

**MANLY WARRINGAH DISTRICT  
BASEBALL ASSOCIATION**



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**CONSTITUTION**

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# Constitution

## Manly Warringah District Baseball Association Incorporated



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**Associations Incorporations Act (1984) New South Wales Constitution of:**  
**Manly Warringah District Baseball Association Incorporated**

**PART I - OBJECTS, POWERS AND INTERPRETATION**

**1. NAME OF THE ASSOCIATION**

The name of the Association is Manly Warringah District Baseball Association Incorporated ("MWDBA").

**2. OBJECTS OF THE ASSOCIATION**

MWDBA is established for the administration of the sport of Baseball in the District. The objects for which MWDBA is established and maintained are to:

- (a) participate as a Member of the NSWBL and the ABF as an RSO through and by which the sport of Baseball can be conducted, encouraged, promoted, advanced and administered;
- (b) provide for the conduct, encouragement, promotion and administration of Baseball within the District;
- (c) ensure the maintenance and enhancement of MWDBA and Baseball, its standards, quality and reputation for the benefits of the Members and Baseball;
- (d) at all times promote mutual trust and confidence between MWDBA, NSWBL, ABF and other baseball leagues within the State of New South Wales and the Members in pursuit of these objects;
- (e) at all times act on behalf of and in the interests of the Members and Baseball;
- (f) use and protect the intellectual property of MWDBA and, where permitted to do so, the intellectual property of NSWBL and the ABF;
- (g) apply the property and capacity of MWDBA towards the fulfilment and achievement of these objects;
- (h) review and/or determine any matters relating to Baseball in the District, including disciplinary matters;
- (i) pursue commercial arrangements, including sponsorship and marketing opportunities as are appropriate and to further the interests of Baseball in the District;
- (j) adopt and implement the policies of NSWBL and the ABF including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, infectious diseases, junior programs and such other matters as arise from time to time as issues to be addressed in Baseball in the District.
- (k) represent the interests of its Members and of Baseball generally in any appropriate forum conducted by NSWBL in New South Wales.
- (l) encourage Members to realise their potential and athletic abilities by extending to them the opportunity of education and participation in Baseball Competition and to award trophies

and rewards to successful competitors and conduct Baseball Competitions within the District whether conducted by MWDBA or in which MWDBA participates;

- (m) encourage and promote performance-enhancing drug free competitions;
- (n) undertake and/or do all such things or activities which are necessary, incidental or conducive to the advancement of these objects including but not limited to complying with the Constitution, By-laws and Rules of NSWBL and the ABF in force from time to time.

### **3. POWERS OF MWDBA**

Solely for furthering the objects set out above, MWDBA has in addition to the rights, powers and privileges conferred on it under the Act, the legal capacity and powers of a company as set out under Section 124 of the *Corporations Act 2001*.

### **4. INTERPRETATION**

#### **4.1. Definitions**

In this Constitution, unless the contrary intention appears, these words shall have the following meanings:

“ABF” means the Australian Baseball Federation Incorporated, being the national peak body for the sport of Baseball in Australia.

“ABF Constitution” means the Constitution of the ABF as amended from time to time and any By-laws of ABF as amended from time to time.

“Act” means the *Associations Incorporation Act (1984) New South Wales* or any other act under which MWDBA may be incorporated from time to time.

“Affiliated Association” means a Association affiliated with MWDBA, whether incorporated, unincorporated or otherwise.

“Association” means any association incorporated or formed for the purpose of the conduct and administration of Baseball in the District that is affiliated with the Association whether incorporated, unincorporated or otherwise.

“Baseball” means the sport of baseball played in accordance with the official Australian Baseball Rules and such other games of baseball including junior games played with modified rules including but not limited to ‘T-Ball’.

“Board” means the body consisting of the Executive and the Directors.

“By-law” means any By-law, Regulation or Policy made by the Board under Rule 29.

“Competition Committee” means a committee established by MWDBA for the administration of Baseball competitions within the District or Baseball Teams who participate in competitions conducted by NSWBA or the ABF including but not limited to the Minor League Committee, the Major League Committee, the Junior Committee, the Women's Committee or such other competition committee as is established by MWDBA.

“Director” means a member of the Board elected or appointed in accordance with this Constitution.

“District” means District of Manly, Warringah, Pittwater, North Sydney and Chatswood in the Sydney metropolitan area of New South Wales or such other, suburb or area approved by the Board.

“Executive” means the President, Secretary and Treasurer of MWDBA with no two members of the Executive having a Special Qualification from the same Competition Committee.

“Financial Year” means the year commencing 1<sup>st</sup> April of the proceeding year and ending 31<sup>st</sup> March on the current year.

“General Meeting” means the Annual or any Special General Meeting of MWDBA.

“Intellectual Property” means all rights, all good wills subsisting in copyright, business names, names, trademarks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to MWDBA or any event, competition or activity of or conducted, promoted or administered by MWDBA.

