



**CONSTITUTION
OF THE
CAPE LONG DISTANCE SWIMMING ASSOCIATION (CLDSA)**
(AS ADOPTED AT A MEETING OF MEMBERS HELD ON 13 MAY 2021)

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1. DEFINITIONS AND INTERPRETATION

- 1.1. "**Association**" means the Cape Long Distance Swimming Association (CLDSA);
- 1.2. "**Committee**" means the duly appointed committee which shall serve as the governing body of the Association;
- 1.3. "**Committee Member**" means a duly appointed member of the Committee;
- 1.4. "**Constitution**" means this constitution of the Association;
- 1.5. "**Member**" means (a) all current members who are duly registered and have paid the current Swim Year's membership subscription fee as determined in terms of clause 7.4, (b) Lifetime Members and (c) Committee Members;
- 1.6. "**Lifetime Members**" mean all registered lifetime members as approved by the Committee;
- 1.7. "**Official Swim Rules**" means the swim rules as referred to in clause 12 that must be adhered to for an open water long distance swimming to be validated and recognised by the Association; and
- 1.8. "**Swim Year**" means from 1 July until 30 June each year.
- 1.9. Any reference to the male form of address includes the female form and vice versa and any reference to plural also connotes the singular and vice versa.

2. NAME AND ADDRESS

- 2.1. The Association is known as the Cape Long Distance Swimming Association (CLDSA).
- 2.2. The physical address and *domicilium citandi et executandi* of the Association shall be determined from time to time by the Committee.

3. LEGAL PERSONALITY

3.1. The Association is an unincorporated voluntary association, with separate legal personality distinct from the Committee and Members having perpetual succession and being capable of property in its' own name and suing or be sued in its own name.

4. OBJECTIVES

4.1. The Association has formed and exists solely for the benefit of its members, and to manage their collective interest common objectives.

4.2. Without derogating from the generality of clause 4.1, it is recorded that the following objectives that are common to the Association's Members:

4.2.1. encouraging the development of the open water swimming community in South Africa and internationally;

4.2.2. promotion of open water long distance swimming in the Western Cape;

4.2.3. authentication and recording of long distance swims in the Western Cape;

4.2.4. acting as an information resource for long distance swims in the Western Cape;
and

4.2.5. the development and maintenance of relationships with other local and international long distance swimming associations.

4.3. The imperative of addressing historical and social inequalities as stated in the Constitution of South Africa does not refer to the domain of politics alone but applies equally to each component of South African society, including sport and particularly the open water swimming community. We acknowledge the existence of significant barriers preventing general access for everyone to open water swimming opportunities. A key objective of our Association is to encourage transformation within the open water swimming community by following a strategy that is multidimensional and focused on changing demographic profiles in open water swimming, ensuring equitable access and resource availability, skill and capability development, extensive community involvement with a view to provide participation opportunities and building

and shaping relationships with its future supporters, future leaders and decision-makers on the basis of broad-based community engagement. This approach will drive and shape open water swimming's future demographic profile.

5. COMMITTEE

5.1. The Committee shall consist of a minimum of six (6) Members, including the following:

- (A) a chairperson,
- (B) a treasurer,
- (C) a swim co-ordinator; and
- (D) three additional Committee Members.

5.2. The Committee Members shall at all times bear fiduciary responsibility for the Association.

5.3. All Committee Members (including co-opted members) shall by no later than the first meeting after their election or re-election to office declare, in writing, any commercial or other conflicts of interests which they may have with the Association, in such form as the Committee may from time to time, stipulate.

5.4. Nothing herein contained shall preclude anyone from serving as a Committee Member, notwithstanding any conflict of interest with the Association: provided that: (1) such person has declared such conflicts; (2) the Committee is satisfied that the Association is not substantially prejudiced thereby; and (3) the Member concerned shall recuse himself/herself from voting in relation to any issues in which he or she may have a conflict of interests.

5.5. Election of Committee Members

5.5.1. The term of office of Committee Members shall be for one year only (viz from the date of one AGM to the next). All Committee Members shall remain eligible for re-election, but the chairperson may only serve as such for a maximum of five (5) consecutive years.

5.5.2. All Committee Members must be nominated by a Member in order to stand for election.

5.5.3. All Committee Members shall be elected at the Annual General Meeting by a majority vote of the Members present (or by their proxy) at the Annual General Meeting.

5.5.4. In the event that there is no contestation for a particular Committee Member's position, the appointment of the Committee Member shall be confirmed by the Members at the Annual General Meeting. If there is any objection to the confirmation of a Committee Member serving in a specific position, then the election of the Committee Member must be put to a majority vote on the Members present or their proxy at the Annual General Meeting.

5.5.5. The chairperson shall have the right to co-opt any additional Committee Members or any substitute Committee Members if any Committee Members resign during their year of service, subject to confirmation by the majority of the Committee.

5.6. Termination of Committee Membership:

5.6.1. Each Committee Member shall serve from the time of their appointment at the Annual General Meeting until the next year's Annual General Meeting, unless they resign.

