



**CONSTITUTION**  
**Effective from: December 2020**

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## Part 1 - Preliminary

### 1. Definitions

(1) In this constitution:

**Alternate Delegate** means a person appointed to represent a Member Club at a General Meeting or an Annual General Meeting when the delegate from that Member Club is unable to attend.

**Annual Affiliation Fee** means the fee payable by a Member Club that is based on the number of licensed Members of the Member Club at the end of the previous year.

**Annual General Meeting** means a meeting of KNSW held once each year as set out in Part 5 of this Constitution.

**Board** means the Board of KNSW elected in accordance with the procedures as set out in this Constitution.

**Board Member or Member of the Board** means a person elected to the Board of KNSW at an Annual General Meeting or a person appointed under this Constitution.

**Chairman of the Board** means a person elected and appointed at an Annual General Meeting by the Member Clubs to preside over a Board Meeting.

**Delegate** means a person appointed to represent a Member Club at a General Meeting or an Annual General Meeting held under Part 5 of this Constitution.

**Directors** means a director of the Board.

**General Meeting** means a General Meeting of KNSW as set out in Part 4 of this Constitution.

**Group** means a number of Member Clubs that belong to one of three (3) groups, as set out and listed in **Schedule 1** of this Constitution or as otherwise determined by the Board under clause 14(6) of this Constitution.

**Industry Representative** means a representative of the karting industry.

**Initial Affiliation Fee** means the fee payable by the Member Club upon joining KNSW.

**Kart Club** means an incorporated association whose principal objective is the promotion and management of the sport of karting and kart racing.

**KNSW** means Karting (New South Wales) Incorporated.

**Life Member** means a Member of a Member Club who has been appointed by the Board as a Life Member of KNSW in recognition by the Board for exceptional service.

**Member Club** means a Kart Club that has been admitted as a Member of KNSW.

**Member** means a person who has joined and paid membership fees to a Member Club.

**Secretary** means:

- (a) the person holding office under this Constitution as secretary of KNSW, or
- (b) if no such person holds that office - the public officer of KNSW.

**Special General Meeting** means a general meeting of KNSW other than an Annual General Meeting.

**Special Resolution** means a resolution passed in accordance with section 39 of the Act.

**The Act** means the *Associations Incorporation Act 2009* (NSW) as amended.

**The Regulation** means the *Incorporations Associations Regulation 2016* (NSW) as amended.

(2) 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, if the function is a duty, a reference to the performance of the duty, and
  - (c) words importing either gender include the other gender.
- (3) The provisions of the *Interpretation Act 1987* (NSW) apply to and in respect of this Constitution in the same manner as those provisions would so apply if this Constitution were an instrument made under the Act.

## **Part 2 - Membership**

### **2. *Membership Generally***

- (1) A Kart Club is eligible to be a Member if:
  - (a) it is incorporated, and
  - (b) has aims and objectives consistent with the aims and objectives of KNSW.

### **3. *Application for Membership***

- (1) Application by a Kart Club for membership of KNSW:
  - (a) must be made by a Kart Club to KNSW in writing (including by email or other electronic means, if the Board so determines) in the form set out in Appendix 1 to this Constitution, and
  - (b) must be lodged (including by electronic means, if the Board so determines) with the Secretary.
- (2) As soon as practicable after receiving an application for membership, the Secretary must refer the application to the Board who will assess the matter and either approve or reject the application. The Board need not provide reasons for rejecting an application.
- (3) As soon as practicable after the Board makes a determination, the Secretary must:
  - (a) notify the applicant, in writing (including by email or other electronic means, if the Board so determines), that the Board has either approved or rejected the application (whichever is applicable), and
  - (b) if the Board approves the application, request the applicant to pay (within the period of 28 days after receipt by the applicant of the notification) the sum payable under this Constitution by a Member Club as the Initial Affiliation Fee and Annual Affiliation Fee.
- (4) The Secretary must, on payment by the applicant of the amounts referred to in sub-clause (3)(b) within the period referred to in that provision, enter or cause to be entered the applicant's name in the register of members and, on the name being so entered, the applicant becomes a Member Club.

### **4. *Cessation of Membership***

A Member Club shall cease to be a Member Club:

- (a) three months after notification in writing to the Board of its intention to withdraw from KNSW unless within that period the notification is withdrawn,
- (b) three months after notification by the Board to the Member Club that any applicable fees are due and owing and that failure to pay those fees within three months of the date of the notice, shall result in the cessation of membership, unless within that period the outstanding fees are paid in full,
- (c) by expulsion of the Member Club by the process set out in clause 11 or by a decision of KNSW in accordance with this Constitution,
- (d) when a Member Club becomes financially insolvent,
- (e) when a Member Club is no longer incorporated, or
- (f) when, on request, temporary suspension of membership is invoked by KNSW to allow the Member Club to temporarily participate in an activity other than karting.

