programs throughout Australia;
- (p) promote the health and safety of Participants;
- (q) act as final arbiter on all matters pertaining to the conduct of Touch in Australia, including disciplinary matters;
- (r) establish and conduct educational programs for Participants in the implementation and interpretation of Touch playing rules and standards;
- (s) formulate and implement appropriate policies, including policies in relation to equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, infectious diseases and such other matters as arise from time to time as issues to be addressed in Touch;
- (t) represent the interests of its Members and of Touch generally in any appropriate forum;
- (u) have regard to the public interest in its operations;
- (v) encourage Participants to realise their potential and athletic abilities;

- (w) encourage and promote performance-enhancing drug free competition;
- (x) give, and where appropriate, seek recognition for Members to obtain awards or public recognition in fields of endeavour other than Touch;
- (y) seek and obtain improved facilities for the playing and enjoyment of Touch;
- (z) do all that is reasonably necessary to enable these Objects to be achieved and to enable the Members to receive the benefits which these Objects are intended to achieve;
- (aa) co-operate or join with or support any club, association, organisation, society or individual whose activities or purposes are similar to those of the Association or which advance Touch in Australia; and
- (bb) undertake and or do all such things or activities as are necessary, incidental or conducive to the advancement of these Objects.

4. POWERS

Solely for furthering the Objects the Association has, in addition to the rights, powers and privileges conferred on it under the Act the legal capacity and powers set out under section 124 of the *Corporations Act*¹.

5. APPLICATION OF INCOME

- (a) The income and property of the Association shall be applied solely towards the promotion of the Objects.
- (b) No portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member.
- (c) No remuneration or other benefit in money or money's worth shall be paid or given by the Association to any Director or any Member who holds any office of the Association.
- (d) Nothing contained in **clauses 5(b) or (c)** shall prevent payment in good faith of or to any Member:
 - (i) for any services actually rendered to the Association whether as an employee or otherwise;
 - (ii) for goods supplied to the Association in the ordinary and usual course of business;
 - (iii) of interest on money borrowed from any Member;
 - (iv) of rent for premises demised or let by any Member to the Association;
 - (v) for any out-of-pocket expenses incurred by any Member on behalf of the Association;

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

¹ Section 124 of the *Corporations Act* states that a company has the legal capacity and powers of an individual both in and out of Australia.

6. ADDITION ALTERATION OR AMENDMENT

No addition, alteration or amendment shall be made to this Constitution unless the same has been approved by Special Resolution.

7. LIABILITY OF MEMBERS

The liability of the Members is limited.

8. MEMBERS' CONTRIBUTIONS

Every Member undertakes to contribute to the assets of the Association in the event of it being wound up while a Member, or within one year after ceasing to be a Member for payment of the debts and liabilities of the Association contracted before the time at which it or he ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding one dollar (\$1).

9. DISTRIBUTION OF PROPERTY ON WINDING UP

If upon winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members but shall be paid to or distributed to an organisation or organisations having objects similar to the Objects and which requires its income and profits to be applied solely in promoting its objects and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Association by **clause 5** of this Constitution. Such organisation to be determined by the Members of the Association at or before the time of dissolution, and in default thereof by such Judge of a Supreme Court as may have or acquire jurisdiction in the matter.

10. ACCOUNTS

True accounts shall be kept of the sums of money received and expended by the Association and the manner in respect of which such receipt and expenditure takes place and of the property, assets and liabilities of the Association and subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed in accordance with this Constitution of the Association for the time being, shall be open to the inspection of the Members. Once at least in every year the accounts of the Association shall be examined by one or more properly qualified auditor or auditors who shall report to the Members in accordance with the provisions of the Act.

