

**NEW ZEALAND SOFTBALL ASSOCIATION INCORPORATED
CONSTITUTION 2024**



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New Zealand Softball Association Incorporated

Constitution 2024

1. Definitions and Interpretation

Definitions

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

Softball New Zealand is the trading name of New Zealand Softball Association Incorporated and is referred to in this Constitution as **SNZ**.

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

Annual General Meeting (AGM) means a meeting of the Members of SNZ held once a year convened under this Constitution.

Alternate Delegate means a person appointed by a Delegate or by A Regional Association or Associate Member to represent a Regional Association or Associate Member at a General Meeting.

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

Appointment Panel means the panel appointed by the Board under clause 6.5.

Appointed Board Member means a Board Member who has been appointed under clause 6.4.

Associate Member means an organisation admitted in this category as a member of SNZ.

Board means SNZ's governing body.

Board Meeting means a meeting of the Board.

Board Member means a member of the Board, including the Chair.

Bylaws means any bylaws, policies, procedures, regulations and codes of SNZ whether already in existence or made under clause 16.

Casual Vacancy is a vacancy which arises on the Board or in the Presidency when a Board Member or President does not serve their full term of office.

Chair means the Board Member appointed as Chair of SNZ.

Chief Executive means the person in the highest-ranking management position in SNZ.

Club means an organisation, incorporated or otherwise as a softball club or a multisport club that includes softball.

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

Contact Details means the membership of SNZ with an electronic address and a telephone number.

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

Delegate means a person who represents a Regional Association or an Associate Member at a General Meeting.

Diversity, Equity and Inclusion means ensuring fair and equitable opportunities are available to everyone to participate in sport and recreation irrespective of age, ability, ethnicity, gender, national origin, race, religion, sexual orientation, beliefs, or socio-economic status.

Elected Board Member means a Board Member elected by the Members.

General Meeting means an AGM or SGM of SNZ.

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

Judicial Committee means the persons acting as a judicial committee as determined by the Bylaws or by the Board.

Major Transaction means any of the following:

- (a) the acquisition or lease of an asset, the value of which is more than ten percent (10%) of SNZ's financial reserves at the last balance date before the acquisition;
- (b) the disposition of an asset, the current market value of which is more than ten percent (10%) of SNZ's equity at the last balance date before disposition;
- (c) A transaction not including agreements entered into with sponsors, that has or is likely to have the effect of SNZ acquiring rights or interests or incurring obligations or liabilities the value of which is more than ten percent (10%) of SNZ's assets before the transaction.

Matter means:

- (a) SNZ's performance of its activities or exercise of its powers; or
- (b) an arrangement, an agreement or a contract made or entered (or proposed to be made or entered) into by SNZ.

Member means each person who is a member of SNZ and includes all categories of members of SNZ in clause 4.3.

Member Register (or **Register**) means the register of Members kept under this Constitution.

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

Softball New Zealand or SNZ (SNZ) is the trading name of the New Zealand Softball Association Incorporated.

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

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

Playing Rules of Softball means the rules of the game of Softball determined and published from time-to-time by WBSC which may be endorsed and modified by SNZ.

President means the President of SNZ elected by the Members.

Purposes means the purposes of SNZ described in clause 3.1.

Regional Association means a regional body that meets the requirement for membership in that category.

Regulations means a rule or directive made and maintained by SNZ or WBSC.

Special General Meeting (SGM) means a meeting of the Members, other than an AGM, called for a specific purpose.

Special Resolution means a resolution passed by a 66% majority of votes cast.

Sport New Zealand refers to the Crown Entity for sport and recreation in New Zealand.

Sports Tribunal of New Zealand refers to the independent body that determines certain types of disputes for the sports sector.

Working Day has the meaning given to that term under the Legislation Act 2019 and excludes the day observed as the anniversary in Wellington.

WBSC means the World Baseball Softball Confederation and is the world governing body for the sports of baseball, softball, and Baseball5.

Interpretation

1.2 Unless the context otherwise requires:

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

Notices

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

- (a) a Member to the address set out in their Contact Details; and
- (b) SNZ's generic email or by post to SNZ's registered office set out on the Register of Incorporated Societies.

- 1.4 A notice is deemed to have been received:
- (a) if given by post, when left at the address of a person or five (5) Working Days after being put in the post; or
 - (b) if given by email, upon production of a physical copy of the email detailing the time and the date the email was sent (provided that the sender does not receive any "out of office" auto-reply or other indication of non-receipt),

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

2. Details of SNZ

Name

- 2.1 The name of the society is New Zealand Softball Association Incorporated (referred to in this Constitution by its trading name Softball New Zealand or SNZ (SNZ).

Status

- 2.2 SNZ is the governing body in New Zealand/Aotearoa for softball.

Registered Office

- 2.3 The registered office of SNZ is at the place in New Zealand/Aotearoa as the Board decides.

Contact Person

- 2.4 At its first meeting following an AGM, the Board must appoint or reappoint at least one (1), and a maximum of three (3), persons to be the Contact Person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of Incorporated Societies of any change in the Contact Person or that person's Contact Details.

3. Purpose and Powers

Purpose

- 3.1 The purposes of SNZ are to:
- (a) be the national body in New Zealand/Aotearoa to promote, develop, foster and administer softball, mainly as an amateur sport for the well-being, benefit and recreation of the general public in New Zealand/Aotearoa;
 - (b) support and assist its Members to deliver softball throughout New Zealand/Aotearoa;
 - (c) encourage, educate, and promote softball as an activity that promotes and maintains the health and wellbeing of all participants in softball;
 - (d) promote opportunities and facilities to enable, assist and enhance the participation, enjoyment and performance in softball in SNZ's activities;
 - (e) lead, promote and enable Diversity, Equity and Inclusion across the whole organisation including governance of SNZ and participation in softball;

- (f) promote, develop and co-ordinate softball competitions; and tournaments:
- (g) publish and enforce the Playing Rules of Softball;
- (h) protect the integrity of softball and SNZ by developing and enforcing standards of conduct, ethical behaviour and implementing good governance; and
- (i) to represent softball in New Zealand on the WBSC and affiliate and co-operate with other organisations including Oceania softball.

Tikanga

- 3.2 The Board will undertake a process including consultation with Members to identify and record the tikanga, kawa, culture or practice of SNZ.

Capacity and Powers

- 3.3 SNZ has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter into any transaction, subject to this Constitution, the Act, any other legislation, and the general law.

4. Members

Member Application

- 4.1 An application to become a Member (Application) must be in the form required by SNZ. All Applications are determined by the Board who may accept or decline an Application in its absolute discretion. A person becomes a Member when their Application has been accepted and they have paid the required membership fees and satisfied any other preconditions.

Member Consent

- 4.2 An applicant consents to become a Member by meeting all the requirements of Membership set out in this Constitution or as otherwise set by the Board, including submitting an Application to SNZ.