## **5. *Membership Entitlements not Transferable***

A right, privilege or obligation, which a Kart Club has by reason of being a Member Club;

- (a) is not capable of being transferred or transmitted to another Member Club, and
- (b) terminates on cessation of the Member Club's membership.

## **6. *Resignation of Membership***

- (1) A Member Club may resign its membership of KNSW by first giving the Secretary written notice of at least three months (or such other period as the Board may determine) prior to the Member Club's nominated date of cessation of membership and on the expiration of that period of notice, the Member Club ceases to be a Member Club.
- (2) If a Member Club ceases to be a Member Club under sub-clause (1) and in any other case where a Member Club ceases to hold membership, the Secretary must make an appropriate entry in the register of members recording the date on which the Member Club ceased to be a Member Club.

## **7. *Register of Members***

- (1) The director of Member Club services must establish and maintain a register of members of KNSW (whether in written or electronic form) specifying the name and postal or residential address of each Member Club together with the date on which it was given membership.
- (2) The register of members must be kept in New South Wales:
  - (a) at the main premises of KNSW, or
  - (b) if KNSW has no premises, at KNSW's official address.
- (3) The register of members must be open for inspection, free of charge, by any Member Club at any reasonable hour.
- (4) A Member Club may obtain a copy of any part of the register on payment of a fee of not more than \$1 (one dollar) for each page copied.
- (5) If a Member Club requests that any information contained on the register about the Member Club (other than the Member Club's name) not be made available for inspection, that information must not be made available for inspection.
- (6) A person must not use information about another person or persons obtained from the register to contact or send material to the person or persons, other than for:
  - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to KNSW or other material relating to KNSW, or
  - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (7) If the register of members is kept in electronic form:
  - (a) it must be convertible into hard copy, and
  - (b) the requirements in sub-clauses (2) and (3) apply as if a reference to the register of members is a reference to a current hard copy of the register of members.

## **8. *Fees and Subscriptions***

A Member Club must, on admission to membership, pay an annual membership fee of \$2 (two dollars) or, if some other amount is determined by the Board and endorsed at an Annual General Meeting, that other amount:

- (a) except as provided by paragraph (b), before 1 July in each calendar year, or
- (b) if the Member Club becomes a Member on or after 1 July in any calendar year - on becoming a Member Club and before 1 July in each succeeding calendar year.

## **9. Members' Liabilities**

The liability of a Member Club to contribute towards the payment of the debts and liabilities of KNSW or the costs, charges and expenses of the winding up of KNSW is limited to the amount, if any, unpaid by the Member Club in respect of membership of KNSW as required by clause 8.

## **10. Resolution of Disputes**

- (1) A dispute between a Member Club and another Member Club (in their capacity as Members) of KNSW, is to be referred to the Board for arbitration. If a Member Club is not satisfied with the decision of the Board it may within 21 days request referral of the dispute to a General Meeting. The decision of the General Meeting will be final and binding on all parties.
- (2) A dispute between KNSW and a Member Club shall be referred to the Board for internal arbitration within 7 days of a written request served by a party to the dispute on the Secretary for such a referral.
- (3) If either party is not satisfied with the decision made by the Board then either party may, within 14 days of such a decision, serve notice on the Secretary that the matter be referred to formal external arbitration pursuant to the *Commercial Arbitration Act 2010* (NSW).
- (4) A dispute, for the purpose of this clause, exists only when a party serves a notice on the other party, as well as the Secretary, that a dispute exists, and such a notice has clearly set out the nature of the dispute together with all the relevant details and the basis of the dispute.
- (5) The Secretary shall, on receiving any notice or notice for referral under this clause, do all things required and/or necessary to facilitate, manage and administer those referrals to the Board or to the relevant authorities as the case may be.
- (6) The Board shall make all necessary and proper enquiries in order to satisfy itself that a dispute exists under this clause before that the Board conducts the arbitration process.

## **11. Disciplining of Members**

- (1) The Board may investigate a matter where a Member Club itself or via its Member/s has been reported to have refused or neglected to comply with the provisions of this Constitution or any governance standards set out by any relevant government department or authority or KNSW or, has acted in a manner prejudicial to the sport of karting.
- (2) If, after such an investigation, the matters reported have been established to the satisfaction of the Board, then the Board shall address the matter in the first instance by inviting a Delegate or representative of the Member Club to attend on a meeting of the Board convened for this purpose. At this meeting, the Member Club will be requested to submit a response to the Board regarding the matter in question after which the Board, if it deems appropriate after a discussion with the Member Club and then taking all the relevant circumstances into account, may decide to take no action.
- (3) If the Board, after having dealt with a matter under sub-clause (2), decides to proceed further it shall, at its discretion, implement or adopt one of the following options:
  - (a) issue a directive to the Member Club as deemed proper and appropriate by the Board and such a directive may also include a warning to the Member Club that it may face further action if it continues to act in a specified manner, or if the Member Club does not comply with the directive,
  - (b) suspend the Member Club effective immediately and for a specified period,
    - (i) on and during a suspension period, permits to conduct racing or practice shall not be issued. The relevant government department shall be notified of the suspension,
    - (ii) such suspension shall remain in effect until:
      - the Board removes the suspension,
      - the time specified for the suspension has lapsed,