STATE AND REGIONAL COUNCILS AND MEMBERS

11. STATE AND REGIONAL COUNCILS

- (a) The Board shall establish, support and regulate a State Council for each State excluding in NSW . to facilitate the pursuit of the Objects.
- (b) Except in NSW, the Board may establish, support and regulate such Regional Councils as it considers necessary to facilitate the pursuit of the Objects
- (c) Notwithstanding **clause 11(a)** at no time shall the Board establish more than one State Council in each State.
- (d) The composition, operation, duties and functions of State Councils and Regional Councils shall be in accordance with this Constitution and will otherwise be prescribed in Standing Orders determined by the Association from time to time.
- (e) Each State Council and Regional Council will:

- (i) act at all times in compliance with any requirements that may be imposed on it by any relevant Federal, State or Local government;
 - (ii) at all times act for and on behalf of the interests of the Association, the Members and Touch;
 - (iii) do all that is reasonably necessary to enable the Objects to be achieved;
 - (iv) act in good faith and loyalty to ensure the maintenance and enhancement of the Association and Touch, its standards, quality and reputation for the collective and mutual benefit of the Members and Touch;
- ..
- (v) not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Touch, and its maintenance and enhancement;
 - (vi) make full and proper disclosure to each other of all matters of importance to the Association and Touch;
 - (vii) not acquire any non-sporting advantage at the expense of any of the Association, another State Council or Regional Council, any Member or Touch;
 - (viii) operate with mutual trust and confidence in pursuit of the Objects; and
 - (ix) promote the economic and sporting success, strength and stability of the Association and act interdependently with each other in pursuit of the Objects.

12. MEMBERS

- (a) Membership of the Association shall be divided into the following categories:
 - (i) NSWTA;
 - (ii) Affiliates;
 - (iii) Life Members;
 - (iv) Individual Members; and
 - (v) such other categories as are created from time to time under **clause 12(b)**.
- (b) The Board has power from time to time to create new categories of membership so long as the effect of this is not to alter the rights, privileges or obligations of an existing category of Members.

13. LIFE MEMBERS

- (a) The Board may recommend to the Annual General Meeting that any person who has rendered distinguished or special service to Touch, may be granted Life Membership.
- (b) A resolution of the Annual General Meeting to confer life membership on the recommendation of the Board must be passed by a Special Resolution. The vote on such resolution will be taken by secret ballot.
- (c) Conditions, obligations and privileges of life membership shall be as prescribed in the Regulations.
- (d) All persons appointed as Life Members prior to the adoption of this Constitution shall continue as Life Members following its adoption.

14. APPLICATION FOR MEMBERSHIP

- (a) An application for membership must be:
 - (i) in writing on the form prescribed by the Board from time to time;
 - (ii) if applicable or relevant, accompanied by the applicant's constituent documents and the names of its committee members; and
 - (iii) accompanied by the appropriate fee, if any.
- (b) The Association may accept or reject an application whether the applicant has complied with the requirements in **clause 14(a)** or not. Where the Association accepts an application, the applicant will become a Member. Membership of the Association will commence upon acceptance of the application by the Association. If the Association rejects an application, the Association will refund any fees forwarded with the application, and the application will be deemed rejected by the Association.

15. AFFILIATES

- (a) Affiliates must apply for membership of the Association in accordance with **clause 14** and the procedures prescribed by the Board from time to time in Regulations.
- (b) Affiliates must renew membership of the Association in accordance with the procedures prescribed by the Board from time to time in Regulations.
- (c) Upon renewal of membership an Affiliate must lodge with the Association any amendments to its constitution and changes in its committee and its Annual Report including audited financial statements.
- (d) Affiliates shall have one year from the approval of this Constitution under the Act in which to amend their constitution in accordance with this Constitution, and for such time as their constitutions do not conform shall not be unduly penalised for such non-compliance, the extent that such non-compliance is not wilful or calculated to cause harm or prejudice to the Association.
- (e) Where an Affiliate is unincorporated, that is, has no legal status separate from its individual members, the nominated representative of the Affiliate shall be deemed to represent the Affiliate for all membership purposes under this Constitution, until it is incorporated.
- (f) Each Affiliate shall:

- (i) be subject to the jurisdiction and direction of the Association in respect of Touch;
 - (ii) be incorporated or in the process of becoming incorporated;
 - (iii) adopt the Objects and adopt rules which reflect, and which are to the extent permitted or required by the State Acts, in conformity with this Constitution;
 - (iv) support the Association in the encouragement and promotion of the Objects; and
 - (v) by adopting the Objects, abide by this Constitution.
- (g) The Association and each Affiliate agree:
- (i) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the Objects and Touch are to be conducted, promoted and administered; and
 - (ii) that should an Affiliate be having administrative, operational or financial difficulties the Association may act to assist that Affiliate in whatever manner it considers appropriate.
- (h) The constituent documents of each Affiliate will clearly reflect the Objects and shall acknowledge that the Affiliate is subject to the jurisdiction and direction of the Association in respect of Touch. The constituent documents of each Affiliate shall conform with such incidental variations as are necessary having regard to the State Act applicable to each Affiliate.
- (i) Each Affiliate shall provide to the Association a copy of its constituent documents and all amendments to these documents. Each Affiliate acknowledges and agrees that the Association has power to veto any provision in an Affiliate's constitution which, in the Board's opinion, is contrary to the Objects, this Constitution or the Regulations.
- (j) Each Affiliate will take all steps to ensure its constituent documents and rules are in conformity with this Constitution and will ensure its documents are amended in conformity with future amendments made to this Constitution, subject to any prohibition in any relevant State Act.
- (k) Each Affiliate shall maintain, in a form acceptable to the Association, a register of all Participants in its geographic area or area represented by it. Each Affiliate shall provide a copy of the register at a time and in a form acceptable to the Association, and shall provide regular updates of the register to the Association.

16. EFFECT OF MEMBERSHIP

- (a) All Members acknowledge and agree that:
- (i) the Constitution constitutes a contract between each of them and the Association;
 - (ii) they are bound by the Constitution and the Regulations;
 - (iii) they shall comply with and observe the Constitution and the Regulations and any determination or resolution which may be made or passed by the Board in respect of Touch;
 - (iv) by submitting to the Constitution and the Regulations they are subject to the jurisdiction of the Association;

- (v) the Constitution is made in the pursuit of a common object, namely the mutual and collective benefit of the Association, the Members and Touch;
 - (vi) the Constitution and Regulations are necessary and reasonable for promoting the Objects and particularly the advancement and protection of Touch; and
 - (vii) they are entitled to all benefits, advantages, privileges and services of the Association membership.
- (b) Notwithstanding **clause 19**, where a Member fails to comply with his or its financial or other obligations under this Constitution or any Regulations, the Board may determine that Member to be not of good standing. On determination that a Member is not of good standing, the Board may give notice to the Member of the:
- (i) Board's determination; and
 - (ii) grounds for the Board's determination;
- and request that the Member show cause within such time as is determined by the Board as to why further action should not be taken against the Member. The Member's failure to respond or act to the Board's satisfaction (including assurances or compliance with his or its obligations) may result in the Board suspending the Member's membership of the Association or otherwise imposing such conditions on membership, as the Board sees fit.
- (c) The Board may in its absolute discretion summons any Member it considers to be in breach of any provision of this Constitution or the Regulations to present himself or itself to a special meeting of the Board to show cause as to why the Board should not consider suspending the membership of the Member in accordance with **clause 16(b)** above.

17. SUBSCRIPTION AND FEES

- (a) The annual subscription (if any) and fees payable by Members to the Association and the time for, and manner of, payment shall be as determined by the Board from time to time.
- (b) Members whose subscriptions and/or fees have not been paid and received by the time set by the Board in any year shall not be entitled to receive any of the benefits, advantages, privileges or services of Association membership unless otherwise approved in writing by the Chief Executive Officer.

18. DISCONTINUANCE OF MEMBERSHIP

- (a) A Member having paid all arrears of subscriptions and fees payable by it to the Association, may withdraw from membership by giving one month's notice in writing of such withdrawal to the Association. Upon the expiration of that month the Member shall cease to be a Member.
- (b) Where an Affiliate ceases to be a Member of the Association the Individual Members of that Affiliate also cease to be Members unless also an Individual Member of another Affiliate.
- (c) A Member, who or which ceases to be a Member, shall forfeit all right in and claim upon the Association and its property including Intellectual Property.

- (d) Membership fees or subscriptions paid by a discontinued Member for the relevant year may be refunded on a pro-rata basis to the Member upon discontinuance. The name of such Member shall be removed from the register of Members as soon as practicable.
- (e) Notwithstanding **clauses 16(b)** and **19** the Board may expel or suspend a Member who or which has not renewed its membership within one month of membership renewal falling due. Any Member so expelled or suspended must reapply for membership in accordance with this Constitution.