Member Categories

- 4.3 The Members of SNZ are:
- (a) Regional Associations;
 - (b) Associate Members;
 - (c) Life Members; and
 - (d) any other categories determined by the Board.

Regional Associations

- 4.4 Regional Associations are incorporated softball bodies that administer, promote, develop and foster the sport of softball within a geographical region of New Zealand as defined and recognised by SNZ.
- 4.5 The boundaries of each Regional Association are determined, and may be amended, by the Board provided that the Board has first consulted with the Regional Associations.

- 4.6 In addition to the obligations as a Member under clause 4.13, each Regional Association will:
- (a) administer, promote, and develop softball in the region in accordance with the Purposes, this Constitution and any Bylaws;
 - (b) be, and remain, registered as an incorporated society under the Incorporated Societies Act;
 - (c) ideally but not always, have Clubs as its members and other members it considers appropriate;
 - (d) apply its property and capacity in pursuit of its purposes which must not be inconsistent with the Purpose of SNZ;
 - (e) do all that is reasonably necessary to enable the Purposes of SNZ and the purpose of the Regional Association to be achieved;
 - (f) ensure its constitution is not inconsistent with this Constitution and provide SNZ with a copy of its constitution and all proposed amendments to it. The Board may require a Regional Association to amend its constitution if it, or any proposed amendment, is inconsistent or in conflict with, this Constitution or any Bylaws;
 - (g) have in its constitution clauses stating:
 - (i) the members of the Regional Association are required to have a constitution that is not inconsistent with the SNZ Constitution and the Regional Association constitution;
 - (ii) the members of the Regional Association are required to maintain a register of their own members and when requested provide its register to the Regional Association and SNZ, in compliance with privacy law;
 - (h) maintain an up-to-date register of its members in the format determined by the Board and when requested provide its register of members to SNZ, in compliance with privacy law;
 - (i) lead, promote and enable Diversity, Equity and Inclusion across the whole organisation including governance of the Regional Association and participation in softball;
 - (j) operate with, and promote mutual trust and confidence between SNZ and the Members;
 - (k) at all times act in the best interests of its members and SNZ; and
 - (l) act in good faith with loyalty to SNZ to ensure the maintenance and enhancement of SNZ and softball, and its reputation, and to do so for the collective and mutual benefit of the Members and SNZ.

Associate Members

- 4.7 Associate Members are organisations involved in the sport of softball in New Zealand which are not eligible for membership as Regional Associations and which are approved in this membership category by and at the discretion of the Board. Applicants under this category may include but are not limited to umpires and scorers associations, New Zealand Defence Force softball, Maori and Pasifica softball associations, and groups in a region where there is no Regional Association. Associate Members will:
- (a) have a basic role to provide benefits related to softball to their members and/or to the softball community at large;

- (b) ideally be an incorporated body with rules, which are approved by the Board, or if not be a group or body whether incorporated or not which is approved by the Board and which complies with any conditions of approval; and
- (c) agree to be bound by this Constitution and the Bylaws of SNZ.

4.8 In addition to the obligations as a Member under clause 4.13, each Associate Member will:

- (a) administer, promote and develop softball in accordance with the Purposes of SNZ, this Constitution and any Bylaws;
- (b) appoint a Delegate or Alternate Delegate to represent it at General Meetings;
- (c) operate with a mutual trust and confidence among SNZ, Regional Associations, other Associate Members and all their collective members; and
- (d) not do or permit to do any act or wrong doing that might adversely affect or derogate from the standards of softball in New Zealand.

Life Members

4.9 Life Membership is granted in recognition and appreciation of outstanding service by an individual to SNZ. Any Member may nominate an individual to become a Life Member by giving notice to the Board setting out the grounds for the nomination. The Board or any sub-committee delegated must determine whether the nomination should be forwarded to a General Meeting. A person may only be elected as a Life Member by a Special Resolution at a General Meeting. A person consents to becoming a Life Member on acceptance of their life membership.

4.10 Life Members have rights and benefits as determined by the Board.

4.11 Life Members may speak but have no vote at General Meetings but to avoid doubt may exercise rights as a Delegate or Alternate Delegate.

4.12 Life Members are not required to pay any membership fee.

Member Rights and Obligations

4.13 Members acknowledge and agree:

- (a) they are bound by, and will comply with and observe this Constitution and the Bylaws of SNZ;
- (b) they are subject to the jurisdiction of SNZ;
- (c) they are entitled to entitlements granted by this Constitution or as determined by the Board;
- (d) to receive, or continue to receive or exercise Member rights, they must meet all the Member requirements set out in this Constitution and the Bylaws or as otherwise set by the Board, including payment of any membership or other fees within the required time period;
- (e) if they fail to comply with sub-clause (d) the Board may terminate their membership;
- (f) they have no rights of ownership of, or the automatic right to use, the property of SNZ; and
- (g) they will promote the interests and Purposes of SNZ and not bring SNZ into disrepute.

4.14 All Members are entitled to:

- (a) communicate directly with, and receive communications directly from SNZ;

- (b) use the intellectual property of SNZ in accordance with a written agreement between the Member and SNZ;
- (c) participate in activities of SNZ subject at all time to being eligible for, and complying with, terms and condition of such activities;
- (d) with the exception of Life Members, appoint a Delegate or Alternate Delegate to represent it at General Meetings;
- (e) receive notices and papers and be able to attend, speak and vote (if eligible to vote) at General Meetings via their Delegate(s) or Alternate Delegates; and
- (f) to receive travelling expenses for Delegates or Alternate Delegates to General Meetings which will be financed by SNZ out of revenue, to the extent decided by the Board.

Suspension of a Member

4.15 If a Member is, or may be, in breach under clause 4.13, and the Board believes it is in the best interests of SNZ to do so, the Board may suspend the Member until final determination of the matter under the dispute resolution process applicable to the matter. Before imposing any suspension, the Member must be given notice of the suspension.

4.16 Unless otherwise determined by the Board, while a Member is suspended the Member is:

- (a) not entitled to attend, speak or vote at a General Meeting;
- (b) not entitled to hold any other rights or entitlements as a Member;
- (c) not entitled to continue to hold office in any position within SNZ; and
- (d) not entitled to any rights, privileges or entitlements which the Member would otherwise be entitled to including the participation in any competition, tournament, activity, event function or meeting of SNZ or as a Member,

until such time as the alleged breach is resolved or determined.

Ceasing to be a Member

4.17 A Member ceases to be a Member:

- (a) if an individual on death, or if a body corporate on liquidation or if an unincorporated group upon cessation of the softball activity of the group;
- (b) by giving one month's notice to the Board of resignation;
- (c) if their membership is terminated under clause 4.13(e);
- (d) if their membership is terminated following a dispute resolution process or other process whether referred to in this Constitution or the Bylaws or otherwise applicable to the Member.

