

# **BEXLEY SWIMMING CLUB**

**Registered Charity No: 1156407**

## **Articles of Association for Bexley Swimming Club Limited**

### **1. Name**

- 1.1 The company's name is Bexley Swimming Club Limited (and in this document is called the "charity").

### **2. Interpretation**

#### **2.1 In the articles:**

- (a) "address" means a postal address or, for the purposes of electronic communication, a fax number, an email or postal address or a telephone number for receiving text messages in each case registered with the charity;
- (b) "the articles" means the charity's articles of association;
- (c) "ASA" means the Amateur Swimming Association;
- (d) "the charity" means the company intended to be regulated by the articles;
- (e) "clear days" in relation to the period of a notice means a period excluding:
  - (i) the day when the notice is given or deemed to be given; and
  - (ii) the day for which it is given or on which it is to take effect;
- (f) "club members" means those persons who have paid the annual subscription fee for the applicable year in accordance with article 40.2 or are otherwise deemed club members pursuant to article 40.1;
- (g) "the Commission" means the Charity Commission for England and Wales;
- (h) "Companies Acts" means the Companies Acts (as defined in section 2 of the Companies Act 2006) insofar as they apply to the charity;
- (i) "document" includes, unless otherwise specified, any document sent or supplied in electronic form;
- (j) "electronic form" has the meaning given in section 1168 of the Companies Act 2006;
- (k) "the memorandum" means the charity's memorandum of association;
- (l) "officers" includes the directors and the secretary (if any);
- (m) "the seal" means the common seal of the charity if it has one;

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(n) “secretary” means any person appointed to perform the duties of the secretary of the charity;

(o) “the United Kingdom” means Great Britain and Northern Ireland; and

Words importing one gender shall include all genders, and the singular includes the plural and vice versa.

2.2 Unless the context otherwise requires words or expressions contained in the articles have the same meaning as in the Companies Acts but excluding any statutory modification not in force when this constitution becomes binding on the charity.

2.3 Apart from the exception mentioned in the previous paragraph a reference to an Act of Parliament includes any statutory modification or re-enactment of it for the time being in force.

### **3. LIABILITY OF MEMBERS**

3.1 The liability of the members is limited to a sum not exceeding £1.00, being the amount that each member undertakes to contribute to the assets of the charity in the event of it being wound up while he, she or it is a member or within one year after he, she or it ceases to be a member, for

(a) payment of the charity's debts and liabilities incurred before he, she or it ceases to be a member;

(b) payment of the costs, charges and expenses of winding up; and

(c) Adjustment of the rights of the contributories among themselves.

### **4. OBJECTS**

4.1 The charity's objects (the "Objects") are specifically restricted to the following:

(a) the promotion of community participation in healthy recreation, for all ages and in particular for children and young people, by providing facilities for the teaching, development and practice of swimming at all levels of ability; and

(b) the promotion and conduction of competitive swimming events,

In and around the London Borough of Bexley

4.2 In the furtherance of these Objects:

(a) The charity is committed to treat everyone equally within the context of its activity. This shall be, for example, regardless of sex, ethnic origin, religion, disability or political persuasion, on any grounds; and

(b) The charity shall implement the ASA Equal Opportunities policy.

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### **5. POWERS**

5.1 The charity has the power to do anything which is calculated to further its Objects or is conducive or incidental to doing so. In particular, the charity has the power:

- (a) To raise funds. In doing so the charity must not undertake any taxable permanent trading activity and must comply with any relevant statutory regulations;
- (b) To buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (c) To sell, lease or otherwise dispose of all or any part of the property belonging to the charity. In exercising this power the charity must comply as appropriate with sections 117-122 of the Charities Act 2011;
- (d) To borrow money and to charge the whole or any part of the property belonging to the charity as security for repayment of the money borrowed or as security for a grant or the discharge of an obligation. The charity must comply as appropriate with sections 124-126 of the Charities Act 2011 if it wishes to mortgage land;
- (e) To co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- (f) To establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Objects;
- (g) To acquire, merge with or to enter into any partnership or joint venture arrangement with any other charity;
- (h) To set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
- (i) To employ and remunerate such staff as are necessary for carrying out the work of the charity. The charity may employ or remunerate a director only to the extent it is permitted to do so by article 16 and provided it complies with the conditions in that article;
- (j) To provide indemnity insurance for the directors in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011;
- (k) To pay out of the funds of the charity the costs of forming and registering the charity both as a company and as a charity; and
- (l) To do all such other lawful things as are necessary for the achievement of the Objects.