19. DISCIPLINE OF MEMBERS

- (a) The Board in its sole discretion may consider an allegation (which in the opinion of the Board is not vexatious, trifling or frivolous) by a complainant (including but not only a Director, the Chief Executive Officer or a Member) that a Member has:
 - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations or any other resolution or determination of the Board or duly authorised commission or committee; or
 - (ii) acted in a manner unbecoming of a Member or prejudicial to the Objects or the interests of the Association and/or Touch; or
 - (iii) prejudiced the Association or Touch or brought the Association or Touch into disrepute;

and may, after consideration refer the matter to investigation or determination either under the procedures set down in the Regulations or by such other procedure or persons as the Board considers appropriate.

- (b) All Members are subject to, and submit unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the Association whether under the Regulations or as otherwise prescribed by the Board from time to time.

GENERAL MEETINGS

20. ANNUAL GENERAL MEETING

- (a) An Annual General Meeting of the Association shall be held in accordance with the provisions of the Act and on a date and at a venue to be determined by the Board.
- (b) All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

21. CONVENING GENERAL MEETINGS

The Board may call a General Meeting. The Board will call a General Meeting if requested in writing by one third of the Delegates.

22. DELEGATES

- (a) Unless a State Council has been established by the Board under **clause 11(a)** the Affiliates in each State (other than New South Wales) shall elect or appoint one Delegate to represent them for such term as is determined by those Affiliates. Where a State Council is established by the Board under **clause 11(a)** it shall elect or appoint one Delegate to represent the Affiliates in that State for such term as is determined by the State Council. Each Delegate shall represent the Affiliates

in his State at General Meetings. The Association must be advised in writing of a Delegate appointment within 14 days of the appointment.

- (b) NSWTA shall appoint one Delegate to represent it for such term as is determined by it. NSWTA's Delegate shall represent NSWTA at General Meetings. The Association must be advised in writing of NSWTA's Delegates' appointment within 14 days of the appointment.

23. NOTICE OF MEETING

Subject to an agreement for shorter notice:

- (a) Notice of every Meeting shall be given to every person entitled to receive notice under **clause 24** at the address appearing in the Register kept by the Association. No other person shall be entitled as of right to receive notices of Meetings.
- (b) Notice of a Meeting shall be given to every person entitled to vote at least 42 days prior to the Meeting and shall specify the place and day and hour of meeting.
- (c) The agenda for the meeting stating the business to be transacted at the meeting shall be given to every person entitled to vote at least 28 prior to Meeting, together with any notice of motion received from Members.
- (d) If a Special Resolution is to be proposed at the meeting, the notice of the meeting shall set out an intention to propose the Special Resolution and state the resolution.

24. ENTITLEMENT TO NOTICES

Notice of every General Meeting will be given in any manner authorised by this Constitution to:

- (a) NSWTA; and
- (b) every Affiliate; and
- (c) every Delegate; and
- (d) the Directors; and
- (e) the auditor for the time being of the Association; and
- (f) State Council and Regional Council chairpersons.

25. PLACE OF GENERAL MEETING

The Association may hold a General Meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

26. WRITTEN RESOLUTIONS

- (a) The Association may pass a resolution without a General Meeting being held if a majority of all Members sign a document containing a statement that they are in favour of the resolution set out in the document. All Members must be served with any document to be considered under this clause. The provisions of this clause do not apply to a Special Resolution or a resolution to remove the auditor.

- (b) Separate copies of the document may be used for signing by Members if the wording of the resolution statement is identical on each copy. The resolution is passed when the last Member of the majority in favour signs.

27. QUORUM

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. The quorum for a General Meeting shall be those Delegates holding entitlement to 50% of the votes. The quorum must be present at all times during the meeting.

28. ADJOURNMENT FOR LACK OF QUORUM

If a General Meeting does not have a quorum present within thirty minutes after the time for the meeting set out in the notice of meeting, the meeting shall be adjourned to the date, time and place the Board specifies. If the Board does not specify one or more of these things, then the meeting shall be adjourned to:

- (a) if the date is not specified – the same day in the next week; and
- (b) if the time is not specified – the same time; and
- (c) if the place is not specified – the same place.