- (c) decide by majority vote that the Member Club should be expelled.
- (4) A decision of the Board to implement one of the options as set out sub-clause (3)(a) and (b) herein in order to discipline a Member Club is final and no appeal will be permitted.
- (5) If the Board adopts the option set out in sub-clause (3)(c) of this clause, the Board shall, before taking any further action to implement the decision, refer the matter to a General Meeting of the membership for the purpose of either upholding or rejecting the decision of the Board under that sub-clause, and such a meeting, convened only for this purpose as aforesaid, shall take place within 21 days from the date of the Board's decision.
- (6) The Secretary, on being informed of the Board's decision under sub-clause (3)(c), shall convene the General Meeting and give notice to the affected Member Club that a Delegate, Alternate Delegate or representative is to attend the General Meeting.
- (7) At a General Meeting convened under sub-clause (5), a Special Resolution under the Act shall be required if the General Meeting decides to uphold the Board's decision and if such a decision is made then the matter will be referred back to the Board for the purpose of implementing its decision under sub-clause (3)(c).
- (8) At a General Meeting convened under sub-clause (5), a majority vote shall be sufficient if the General Meeting decides to reject the Board's decision and if such a decision is made then the matter will be referred back to the Board for it to further deal with the matter in a manner other than by doing so under sub-clause (3)(c) but always in accordance with this clause.
- (9) The chairman presiding over the General Meeting shall conduct the proceedings in such a manner as he deems appropriate but shall at all times, afford the affected Member Club due process and procedural fairness.
- (10) The Board may, at its discretion, direct a Member Club to remove any person or Member of the Member Club from acting in any official capacity at any KNSW sanctioned event.
- (11) The disciplinary powers contained in this rule are separate from any disciplinary powers exercised by KNSW under the Rules and Regulations governing the competition of karting sanctioned by KNSW as exists from time to time.

## ***12. Right of appeal of disciplined member***

- (1) A Member Club may appeal to the association in General Meeting against a resolution of the Board under clause 11[(10)], within 7 days after notice of the resolution is served on the Member Club, by lodging with the Secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the Member Club intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a Member Club under sub-clause (1), the Secretary must notify the Board, which is to convene a General Meeting to be held within 28 days after the date on which the Secretary received the notice.
- (4) At a General Meeting convened under sub-clause (3):
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the Board and the Member Club must be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the Member Clubs present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by the Member Clubs.
- (6) If the appeal is successful, the direction of the Board under clause 11(10) only ceases to be effective in relation to sanctioned events commencing after the result of the secret ballot is declared.



## **Part 3 - The Board**

### **13. Purpose and Objectives**

The Board shall administer and manage the affairs of KNSW for the benefit of its Member Clubs and the sport of karting in Australia (primarily in NSW) generally, as well as promote and advance the causes, purposes and objectives of the sport.

### **14. Composition and Membership of Board**

- (1) KNSW shall be administered and managed by a Board of up to a maximum of 9 Directors composed as follows:
  - (a) Director Administration
  - (b) Director of Financial Services
  - (c) Director of Member Training and Education
  - (d) Director of Competition
  - (e) Director of Promotion, Marketing and Media
  - (f) Director of Group Welfare and Karting Operations (Southern)
  - (g) Director of Group Welfare and Karting Operations (Northern)
  - (h) Director of Group Welfare and Karting Operations (Metropolitan)
  - (i) Chairman of the Board
- (2) Each elected Board Member shall be elected for a term of two years.
- (3) No elected Board Members (other than the Chairman of the Board) shall hold a particular directorship for more than two consecutive terms however this Rule does not prevent a particular Board Member, having served two consecutive terms in one position, from standing for another position on the Board. A formal change of name or title for a particular position shall not necessarily of itself result in compliance with this sub-clause. For the purpose of this sub-clause, each Director of Group Welfare and Karting Operations will be treated as occupying a single directorship even if their Group is renamed or its membership changes under sub-clause (6).
- (4) A Board member may not hold more than 1 position on the Board.
- (5) Provided there remains only three (3) Groups at any time, the Board may, at its sole discretion:
  - (a) rename any of the Groups;
  - (b) allocate a new Member Club to a Group or reallocate Member Clubs among the Groups.
- (6) A decision by the Board under sub-clause (5) herein shall be final and no recourse or action will be allowed by any Member Club under clause 10 of this Constitution or otherwise.