“Initial MWDBA Board” means the following individuals:

| Name                   | Address  |
|------------------------|--|
| <i>Robert Fox</i>      | <i>18 Laitoki Road, Terry Hills NSW 2084</i>       |
| <i>Jeffrey Bertram</i> | <i>14 Grandview Grove, Seaforth NSW 2092</i>       |
| <i>Tony Richards</i>   | <i>Level 8, 88 Phillip Street, Sydney NSW 2000</i> |
| <i>Ian Carlisle</i>    | <i>48 Kirkwood Street, Seaforth NSW 2092</i>       |
| <i>Darren Jackson</i>  | <i>44 Cowan Drive, Cottage Point NSW 2084</i>      |
| <i>Simon Lowde</i>     | <i>4 Kuyora Place, North Narrabeen NSW 2101</i>    |
| <i>John Hughes</i>     | <i>2 Ralston Avenue, Lane Cove NSW 2066</i>        |
| <i>P J Patterson</i>   | <i>8 Pembroke Place, Belrose NSW 2085</i>          |
| <i>Louise Walsh</i>    | <i>31 Nareen Place, North Narrabeen NSW 2101</i>   |

“Life Member” means an individual upon whom life membership of MWDBA has been conferred under Rule 7.3.

“Member” means any full financial member of MWDBA elected or appointed to membership of MWDBA.

“Official” means a coach, manager or scorer who is or has been engaged in the activity of coaching, managing or scoring Baseball.

“NSWBL” means the New South Wales Baseball League being the peak body for the sport of Baseball in NSW.

“Players” means those Members who participate as players in Baseball Competitions conducted by MWDBA and/or in which MWDBA participates.

“Postal ballot” or “post” or “posted” for the purposes of this Constitution and the application of the Act includes electronic mail and/or publication on MWDBA website.



“President” means the person elected to hold the position of President of MWDBA.

“Public Officer” means, for the purposes of the Act, the Secretary.

“Secretary” means the person elected to hold the position of Secretary of MWDBA.

“Special Qualification” means a Member who is an official, administrator, office bearer or Player or parent of a Player under the age of 18 years involved in a team or competition under the control and supervision of one of the Competition Committees, provided that if a member would be able to establish a Special Qualification to more than one Competition Committee, that person must elect and nominate for which Competition Committee they possess a Special Qualification, as each Member can only have a Special Qualification with respect to 1 Competition Committee only.

“Special Resolution” means a resolution pursuant to the terms of Section 39 of the Act.

“Sporting Union Delegate” means those persons appointed to represent MWDBA pursuant to Rule 25.9.

“State Delegate” means the Member or Members appointed by the Board to represent MWDBA at General Meetings of NSWBL in accordance with this Constitution and the Constitution of NSWBL.

“Treasurer” means the person elected to hold the position of Treasurer of MWDBA.

#### 4.2. Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, reference to the exercise of the power or authority or the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other gender;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, enactments or replacements of any of them whether of the same or any legislative authority having jurisdiction; and
- (h) a reference to ‘writing’ shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

#### 4.3. Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If the rule or phrase cannot be so read down, it shall be

severed to the extent of the invalidity or unenforceability. Such severance shall not affect the remaining provisions of this Constitution or affect the validity or enforceability of any provision in any other jurisdiction.

4.4. Expressions in Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act.

## **PART II - MWDBA AFFILIATED ASSOCIATION CONSTITUTIONS**

### **5. STATUS AND COMPLIANCE OF MWDBA**

5.1. Recognition of MWDBA

For as long as MWDBA is recognised as a Voting Affiliate Member of NSWBL and of the ABF, it shall be subject to compliance with the Constitution of the ABF and NSWBL. MWDBA shall administer the sport of Baseball in the District in accordance with the objects of MWDBA and NSWBL.

5.2. Compliance of MWDBA as a Voting Affiliate and Member of NSWBL

The Members acknowledge and agree that MWDBA shall:

- (a) be incorporated in New South Wales;
- (b) elect or appoint a State Delegate or Delegates to represent it at meetings of NSWBL at which it is entitled to be present and vote in accordance with the NSWBL Constitution;
- (c) adopt in principal, the objects of NSWBL and the ABF and adopt rules which reflect and which are, to the extent permitted or required by the Act, generally in conformity with NSWBL and the ABF Constitution;
- (d) apply its property and capacity in pursuit of the objects of NSWBL and the ABF, MWDBA and the sport of Baseball in the District;
- (e) do all that is reasonably necessary to enable the objects of the NSWBL and the ABF and MWDBA to be achieved;
- (f) act in good faith and loyalty to ensure the maintenance and enhancement of the NSWBL and the ABF, MWDBA and the sport of Baseball, its standards, quality and reputation for the collective and mutual benefit of the Players and the sport of Baseball;
- (g) at all times operate with and promote mutual trust and confidence between NSWBL, MWDBA and the Members in pursuit of these objects;
- (h) at all times act on behalf of and in the interests of the Members and the sport of Baseball;  
and
- (i) abide by the NSWBL Constitution.



## **6. AFFILIATED ASSOCIATIONS CONSTITUTION**

### **6.1. Compliance of Affiliated Associations**

The Affiliated Associations acknowledge and agree that each of them shall:

- (a) be incorporated in New South Wales;
- (b) elect or appoint one (1) Delegate to represent it on the Competition Committee for the competition in which it participates;
- (c) recognise MWDBA as the controlling body of Baseball in the District and NSWBL as the peak body for the sport of Baseball in the State of New South Wales;
- (d) generally have regard to the objects of MWDBA, and in particular the object to create and maintain a single uniform entity for the conduct, promotion, encouragement and administration of the sport of Baseball in any matters of the Affiliated Association pertaining to the sport of Baseball; and
- (e) abide by this Constitution.