29. LACK OF QUORUM AT ADJOURNED MEETING

If no quorum is present at the resumed meeting within thirty minutes after the time specified for the meeting, then the meeting is dissolved.

30. CHAIRMAN OF GENERAL MEETINGS

The Chairman shall be entitled to act as chairman at every General Meeting. If the Chairman is not available within ten minutes after the time appointed for holding the meeting or declines to act for the meeting or part of the meeting, the Board shall appoint another Director to act as chairman of that meeting or part of it.

31. ADJOURNMENT GENERALLY

The chairman of the meeting may, with the consent of any General Meeting at which a quorum is present (and will if so directed by the meeting), adjourn the meeting from time to time and from place to place. No business will 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 one month or more, notice of the adjourned meeting must be given as in the case of an original meeting. Otherwise it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

32. PUTTING OF RESOLUTIONS

A resolution put to the vote at a General Meeting must be decided on a show of hands unless a poll is demanded. A poll may be demanded by:

- (a) any Delegate; or
- (b) the chairman of the meeting.

The poll may be demanded before a vote is taken or before the voting results on a show of hands are declared or immediately after the voting results on a show of hands are declared.

33. RESULT ON SHOW OF HANDS

On a show of hands, a declaration by the chairman is conclusive evidence of the result provided that the declaration reflects the show of hands.. Neither the chairman nor the minutes need state the number or proportion of the votes recorded in favour or against.

34. DEMAND FOR POLL

A poll may be demanded on any resolution including the election of the chairman or the adjournment of a meeting. A poll demanded on a matter other than the election of the chairman or the question of adjournment must be taken when and in the manner the chairman directs. A poll on the election of the chairman or on the question of an adjournment must be taken immediately. A demand for a poll may be withdrawn.

35. NO CASTING VOTE

In the case of an equality of votes, whether on a show of hands or on a poll, there will be no casting vote and the resolution will be lost for want of a majority.

36. VOTING AT GENERAL MEETINGS

Subject to any rights or restrictions attached to any category of membership, at a General Meeting the voting rights of Members can only be exercised by the Delegates. Each Delegate (including NSWTA's Delegate/s) shall have one vote for every 20,000 registered Participants, or part thereof, in the area that Delegate represents.

37. ENTITLEMENT TO VOTE

No Delegate is entitled to vote at any General Meeting unless he has been properly appointed and authorised in accordance with this Constitution and the Association has been notified of the Delegate's appointment.

38. DISALLOWANCE OF VOTE

A challenge to a right to vote at a General Meeting:

- (a) can only be made at the meeting; and
- (b) must be determined by the chairman whose decision is final.

Every vote not so disallowed is valid for all purposes.

39. PROXY VOTING

Proxy voting is NOT permitted at General Meetings.

THE BOARD**40. COMPOSITION OF THE BOARD**

The Board shall comprise:

- (a) the Chairman; and
- (b) four Elected Directors;

who shall be elected under **clause 41**; and

- (c) up to two Appointed Directors who may be appointed by the Elected Directors under **clause 42**.

The Chief Executive shall be entitled to notice of, attend and participate in debate at, all meetings of Board, but shall have no entitlement to vote.

41. ELECTION OF DIRECTORS

- (a) Elected Directors shall be elected in accordance with this Constitution for terms of two years, which shall commence in accordance with **clause 41(f)**. The Chairman and two Directors shall be elected in each year of odd number and two Directors shall be elected in each year of even number.
- (b) Nominees for the Board must meet the qualifications as prescribed from time to time by the Board and set out in this Constitution or in Regulations.
- (c) Nominations must be:
- (i) in writing;
 - (ii) on the prescribed form (if any) provided for that purpose;
 - (iii) signed by a nominator and a seconder who must be authorised representatives of an Affiliate or NSWTA; and
 - (iv) certified by the nominee expressing his willingness to accept the position for which he is nominated.
- (d) Nominations must be received by the Chief Executive at least 35 days prior to the Annual General Meeting.
- (e) The elections shall be by preferential ballot and shall be by secret ballot on papers prepared by the Chief Executive.
- (f) Subject to this Constitution, the office of Elected Directors shall commence from the conclusion of the Annual General Meeting at which he is elected until the conclusion of the second Annual General Meeting following.
- (g) No Elected Director shall serve more than six consecutive years in office. If an Elected Director has served more than six consecutive years in office, that Director is not eligible to be elected or appointed as a Director until a period of 12 months has elapsed from the end of the consecutive six year period.
- (h) Whilst a Director holds office he can not also be a member of a State Council or a Regional Council or the NSWTA board.