### **15. Powers**

- (1) Subject to the Act, the Regulation and this Constitution, the Board has power to do anything necessary or convenient to achieve the purposes of KNSW, including:
  - (a) The delegation of karting matters to Member Clubs with the power to withdraw such delegation at any time at the sole discretion of the Board,
  - (b) Arrange and allocate the KNSW calendar, including its competition calendar,
  - (c) The issue of licences to competitors and drivers in karting events and of permits to organise such events in accordance with the appropriate provisions of the KNSW Rules and Regulations and the policies of KNSW,

- (d) The imposition of such levies, penalties, fees, fines, contributions and subsidies as are deemed necessary by the Board, together with the enforcement of the collection of such amounts from any Member Club, group or individual as is permitted by the provisions of the Rules and Regulations of KNSW and the general law,
- (e) The maintenance of a central registry of kart licences,
- (f) Liaise with other bodies with respect to matters relating to karting,
- (g) The reimbursement of any Member, servant or agent of KNSW for any out of pocket expenses properly incurred on the Board's behalf, and the payment to any such Member, servant or agent of such wage, honorarium or return for services rendered as the Board shall deem fit,
- (h) Making rules and regulations for the better management of the sport of karting, including, but not limited to karting in Australia,
- (i) Appoint personnel and/or staff as required to properly and efficiently manage and administer the affairs of KNSW,
- (j) The Board shall publish a suitable and effective Member Protection Policy to guide the Chairman of the Board, management and staff,
- (k) The duties of individual Board Members shall be those duties determined by the Board from time to time,
- (l) The Board shall from time to time appoint or remove Life Members,
- (m) The Board may issue an instruction or directive to a Member Club if it deems such an action would resolve an outstanding matter, and
- (n) The temporary suspension of affiliation to allow Member Clubs to use their facilities for other purposes.

## **16. *Election of Board Members***

- (1) Nominees for the position of Director will be required to participate in an endorsement process conducted by the Board that will prepare and present a list of recommended nominees to the Annual General Meeting for election to the Board.
- (2) The election process as stated and set out in this clause shall be conducted, facilitated and managed by the Secretary.
- (3) Nominations must be in writing, signed by a nominator and a seconder who must each be a Member of a Member Club, and accompanied by the written consent of the candidate who shall submit with the nomination, a curriculum vitae setting out all relevant knowledge, experience, qualifications and any achievements that specifically demonstrates their suitability for the particular directorship sought as well as demonstrated:
  - (a) proficient communication, presentation and interpersonal skills,
  - (b) ability and willingness to work as a team within a professional group to achieve the purposes and objectives of KNSW, and
  - (c) commitment to serve the membership of a not for profit sporting organisation as well as a genuine interest in kart racing and motorsport generally.
- (4) Other than the Directorships of Group Welfare and Karting Operations, expertise and experience in the sport of karting including competition, technical, officiating etc or the holding of any position in the karting industry will not ordinarily be recognised as a qualification for the position sought by the nominee.
- (5) The call for nominations shall be made by the Board at least 60 days prior to the date of the Annual General Meeting by notification forwarded to all Member Clubs as well as public notices and advertisements placed in at least the local, regional and state wide media.

- (6) Nominations together with accompanying material shall be submitted to the Secretary at least 28 days prior to the date of the Annual General Meeting or alternatively by a date set in any notification or advertisement published by the Secretary.
- (7) Where there is either no nomination for any position under this clause, or no nominee that satisfies the criteria as set down as part of the endorsement process for any position, then that position shall be considered to be a casual vacancy and may be filled pursuant to clause 17.
- (8) Nominees elected to the position of Member of the Board must resign any office or position held with any other karting club or organisation at club, state or national level within (90) days of election.

## **17. *Casual Vacancies***

- (1) In the event of a casual vacancy occurring in the membership of the Board, the Board may, at its discretion, appoint a person to fill the vacancy and the person so appointed is to hold office, subject to this Constitution, until the conclusion of the Annual General Meeting next following the date of the appointment.
- (2) A Casual Vacancy in the office of a Member of the Board shall also occur if the Member:
  - (a) dies, or
  - (b) ceases to be qualified for the role, or
  - (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth), or
  - (d) resigns office by notice in writing given to the Secretary, or
  - (e) is removed from office under clause 20, or
  - (f) becomes a mentally incapacitated person, or
  - (g) is absent without the consent of the Board for 3 consecutive meetings of the Board, or
  - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
  - (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* (Cth).

- (3) Each Member of the Board upon accepting appointment following election to that position agrees to resign in the event that a motion of no-confidence is passed in that particular Board Member by the other Board Members at a meeting of the Board and the resulting vacancy shall be treated as a casual vacancy to be dealt with pursuant to this clause.

## **18. Secretary**

- (1) The Secretary must, as soon as practicable after being appointed as Secretary, lodge notice with KNSW of his or her address.
- (2) It is the duty of the Secretary to keep detailed and accurate minutes, accounts and records of:
  - (a) all appointments of office-bearers and Members of the Board,
  - (b) the names of Members of the Board present at a Board Meeting or a General Meeting,
  - (c) all proceedings at Board Meetings and General Meetings,
  - (d) the process and conduct of the formal endorsement processes for the election of Directors, and
  - (e) the Chairman of the Board as well as any other appointments made by the Board.
- (3) The Secretary shall also manage and facilitate all notices and referrals required under this Constitution.
- (4) Minutes of proceedings at a meeting must be signed by the chairman of that meeting or by the chairman of the next succeeding meeting.