### **6.2. Constitution of Affiliated Associations**

- (a) The constituent documents of the each Affiliating Association shall clearly reflect the objects of MWDBA and will conform with this Constitution subject to any requirement in the Act and at least to the extent of:
  - (i) the objects of MWDBA;
  - (ii) the structure and membership categories of MWDBA;
  - (iii) recognising MWDBA as the controlling body of the sport of Baseball in the District;
  - (iv) recognising MWDBA as the final arbitrator on matters pertaining to the sport of Baseball in the District including disciplinary proceedings and that NSWBL is the final arbitrator on matters pertaining to the sport of Baseball in New South Wales including disciplinary proceedings and that the ABF is the final arbitrator on matters pertaining to the sport of Baseball in Australia including disciplinary proceedings;
  - (v) such other matters that are required to give full effect to MWDBA's Constitution;with such incidental variations that are necessary having regard to the Act.
- (b) Each Affiliated Association shall take all steps necessary to ensure its constituent documents are in conformity with the Constitution of MWDBA at least to the extent set out in Rule 6.2(a) and shall ensure its documents are amended in conformity with future amendments made to MWDBA's Constitution subject to any prohibition or inconsistency in the Act.
- (c) Upon request each Affiliated Association shall provide to MWDBA a copy of its constituent documents and all amendments to these documents.

6.3. Affiliated Association Register

Each Affiliated Association shall maintain, in a form and with such details as are acceptable to MWDBA, a register of all Members and Players of the Affiliated Association. Each Affiliated Association shall provide a copy of the register at a time and in a form acceptable to MWDBA and shall provide prompt and regular updates of the register to MWDBA when requested by MWDBA.

**PART III - MEMBERSHIP**

**7. MEMBERS**

7.1. Category of Members

The Members of MWDBA shall consist of:

- (a) Affiliated Associations, who subject to this Constitution, shall be represented by their Delegate who shall have the right to attend, debate but not vote at General meetings or of the Board;
- (b) Members, who subject to this Constitution, may attend and debate at meetings of MWDBA and to vote at General Meetings;
- (c) Life Members, who subject to this Constitution, may attend and debate at meetings and General Meetings of MWDBA but not vote at General meetings;
- (d) Such new categories of Members created in accordance with Rule 7.2 below.

7.2. Creation of New Categories

The Board has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined applicable (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of any existing category of members. No new category of members may be granted voting rights.

7.3. Life Members

- (a) Each year the Board will call for nominations from Members for persons to be considered for Life Membership of MWDBA. The Board may recommend to the Annual General Meeting that one or more persons (but not more than two persons in any single year) be nominated and who has rendered distinguished, extraordinary or special service to the sport of Baseball over a continued period of at least 5 years to the MWDBA, have Life Membership conferred upon them.
- (b) A resolution of the Annual General Meeting to confer Life Membership must be passed by special resolution. The vote on such resolution will be taken by secret ballot.
- (c) Conditions, obligations and privileges of Life Membership shall be as prescribed in the By-laws.
- (d) Any Member who has been conferred life membership of an association that merges with MWDBA shall as at the date of the merge taking effect be awarded Life Membership of MWDBA.

#### 7.4. Application for Membership

An application for membership as a Member must be:

- (a) in writing on the form prescribed from time to time by the Board from the applicant and lodged with MWDBA.
- (b) be accompanied by a signed code of conduct acknowledgement and agreement and any other written acknowledgement or declaration as prescribed by the Board and;
- (c) be accompanied by the appropriate fee (if any).

### 8. **AFFILIATED ASSOCIATIONS**

#### 8.1. Incorporation

- (a) To be eligible for membership, an Affiliated Association must be incorporated or in the process of incorporation, which process shall be completed within one year of applying for membership under this Constitution.
- (b) For such time as an Affiliated Association is not incorporated, the secretary of any such unincorporated Affiliated Association shall be deemed to be the member (on behalf of the unincorporated Affiliated Association) and shall be entitled to exercise the same voting and other rights and have the same obligations and shall follow such procedures on behalf of the unincorporated Affiliated Association as incorporated Affiliated Associations, to the extent that this is possible.
- (c) Any dispute or uncertainty as to the application of this Constitution to an unincorporated Affiliated Association shall be resolved by the Board in its sole discretion.
- (d) Failure to incorporate within the period stated in Rule 8.1(a) shall result in the expulsion of the secretary (acting on behalf of the unincorporated Affiliated Association) from membership. The incorporated body shall not be entitled to reapply for membership until such time as it is incorporated.

#### 8.2. Application for Membership

An application for membership as an Affiliated Association must be:

- (a) in writing on the form prescribed from time to time by the Board, from the applicant or its nominated representative and lodged with MWDBA;
- (b) accompanied by written reasons supporting the rationale and justification for the applicant to be granted membership as an Affiliated Association of MWDBA;
- (c) accompanied by a copy of the applicant's constitution (which must be acceptable to MWDBA and be substantially in conformity with this Constitution) and register of members; and
- (d) accompanied by the appropriate fee (if any).

### 8.3. Discretion to Accept or Reject Applications

- (a) MWDBA shall not be bound to accept all applications for membership as an Affiliated Association and shall have regard to such matters as the interests of the sport of Baseball in the District, playing numbers and the enhancement of the game of Baseball in the District.
- (b) Where MWDBA accepts an application, the applicant shall become an Affiliated Association and Member. Membership of MWDBA shall be deemed to commence upon acceptance of the application by MWDBA.
- (c) Where MWDBA rejects an application MWDBA shall refund any fees forwarded with the application and the application shall be deemed to be rejected by MWDBA.
- (d) MWDBA shall be under no obligation to provide reasons as to why the application has been rejected.