42. APPOINTMENT OF DIRECTORS

- (a) The Elected Directors may appoint up to two Appointed Directors.
- (b) The Appointed Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which compliment the Board composition but need not have experience in or exposure to Touch. They do not need to be Members of the Association.
- (c) The Appointed Directors shall be appointed in accordance with this Constitution for a term of one year, which shall commence from the conclusion of the Annual General Meeting at which he is elected until the conclusion of the next Annual General Meeting.

- (d) No Appointed Director shall serve more than six consecutive years in office. If an Appointed Director has served more than six consecutive years in office, that Director is not eligible to be elected or appointed as a Director until a period of 12 months has elapsed from the end of the consecutive six year period.

43. VACATION OF OFFICE OF DIRECTOR

In addition to the circumstances in which the office of Director becomes vacant by virtue of the Act, the office of a Director or of an Officer shall be automatically vacated if the Director or Officer:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns his office in writing to the Association;
- (e) where a Director, is absent without the consent of the Board from meetings of the Board held during a period of six months;
- (f) fails to resign as a member of a State Council or a Regional Council or the NSWTA board;
- (g) holds any office of employment with the Association;
- (h) without the prior consent or later ratification of the Members in General Meeting holds any office of profit under the Association;
- (i) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest;
- (j) in the opinion of the Board:
 - (i) has acted in a manner unbecoming or prejudicial to the objects and interests of the Association and/or Touch; or
 - (ii) has brought the Association, any Member or Touch into disrepute;
- (k) is removed by Special Resolution; or
- (l) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

44. CASUAL VACANCIES

Any casual vacancy occurring in the position of Director may be filled by the remaining Directors from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the Director's term under this Constitution.

45. MANAGEMENT OF THE ASSOCIATION

Subject to this Constitution the business of the Association is to be managed by or under direction of the Board.

46. GENERAL POWERS OF THE BOARD

The Board may exercise all of the powers of the Association except any powers that the Act or this Constitution requires the Association to exercise in General Meeting.

47. HOLDING OF BOARD MEETINGS

The Board shall meet as often as is deemed necessary and may adjourn and, subject to this Constitution, regulate its meetings as it thinks fit. The Chairman, or three Directors may at any time, and the Chief Executive Officer will if so requested, call a meeting of the Board by reasonable notice individually to each Director.

48. HOLDING OF OTHER OFFICES

A Director shall NOT hold any place of profit or position of employment in the Association in conjunction with the office of Director. No person who is employed in a stipendiary capacity for gain by any of the Association, any State Council or Regional Council, any Affiliate or any other corporation or entity engaged in the promotion or organisation of any Touch activity shall be eligible as a Director other than as provided for by this Constitution.

49. DIRECTORS' INTERESTS

A Director is disqualified by holding any place of profit or position of employment in the Association, any State Council or Regional Council or Affiliate or in any company in which the Association is a shareholder or otherwise interested or from contracting with the Association either as vendor, purchaser or otherwise. Any such contract or any contract or arrangement entered into by or on behalf of the Association in which any Director is in any way interested will be voided for such reason.

50. DISCLOSURE OF INTERESTS

The nature of the interest of such Director must be declared by the Director at the meeting of the Board at which the contract or arrangement is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a contract or arrangement after it is made or entered into the declaration of the interest must be made at the first meeting of the Board held after the director becomes so interested.

51. GENERAL DISCLOSURE

A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **clause 50** as regards such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

52. RECORDING DISCLOSURES

The minutes shall record any declaration made or any general notice given by a Director under **clauses 50** and **51**.

53. INTERESTED DIRECTOR CANNOT VOTE

A Director, notwithstanding the interest, may be counted in the quorum present at any meeting but cannot vote in respect of any contract or arrangement in which the director is interested. If he does vote his vote shall not be counted.