4.18 A Member which or who ceases to be a Member:

- (a) remains responsible to pay all their outstanding membership and other fees to SNZ;
- (b) must return all property of SNZ if required;
- (c) ceases to be entitled to any rights of a Member, but continues to be bound by the obligations of a Member under this Constitution if required by the Board.

Resignation and Termination of Membership

- 4.19 A Member whose membership is suspended or terminated by the Board may apply for the matter to be reviewed by such process as may be specified in any Bylaws or in the absence of any relevant provisions then by a General Meeting of SNZ. If the issue goes to a General Meeting the decision of the Board stands except to the extent it is varied by or overturned by a Special Resolution passed at a General Meeting.

Membership Fees

- 4.20 The Board will decide any membership and other fees payable by Members, the due date for those fees and the manner for payment of such fees. The Board may determine different levels of membership fees and other fees for different types of Members.

Member Register

- 4.21 The Chief Executive will ensure an up-to-date Member Register is kept and the register must include:
- (a) each Member's name;
 - (b) each Members address;
 - (c) each Member's Contact Details;
 - (d) the date each Member became a Member, alongside the class of Membership.
- 4.22 A Member must provide notice to SNZ of any change to their Contact Details. The Member Register will be updated within thirty (30) days of the change taking place after the Board becomes aware of changes of the information recorded in the Member Register.
- 4.23 SNZ and the Regional Association must, in collecting personal information from individuals for the register, seek the consent of the individual concerned and at all times comply with privacy law. Any entry on the Register is to be available for inspection by Members and the Board, upon reasonable request and in compliance with privacy law.
- 4.24 The Board will keep a record of the name of each member who has ceased to be a member of SNZ within the previous seven (7) years and the date on which they ceased to be a member.

Board Intervention

- 4.25 The Board may intervene in the governance, management or operations of a Member in whatever manner it considers appropriate, (including but not limited to appointing a person or persons to act in place of the board or committee of the Member) if, either following its own enquiries or upon request by the board or committee of the Member, the Board considers the Member:
- (a) is having significant administrative, operational, financial or other difficulties; or
 - (b) has breached any significant and ongoing obligation under this Constitution;
- and the Board considers that to do so is in the best interests of SNZ provided that before such intervention, the Board must use its best efforts to consult with the Member regarding the proposed intervention.

5. General Meetings

Annual General Meeting (AGM)

- 5.1 SNZ must hold an AGM once a year at the time, date and place as the Board decides, but not more than six (6) months after the balance date of SNZ and not more than fifteen (15) months after the previous AGM.
- 5.2 Any other General Meeting will be Special General Meeting (**SGM**).
- 5.3 The Members must be given at least ninety (90) days' notice of the AGM. Notice to Members of an AGM may be given by such methods as the Board determines including email, and posting on SNZ website and social media accounts.
- 5.4 Not less than thirty (30) days before the date set for the AGM, proposed motions (including alterations to the Constitution) and other items of business must be received in writing by the Chief Executive from the Members and/or the Board. Applications for Appointed Board Members and Elected Board Members must be received not less than sixty (60) days before the date set for the AGM.
- 5.5 The following business will be discussed at the AGM:
- (a) confirmation of the minutes of the previous AGM;
 - (b) the Board's presentation of the following information during the most recently completed accounting period:
 - (i) annual report;
 - (ii) annual financial statements;
 - (iii) if required by law or by the Board, the auditor's or reviewer's report to Members on the financial statements;
 - (iv) notice of any disclosures of conflicts of interest made by Officers (including a brief summary of the Matters, or types of Matters, to which those disclosures relate);
 - (c) election of any Elected Board Members;
 - (d) election of any vacancy in the position of President;
 - (e) appointment of scrutineers for the meeting;
 - (f) appointment or announcement of any Appointed Board Members;
 - (g) appointment of an auditor or reviewer if required, or approval for the Board to make any appointment;
 - (h) consideration of any properly submitted motions proposing to amend this Constitution;
 - (i) consideration of any other properly submitted items of business.
- 5.6 Members must give notice of any proposed motions and other items of business to the SNZ at least thirty (30) days before the date of the AGM.

- 5.7 Notice of the agenda containing the business to be discussed at the AGM must be sent to all persons entitled to attend the AGM at least twenty-one (21) days before the date of the AGM. No additional items of business can be voted on other than those set out in the agenda, but the Members present may agree by Special Resolution to discuss any other items.

Special General Meeting (SGM)

- 5.8 The Board must call a SGM if it receives a written request stating the purpose of the SGM from:
- (a) the Board itself; or
 - (b) by fifty percent (50%) of Members eligible to vote at such SGM.
- 5.9 Members must be given at least thirty (30) days' notice of the SGM, unless the Board, in its discretion, decides that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members.
- 5.10 A SGM may only consider and deal with the business specified in the request for the SGM.
- 5.11 The notice must be in writing and set out:
- (a) the date, time and venue and the manner in which the meeting is to be held;
 - (b) the date and time by which notification of the Delegate(s) of the members for the SGM must be received by the Chief Executive; and
 - (c) the proposed motion(s) that have been properly submitted for consideration.

Quorum

- 5.12 No business is to be transacted at any General Meeting unless a quorum is present at the time when the meeting is due to start. The quorum for a General Meeting is two-thirds (66%) of the Members (represented by their Delegates or Alternate Delegates) who are entitled to vote and who are present in the manner permitted for the meeting in accordance with clause 5.27 **(Methods of Holding General Meetings)**. The quorum must always be present during the General Meeting.
- 5.13 If a quorum is not reached within thirty (30) minutes of the scheduled start time of an AGM, the AGM is adjourned to a day, time and place determined by the chair of the AGM. If no quorum is achieved at the further AGM, the Members present fifteen (15) minutes after the scheduled start time of that further AGM are deemed to constitute a valid quorum.
- 5.14 If a quorum is not reached within thirty (30) minutes of the scheduled start time of the SGM, the SGM is cancelled.

Control of General Meetings

- 5.15 The President chairs General Meetings. If the President is unavailable, the Chair or another member of the Board (appointed by the Board) will preside. In the absence of both of those persons, the Members present will elect a person to chair the General Meeting.