### 8.4. Membership Renewal

- (a) Each Affiliated Association must reapply for membership with MWDBA from time to time, but no more frequently than once every twelve months by paying the appropriate fee and submitting an updated register of members as well as an indication as to the identity of the Delegate elected or appointed by the Affiliated Association.
- (b) Failure to renew membership in this fashion shall result in the Affiliated Association ceasing to be affiliated with MWDBA and unable to participate in the competitions conducted or participated in by MWDBA.

### 8.5. Membership with the NSWBL and the ABF

In order to remain members of the NSWBL, the ABF and MWDBA, Affiliated Associations and Members must:

- (a) renew their membership with MWDBA in accordance with Rule 7 and 8;
- (b) otherwise remain registered financial members of MWDBA in accordance with the procedures set out in this Constitution; and
- (c) must pay the annual fee as prescribed by the ABF from time to time (if any) to the ABF through MWDBA.

## 9. **SUBSCRIPTIONS AND FEES**

9.1 The annual membership subscription (if any), fees and any levies payable by Members or Affiliated Associations (or any category of Members) to MWDBA, the basis of, the time for and manner of payment shall be as determined by the Board from time to time.

9.2 Any Member of an Affiliated Association which, or who has not paid all moneys due and payable by that Member or Affiliated Association to MWDBA shall (subject to the Board's discretion) have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those moneys. Such rights shall be suspended until such time as the moneys are fully paid or otherwise in the Board's discretion. In the meantime, the Member or Affiliated Association

shall have no automatic right to resign from MWDBA and shall be dealt with in the Board's discretion, which includes the right to expel, suspend, disqualify, fine, discipline or retain that Member or Affiliated Association as a Member or Affiliated Association or impose such other conditions or requirements as the Board considers appropriate.

**10. REGISTER OF MEMBERS**

10.1 The Secretary of MWDBA shall keep and maintain a register of all Members in which shall be entered such information as required under the Act from time to time.

10.2 Having regard to confidentiality considerations, an extract of the register showing the name of the Affiliated Association or the Individual Member shall be available for inspection (but not copying) by Members upon a reasonable request.

**11. EFFECT OF MEMBERSHIP**

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and MWDBA and that they are bound by this Constitution and the By-laws;
- (b) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;
- (c) by submitting to this Constitution and the By-laws they are subject to the jurisdiction of MWDBA;
- (d) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of MWDBA, the Members and the sport of Baseball in the District;
- (e) this Constitution and By-laws are necessary and reasonable for promoting the objects of MWDBA and particularly the advancement and protection of the sport of Baseball in the District; and
- (f) they are entitled to all benefits, advantages, privileges and services of membership of MWDBA.

**12. DISCONTINUANCE OF MEMBERSHIP**

**12.1. Notice of Resignation**

Subject to this Constitution, any Member which has paid all moneys due and payable to MWDBA and has no other liability (contingent or otherwise) to MWDBA may resign from MWDBA by giving one (1) month's notice in writing to MWDBA of such intention to withdraw or resign and upon the expiration of that period of notice, the Member shall cease to be a Member. A Life Member of MWDBA may resign by notice in writing with immediate effect.



12.2. Expiration of Notice Period

Subject to Rule 12.5, upon the expiration of any notice period applicable under Rule 12.1, an entry recording the date on which the Member who or which gave notice ceased to be Member shall be recorded in the register.

12.3. Forfeiture of Rights

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon MWDBA and its property including Intellectual Property. Any MWDBA documents, records or other property in the possession, custody or control of that Member shall be returned to MWDBA immediately.

12.4. Membership may be Reinstated

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Board, on application in accordance with this Constitution and otherwise on such conditions as it sees fit.

12.5. Cessation of Membership

Where an Affiliated Association ceases to be a Member in accordance with this Constitution or the Act, the Individual Members of that Affiliated Association may cease or remain Members to the extent (if any) and for such time (if any) as is determined at the sole discretion of the Board.

**13. DISCIPLINING OF MEMBERS**

13.1. Disciplinary Action

Where the Board is advised or considers that a Member has allegedly:

- (a) breached, failed, refused or neglected to comply with the provision of this Constitution, the By-laws or any resolution or determination of the Board or any duly authorised committee; or
- (b) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of MWDBA and/or the sport of Baseball; or
- (c) brought MWDBA or the sport of Baseball into disrepute; or
- (d) the Board is advised that there has been a breach of any competition rules created by the Board or any of its sub-committees or Competition Committees or the official rules of Baseball;

the Board may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms (if any) of MWDBA set out in the By-laws.

13.2. Right of Appeal

A Member disciplined by MWDBA in accordance with Rule 13.1 shall have a right of appeal which shall be exercised in accordance with the By-laws.