### **6. APPLICATION OF INCOME AND PROPERTY**

6.1 The income and property of the charity shall be applied solely towards the promotion of the Objects.

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- 6.2 (a) A director is entitled to be reimbursed from the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.
- (b) A director may benefit from trustee indemnity insurance cover purchased at the charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- (c) A director may receive an indemnity from the charity in the circumstances specified in article 37.
- (d) A director may not receive any other benefit or payment unless it is authorised by article 7.
- 6.3 All moneys payable to the charity shall be received by the directors and deposited in a bank account in the name of the charity. No sum shall be drawn from that account except by cheque signed by two of the directors.
- 6.4 Subject to article 7, none of the income or property of the charity may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the charity. This does not prevent a member who is not also a director receiving:
- (a) a benefit from the charity in the capacity of a beneficiary of the charity;
- (b) Reasonable and proper remuneration for any goods or services supplied to the charity.

### **7. BENEFITS AND PAYMENTS TO CHARITY DIRECTORS AND CONNECTED PERSONS**

7.1 No director or connected person may:

- (a) buy goods or services from the charity on terms preferential to those applicable to other members of the public,
- (b) sell goods or services or any interest in land to the charity;
- (c) be employed or receive any remuneration from the charity; or
- (d) receive any other financial benefit from the charity,

Unless the payment is permitted by article 7.2, or authorised by the court or the Commission.

In this article a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

7.2 Scope and powers permitting directors' or connected persons' benefits

- (a) A director or connected person may receive a benefit from the charity in the capacity of a beneficiary of the charity provided that a majority of the directors do not benefit in this way.

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- (b) A director or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the charity where that is permitted in accordance with, and subject to the conditions in, sections 185 and 186 of the Charities Act 2011.
- (c) Subject to article 7.3 a director or connected person may provide the charity with goods that are not supplied in connection with services provided to the charity by the director or connected person.
- (d) A director or connected person may receive interest on money lent to the charity at a reasonable and proper rate which must not be more than the Bank of England bank rate (also known as the base rate).
- (e) A director or connected person may receive rent for premises let by the director or connected person to the charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The director concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- (f) A director or connected person may take part in the normal trading and fundraising activities of the charity on the same terms as members of the public.

### **7.3 Payment for supply of goods only - controls**

The charity and its directors may only rely upon the authority provided by article 7.2(c) if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in an agreement in writing between the charity or its directors (as the case may be), and the director or connected person supplying the goods (the "supplier") under which the supplier is to supply the goods in question to or on behalf of the charity.
- (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- (c) The other directors are satisfied that it is in the best interests of the charity to contract with the supplier rather than with someone who is not a director or connected person. In reaching that decision the directors must balance the advantage of contracting with a director or connected person against the disadvantages of doing so.
- (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the charity.
- (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of directors is present at the meeting.
- (f) The reason for their decision is recorded by the directors in the minute book.

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- (g) A majority of the directors then in office are not in receipt of remuneration or payments authorised by article 7.

7.4 In article 7.2 and 7.3 above:

- (a) "charity" shall include any company in which the charity:
- (i) holds more than 50% of the shares;
  - (ii) controls more than 50% of the voting rights attached to the shares; or
  - (iii) has the right to appoint one or more directors to the board of the company;
- (b) "Connected person" includes any person within the definition of article 50 "Interpretation".

### **8. DECLARATION OF DIRECTORS' INTERESTS**

8.1 A director must declare the nature and extent of any interest, direct or indirect, which he or she has in proposed transaction or arrangement with the charity or in any transaction or arrangement entered into by the charity which has not previously been declared. A director must absent himself or herself from any discussions of the directors in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the charity and any personal interest (including but not limited to any personal financial interest).

### **9. CONFLICTS OF INTEREST AND CONFLICTS OF LOYALTIES**

9.1 If a conflict of interests arises for a director because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in the articles, the unconflicted directors may authorise such a conflict of interests where the following conditions apply:

- (a) the conflicted director is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;
- (b) the conflicted director does not vote on any such matter and is not to be counted when considering whether a quorum of directors is present at the meeting; and
- (c) The unconflicted directors consider it is in the interests of the charity to authorise the conflict of interests in the circumstances applying.