Attendance and Voting

- 5.16 The following persons are eligible to attend and speak at General Meetings in accordance with this Constitution:
- (a) one (1) Delegate (or Alternate Delegate) of each Regional Association;

- (b) one (1) Delegate (or Alternate Delegate) of each Associate Member;
 - (c) the President and any Patron;
 - (d) any Board Member;
 - (e) the Life Members;
 - (f) the Chief Executive and members of the Management team of SNZ as required; and
 - (g) any other persons invited by the Board (for example an auditor or reviewer).
- 5.17 The President, Patron, Board Members and Life Members are not entitled to vote.
- 5.18 No Board Member, President, Patron or SNZ employee may act as Delegate or Alternate Delegate.
- 5.19 No Delegate or Alternate Delegate can act as a Delegate or Alternate Delegate for more than one Member at the same meeting.
- 5.20 Regional Associations and Associate Members must advise the Chief Executive of the Delegates or Alternate Delegates representing them prior to the commencement of any General Meeting.
- 5.21 Voting entitlement for a Member eligible to vote is confirmed prior to a General Meeting and is:
- (a) for a Regional Association:
 - (i) conditional upon payment of all SNZ capitation fees invoiced to it by SNZ prior to the date of the General Meeting; and
 - (ii) proportionate to the number of teams counted in the SNZ invoice referred to in (i), as allocated in the table below and with the following regarded as one team equivalent:
 - (1) each premier and senior grade team counted in the SNZ capitation fee;
 - (2) 10 junior grade teams (Under 13 grade up to and including Under 19 grade)
 - (3) 20 youth grade teams (Under 6 grade up to and including under 12 grade)
 - (4) in (2) and (3) fractions are rounded down to whole numbers (for example in (2), 28 junior grade teams equates to 2 team equivalents);
 - (b) for an Associate Member, one (1) vote provided the Member has paid, or contracted to pay, any fees, dues or levies due to SNZ.

Number of Team Equivalents	Votes
0 – 10	1
11 – 20	2
21 – 30	3
31 – 40	4
41- 50	5
51 and above	6

Method of Voting

- 5.22 Voting is conducted by the methods appropriate to the method of holding the General Meeting (see clause 5.27) as determined by the Board in advance of the meeting or as determined by the chair at the meeting. This may be by voices or a show of hands or by electronic means as determined in advance of the meeting by the Board or as determined at the meeting by the chair, provided that a secret ballot must be held if called for and approved by Ordinary Resolution of voting Members or as otherwise required under this Constitution.
- 5.23 Elections at an AGM must be undertaken by secret ballot. Two (2) scrutineers must be appointed at the General Meeting to count the votes. Where there are the same or lower number of nominations as positions available the person(s) nominated will be declared elected by the chair of the meeting.
- 5.24 An Ordinary Resolution of Members at a General Meeting is sufficient to pass a resolution, except as specified in the Act or this Constitution.
- 5.25 Proxy votes and postal votes are not permitted.
- 5.26 If a result of a vote is equal or tied at a General Meeting:
- (a) in an election, another vote will be held between the tied candidates;
 - (b) for any other matter the motion is lost.

Methods of Holding General Meetings

- 5.27 General Meetings will be held by a quorum of persons:
- (a) being assembled together at the time and place designated for the meeting, or
 - (b) subject to the prior approval of the Board, by persons participating in the meeting by means of audio link, audio visual link, or other electronic communication, or
 - (c) subject to the prior approval of the Board, by a combination of both methods.

Minutes

- 5.28 Full minutes must be kept of all General Meetings.

Omissions and Irregularities

- 5.29 The General Meeting and its business will not be invalidated simply because one or more Members do not receive notice of the General Meeting.
- 5.30 The General Meeting and its business will not be invalidated by an irregularity, error or omission in notices, agendas and relevant papers of the General Meeting or the omission to give notice within the required time frame or the omission to give notice to all Members and any other error in the organisation of the General Meeting if:
- (a) the chair in their discretion determines that it is still appropriate for the General Meeting to proceed despite the irregularity, error, or omission; and
 - (b) a motion to proceed is put to the General Meeting and a Special Resolution is obtained in favour of the motion to proceed.

Resolution passed in lieu of meeting

- 5.31 A resolution in writing signed or assented to by email or other electronic means by a seventy-five per cent majority of Members is valid as if it had been passed at a General Meeting provided the requirements under sections 89 to 92 of the Act are complied with. Any resolution may consist of several documents in the same form each signed or assented to by one (1) or more Members.

6. Board

Functions and powers

- 6.1 Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution:
- (a) the Board must manage, direct or supervise the operation and affairs of SNZ; and
 - (b) the Board has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of SNZ; but
 - (c) the Board may not finalise a Major Transaction unless approval is obtained by Special Resolution of Members at a General Meeting or by resolution passed in lieu of a General Meeting under clause 5.31.

Composition

- 6.2 The Board consists of:
- (a) a minimum of five (5) Board Members.
 - (b) up to four (4) persons elected under clause 6.4 at the AGM (**Elected Board Members**); and
 - (c) up to three (3) persons appointed under clause 6.4 (**Appointed Board Members**),
- provided that the Board must have a minimum of 40% self-identified women and a minimum of 40% of self-identified men on the Board.
- 6.3 This Constitution expressly provides for the possibility that a majority of the Board could be made up of Officers who are not Members or representatives of bodies corporate that are Members.

Election and appointment of Board Members

- 6.4 Board Members are appointed and elected as follows:
- (a) the Appointment Panel must call for applications for any Board Member positions that are to be vacated by a date set by the Board and if no date is set, at least ninety (90) days before the AGM;
 - (b) applications for Board Members are made by applicants in the approved forms as determined by the Appointment Panel (indicating if they seek to be Appointed Board Members or Elected Board Members or either) and must be received at the registered office of SNZ not less than sixty (60) days before the date set for the AGM;
 - (c) within the application an applicant must disclose any actual or potential conflicts of interests, or if the person is involved/closely connected with a person or activity which has or may bring SNZ or softball into disrepute or which may be prejudicial to the purposes or the interests of SNZ and/or softball if they become a Board Member;

- (d) upon receipt of any applications for vacancies for Board Member(s) positions, the Chief Executive will refer all the applications to the Appointments Panel;
- (e) the Appointment Panel must undertake its responsibilities as set out in clause 6.10;
- (f) at least thirty (30) days before the AGM, the Appointment Panel:
 - (i) must notify the Board of the Appointed Board Member(s) who are to assume office; and
 - (ii) may notify the Board of any recommended applicants whom it considers would best suit the vacant positions of Elected Board Members for consideration at the AGM.
- (g) in turn, the Board must, at least fourteen (14) days before the AGM, notify the Members of:
 - (i) the Appointment Panel's decision regarding any Appointed Board Members it has appointed;
 - (ii) recommendations (if any) of applicants that the Appointment Panel considers would best suit the vacant positions of Elected Board Members; and
 - (iii) the names of any other applicants for the vacant positions of Elected Board Members.
- (h) elections of the Elected Board Members at the AGM will take place as follows:
 - (i) if there is more than one nominee for any vacant positions of Elected Board Members, the election is by secret ballot or any other method of voting required by the Board;
 - (ii) those nominees who have the highest number of votes in their favour to fit the number of vacant positions are declared elected;
 - (iii) if the number of votes for one or more nominees is equal to another nominee, a further vote will be held between the tied nominees;
 - (iv) if there is an equal or lesser number of nominees for the number of vacant positions, that person is, or those persons are declared to be elected without the need for a vote.