54. QUORUM

- (a) The quorum for a Board meeting is four Directors, or such other number as may be fixed by the Board from time to time. The quorum must be present at all times during the meeting.
- (b) In the event of a vacancy or vacancies in the office of Director or Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a Board meeting, they can act only for the purpose of ensuring the number of Directors is a number sufficient to constitute a quorum. Vacancies shall be filled in accordance with this Constitution.

55. CHAIRMAN OF BOARD MEETINGS

The Chairman shall act as chairman at all Board meetings. If the Chairman is not available within ten minutes after the time appointed for holding the meeting or declines to act for the meeting or part of the meeting, the remaining Directors shall appoint another Director to chair the meeting or part of it.

56. DELEGATIONS

Other than its power of delegation under this clause and powers under **clause 73** (Regulations) the Board may delegate any of its powers to commissions and/or committees consisting of such persons as the Board thinks fit. Any such commission or committee shall conform to this Constitution where applicable and or any Regulations that may be imposed on it by the Board in the exercise of the powers so delegated. Any such commission or committee must exercise the powers delegated to it in accordance with any directions of the Board. The effect of the commission or committee exercising a delegated power in this way is the same as if the Board exercised the power.

57. CONDUCT OF COMMISSION OR COMMITTEE MEETINGS

The Board shall appoint the chairpersons and members of all commissions and committees. If at any meeting the chairman is not present within ten minutes after the time appointed for holding the meeting, the members present may elect one of their number to be chair of the meeting. A commission or committee may meet and adjourn, as it thinks proper.

58. VOTES AT BOARD MEETINGS

- (a) Subject to **clause 58(b)** each Director shall be entitled to one vote on each resolution at Board meetings. A resolution of the Board must be supported by a majority of votes cast by those present and entitled to vote on the resolution,. In the case of an equality of votes there will be no casting vote and the resolution will be lost for want of a majority. The Chief Executive Officer shall not be entitled to vote.
- (b) An Appointed Director shall not be entitled to vote on his reappointment.

59. VALIDITY OF DIRECTORS' ACTS

All acts done by any meeting of the Board or of any commission or committee or by any person acting as a Director shall be considered valid even if it is afterwards discovered that:

- (a) there was some defect in the appointment of any such Director or commission or committee or person; or
- (b) they or any of them were disqualified.

60. WRITTEN RESOLUTION

The Board may pass a resolution without a Board meeting being held if the majority of all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. All Directors must be served with any document to be considered under this clause. Separate documents may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

61. MANNER OF HOLDING MEETINGS

A Board meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director shall only withdraw the Director's consent within a reasonable period before the meeting.

62. CHIEF EXECUTIVE OFFICER

- (a) The Chief Executive Officer shall be appointed by the Board for such term, and upon such conditions as the Board thinks fit.
- (b) The Association shall be managed by the Chief Executive Officer who may exercise such powers of the Association as are delegated to him from time to time by the Board in its absolute discretion and which is not retained to the Board by the Act or by this Constitution.
- (c) The Chief Executive Officer shall administer Touch in Australia in accordance with this Constitution, the Regulations and all policy directions of the Board.
- (d) The Chief Executive Officer shall attend all Board meetings and General Meetings at the invitation of the Board.
- (e) The Chief Executive Officer may be removed by the Board.
- (f) The Chief Executive Officer may employ such personnel as are deemed necessary from time to time. Such appointments shall be for such period and on such conditions as the Chief Executive Officer determines.

MISCELLANEOUS

63. NEGOTIABLE INSTRUMENTS

Any two Directors or any Director and the Chief Executive Officer may sign, draw, accept, endorse or otherwise execute a negotiable instrument. This provision is subject to the Board determining that a negotiable instrument shall be signed, drawn, accepted, endorsed or otherwise executed in a different way.

64. MINUTES

The Board shall cause minute books to be kept in which the Association records within one month:

- (a) proceedings and resolutions of all General Meetings; and
- (b) proceedings and resolutions of Board meetings (including meetings of all committees and commissions); and
- (c) resolutions passed by Members without a meeting; and
- (d) resolutions passed by the Board without a meeting.