5.6.2. Committee Members may resign in writing at any time.

5.6.3. Members of the Committee may be terminated by a majority decision of the Committee (with one vote from each Committee Member and two votes from the chairperson).

5.7. Powers of the Committee

5.7.1. The management and administration of the Association shall vest in the Committee, which may exercise all such powers and perform all such acts as may be exercised or performed by the Association itself. No single person shall directly or indirectly control the management powers of the Association.

5.7.2. Without in any way limiting the generality of the foregoing, the powers of the Committee shall include but not be limited to, the following:

- 5.7.2.1. to invigilate and authenticate long distance swims of swimmers;
- 5.7.2.2. to make, amend and repeal the rules, regulations and by-laws applicable to Members and any persons participating in any long distance swim or event organized, sanctioned, or recognised by the Association;
- 5.7.2.3. to record details of all swims and retain documents used in connection therewith;
- 5.7.2.4. to charge associated fees in connection with the Association's administration of swims;
- 5.7.2.5. to appoint official observers;
- 5.7.2.6. to exercise financial control over the affairs of the Association and instruct that audited Accounts and Balance Sheet be presented annually;
- 5.7.2.7. generally to deal with the property and funds of the Association for the objects and purposes of the Association;
- 5.7.2.8. to operate banking accounts with all powers required by such operations;
- 5.7.2.9. to enter into and perform contracts or agreements reasonably required for any of the purposes of the Association or to achieve its objectives;
- 5.7.2.10. to employ and pay agents, servants and any other parties;
- 5.7.2.11. to levy a subscription payable by Members and Lifetime Members as provided in clause 7 hereof;
- 5.7.2.12. to invest and/or re-invest monies of the Association not immediately required, in such manner as may from time to time be determined by the Committee;

5.7.2.13. to institute and defend legal proceedings on behalf of the Association in the name of the Association and for that purpose to sign and execute any necessary powers of attorney;

5.7.2.14. to form sub-committees and to delegate such powers to such committees as it may deem necessary; and

5.7.2.15. to take any other action to further the interests or objectives of the Association.

5.8. Committee meetings

5.8.1. Minutes of all Committee meetings shall be kept.

5.8.2. A quorum for the Association's Committee meetings shall be at least four Committee Members.

5.8.3. Committee meetings should occur on a monthly basis, but a minimum of four such meetings shall be held per year.

6. **INDEMNITY**

6.1. No Committee Member shall be liable to the Association, to any Member thereof, or to any other person whomsoever, for any act or omission by the Committee Member, by the Association or by its' servants or agents.

6.2. All Committee Members are indemnified by the Association against any loss or damage suffered by such Committee Member, the Association, any Member, or any third party, as a result of any act or omission by such Committee Member acting in good faith and without gross negligence.

6.3. Nothing herein contained shall be construed as establishing a partnership or joint venture between the Members.

6.4. No Member or Committee Members may profess to or validly represent the Association *vis-à-vis* any third party or incur any obligation on behalf of the Association, unless authorised to do so by this Constitution and with the written consent of the chairperson and one other Committee Member.

7. **MEMBERSHIP**

7.1. Membership shall be open to all those interested in long distance swimming who are natural persons.

7.2. An applicant for membership must complete the Association's application form, as prescribed by the Committee from time to time, and pay the annual membership subscription fee.

7.3. Members shall be required to uphold the aims and objectives of the Association, follow all of the prescribed rules of the Association and must at all times act in the best possible interests of the Association. If a Member has failed to act in good faith, breached one of the Association's Official Swim Rules or other rules or has acted against the interests of the Association and/or its aims and objectives, and has failed to remedy such breach after notice in writing by the Committee, his/her Membership in the Association may be terminated by decision of the Committee.

7.4. Membership subscription fees shall be determined by the Committee from time to time and any changes shall, in the case of existing Members, be applicable from the date of the forthcoming renewal of membership in terms of the following Swim Year.

7.5. Membership shall endure from the date of a Member's payment of the subscription fee until the end of that Swim Year.

7.6. A Lifetime Member shall not have to pay the annual membership fee and shall automatically be regarded as a Member until the end of their natural life. Members will be eligible for a Lifetime Membership, subject to (1) payment of the lifetime subscription fees determined by the Committee and (2) the Committee's sole discretion as to whether such Lifetime Membership shall be conferred.

7.7. No Member shall be entitled to sell or transfer or otherwise alienate their membership rights or entitlements.

8. ASSOCIATION MEETINGS

8.1. The Annual General Meeting (“**AGM**”) of the Association shall be called convened and held at a time and place to be decided by the Committee, within six months of the end of the Association’s financial year which ends on 30 June of each year.

8.2. A Special General Meeting (“**SGM**”) of the Association may be called by the Committee giving notice in writing of their request and the reason therefore.

8.3. Notice of the meetings shall be given by the Committee to all Members:

8.3.1. Two weeks’ (14 calendar days) notice in writing of such AGM shall be deemed sufficient notice.

8.3.2. Two weeks’ (14 calendar days) notice in writing of such SGM shall be deemed sufficient notice.

8.3.3. It is confirmed that notice of the AGM or SGM may be delivered via email.

8.4. Quorum for the meetings

8.4.1. A quorum for an AGM or SGM shall comprise of at least half of the Members (as defined) present in person or represented by proxy, and must include at least three (3) Committee Members.