Appointment Panel

6.5 There will be a Board Appointment Panel (**Appointment Panel**) comprising of the following people (each a **Panel Member**):

- (a) the Chair, or if the Chair is not eligible or willing to serve on the Appointment Panel or is seeking reappointment or re-election to the Board, then another Board Member who is eligible to serve on the Appointment Panel and is not seeking re-appointment or re-election to the Board as determined by the Board;
- (b) a nominee who is independent of SNZ and is experienced in governance and the functions and appointment process of board members in New Zealand, as determined by the Board;
- (c) the President of SNZ, or a person appointed by the President of SNZ;
- (d) a nominee who is independent of the Board and has an interest and understanding of softball in New Zealand, as determined by the Board,

and the Appointment Panel must be diverse and inclusive and as a minimum must always have diversity of gender among its people.

- 6.6 A person will not be eligible to be a Panel Member or remain as a Panel Member if any of the circumstances listed in clause 6.21 (**Disqualification / Ineligibility**) apply to that person.
- 6.7 If the Board as a whole has been removed, resigns en masse, or does not have a quorum and is unable to appoint the Appointments Panel, it will be appointed by Sport New Zealand Ihi Aotearoa.
- 6.8 The convenor of the Appointment Panel is the person referred to in clause 6.5(a).
- 6.9 Panel Members remain in office for the period necessary to fulfil their responsibilities in relation to each vacancy of a Board Member for which the Appointment Panel was established. A person is not eligible to serve on the Appointment Panel following the fifth anniversary of their first appointment to the Appointment Panel.
- 6.10 The Appointment Panel is independent of the Board and is responsible for:
- (a) advertising, identifying and inviting suitable candidates to apply for appointment as an Appointed Board Member;
 - (b) receiving and assessing applications from candidates for appointment as Appointed Board Members, including undertaking such enquiries and holding interviews and meetings as it sees fit;
 - (c) deciding the candidates to be appointed as Appointed Board Members;
 - (d) receiving and assessing applications from candidates for election as Elected Board Members at an AGM, including undertaking such enquiries and holding interviews and meetings as it sees fit;
 - (e) recommending to the Members at, or prior to, an AGM at which any vacancy in the positions of Elected Board Member arises, the applicant(s) whom the Appointment Panel considers would best suit the positions; and
 - (f) Such other related matters as set out in any applicable Bylaws.
- 6.11 In determining the Appointed Board Members, and recommending persons to be Elected Board Members, the Appointment Panel will do so based on merit and will consider the following factors about the candidate and the balance of the Board as a whole:
- (a) prior experience as a director, trustee, officer or experience in any other governance role;
 - (b) knowledge of, and experience in softball generally at international, national and/or local level;
 - (c) understanding of the legal, regulatory, fiduciary and ethical obligations of Board Members;
 - (d) their occupational skills, abilities and experience;
 - (e) their knowledge of, and experience in community sports and/or not-for-profit organisations generally;
 - (f) the desire for conflicts of interest on the Board to be minimised;
 - (g) the desire for a wide range of knowledge, skills, and experience on the Board; and

- (h) the desire for diversity and inclusion on the Board.
- 6.12 No Panel Member may seek to become a Board Member while a Panel Member.
- 6.13 Unless otherwise set out in this Constitution, the Appointment Panel may decide its own process.
- 6.14 The quorum for a meeting of the Appointment Panel is three (3) Panel Members.
- 6.15 Any decision of the Appointment Panel regarding the appointment of Appointed Board Members and the persons to be recommended as Elected Board Members must be unanimous.
- 6.16 All information received by the Appointment Panel and its discussions must be kept confidential except to the extent required by law. Panel Members must notify the convenor of any potential conflict of interest in considering any candidate. If the convenor considers it appropriate to do so, they may require that Panel Member to vacate their position. If the convenor considers they may have a potential conflict of interest, they must notify the other Panel Members and the Board. If the Board considers it appropriate to do so, it may require that convenor to vacate their position.
- 6.17 The Board may remove any Panel Member if the Board considers, in its sole discretion, that:
 - (a) that Panel Member has a conflict of interest which has not been satisfactorily resolved to the satisfaction of the Board; or
 - (b) there are circumstances which may give rise to a question of actual or apparent bias in the Appointment Panel's composition and/or process.
- 6.18 Before removing any Panel Member, the Board must:
 - (a) notify that Panel Member of its proposal to remove them; and
 - (b) give that Panel Member and the other Panel Members the opportunity to make submissions on the proposed removal and the opportunity to be heard.
- 6.19 Any vacancy in the Appointment Panel will be replaced by the person or organisation that appointed the Panel Member for which the vacancy arises.

Qualification

- 6.20 Every Board Member must, in writing:
 - (a) consent to be a Board Member; and
 - (b) certify that they are not disqualified from being elected, appointed or holding office as a Board Member by this Constitution or under Section 47 of the Act.

Disqualification / Ineligibility

- 6.21 The following persons are disqualified from being elected, appointed or holding office as a Board Member, or in the case of clause 6.65, from being or remaining as a Panel Member:
 - (a) a person who is an employee of, or contractor to SNZ;
 - (b) a person who holds office with a Member, where that Member is a Regional Association or Associate Member unless as a condition of becoming a Board Member they resign from office with the Member;
 - (c) a person who is disqualified from being elected, appointed or holding office as a Board Member under Section 47 of Act; or

- (d) a person who has been removed as a Board Member following a process under this Constitution or any Bylaw.
- 6.22 If an existing Board Member becomes or holds any position in clauses 6.21(a) or (b) then upon appointment to such a position, that Board Member is deemed to have vacated their office as a Board Member.
- 6.23 If any of the circumstances listed in clause 6.21(c) occur to an existing Board Member, that Board Member is deemed to have vacated their office upon the relevant authority making an order or finding against the Board Member of any of those circumstances.

Term of Office

- 6.24 The term of office for all Board Members is three (3) years, expiring at the end of the relevant AGM. A Board Member may be re-elected to the Board for a maximum of three (3) consecutive terms of office. Prior to each AGM, the Board will advise the Chief Executive of the schedule of rotation and the vacancies arising in Board Member positions at the AGM.
- 6.25 The term of any period served to fill a Casual Vacancy is disregarded for the purposes of calculating the total terms served.