## **19. Director Financial Services**

It is the duty of the Director of Financial Services of KNSW to ensure:

- (a) that all money due to KNSW is collected and received and that all payments authorised by KNSW are made, and
- (b) that correct books and accounts are kept showing the financial affairs of KNSW, including full details of all receipts and expenditure connected with the activities of KNSW.

## **20. Removal of Board Members**

- (1) KNSW may by Special Resolution at a meeting held under clause 32 of this Constitution remove any Member of the Board from office before the expiration of the Member's term and may, subject to a formal endorsement process as set out in this clause, elect another person to hold office until the expiration of the term of office of the Member so removed.
- (2) If a member of the Board to whom a proposed resolution referred to in sub-clause (1) relates makes representations in writing to the Secretary or Chairman of the Board (not exceeding a reasonable length) and requests that the representations be notified to the Member Clubs, the Secretary or the Chairman of the Board may send a copy of the representations to each Member Club or, if the representations are not so sent, the Board Member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

## **21. Chairman of the Board**

- (1) Board meetings shall be presided over by the Chairman of the Board who shall be one of the Directors.
- (2) The Chairman of the Board shall be a person nominated and elected to that office by the Member Clubs at an Annual General Meeting for a term of 2 years.
- (3) The Chairman of the Board shall have a casting vote in all proceedings at a meeting of the Board.

- (4) The Chairman of the Board may be removed by a Special Resolution of the Member Clubs at a meeting held under clause 32 of this Constitution.

## **22. *Board Meetings***

- (1) The Board shall meet as a consequence of:
  - (a) a resolution of the Board,
  - (b) a request by the Chairman of the Board;
  - (c) a request by three or more Members of the Board.
- (2) The Board shall inform the Member Clubs of the outcome of its meetings.
- (3) Business to be dealt with at a meeting of the Board shall be set out on the notice of meeting and contain as much detail as is necessary to identify the subject matter of any item on the Agenda. Items raised after the notice has been distributed may only be considered by unanimous agreement of all Board Members present at the meeting.
- (4) Decisions at a meeting of the Board shall be made by simple majority vote of Board Members present at the meeting either in person or by telephone link.
- (5) Detailed and accurate minutes shall be kept of all meetings of the Board.
- (6) The Board will decide if information contained in their decisions is likely to infringe any New South Wales or federal privacy legislation and may decide not to make the information public.
- (7) The Board may specify a Board Meeting an "Open Board Meeting" where Member Club delegates are able to attend and observe the proceedings but shall not be able to vote or participate in the meeting or initiate any proceedings.

## **23. *Board Meetings and Quorum***

- (1) The Board must meet at least 6 times in each period of 12 months at such a place and time as the Board may determine.
- (2) Additional meetings of the Board may be convened by the Chairman of the Board or by any Member of the Board in accordance with clause 22.
- (3) Oral or written notice of a meeting of the Board must be given by the Secretary to each Member of the Board at least 48 hours (or such other period as may be unanimously agreed on by the Members of the Board) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under sub-clause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Board Members present at the meeting unanimously agree to treat as urgent business.
- (5) Fifty per cent of the Members of the Board constitute a quorum for the transaction of the business of a meeting of the Board. If this is not a whole number then the next highest number applies (e.g. 50% is 3.5 then the number required is 4).
- (6) No business is to be transacted by the Board unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) In the event of a casual vacancy or vacancies occurring in the office of a Director or Directors, the remaining Directors may act. However, 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.

- (9) At a meeting of the Board:
  - (a) the Chairman of the Board is to preside, or
  - (b) if the Chairman of the Board is absent or unable to act, one of the remaining Members of the Board may be chosen by the other Board Members present to preside at the meeting and that Member subject to a quorum being present, will have a casting vote only.

## **24. *Voting and Decisions***

- (1) Questions arising at a meeting of the Board or of any sub-committee appointed by the Board are to be determined by a majority of the votes of Members of the Board or sub-committee present at the meeting.
- (2) Each Member present at a meeting of any sub-committee appointed by the Board (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to clause 23(5), the Board may act despite any vacancy on the Board.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a sub-committee appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any Member of the Board or sub-committee.

## **25. *Use of technology at Board Meetings***

- (1) A Board meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the Board Members a reasonable opportunity to participate.
- (2) A Board Member who participates in a Board meeting using that technology is taken to be present at the meeting and, if the Board Member votes at the meeting, is taken to have voted in person.