9.2 In this article a conflict of interest arising because of a duty of loyalty owed to another organisation or person only refers to such a conflict which does not involve a direct or indirect benefit of any nature to a director or to a connected person.

### **10. MEMBERS**

10.1 The subscribers to the memorandum are the first members of the charity (the "members").

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- 10.2 Membership is open to other individuals or organisations who:
- (a) apply to the charity in the form required by the directors; and
  - (b) Are approved by the directors.
- 10.3 Applications for membership
- (a) The directors may only refuse an application for membership if, acting reasonably and properly, they consider it to be in the best interest of the charity to refuse the application.
  - (b) The directors must inform the applicant in writing of the reasons for the refusal within 21 days of the decision.
  - (c) The directors must consider any written representations the applicant may make about the decision. The directors' decision following any written representations must be notified to the applicant in writing but shall be final.
- 10.4 Membership is not transferable.
- 10.5 The directors must keep a register of names and addresses of the members.
11. **CLASSES OF MEMBERSHIP**
- 11.1 The directors may establish classes of membership with different rights and obligations and shall record the rights and obligations in the register of members.
- 11.2 The directors may not directly or indirectly alter the rights or obligations attached to a class of membership.
- 11.3 The rights attached to a class of membership may only be varied if:
- (a) three quarters of the members of that class consent in writing to the variation; or
  - (b) A special resolution is passed at a separate general meeting of the members of that class agreeing to the variation.
- 11.4 The provisions in the articles about general meeting shall apply to any meeting relating to the variation of the rights of any class of members.
12. **TERMINATION OF MEMBERSHIP**
- Membership is terminated if:
- (a) the member dies or, if it is an organisation, ceases to exist;

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- (b) the member resigns by written notice to the charity unless, after the resignation, there would be less than two members;
- (c) any sum due from the member to the charity is not paid in full within six months of it falling due; or
- (d) The member is removed from membership by a resolution of the directors that it is in the best interests of the charity that his or her or its membership is terminated. A resolution to remove a member from membership may only be passed if:
  - (i) the member has been given at least 21 days' notice in writing of the meeting of the directors at which the resolution will be proposed and the reasons why it is to be proposed; or
  - (ii) The member or, at the option of the member, the member's representative (who need not be a member of the charity) has been allowed to make representations to the meeting.

### **13. GENERAL MEETINGS**

- 13.1 The charity must hold its first annual general meeting within 18 months after the date of its incorporation.
- 13.2 An annual general meeting must be held in each subsequent year and not more than 15 months may elapse between successive annual general meeting.
- 13.3 The purpose of the annual general meeting will include, but shall not be limited to:
  - (a) receiving the directors' report of the activities of the charity during the previous year;
  - (b) reviewing the:
    - (i) accounts of the charity for the previous year;
    - (ii) the report on the accounts of the independent examiner; and
    - (iii) The directors' report as to the financial position of the charity.
  - (c) removing and electing the independent examiner (who must not be a member or a member of the family of a member) or confirming that he remain in office;
  - (d) Deciding on any other resolution provided a copy of the proposed resolution has been sent to every eligible member.
- 13.4 The directors may call a general meeting at any time.



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- 13.5 The Advisory Committee or the club members, where the request is made by not less than 25% of the total number of club members from time to time, may request that the directors call a general meeting at any time.
- 13.6 The directors shall consult with the members and the club members concerning any issues which they wish to be discussed at the general meeting, prior to setting and circulating the agenda for the same.
- 13.7 General meetings shall be held not less than quarterly (save where the charity resolves by a simple majority not to meet).
- 13.8 The members may allow any person who is a club member to attend general meetings.
- 13.9 Club members do not have the power to vote at general meetings but may indicate their opinion on any proposed resolutions and the members, at their discretion, may consider such opinions when casting their votes.
14. **NOTICE OF GENERAL MEETINGS**
- 14.1 The minimum periods of notice required to hold a general meeting of the charity are:
- (a) 21 clear days for an annual general meeting or a general meeting called for the passing of a special resolution;
  - (b) 14 clear days for all other general meetings or general meetings.
- 14.2 A general meeting may be called by shorter notice if it is so agreed by a majority in number of members having a right to attend and vote at the meeting, being a majority who together holds not less than 90 per cent. Of the total voting rights.
- 14.3 The notice must specify the date, time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an annual general meeting, the notice must say so. The notice must also contain a statement setting out the right of members to appoint a proxy under section 324 of the Companies Act 2006 and article 19.
- 14.4 The notice for annual general meetings must include a copy of the examined accounts.
- 14.5 The notice must be given to all the members, the club members and to the directors and auditors.
- 14.6 The proceedings at a meeting shall not be invalidated because a person who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the charity.
- 14.7 The notice shall, in addition, wherever possible be displayed on the charity notice board where one exists.