Vacancies

- 6.26 If there is a Casual Vacancy on the Board of an Appointed Board Member and:
 - (a) the Casual Vacancy arose six (6) months or more after the last AGM, the remaining Board Members may:
 - (i) refer the appointment to the Appointment Panel to fill under clause 6.3 with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable;
 - (ii) appoint a person of their choice to fill the Casual Vacancy; or
 - (iii) leave the Casual Vacancy unfilled until the next AGM;
 - (b) the Casual Vacancy arose less than six (6) months after the last AGM, the remaining Board Members must refer the appointment to the Appointment Panel to fill under clause 6.4 with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable.
- 6.27 A person appointed to fill a Casual Vacancy of an Appointed Board Member continues until the expiry of the term of the person they replace.
- 6.28 If there is a Casual Vacancy on the Board of an Elected Board Member, the remaining Board Members may:
 - (a) appoint a person of their choice to fill the Casual Vacancy only until the next AGM, at which a person is elected under clause 6.4 to fill the remainder of the term of the Casual Vacancy;
 - (b) leave the Casual Vacancy unfilled until the next AGM, at which a person is elected under clause 6.4 to fill the remainder of the term of the Casual Vacancy.

Suspension of Board Member

- 6.29 If a Board Member is or may be the subject of an allegation or notice relating to a matter described under clause 6.21 (**Disqualification / Ineligibility**) or any other circumstances arise in relation to a Board Member which are or may be of concern to the Board, the remaining Board Members may by Special Resolution suspend the Board Member from the Board and set conditions as it requires pending the final determination of such allegation, notice, or circumstances. Before imposing any suspension, the Board Member must be given notice of the suspension.

Removal of Board Member(s)

- 6.30 The Board at a Board meeting or the Members in a SGM called for this purpose may, by Special Resolution, remove a Board Member from the Board before the expiry of their term of office if the Members/Board consider the Board Member concerned:
- (a) has seriously breached duties under this Constitution or the Act; or
 - (b) is no longer a suitable person to be a Board Member; or
 - (c) is involved with, interested in, or otherwise closely connected to a person or activity which has or may bring SNZ or softball into disrepute or which may be prejudicial to the Purposes or the interests of SNZ and/or softball if they remain as a Board Member.
- 6.31 The Board Member who is the subject of the motion is counted for the purpose of reaching a quorum in a Board meeting but will not participate in the vote on the motion.
- 6.32 Before considering a motion for removal, the Board Member affected by the motion must be given:
- (a) notice that a Board Meeting or SGM is to be held to discuss the motion to remove the Board Member; and
 - (b) adequate time to prepare a response; and
 - (c) the opportunity prior to the Board Meeting or SGM to make written submissions; and
 - (d) the opportunity to be heard at the Board Meeting or SGM.

Board Member Ceasing to Hold Office

- 6.33 A person ceases to be a Board Member if:
- (a) their term expires;
 - (b) the person resigns by delivering a signed notice of resignation to the Board;
 - (c) the person is removed from office under this Constitution;
 - (d) the person becomes disqualified from being an officer under section 47(3) of the Act;
 - (e) the person dies; or
 - (f) a Board Member is absent from more than two (2) successive meeting unless leave of absence is granted by the Chair.

Aspiring and Co-opted Board members

- 6.34 The Board may invite up to two persons to take up roles as aspiring or co-opted Board members to attend and participate in Board meetings and in the role of a Board member. The period and terms of an aspiring or co-opted Board member role is at the discretion of the Board. Unless otherwise specified by the Board:
- (a) aspiring Board members have no vote at Board meetings, are not counted in the quorum, are not Board Members, are not eligible to be the Chair or to chair General Meetings, are not intended to have liabilities of Board Members or be officers for the purposes of officers duties under the Act, but are counted for the calculation of gender minimums on the Board under clause 6.2;
 - (b) co-opted Board members are Board Members and have the rights and obligations of Board Members and if required by the Board may be included within or additional to the numbers of Board Members in clauses 6.2 and 6.3.

7. Board Meetings

- 7.1 Board Meetings may be called at any time by the Chair or by two (2) Board Members, but generally the Board meets at regular intervals agreed by the Board.
- 7.2 Except to the extent specified in the Act or this Constitution, the Board may regulate its own procedure.

Quorum

- 7.3 The quorum for a Board Meeting is a majority of the Board Members.
- 7.4 Any Board Member may be counted for the purposes of a quorum, participate in any Board Meeting and vote on any proposed resolution at a meeting without being physically present. This may only occur at Board Meetings by audio or audio-visual link or other electronic communication provided that all persons participating in the Board Meeting can hear each other effectively and simultaneously.

Chair

- 7.5 At its first meeting following an AGM, the Board must elect a Chair.
- 7.6 The role of the Chair is to chair meetings of the Board and to represent the Board. If the Chair is unavailable, another Board Member must be appointed by the Board to undertake the Chair's role during the period of unavailability.

Voting

- 7.7 Each Board Member has one vote. Voting is by voices or on request of any Board Member by a show of hands or by a ballot. Proxy and postal votes are not permitted. Voting by electronic means is permitted. Unless otherwise specified Board decisions are passed by Ordinary Resolution.
- 7.8 The Chair does not have a casting vote.

Resolution in writing

- 7.9 A resolution in writing signed or consented to by email or other electronic means by the required majority of Board Members is valid as if it had been passed at a meeting of the Board. Any resolution may consist of several documents in the same form each signed by one or more Board Members.

8. Officers Duties

8.1 An Officer:

- (a) when exercising powers or performing duties as an Officer, must act in good faith and in what the Officer believes to be the best interests of SNZ;
- (b) must exercise a power as an Officer for a proper purpose;
- (c) must not act, or agree to SNZ acting, in a manner that contravenes the Act or this Constitution;
- (d) when exercising powers or performing duties as an Officer, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances, taking into account, but without limitation the nature of SNZ, the nature of the decision, and the position of the Officer and the nature of the responsibilities undertaken by them;
- (e) must not agree to the activities of SNZ being carried on in a manner likely to create a substantial risk of serious loss to SNZ's creditors or cause or allow the activities of SNZ to be carried on in a manner likely to create a substantial risk of serious loss to SNZ's creditors;
- (f) must not agree to SNZ incurring an obligation unless the Officer believes at that time on reasonable grounds that SNZ will be able to perform the obligation when it is required to do so; and
- (g) when exercising powers or performing duties as an Officer, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - (i) an employee whom the Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (ii) a professional adviser or expert in relation to matters that the officer believes on reasonable grounds to be within the person's professional or expert competence; or
 - (iii) any other Officer or subcommittee of Officers on which the Officer did not serve in relation to matters within the Officer's or subcommittee's designated authority,

if the Officer, acts in good faith, makes proper inquiry where the need for inquiry is indicated by the circumstances, and has no knowledge that the reliance is unwarranted.