## **26. *Delegation by Board to sub-committees***

- (1) The Board may, by instrument in writing, delegate to such specialist, select or standing committees as it considers appropriate. The Board may delegate to one or more sub-committees (consisting of such member or members of a Member Club as the Board thinks fit) the exercise of such of the functions of the Board as are specified in the instrument, other than:
  - (a) this power of delegation, and
  - (b) a function which is a duty imposed on the Board by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the Board may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Board.
- (6) The Board may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn as it thinks proper.

## **27. Code of Conduct for Directors**

- (a) Directors shall comply with the Code of Conduct as set out in **Annexure A** to this Constitution.
- (b) Amendments to **Annexure A** as mentioned in sub-clause (a) above may be made by the Board with the approval of the Membership at a General Meeting by majority vote.

## **28. Chief Executive Officer**

- (1) The Board may select and appoint a Chief Executive Officer on terms and conditions as may be agreed and who shall perform the role and function as set out by the Board from time to time for the proper and efficient running of KNSW.
- (2) The Board may set out the essential and/or desirable qualifications required for the position of Chief Executive Officer.
- (3) The Chief Executive Officer may not be a Member of the Board or hold any position or office with any other motorsport club or organisation.
- (4) The Chief Executive Officer shall report to the Board on all matters within his role and functions or on any matter so requested by the Board from time to time.
- (5) Any policy of remuneration decided by the Board shall be subject to approval at a General Meeting or an Annual General Meeting.
- (6) The election process as stated and set out in this clause shall be conducted, facilitated and managed by the Secretary.

## **Part 4 - General Meetings**

### **32. Annual General Meetings – Convening**

- (1) KNSW must hold its Annual General Meetings:
  - (a) within 6 months after the close of KNSW's financial year, or
  - (b) within such later time as may be allowed by the director-general or prescribed by the Regulation.

### **33. Annual General Meetings – KNSW Policy**

- (1) The Board shall, at least 28 days prior to the Annual General Meeting, provide to Member Clubs a report setting out any intended changes or amendments to existing KNSW policy.
- (2) Matters of policy as set out in sub-clause (1) or the issuing of any directive to the Board on any matter shall only be dealt with and decided at a General Meeting.
- (3) Decisions by the Member Clubs at a General Meeting relating to changes in policy shall be by a majority vote of the Member Clubs.

### **34. Annual General Meetings - Convening**

- (1) The Annual General Meeting, subject to the Act and to clause 32, is to be convened on such date and at such place and time as the Board thinks fit.
- (2) The Annual General Meeting shall be attended by Members of the Board as well as Member Club Delegates or Alternate Delegates.
- (3) Board Members shall not be entitled to vote in any proceedings at an Annual General Meeting.
- (4) In addition to any other business that may be transacted at an Annual General Meeting, the business conducted at such a meeting is to include the following:
  - (a) to confirm the minutes of the preceding Annual General Meeting and of any Special General Meeting held since that meeting,
  - (b) to receive from the Board, reports on the activities of KNSW during the last preceding financial year,
  - (c) to elect office-bearers of KNSW and new Board Members in accordance with this Constitution,
  - (d) to elect a Chairman of the Board in accordance with this Constitution,
  - (e) to receive and consider any financial statements or reports required to be submitted to the membership as required under the Act and this Constitution,
  - (f) for the Meeting to resolve and decide on KNSW policy matters if so required.
- (5) A notice convening a meeting under this clause must specify that it is an Annual General Meeting.



### **35. *General Meetings of the Membership***

- (1) The Board may, when considered appropriate, convene a General Meeting consisting of Board Members and Member Club Delegates or Alternate Delegates.
- (2) The Board shall however convene up to three General Meetings during the twelve month period following the Annual General Meeting.
- (3) Members of The Board shall not be allowed to vote on any proceedings at a General Meeting convened under this clause.
- (4) A General Meeting shall be presided over by the Chairman of the Board who shall only have a casting vote in the proceedings.
- (5) An Industry Representative may be invited to attend General Meetings.

### **36. *Special General Meetings - Convening***

- (1) The Board may, whenever it thinks fit, convene a Special General Meeting.
- (2) The Board must, on the requisition in writing of at least 33 per cent of the total number of Member Clubs, convene a Special General Meeting. If this is not a whole number then the next highest number applies (e.g. If the result is 7.1 then the number is 8).
- (3) A requisition of Member Clubs for a Special General Meeting:
  - (a) must state the purpose or purposes of the meeting, and
  - (b) must be signed by the Member Clubs making the requisition, and
  - (c) must be lodged with the Secretary, and
  - (d) may consist of several documents in a similar form, each signed by one or more of the Member Clubs making the requisition.
- (4) If the Board fails to convene a Special General Meeting to be held within 1 month (30 days) after that date on which a requisition of Member Clubs for the meeting is lodged with the Secretary, any one or more of the Member Clubs who made the requisition may convene a Special General Meeting to be held not later than 3 months after that date.
- (5) A Special General Meeting convened by a Member Club or Member Clubs as referred to in sub-clause (4) must be convened as nearly as is practicable in the same manner as General Meetings are convened by the Board.