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### **15. PROCEEDINGS AT GENERAL MEETINGS**

15.1 A general meeting may be held by suitable electronic means agreement by the members pursuant to which each participant may communicate with all the other participants.

15.2 No business shall be transacted at any general meeting unless a quorum is present.

15.3 A quorum is:

(a) two members present in person or by proxy and entitled to vote upon the business to be conducted at the meeting, unless the total number of members for the time being is less than two, in which case the quorum shall be one member entitled to attend and vote at a general meeting; or

(b) one half of the total membership at the time,

Whichever is the greater. For the avoidance of doubt, club members attending the general meeting shall not count towards the quorum.

15.4 The authorised representative of a member organisation shall be counted in the quorum.

15.5 If:

(a) a quorum is not present within half an hour from the time appointed for the meeting; or

(b) during a meeting a quorum ceases to be present,

The meeting shall be adjourned to such time and place as the directors shall determine.

15.6 The directors must reconvene the meeting and must give at least seven clear days' notice of the reconvened meeting stating the date, time and place of the meeting.

15.7 If no quorum is present at the reconvened meeting within 15 minutes of the time specified for the start of the meeting the members present in person or by proxy at that time shall constitute the quorum for that meeting.

### **16. CHAIRPERSON**

16.1 General meetings shall be chaired by the person who has been appointed to chair that meeting by a majority vote of the members present, in person or by proxy, at that meeting.

16.2 If the members fail to agree on a chairperson, the person nominated prior to the meeting by the directors shall chair the meeting.

### **17. PROXIES AND ADJOURNMENT OF GENERAL MEETINGS**

17.1 The members present in person or by proxy at a meeting may resolve by ordinary resolution that the meeting shall be adjourned.

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- 17.2 The person who is chairing the meeting must decide the date, time and place which the meeting is to be reconvened unless those details are specified in the resolution.
- 17.3 No business shall be conducted at a reconvened meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- 17.4 If a meeting is adjourned by a resolution of the members for more than seven days, at least seven clear days' notice shall be given of the reconvened meeting stating the date, time and place of the meeting.
18. **VOTING**
- 18.1 Any vote at a meeting shall be decided by a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded:
- (a) by the person chairing the meeting;
  - (b) by at least two members present in person or by proxy and having the right to vote at the meeting; or
  - (c) By a member or members present in person or by proxy representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting.
- 18.2 (a) The declaration by the person who is chairing the meeting of the result of a vote shall be conclusive unless a poll is demanded.
- (b) The result of the vote must be recorded in the minutes of the charity but the number or proportion of votes cast need not be recorded.
- 18.3 (a) A demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the person who is chairing the meeting.
- (b) If the demand for a poll is withdrawn the demand shall not invalidate the result of a show of hands declared before the demand was made.
- 18.4 (a) A poll must be taken as the person who is chairing the meeting directs, who may appoint scrutinisers (who need not be members) and who may fix a time and place for declaring the results of the poll.
- (b) The result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 18.5 (a) A poll demanded on the election of a person to chair a meeting or on a question of adjournment must be taken immediately.

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- (b) A poll demanded on any other question must be taken either immediately or at such time and place as the person who is chairing the meeting directs.
- (c) The poll must be taken within 30 days after it has been demanded.
- (d) If the poll is not taken immediately at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
- (e) If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.

### **19. CONTENT OF PROXY NOTICES**

19.1 Proxies may only validly be appointed by a notice in writing (a "proxy notice") which:

- (a) states the name and address of the member appointing the proxy;
- (b) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
- (c) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the directors may determine; and
- (d) Is delivered to the charity in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.