9. Interests

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

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

but an Officer is not interested in a Matter:

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

9.2 The Board must keep an Interests Register.

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

9.4 A Board Member who is Interested in a Matter:

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

10. **President and Patron**

10.1 SNZ will have a President and will endeavour to have a Patron.

10.2 A person may be invited by the Board to be the Patron:

- (a) the Patron will hold office for two (2) years and be eligible to serve three (3) consecutive terms.
- (b) the Patron is entitled to attend and speak at General Meetings but has no right to vote.
- (c) if the office of Patron becomes vacant prior to a biannual election the position may be filled by appointment by the Board. The Patron so appointed continues the term of the outgoing Patron.

10.3 The President is elected at the AGM:

- (a) holds office for three (3) years until the conclusion of the AGM and may be re-elected for one (1) subsequent and consecutive term of office.
- (b) is nominated in the same manner and time as nominations for Elected Board Members.

10.4 The role of the President is to:

- (a) chair the General Meetings;
- (b) attend ceremonies and official events on behalf of the Board;
- (c) be a Member of the Board Appointments Panel;
- (d) if requested by the Board, attend and have input to Board meetings but have no vote;
- (e) perform any other functions agreed by the Board;
- (f) if there is a Casual Vacancy of the Presidency a replacement is elected by the membership by calling for a nomination(s) and conducting a ballot and all matters relating to nomination, eligibility, election, manner of conducting the ballot, voting and outcome may be set by the Board; and
- (g) a President so elected continues the term of the outgoing President.

11. Chief Executive

- 11.1 The Board may engage a Chief Executive, who is employed on terms and conditions set by the Board.
- 11.2 The Chief Executive is under the direction of the Board and is responsible for the day-to-day management of the affairs of SNZ under this Constitution and the Bylaws and within any delegated authority from the Board.
- 11.3 The Chief Executive may attend Board Meetings if required by the Board but has no voting rights.

12. Indemnity and Insurance

- 12.1 SNZ indemnifies its current and former Board Members, Officers, President, Members and employees against all damages and costs (including legal costs) for which any become liable to any third party as a result of any act or omission, except willful misconduct as permitted by section 96 of the Act, but only:
 - (a) in the case of an Officer, President or Member, performed or made whilst acting on behalf of, and with the authority, express or implied, of the Board, and

- (b) in the case of an employee, performed or made in the course of, and within the scope of their employment by SNZ.
- 12.2 With the prior approval of its Board, SNZ may effect insurance for its current and former Officers, President, Members and employees as permitted by section 97 of the Act.
- 12.3 SNZ is authorised to indemnify an Officer, a Member or employee under section 96 of the Act or effect insurance under section 97 of the Act for the following matters:
- (a) liability (other than criminal liability) for a failure to comply with a duty under sections 54 to 61 of the Act or any other duty imposed on the Officer, Member or employee in their capacity in that role; and
 - (b) costs incurred by the Officer, Member or employee for any claim or proceeding relating to that liability.

13. **Finances**

- 13.1 The funds and property of SNZ are:
- (a) controlled, invested and disposed of by the Board, subject to this Constitution; and
 - (b) devoted solely to the promotion of the Purposes.
- 13.2 SNZ's balance date (financial year) is 31 May each year.
- 13.3 SNZ's financial statements must be audited or reviewed each year if required by law or if required by the Board and if so, the audited or reviewed financial statements must be submitted to the AGM. The auditor or reviewer will be appointed by the Members at each AGM or the Members may authorise the Board to make the appointment.

No Personal Benefit

- 13.4 The Officers and Members may not receive any distributions of profit or income from SNZ provided:
- (a) this does not prevent Officers or Members from:
 - (i) receiving reimbursement of actual and reasonable expenses incurred or payment of an honoraria provided that the Board may only do so following approval by Ordinary Resolution of the Board of a Board policy to deal with any reimbursement or honoraria, or
 - (ii) entering into any transactions with the organisation for goods or services supplied to or from them, which are at arms' length, relative to what would occur between unrelated parties, provided no Officer or Member is allowed to influence any such decision made by SNZ in respect of payments or transactions between it and them, their direct family or any associated entity; and
 - (b) no portion of the income or property of SNZ is to be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member or Board Member; and
 - (c) subject to (a), no remuneration or other benefit in money or money's worth is to be paid or given by the organisation to any Member or Board member; and

- (d) any payments made to a Member of the SNZ, or person associated with a Member, must be for goods or services that advance the not for profit purpose of SNZ, and must be reasonable and relative to payments that would be made between unrelated parties.

14. Method of Contracting

- 14.1 A contract or other enforceable obligation may be entered into by SNZ:
 - (a) if a deed by:
 - (i) two (2) or more Board Members; or
 - (ii) an Officer or Board Member, or other person or class of persons, whose signature or signatures must be witnessed; or
 - (b) if an agreement, in such manner as required by the Board and in the absence of any requirement by the Board, by a person acting under SNZ's express or implied authority.

15. Amendments

- 15.1 This Constitution may only be amended or replaced by Special Resolution at a General Meeting or by resolution in lieu of a meeting under clause 5.31.
- 15.2 No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals.
- 15.3 If an amendment to this Constitution would have no more than a minor effect or is to correct errors or makes similar technical alterations, the Board may give notice of the amendment to every Member stating the text of the amendment and the right of Members to object to the amendment. If the Board does not receive any objections from Members within twenty (20) Working Days after the date on which the notice is sent, or any longer period of time that the Board decides, the Board may make that amendment. If it does receive an objection, the Board may not make the amendment.

16. Bylaws

- 16.1 The Board may make and amend Bylaws for the conduct and control of SNZ's activities and codes of conduct applicable to Members. Any Bylaw must be consistent with the Purposes, the Act and any other laws. All Bylaws are binding on SNZ and the Members.
- 16.2 The making, amendment, revocation, or replacement of a Bylaw is not an amendment of this Constitution.

17. Integrity

Anti-doping

- 17.1 SNZ adopts the Sports Anti-Doping Rules (**SADR**) made by the Integrity Sport and Recreation Commission under the Integrity Sport and Recreation Act 2023, and any amendments to or replacements of SADR, as its Bylaws on anti-doping and agrees to be bound by SADR. All Members:

- (a) agree to the application of SADR; and
 - (b) must require in their constitutions that their members agree to the application of SADR.
- 17.2 SNZ is committed to protecting the integrity and reputation of softball. All relevant persons are bound by SNZ Anti Match-Fixing Bylaws.

Integrity Code

- 17.3 In this clause, Integrity Code means an integrity code issued by the Integrity Sport and Recreation Commission under section 19 of the Integrity Sport and Recreation Act 2023.
- 17.4 If SNZ adopts an Integrity Code, the Members of SNZ are bound by the Integrity Code.
- 17.5 All Regional Associations must include in their constitution that if SNZ adopts an Integrity Code the members of the Regional Associations agree to the application of the Integrity Code to them and agree to be bound by it and must require that its members include a similar clause in their constitutions.
- 17.6 All Associate Members must include in their constitution that if SNZ adopts an Integrity Code the members of the Associate Members agree to the application of the Integrity Code to them and agree to be bound by it and must require that its members include a similar clause in their constitutions. If after considering the circumstances relating to an Associate Member and its members (if any) and consulting with the Associate Member, the Board determines that different or additional requirements should apply to an Associate Member and/or its members (if any), the Board may set such requirements and if so, the Associate Member must comply with those requirements and must require that its members (if any) also comply.