## **PART IV - GENERAL MEETINGS**

### **14. GENERAL MEETINGS**

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

### **15. NOTICE OF GENERAL MEETINGS**

#### **15.1. Notice of General Meetings**

- (a) Notice of every General Meeting shall be given to the Members at the address appearing in the register kept by MWDBA. No other person shall be entitled, as of right to receive notices of General Meetings.
- (b) Notice of General Meetings shall be given at least twenty-one (21) days prior to the General Meeting and shall specify the place, day and hour of the General Meeting.
- (c) The agenda for the General Meeting stating the business to be transacted at the General Meeting shall be given at least seven (7) days prior to the General Meeting together with any notice of motion received from the Affiliated Associations.
- (d) Notice of General Meetings may be forwarded by email to the Members or posted on the approved website of MWDBA.

#### **15.2. Entitlement to Attend General Meetings**

Notwithstanding any other rule, no Member shall be represented at, or take part in a General Meeting, unless all moneys then due and payable to MWDBA are paid.

### **16. BUSINESS**

#### **16.1. Business of General Meetings**

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts, reports of the Board (including in relation to the activities of MWDBA during the past proceeding financial year) and auditors and the election of the Board, Life Members or other elected positions.
- (b) All business that this transacted at a General Meeting and also all that is transacted at the Annual General Meeting, with the exception of those matters set out in Rules 16.1(a) shall be special business. 'Special business' is business of which a notice of motion has been submitted in accordance with Rule 18.

#### **16.2. Business Transacted**

No business other than that stated in the notice shall be transacted at the meeting.

**17. NOTICES OF MOTION**

All notices of motion for inclusion as special business at a General Meeting must be submitted in writing in the required form to the Secretary of MWDBA not less than fourteen (14) days (excluding receiving date and meeting date) prior to the General Meeting.

**18. SPECIAL GENERAL MEETINGS.**

**18.1. Special General Meetings May be Held**

The Board may, whenever it thinks fit, convene a Special General Meeting of MWDBA, and where, but for this rule, more than fifteen (15) months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period

**18.2. Requisition of Special General Meetings**

- (a) The Board shall, on requisition in writing of at least 10 Members, convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Members making the requisition and be sent to MWDBA. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within three (3) months after the date on which the requisition is sent to MWDBA, the Members making the requisition or any of them, may convene a Special General Meeting to be held not later than three (3) months after that date.
- (d) A Special General Meeting convened by a Member under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

**19. PROCEEDINGS AT GENERAL MEETINGS**

**19.1. Quorum**

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of MWDBA shall be 30 Members.

**19.2. President to Preside**

The President shall, subject to this Constitution, preside as Chair at every General Meeting of MWDBA. If the President is not present, or is unwilling or unable to preside, the Secretary shall preside as Chair for that meeting only.

**19.3. Adjournment of Meeting**

- (a) If, within half an hour from the time appointed for the General Meeting a quorum is not present the meeting shall be adjourned to such other day and at such other time and place



as the Chair may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting will lapse.

- (b) The Chair may, with the consent of any General Meeting at which a quorum is present, and shall, if so directed by the General Meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in Rule 19.3(c) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

#### 19.4. Voting Procedure

At any General Meeting a resolution put to the vote of the meeting shall be decided by the show of hands, unless otherwise provided for in this Constitution, and unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the Chair; or
- (b) by the majority of the Members present.

#### 19.5. Recording of Determinations

Unless a poll is demanded under Rule 19.4, a declaration by the Chair that a resolution has, on the show of hands, been carried or carried unanimously or by a particular majority or lost an entry to that effect in the book containing the minutes of the proceedings of MWDBA shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

#### 19.6. Where Poll Demanded

If a poll is duly demanded under Rule 19.4, it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

#### 19.7. Resolutions at General Meetings

Except where a special resolution is required, all questions at General Meetings shall be determined by the majority of votes (as set out in Rule 20). Except as otherwise provided in this Constitution, in the case of an equality of votes on a question at a General Meeting, the Chair is entitled to a casting vote.

#### 19.8. Minutes

The Secretary shall keep minutes of the resolutions and proceedings of each General Meeting in books provided for that purpose, together with a record of the names of persons present at all meetings.

## **20. VOTING AT GENERAL MEETINGS**

Each Voting Representative in attendance shall be entitled to one vote at General Meetings.

## **PART V - THE BOARD**

### **21. EXISTING BOARD**

Upon approval of this Constitution under the Act, the Initial MWDBA Board shall hold the office as herein designated as part of the Executive or as a Director on the Board as set out in Rule 22 until the next Annual General meeting following the approval for this Constitution, provided the qualification for holding the office of Director as set out in Rule 22 is met. At the next Annual General Meeting following the approval of this Constitution, all 9 Directors shall retire and there will be an election in accordance with this Constitution. Each of the retiring Directors shall be eligible for re-election.

### **22. POWERS OF THE BOARD**

Subject to the Act and this Constitution, the business of MWDBA shall be managed, and the powers of MWDBA shall be exercised, by the Board. In particular, the Board as the controlling authority of MWDBA shall be responsible for acting on all issues in accordance with the objects of MWDBA and shall operate to the collective and mutual benefit of MWDBA and the sport of Baseball throughout the District and shall:

- (a) administer the Sport of Baseball in the District in accordance with the objects of MWDBA;
- (b) determine the major strategic directions of MWDBA within the guidelines and principles established by NSWBL and the ABF;
- (c) review MWDBA's performance in achieving its predetermined aims, objectives and policies and the policies of NSWBL and the ABF; and
- (d) manage its responsibilities to the players in the District that play Baseball, the coaches, officials and volunteers participating in the sport of Baseball.