### **37. *Notice***

- (1) Except if the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution, the Secretary must, at least 28 days before the date fixed for the holding of the General Meeting, give a notice to each Member Club specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution, the Secretary must, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be given to each Member Club specifying, in addition to the matters required under sub-clause (1), the intention to propose the resolution as a Special Resolution.
- (3) No business other than that specified in the notice convening a General Meeting or Special General Meeting is to be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted under clause 34(4).
- (4) A Member Club desiring to bring any business before a General Meeting must not less than 14 days prior to the meeting give notice in writing of that business to the Secretary who must

include that business in the next notice calling a General Meeting given after receipt of the notice from the Member Club.

### **38. *Quorum for General Meetings***

- (1) No item of business is to be transacted at a General Meeting unless a quorum of Member Clubs entitled under this Constitution to vote is present during the time the meeting is considering that item.
- (2) Fifty per cent of Member Clubs (being Member Clubs entitled under this Constitution to vote at a General Meeting) will constitute a quorum for the transaction of the business of a General Meeting. If this is not a whole number then the next highest number applies (e.g. if the number is 12.3 then 13 is the required number).
- (3) If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting:
  - (a) if convened on the requisition of Member Clubs, is to be dissolved, and
  - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Member Clubs given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, then the meeting is to be dissolved.

### **39. *Presiding Member***

If the chairman is absent or unable to act, the Member Clubs present must elect one of their number to preside as chairman at a General Meeting.

### **40. *Adjournment***

- (1) The chairman of a General Meeting at which a quorum is present may, with the consent of the majority of Member Clubs present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a General Meeting is adjourned for 14 days or more, the Secretary must give written or oral notice of the adjourned meeting to each Member Club stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in sub-clauses (1) and (2), notice of an adjournment of a General Meeting or of the business to be transacted at an adjourned meeting is not required to be given.

### **41. *Making of decisions***

- (1) A question arising at a General Meeting is to be determined by either:
  - (a) a show of hands, or
  - (b) if on the motion of the chairman or if 5 or more Member Clubs present at the meeting decide that the question should be determined by a written ballot, then such a ballot must be held.
- (2) If the question is to be determined by a show of hands, a declaration by the chairman that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of KNSW, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairman.

## **42. *Special resolutions***

A Special Resolution may only be passed by KNSW in accordance with section 39 of the Act.

## **43. *Voting***

- (1) On any question arising at a General Meeting, a Member Club has one vote only.
- (2) In the case of an equality of votes on a question at a General Meeting, the chairman of the meeting is entitled to exercise a casting vote.
- (3) A Member Club is not entitled to vote at any General Meeting unless all money due and payable by the Member Club has been paid.
- (4) A Member Club is not entitled to vote at any General Meeting if the Member Club's delegate is under 18 years of age.
- (5) A Member Club is entitled to vote at a General Meeting if it has ten (10) current members that all hold current KNSW Annual Competition Licences at the time the Notice of Meeting is issued for any General Meeting.

## **44. *Proxy votes at General Meetings***

Proxy voting shall not be permitted at any meeting of the Board or at any General Meeting, Annual General Meeting or Special General Meeting.

## **45. *Postal or electronic ballots***

- (1) KNSW may hold a postal or electronic ballot (as the Board determines) to determine any issue or proposal (other than an appeal under clause 12).
- (2) A postal or electronic ballot is to be conducted in accordance with **Schedule 3** to the Regulation.

## **46. *Use of technology at General Meetings***

- (1) A General Meeting may be held at 2 or more venues using any technology approved by the Board that gives each of the Member Clubs a reasonable opportunity to participate.
- (2) A Member Club who participates in a General Meeting using that technology is taken to be present at the meeting and, if the Member Club votes at the meeting, is taken to have voted in person.

## **Part 5 – Miscellaneous**

### **47. Insurance**

KNSW may effect and maintain insurance.

### **48. Funds - source**

- (1) The funds of KNSW are to be derived from entrance fees, permit and licence fees, sponsorships, royalties and annual subscriptions of Member Clubs, donations and subject to any resolution passed by KNSW at a General Meeting, such other sources as the Board determines.
- (2) All money received by KNSW must be deposited as soon as practicable and without deduction to the credit of KNSW's bank or other authorised deposit-taking institution account.
- (3) KNSW must, as soon as practicable after receiving any money, issue an appropriate receipt.

### **49. Funds - management**

- (1) Subject to any resolution passed by KNSW at a General Meeting, the funds of KNSW are to be used in pursuance of the objects of KNSW in such manner as the Board determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments as well as all transactions including electronic transactions must be authorised and/or signed by any 2 Members of the Board or employees of KNSW, being members or employees authorised to do so by the Board.

### **50. Change of Name, Objects and Constitution**

- (1) Any changes or amendments to this Constitution shall be made by a Special Resolution at a Special General Meeting convened for this purpose by resolution of the Board or by a General Meeting.
- (2) An application to the secretary for registration of a change in KNSW's name, objects or Constitution in accordance with section 10 of the Act is to be made by the public officer pursuant to the Act.