8.4.2. A proxy shall be lodged at least forty-eighty (48) hours before the meeting on the prescribed form.

8.4.3. Any meeting being unable to form a quorum shall be adjourned, and another meeting shall be called within two weeks’ (14 calendar days).

8.5. The chairperson, or failing the chairperson the vice-chairperson of the Committee, shall preside at every AGM or SGM. If there is no chairperson or vice-chairperson is present, then the Members present shall choose a chairperson from the Committee Members present, or failing their presence from the Members present.

8.6. Voting

8.6.1. Each Member shall have one vote at an AGM or any SGM, provided such Member's subscription has been timeously paid.

8.6.2. Voting on any matter (save for an amendment to this Constitution) shall be by majority vote, with the chairperson having the ability to act as a tie-breaker.

9. **POLICY**

9.1. The Association shall, in carrying out its objects and in its activities and functions at all levels observe the principles that:

9.1.1. Its activities should be conducted, administered and promoted in a non-racial, non-political and democratic basis;

9.1.2. All persons, irrespective of race, colour, creed or gender, should have the right, in whatever capacity, to join and participate in the Association; and

9.1.3. There shall be no discrimination based on race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

10. **AMENDMENT OF THE CONSTITUTION**

This Constitution may be amended by a two-thirds majority of Members present at a duly convened AGM, or at a SGM; provided that written notice of the proposed amendment has been given to all Members at least 2 (two) weeks' before such meeting is held.

11. **FINANCIAL MATTERS**

11.1. The Association's financial year shall end on 30 June each year.

11.2. The finances of the Association shall be subject to best practice standards of financial control for a voluntary association and proper books of account shall be kept by the Committee.

- 11.3. Monies paid to or received by the Association shall forthwith be deposited in an appropriate savings or bank account opened for that purpose.
- 11.4. Withdrawal from the said account shall be made and signed only by Member/s nominated by the Committee from time to time.
- 11.5. Where practical, monies not required immediately shall be invested with a duly registered financial services provider or in an interest-bearing account with a financial institution.
- 11.6. The Association should develop and follow its own procurement policy (if available) for all purchases of goods and services on half of the Association. No remuneration shall be paid to any person that would be considered excessive or determined with reference to any amount received or accrued to the Association. All remuneration paid out must be reasonable, market-related and appropriate for the services rendered.
- 11.7. The Committee shall cause to be prepared and shall lay before every Annual General Meeting a statement of the Association's financial affairs for the year concerned.
- 11.8. In terms of Section 30(3)(b)(v) of the Income Tax Act, the Organisation is prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to confirm to the designated purposes and conditions of such donation.

12. LONG DISTANCE SWIMMING RULES

- 12.1. The Association has developed its Official Swim Rules to ensure consistency and its ability to invigilate and validate official swims.
- 12.2. The Official Swim Rules shall be published on the Association's official website.
- 12.3. The Official Swim Rules shall be reviewed annually by the Committee, with due regard to any input received from the Members.

12.4. The Official Swim Rules may be amended by the Committee, on reasonable written notice to the Members. Any amendment to the Official Swim Rules may be cancelled by a vote against such change of $\frac{2}{3}$ (two-thirds) of the Members present at a duly convened AGM or SGM.

12.5. The Committee shall have the authority on a case-by-case basis to issue an exemption to any of the Official Swim Rules upon submission of a written application for exemption.

12.6. The Committee's decision of the interpretation of the Official Swim Rules is final and binding.

13. INTERPRETATION

13.1. Should any dispute or doubt arise as to the interpretation or meaning of this Constitution or any rules or regulations of the Association, the Committee shall be the final arbiter and its' decision shall be binding upon the Members.

14. DISSOLUTION

14.1. The Association may be dissolved, or merged with another Association with similar purposes and objects, in each case only:

14.1.1. on a resolution passed by at least $\frac{2}{3}$ (two-thirds) of Members present at a duly constituted SGM or AGM of Members provided that notice of the proposed dissolution of merger has been duly given in terms of the notice calling the meeting; or

14.1.2. on an application to a Court of law by any Member on the grounds that the Association has become dormant or is unable to fulfil its' purposes and objects or any other legally recognisable ground for dissolution .

14.2. On merger, the assets of the Association shall accrue to the Association with which the merger is affected.

14.3. If, upon the dissolution of the Association there remains, after the satisfaction of all its debts and liabilities, any assets or cash whatsoever, such assets or cash shall

not be handed over to, nor shall proceeds from the sale thereof be distributed amongst Members or to an individual but shall be given and transferred to a registered public benefit organisation or voluntary association with similar goals and objectives.

[Note: This version of the CLDSA Constitution is for the purposes of the CLDSA website only and excludes the certification and signatures by the CLDSA committee. The original version of the CLDSA Constitution is available on written request to the CLDSA Committee]