18. Dispute resolution

Definitions

- 18.1 In this clause:
- (a) **Dispute** means a disagreement or conflict between and among any one or more Members, any one or more Officers and SNZ, that relates to an allegation that:
 - (i) a Member or an Officer has engaged in misconduct; or
 - (ii) a Member or an Officer has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (iii) SNZ has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (iv) a Member's rights or interests as a Member have been damaged or Members' rights or interests generally have been damaged;
 - (b) **Disputes Procedure** means the procedure for resolving a Dispute set out in clauses 18.6 to 18.19;
 - (c) a **Member** is a reference to a Member acting in their capacity as a Member;
 - (d) an **Officer** is a reference to an Officer acting in their capacity as an Officer.

Application of other legislation to a Dispute

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

Application of other procedures under this Constitution or in a Bylaw

- 18.3 If the Dispute is dealt with by a separate procedure under this Constitution or in a Bylaw (**Other Procedure**), that Other Procedure applies to the exclusion of the Disputes Procedure. If any part of the Other Procedure is inconsistent with the rules of natural justice, that part will not apply, but the remainder of the Other Procedure will continue to apply together with adjustments as determined by the Board in its discretion so that the Other Procedure is consistent with the rules of natural justice.
- 18.4 If the conduct, incident, event or issue does not meet the definition of a Dispute and is managed by any Other Procedure, that Other Procedure applies to the exclusion of the Disputes Procedure.

Application of the Disputes Procedure

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

Disputes Procedure

Raising a complaint

- 18.6 A Member or an Officer may start the Disputes Procedure (a Complaint) by giving written notice to the Board setting out:
- (a) the allegation to which the dispute relates and who the allegation is against; and
 - (b) any other information reasonably required by SNZ.
- 18.7 SNZ may make a Complaint involving an allegation against a Member or an Officer by giving notice to the person concerned setting out the allegation to which the Dispute relates.
- 18.8 The information given must be enough to ensure a person against whom the Complaint is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

Investigating and determining Disputes

- 18.9 Unless otherwise provided, SNZ must as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure the Dispute is investigated and determined.
- 18.10 Disputes must be dealt with in a fair, efficient, and effective manner.

Decision to not proceed with a matter

- 18.11 Despite the contents of the Disputes Procedure, SNZ may decide not to proceed with a matter if:
- (a) the Complaint is trivial; or
 - (b) the Complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct; or

- (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act; or
- (iii) any material damage to a Member's rights or interests or Members' rights or interests generally; or
- (c) the Complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the Complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under this Constitution; or
- (f) there has been an undue delay in making the Complaint.

Complaint may be referred

18.12 SNZ may refer a Complaint to:

- (a) a hearing body or person authorised, delegated or appointed by the Board to hear and resolve Disputes, and includes an arbitral tribunal (**Hearing Body**); or
- (b) a subcommittee or an external person to investigate and report; or
- (c) any type of consensual dispute resolution with the consent of all parties to the Complaint.

Hearing Body

18.13 The Board may determine the composition, jurisdiction, functions and procedures of, and any sanctions which can be imposed by, any Hearing Body. Each Hearing Body has delegated authority by the Board to resolve, or assist to resolve, Complaints.

Bias

18.14 An individual may not be part of a Hearing Body in relation to a Complaint if two or more members of the Board or of the Hearing Body consider there are reasonable grounds to believe that the individual may not be:

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.

Complainant's right to be heard

18.15 The Member or Officer has a right to be heard before the Complaint is resolved or any outcome is determined. If SNZ makes a Complaint, SNZ has a right to be heard before the Complaint is resolved or any outcome is determined, and a Board Member may exercise that right on behalf of SNZ.

18.16 A Member or Officer or SNZ must be taken to have been given the right if:

- (a) the Member or Officer or SNZ has a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and
- (b) an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and
- (c) an oral hearing, if any, is held before the Hearing Body; and

- (d) the Member's or Officer's or SNZ's written statement or submission, if any, are considered by the Hearing Body.

Respondent's right to be heard

- 18.17 The Member or Officer who, or SNZ which, is the subject of the Complaint (Respondent) has a right to be heard before the Complaint is resolved or any outcome is determined. If the Respondent is SNZ, a Board Member may exercise the right on behalf of SNZ. A Respondent must be taken to have been given the right if:
- (a) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and
 - (b) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing, if one is to be held; and
 - (c) an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and
 - (d) an oral hearing, if any, is held before the Hearing Body; and
 - (e) the Respondent's written statement or submissions, if any, are considered by the Hearing Body.

Appeals

- 18.18 Unless this Constitution or any Bylaw provides otherwise, any Member wishing to appeal a decision of SNZ where they have exhausted their rights of appeal within this Constitution and/or any Bylaw, may appeal to the Sports Tribunal of New Zealand but only if agreed by the Board in a specific case. The rules of the Sports Tribunal of New Zealand apply to any such appeal.
- 18.19 There is no right of appeal or right of review of a decision unless specified.

19. Liquidation and Removal

- 19.1 The Board must give notice to all Members at least thirty (30) Working Days of a proposed motion:
- (a) to appoint a liquidator;
 - (b) to remove SNZ from the Register of Incorporated Societies; or
 - (c) for the distribution of SNZ's surplus assets.
- 19.2 The notice must comply with Section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.
- 19.3 Any resolution for a motion set out in clauses 19.1(a) to (c) must be passed by a Special Resolution of its Members.
- 19.4 The surplus assets of SNZ after the payment of all costs, debts and liabilities, must be disposed of to such not-for-profit entity(ies) that share similar purposes to SNZ as decided by the Members by Special Resolution.

20. Matters not provided for

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

21. Transition

- 21.1 This clause 21 applies to facilitate transition of SNZ from the previous constitution to this Constitution. If this clause is inconsistent with any other clause in this Constitution, this clause applies to the extent of the inconsistency and the other clause will not.
- 21.2 Subject to the Act, the Board may amend any requirement for and/or the date by which this Constitution requires anything to be done. This clause applies for a period of up to 12 months after the date of adoption of this Constitution and is solely to enable flexibility in the transition of SNZ from the previous Constitution to this Constitution and to correct any unintended consequences occurring through different wording being used.

Transition of Members

- 21.3 Any Member who at the date of adoption of this Constitution is a Member in the category of Special Purpose Member under the previous constitution will on the date of adoption of this Constitution be a Member in the category of Associate Member.

Transition of Bylaws

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