### **51. Custody of Books, Records and Documents etc**

Except as otherwise provided by this Constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to KNSW.

### **52. Inspection of books etc**

- (1) The following documents must be open to inspection, free of charge, by a Member Club at any reasonable hour:
  - (a) records, books and other financial documents of KNSW,
  - (b) this Constitution,
  - (c) minutes of all Board Meetings and General Meetings.
- (2) A Member Club may obtain a copy of any of the documents referred to in sub-clause (1) on payment of a fee of not more than \$1 for each page copied.

### **53. Service of notices**

- (1) For the purpose of this Constitution, a notice may be served on or given to a person:
  - (a) by delivering it to the person personally, or
  - (b) by sending it by pre-paid post to the address of the person, or
  - (c) by sending it by facsimile transmission or some other form of electronic transmission including electronic mail to an address specified by the person.

- (2) For the purpose of this Constitution and unless the contrary is proved, a notice is taken to have been given or served:
- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
  - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

#### **54. *Financial year***

The financial year of KNSW is:

- (a) the period of time commencing on the date of incorporation of KNSW and ending on the following 30 June, and
- (b) each period of 12 months after the expiration of the previous financial year of KNSW, commencing on 1 July and ending on the following 30 June.

#### **55. *Conflict of Interest***

Any Member of the Board or sub-committee of KNSW who has any direct or indirect interest in any present or anticipated contract, agreement, association or arrangement that does, or may in the future, affect KNSW must declare that interest at the first meeting of the Board, Committee or sub-committee after he or she becomes aware of the conflict and must leave the meeting when any matter relating to the conflict is being considered and/or a vote taken.

#### **56. *Deemed Membership***

- (a) All Kart Clubs who are, prior to the adoption of this Constitution under the Act, Members shall be deemed and remain as such from the date of adoption.
- (b) Any employees, volunteers or officers of KNSW, who prior to the adoption of this Constitution under the Act, are not deemed Members under clause 2 shall be entitled to carry on such functions analogous to their previous functions as are provided for under this Constitution upon its adoption.

#### **57. *Distribution of Property on Winding up KNSW***

- (a) Subject to the Act and the Regulations, in a winding up of KNSW, any surplus property of KNSW is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its individual members.
- (b) In this clause, a reference to the surplus property of KNSW is a reference to that that property of KNSW remaining after satisfaction of the debts and liabilities of KNSW and the costs, charges and expenses of the winding up of KNSW.

#### **58. *KNSW is Non-profit***

Subject to the Act and the Regulation, KNSW must apply its funds and assets solely in pursuance of the objects of KNSW and must not conduct its affairs so as to provide a pecuniary gain for any of its Members.

# Appendix 1

## *Application for membership of KNSW*

(Clause 3 (1))

APPLICATION FOR MEMBERSHIP OF KNSW

.....

[*name of kart club*]

Incorporated of .....

[*address*]

hereby apply to become a member of KNSW. In the event of our admission as a Member, we agree to be bound by the constitution of KNSW for the time being in force.

.....

*Signature of officer bearer of applicant*

Date

## **Schedule 1**

### **(Current as at 3 November 2020)**

***Metropolitan Group:*** Combined Districts, Sydney, Wollongong, Goulburn, Central Coast Speedway, NSW Speedway, TEKA, 4 S K A & Vintage/Historic

***Northern Group:*** Coffs Harbour, Gunnedah, Lismore, Manning Valley, Port Macquarie & Tamworth.

***Southern Group:*** Canberra, Dubbo, Grenfell, Griffith, Orange, Wagga, Bathurst, Broken Hill, Kartsport NT and Retro Karting Australia.

# ANNEXURE A

## CODE OF CONDUCT FOR DIRECTORS

This Code sets out the standard of good conduct, probity and behaviour that Members of Karting New South Wales and the karting community are entitled to reasonably expect of Directors.

### Conduct of Directors

Directors must at all times act honestly, with due and proper care and with unbiased diligence in the performance and discharge of their functions and duties whilst adhering to the following:

- \* discharge their duties and functions in strict accordance with the wording and spirit of this Code and the Constitution.
- \* carry out their duties conscientiously and to the best of their ability.
- \* act with honesty and integrity - conducting themselves in an exemplary manner maintaining the trust and confidence of their Members and the organisation of Karting New South Wales.
- \* act in a fair, honest and proper manner complying with all governing laws, regulations and the Rules and Regulations of Karting New South Wales.

### Decisions made by Directors shall:

- \* exhibit a proper understanding and appreciation of proper procedure and all relevant legal requirements.
- \* be reasonable, just and non-discriminatory.
- \* be in good faith and not for improper purposes or ulterior motives.
- \* be impartial and judicious.
- \* demonstrate an accurate and fair representation of the facts.