### **23. COMPOSITION OF THE BOARD**

#### **23.1. Board Composition**

The Board shall comprise of a President, Secretary and Treasurer, and 6 other elected Directors. No more than 2 Directors shall have the Special Qualification with respect to each Competition Committee, which has been created by the Board and is in existence as at the General Meeting.

#### **23.2. Executive**

The position of President shall not be appointed by the Board after the appointment of office bearers at a General Meeting. The position of President, Secretary and Treasurer are separate, specific positions for which candidates nominate and shall be elected at General Meetings in accordance with this Constitution.

### 23.3. Election of the Executive and Directors

- (a) The Secretary shall call for nominations for the elected positions of President, Secretary, Treasurer and Director by forwarding notice in writing to the Members at least 21 days before the date of the Annual General Meeting. Such notice may be forwarded by email or posted on the approved website of MWDBA.
- (b) Nominations for the positions on the Executive and of Director must be:
  - (i) in writing;
  - (ii) in a form approved by MWDBA;
  - (iii) signed by the Member;
  - (iv) if the nomination is for a position on the Executive, identify the position on the Executive the nominee is nominating for, however each nomination may be for more than one position, provided that such nominee cannot hold more than one position on the Executive or the Board;
  - (v) certified and proposed by a person over the age of 18 years (who must be a Member) expressing his or support for the nominee for election to the Board, and
  - (vi) nominate the nominee's Special Qualifications for the nominee's candidature as a Member of the Executive or a Director on the Board.
- (c) Nominations must be received by the Secretary at least fourteen (14) days prior to the Annual General Meeting.
- (d) If the number of qualifying nominations for each of the positions on the Executive are one (1) only, then that person shall be elected unopposed. If the number of nominations for each position is more than one (1), then a ballot shall be taken in such usual and proper manner as the Chair of the Annual General Meeting directs to elect the person to hold the particular office nominated for. In the event of a tied vote a secret ballot shall be called for by the Chairman and each Member shall again cast their votes, indicating, in order of preference, all the nominated candidates. If the number of primary votes for each candidate receiving the first preference is still tied, then the successful candidate shall be the one who receives the greatest number of second preferences. If the vote is still tied after the counting of the second preferences, then each of the other preferences shall be counted until there is a clear winner.
- (e) If the number of nominations for each of the positions on the Board as Director equal the number of positions with the Special Qualification, then these nominees shall be elected unopposed. If the number of nominations for each position with the Special Qualification exceeds the number of positions, then a ballot shall be taken in such usual and proper manner as the Chair of the Annual General Meeting directs to elect the person to hold the office of Director. In the event of a tied vote a secret ballot shall be called for by the Chairman and each of the Members shall again cast their votes, indicating in order of preference all the nominated candidates for that Special Qualification. If the number of primary votes for each candidate receiving the first preference is still tied, then the successful candidate shall be the one who receives the greatest number of second

preferences. If the vote is still tied after the counting of the second preferences, then each of the other preferences shall be counted until there is a clear winner.

**23.4. Term of Appointment**

Members of the Board shall be elected in accordance with this Constitution for a term of one (1) year which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the second Annual General Meeting following.

**24. VACANCIES ON THE BOARD**

**24.1. Grounds for Termination of Board Member**

In addition to the circumstances (if any) in which the office of Director becomes vacant by virtue of the Act, the office of Director becomes vacant if the Director:

- (a) dies;
- (b) becomes a bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) resigns his office in writing to MWDBA;
- (e) is absent without the consent of the Board from two consecutive meetings of the Board;
- (f) holds any office of employment of MWDBA;
- (g) without the prior consent or later ratification of the Members in General Meetings holds any office of profit under MWDBA;
- (h) is directly or indirectly interested in any contract or proposed contract with MWDBA and fails to declare the nature of his interest;
- (i) is removed from office by special resolution under Rule 24.2; or
- (j) would otherwise be prohibited from being a director of a corporation under the Corporations Act or is disqualified from office under the Act.

**24.2. Removal of Director**

- (a) MWDBA, in a General Meeting may, by special resolution remove any Director, before the expiration of their term of office. The position of Director so removed thereby becomes vacant and shall be filled in accordance with the procedures set out in Rule 24.3.
- (b) Where the Director to whom a proposed resolution referred to in Rule 24.2(a) makes representations in writing to the Secretary and requests that such representations be notified to the Members, the Secretary shall send a copy of the representations to each Member a reasonable period of time prior to the date of the General Meeting.

#### 24.3. Casual Vacancies

A vacancy in a position of a Director shall be filled by the remaining Directors until the next Annual General Meeting of MWDBA. If the term of the Director has not expired, a Member shall fill the vacancy for the remainder of the Director's term.

#### 24.4. Remaining Directors May Act

In the event of a casual vacancy or vacancies in the office of Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum.

### **25. MEETINGS OF THE BOARD**

#### 25.1. The Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business (but on at least six (6) occasions) and may adjourn, and subject to this Constitution otherwise regulate its meetings as it thinks fit. The Secretary shall, on the requisition of two (2) Directors, convene a meeting of the Board within a reasonable time.

#### 25.2. Decisions of the Board

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and all questions so decided shall for all purposes be deemed a determination of the Board. All Directors shall have one (1) vote on any question. The President shall also have a casting vote where voting is equal.