The Board must ensure that minutes of a meeting are signed within a reasonable time after the meeting by the chairman of the meeting or the chairman of the next meeting. The Board must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution was passed.

65. REGISTERS

The Board shall cause a register of Members to be kept.

66. COMMON SEAL

- (a) The Association will have a common seal.
- (b) The common seal must comply with the Act.
- (c) The Board shall provide for the safe custody of the common seal.
- (d) The seal shall only be used by the authority of the Board or of a committee of the Board authorised by the Board.
- (e) Every document to which the seal is affixed shall be signed by two Directors.

67. DIRECTORS' INTERESTS

A Director shall NOT sign a document to which the seal of the Association is fixed where the Director is interested in the contract or arrangement to which the document relates.

68. ACCOUNTING RECORDS

The Board shall cause proper accounting and other records to be kept and shall distribute copies of financial statements as required by the Act.

69. ACCESS TO RECORDS

The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Association or any of them will be open to the inspection of Members not being Directors. No Member (not being a Director) has any right of inspecting any accounting or other records of the Association except as conferred by the Act or this Constitution or authorised by the Board or by a resolution passed at a General Meeting.

70. AUDITOR

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

71. GIVING OF NOTICES

The Association may give notice to any Delegate, Director or Member:

- (a) personally; or
- (b) by sending it by post to the address of the Delegate or Director as notified to the Board or the address for the Member in the register of members or the alternative address (if any) nominated by the Director or Member; or
- (c) by sending it to the facsimile number or electronic address (if any) nominated by the Delegate or Director or by the Member.

Any notice sent by post is taken to have been given two days after it is posted. Any notice sent by facsimile or other electronic means is taken to be given on the business day after it is sent.

72. EXTENT OF INDEMNITY

The Association will indemnify (either directly or through one or more interposed entities) any person who is or has been a Director or Chief Executive Officer of the Association and, if so resolved by the Board, the auditor of the Association, out of the funds of the Association against the following:

- (a) any liability to another person (other than the Association or a related body corporate) unless the liability arises out of conduct involving a lack of good faith or negligence;
- (b) any liability for costs and expenses incurred by that person:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the Act save for any liability that arises from the negligence of that person.

73. REGULATIONS

- (a) The Board may from time to time as circumstances dictate, formulate, interpret, adopt, make, alter and amend Regulations for the proper advancement, management and administration of the Association, the advancement of the Objects and Touch as it thinks necessary or desirable. Such Regulations must be consistent with this Constitution. Such Regulations are binding on all Members, State Councils and Regional Councils.
- (b) The Chief Executive Officer shall bring to the notice of the Board, Affiliates, State Councils and Regional Councils all Regulations and any formulation, interpretation, amendment, alteration and repeal of them. Notices are binding upon all Members.
- (c) All rules and regulations of the Association in force at the date of the approval of this Constitution shall continue in force under this Constitution until amended or repealed by the Board. All such rules and regulations are subject to, and are to be interpreted in accordance with, this Constitution.

74. CONSTITUENT BODY TRANSITION

- (a) Subject to clause 74 (b), the Constituent Bodies shall:
 - (i) exercise the right to appoint a delegate pursuant to Clause 22 as if they were a State Council; and
 - (ii) otherwise be recognised by the Association in such manner as it considers necessary or desirable to achieve the Objects. Such recognition does not grant a constituent body any rights under this Constitution other than in clause 74 (a) (i).
- (b) Recognition under clause 74(a) will cease:

- (i) one year from the adoption of this Constitution; or
- (ii) the date a Constituent Body winds up; or
- (iii) the date a State Council is established for that State;
whichever is the earlier.

75. NSWTA

NSWTA shall:

- (a) Be incorporated;
- (b) Provide the Association with copies of its audited accounts, annual report and other associated documents within thirty (30) days of the NSWTA's Annual General Meeting;
- (c) Adopt (in principle) the objects of the Association and adopt rules which reflect and which are generally in conformity with this Constitution;
- (d) Do all that is reasonably necessary to enable the objects of the Association to be achieved;
- (e) At all times operate with, and promote, mutual trust and confidence between the Association and the Members in pursuit of these objects;
- (f) At all times act on behalf of an in the interests of the members and the sport of touch;