19.2 The charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

19.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

19.4 Unless a proxy notice indicates otherwise, it must be treated as:

- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
- (b) Appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

### **20. DELIVERY OF PROXY NOTICES**

20.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the charity by or on behalf of that person.

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- 20.2 An appointment under a proxy notice may be revoked by delivering to the charity a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- 20.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 20.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointer's behalf.
21. **WRITTEN RESOLUTIONS**
- 21.1 A resolution in writing agreed by a simple majority (or in the case of a special resolution by a majority of not less than 75%) of the members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective provided that:
- (a) a copy of the proposed resolution has been sent to every eligible member;
  - (b) a simple majority (or in the case of a special resolution a majority of not less than 75%) of members has signified its agreement to the resolution; and
  - (c) It is contained in an authenticated document which has been received at the registered office within the period of 28 days beginning with the circulation date.
- 21.2 A resolution in writing may comprise several copies to which one or more members have signified their agreement.
- 21.3 In the case of a member that is an organisation, its authorised representative may signify its agreement.
- 21.4 A copy of any written resolution circulated to the members shall also be circulated to the club members, on an information only basis. Failure by the charity to provide such copies to the club members shall not invalidate any decision taken by the members in relation to those resolutions.
22. **VOTES OF MEMBERS**
- 22.1 Subject to article 11, every member, whether an individual or an organisation shall have one vote.
- 22.2 Any objection to the qualification of any voter must be raised at the meeting at which the vote is tendered and the decision of the person who is chairing the meeting shall be final.
- 22.3 Member representatives:
- (a) Any organisation that is a member of the charity may nominate any person to act as its representative at any meeting of the charity.

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- (b) The organisation must give written notice to the charity of the name of its representative. The representative shall not be entitled to represent the organisation at any meeting unless the notice has been received by the charity. The representative may continue to represent the organisation until written notice to the contrary is received by the charity.
- (c) Any notice given to the charity will be conclusive evidence that the representative is entitled to represent the organisation or that his or her authority has been revoked. The charity shall not be required to consider whether the representative has been properly appointed by the organisation.

### **23. DIRECTORS**

- 23.1 (a) A director must be a natural person aged 16 years or older.
- (b) No one may be appointed a director if he or she would be disqualified from acting under the provisions of article 27.
- 23.2 The minimum number of directors shall be not less than two, but (unless otherwise determined by ordinary resolution), shall not be subject to any maximum.
- 23.3 If for any reason the total number of directors for the time being falls below the minimum number set out in article 23.2, the director(s) must not take any action other than a decision:
  - (a) to appoint further directors; or
  - (b) To call a general meeting so as to enable the members to appoint further directors.
- 23.4 The first directors shall be those persons notified to Companies House as the first directors of the charity.
- 23.5 A director may not appoint an alternative director or anyone to act on his or her behalf at meeting of the directors.

### **24. POWERS OF DIRECTORS**

- 24.1 The directors shall manage the business of the charity and may exercise all the powers of the charity unless they are subject to any restrictions imposed by the Companies Acts, the articles or any special resolution.
- 24.2 No alteration of the articles or any special resolution shall have retrospective effect to invalidate any prior act of the directors.
- 24.3 Any meeting of directors at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the directors.

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### **25. RETIREMENT OF DIRECTORS**

25.1 Each director shall retire after three years from the date of his/her appointment as director.

### **26. APPOINTMENT OF DIRECTORS**

26.1 The charity may by ordinary resolution appoint a person who is willing to act to be a director.

26.2 No person may be appointed a director at any general meeting unless:

- (a) he or she is recommended for re-election by the directors; or
- (b) not less than 14 nor more than 35 clear days before the date of the meeting, the charity is given a notice that:
  - (i) is signed by a member entitled to vote at the meeting;
  - (ii) states the member's intention to propose the appointment of a person as a director;
  - (iii) contains the details that, if the person were to be appointed, the charity would have to file at Companies House; and
  - (iv) Is signed by the person who is to be proposed to show his or her willingness to be appointed.

26.3 All members who are entitled to receive notice of a general meeting must be given not less than 7 and not more than 28 clear days' notice of any resolution to be put to the meeting to appoint a director.

26.4 (a) The directors may appoint a person who is willing to act to be a director.