#### 25.3. Resolutions Not in Meeting

- (a) A resolution in writing, signed or assented by telegram, cablegram, radiogram, facsimile, telex, electronic mail or other form of visible or other electronic communication by all the Directors shall be as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more Directors.
- (b) Without limiting the power of the Board to regulate their meetings as they think fit. A meeting of the Board may be held where one or more of the Directors is not physically present at the meeting, provided that:
  - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone, video conferencing, skype or other form of communication;
  - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board and such notice specifies that Directors are not required to be present in person;
  - (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such



Directors are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held, then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within fifteen minutes of the interruption, the meeting shall be deemed to have terminated;

- (iv) any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present, and if no Director is there present the meeting shall be deemed to be held at the place where the Chairman of the meeting is located.

25.4. Quorum

At meetings of the Board, the number of Directors whose presence (or participation under Rule 26.3) is required to constitute a quorum is six (6) Directors.

25.5. Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than seven (7) days oral or written notice of the meeting of the Board shall be given to each Director by the Secretary. The agenda shall be forwarded to each Director not less than three (3) days prior to such meeting.

25.6. Validity of Board Decisions

A procedural defect in decisions taken by the Board shall not result in such decision being invalidated.

25.7. Chair of Board Meeting

The President appointed under Rule 25.2 shall preside at every meeting of the Board. If the President is not present, or is unwilling or unable to preside, the Directors shall choose one of their number to preside as Chair for that meeting only.

25.8. The Secretary

The Secretary will record, during each meeting of the Board or the Executive, the minutes of that meeting and shall circulate to all Directors a copy of those minutes within seven (7) days of the conclusion of that meeting.

25.9. Sporting Union Delegates

At its first meeting after each Annual General Meeting the Board shall approve two (2) Sporting Union Delegates from each of the Competition Committees who shall attend all meetings of the Sporting Union as the representatives of that Competition Committee, and in discussions, debates and votes taken by the Sporting Union, the Sporting Union Delegates shall comply with the policies, directions and objects of the Board and MWDBA. Each appointment of a Sporting Union Delegate shall be for a period of 12 months only. Nothing in this clause shall prevent the same delegate being appointed for additional periods, whether immediately following the earlier appointment or otherwise.

## **26. CONFLICTS**

### **26.1. Conflicts of Interest**

A Director shall declare his or her interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) disciplinary matter; or
- (d) other financial matter;

in which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent himself from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Director votes, the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a Director to absent himself or herself from discussions and refrain from voting, the issue shall be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

### **26.2. Disclosure of Interests**

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

### **26.3. General Disclosure**

A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under Rule 26.2 as regards to such Director and the said transaction. After such general notice, it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

### **26.4. Recording Disclosures**

It is the duty of the Secretary to record in the minutes any declaration made or any general notice given by a Director in accordance with Rule 26.2 and 26.3.

## **PART VI - MISCELLANEOUS**

## **27. DELEGATIONS**

### **27.1. The Board may Delegate Functions to Committees**

The Board may, by instrument in writing create, establish or appoint from among its own Members, the Individual Members or otherwise committees to carry out such duties and functions and having

such powers, as the Board determines, including but not limited to, the appointment of the Competition Committee.

**27.2. Delegation by Instrument**

The Board may, in the establishing instrument delegate such functions as are specified in the instrument other than:

- (a) the power of delegation; or
- (b) a function imposed on the Board by the Act or any other law, or this Constitution.

**27.3. Delegated Function in Accordance with Terms.**

A function, the exercise of which has been delegated under this Rule, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

**27.4. Procedure of Delegated Entity**

- (a) The procedures for any committee established shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under Rule 24. A quorum shall be determined by the committee but shall be no less than the majority of the total number of committee members.
- (b) Within seven (7) days of any meeting of any committee the committee shall send a copy of the minutes and any supporting documents to the Secretary.

**27.5. Delegation may be Confidential**

A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

**27.6. Revocation of Delegation**

The Board may, by instrument in writing, revoke wholly or in part any delegation made under this Rule and may amend, repeal or veto any decision made by such committee, where such decision is contrary to its Constitution, the By-laws, the Act, the Objects of MWDBA or the committee's delegation.

**28. BY-LAWS**

**28.1. Board to Formulate By-laws**

The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such By-laws, Regulations and Policies ("By-laws") for the proper advancement, management and administration of MWDBA, the advancement of the Objects of MWDBA and the sport of Baseball as it thinks necessary or desirable. Such By-laws must be consistent with this Constitution.

**28.2. By-laws Binding**

All By-laws made under this Rule shall be binding on MWDBA and its Members.



28.3. By-laws Deemed Applicable

All By-laws, Regulations and Policies of MWDBA in force at the date of the approval of this Constitution under the Act insofar as such By-laws, Regulations and Policies are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-laws under this Rule.

28.4. Notices Binding on Members

Amendments, alterations, interpretations or other changes to By-laws shall be advised to Members by means of notices approved by MWDBA and prepared and issued by the Secretary. Notices are binding upon all Members, and may be issued by email or posted on the approved website of MWDBA.

**29. RECORDS AND ACCOUNTS**

29.1. Treasurer to Keep Records

The Treasurer shall establish and maintain proper records and minutes concerning all transactions, businesses, meetings and dealings of MWDBA and the Board and shall produce these as appropriate at each Board Meeting or General Meeting.

29.2. Inspection of Records

Subject to privacy and commercial considerations, the Board may in its discretion, make the records, books and other documents of MWDBA available for inspection (but not copying) by a Member at any reasonable hour. The Board may impose reasonable charges in relation to such inspection.

29.3. Records Kept in Accordance with the Act

Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principals and/or any applicable Code of Conduct. The books of account shall be kept in the care and control of the Treasurer or Public Officer.

29.4. MWDBA to Retain Records

MWDBA shall retain such records for seven (7) years after the completion of the transaction or operations to which they relate.

29.5. Board to Submit Accounts

The Board shall submit to the Annual General Meeting the accounts of MWDBA in accordance with the Act.

29.6. Negotiable Instruments

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be, by two (2) persons appointed in writing by the Board and all receipts for money paid to MWDBA shall be signed, drawn accepted, endorsed or otherwise executed, as the case may be, by one (1) person appointed in writing by the Board.

## **30. NOTICE**

### **30.1. Manner of Notice**

- (a) Notices may be given by the Secretary to any Member by sending the notice by post or facsimile transmission, or where available, by electronic mail, to the Members registered address, facsimile number or electronic mail address. Any notice posted on the approved MWDBA website shall be deemed to have been given to all Members the day following its posting.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected two (2) days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

### **30.2. Notice of General Meeting**

Notice of every General Meeting shall be given in the manner authorised and to the persons entitled to receive notice under this Constitution

## **31. SEAL**

### **31.1. Safe Custody of Seal**

The Secretary shall provide for safe custody of the seal.

### **31.2. Affixing the Seal**

The seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by two (2) Members of the Board or a Director and the Secretary.

### **32.3 Director's Interest**

A Director may not sign a document to which the seal of MWDBA is affixed where the Director is interested in the contract or the arrangement to which the document relates.

## **32. ALTERATION OF CONSTITUTION**

- (a) this Constitution shall not be altered except by special resolution.
- (b) in addition there shall be no alteration or amendment to rules without the consent of the relevant minister or other authority under the Act.

### **33. INDEMNITY**

#### **33.1. Directors to be indemnified**

Every Director, auditor, employee or agent of MWDBA shall be indemnified to the extent provided under the Directors and Officers Insurance Policy of MWDBA (if any) against any liability incurred by him /her in his/her capacity as Director, auditor, manager, employee or agent in defending any proceedings, whether civil or criminal in which judgment is given in his/her favour or in which he/she is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him/her by the court.

#### **33.2. MWDBA to Indemnify**

MWDBA shall indemnify its Directors and employees to the extent provided under the Directors and Officers Insurance Policy of MWDBA (if any) against all damages and costs (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) In the case when a Director performed or made whilst acting on behalf of and with the authority, expressed or implied of MWDBA; and
- (b) In the case when an employee performed or made in the course of, and within the scope of his/her employment by MWDBA.

### **34. WINDING UP**

#### **34.1. Winding Up of MWDBA**

Subject to this Rule MWDBA may be wound up in accordance with the provisions of the Act.

#### **34.2. Liability of Members**

The liability of Members of MWDBA is limited.

#### **34.3. Members Contribution**

Every Member of MWDBA undertakes to contribute to the assets of MWDBA in the event of it being wound up while a Member or within one year of ceasing to be a Member for payment of the debts and liabilities of MWDBA contracted before the time at which he or she ceases to be a member and the costs, charges and expenses of winding up and for adjustment of the rights and contributors among themselves. Such amount as may be required not exceeding \$1.00.

#### **34.4. Distribution of Property on Winding Up**

If upon winding up or dissolution of MWDBA there remains, after satisfaction of all its debts and liabilities, any assets or property, the same shall not be paid to or distributed amongst the Members of MWDBA but shall be given or transferred to some body or bodies having objects similar to the objects of MWDBA and which prohibits the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on MWDBA by this Constitution and which is also not carried on for profit and which is similarly exempt (or entitled to be exempt) from income tax. Such body or bodies to be determined by the Members of MWDBA at or before

the time of dissolution, and in default thereof by such judge of the relevant Supreme Court or such other court as may have or acquire jurisdiction in the matter.

**35. AUTHORITY TO TRADE**

MWDBA is authorised to trade in accordance with the Act.

**36. SOURCE OF FUNDS**

The funds of MWDBA may be derived from annual membership subscriptions fees and levies payable by Members, donations, grants, sponsorships and such other sources as the Board determines.

**37. APPLICATION OF INCOME**

**37.1. Income and Property Applied to Objects**

Any income and property of MWDBA shall be applied solely towards the promotion of the Objects of MWDBA as set out in this Constitution.

**37.2. No Income to Members except those Prescribed in this Constitution**

- (a) No portion of the income or property of MWDBA shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member.
- (b) No remuneration or other benefit in money or money's worth shall be paid or given by MWDBA to any Member who holds any office of MWDBA.

**37.3. Payments in Good Faith**

Nothing contained in 37.2 in Rule 37 shall prevent payment in good faith of or to any Member for:

- (a) Any services actually rendered to MWDBA whether as an employee or otherwise;
- (b) goods supplied to MWDBA in the ordinary or usual course of the operation;
- (c) interest on money borrowed from any Member
- (d) rent for premises demised or let by any Member to MWDBA;
- (e) any out of pocket expenses incurred by the Member on behalf of MWDBA, or
- (f) any other reason

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