(b) A director appointed by a resolution of the other directors must retire at the next annual general meeting.

26.5 The appointment of a director, whether by the members in general meeting or by the other directors, must not cause the number of directors to exceed any number fixed as the maximum number of directors.

### **27. DISQUALIFICATION AND REMOVAL OF DIRECTORS**

27.1 A director shall cease to hold office if he or she:

- (a) ceases to be a director by virtue of any provision in the Companies Acts or is prohibited by law from being a director;

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- (b) is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision);
- (c) ceases to be a member of the charity;
- (d) becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;
- (e) resigns as a director by notice to the charity (but only if at least two directors will remain in office when the notice of resignation is to take effect); or
- (f) Is absent without the permission of the directors from all their meetings held within a period of six consecutive months and the directors resolve that his or her office be vacated.

### **28. REMUNERATION OF DIRECTORS**

28.1 The directors must not be paid any remuneration unless it is authorised by article 7.

### **29. PROCEEDINGS OF DIRECTORS**

29.1 The directors may regulate their proceedings as they think fit, subject to the provisions of the articles.

29.2 Any director may call a meeting of the directors.

29.3 The secretary (if any) must call a meeting of the directors if requested to do so by a director.

29.4 Questions arising at a meeting shall be decided by a majority of votes.

29.5 In the case of an equality of votes, the person who is chairing the meeting shall have a second or casting vote.

29.6 A meeting may be held by suitable electronic means agreed by the directors in which each participant may communicate with all the other participants.

29.7 Quorum requirements:

- (a) No decision may be made by a meeting of the directors unless a quorum is present at the time the decision is purported to be made. "Present" includes being present by suitable electronic means agreed by the directors in which a participant of participants may communicate with all the other participants.
- (b) The quorum shall be two.
- (c) A director shall not be counted in the quorum present when any decision is made about a matter upon which that director is not entitled to vote.



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- 29.8 If the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
- 29.9 Chairman of the Board
- (a) The directors shall appoint a director to chair their meetings and may at any time revoke such appointed.
  - (b) If no one has been appointed to chair meetings of the directors or if the person appointed is unwilling to preside or is not present within 10 minutes after the time appointed for the meeting, the directors present may appoint one of their number to chair that meeting.
  - (c) The person appointed to chair meetings of the directors shall have no functions or powers except those conferred by the articles or delegated to him or her by the directors.
- 29.10 Written resolutions of the Board
- (a) A resolution in writing or in electronic form agreed by a simple majority of all the directors entitled to receive notice of a meeting of directors or of a committee of directors and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.
  - (b) The resolution in writing may comprise several documents containing the text of the resolution in like form to each of which one or more directors has signified their agreement.
30. **DELEGATION**
- 30.1 The directors may delegate any of their powers or functions to a committee of two or more directors but the terms of any delegation must be recorded in the minute book.
- 30.2 The directors may impose conditions when delegating, including the conditions that:
- (a) the relevant powers are to be exercised exclusively by the committee to whom they delegate;
  - (b) No expenditure may be incurred on behalf of the charity except in accordance with a budget previously agreed with the directors.
- 30.3 The directors may revoke or alter a delegation.
- 30.4 All acts and proceedings of any committees must be fully and promptly reported to the directors.

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### **31. VALIDITY OF DIRECTORS' DECISION**

31.1 Subject to article 31.2 below, all acts done by a meeting of directors, or of a committee of directors, shall be valid notwithstanding the participation in any vote of a director:

- (a) who was disqualified from holding office;
- (b) who had previously retired or who had been obliged by the constitution to vacate office;
- (c) who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;

If without:

- (d) the vote of that director; and
- (e) that director being counted in the quorum,

The decision has been made by a majority of the directors at a quadrate meeting.

31.2 Article 31.1 does not permit a director or a connected person to keep any benefit that may be conferred upon him or her by a resolution of the directors or of a committee of directors if, but for article 31.1, the resolution would have been void, or if the director has not complied with article 7.

### **32. ADVISORY COMMITTEE**

32.1 The charity shall hold an annual meeting of club members, which may form part of the annual general meeting, at which the club members may elect an advisory committee (the "Advisory Committee") who shall act as an advisory body to the board of directors in respect of such matters as determined by the board from time to time.

32.2 The Advisory Committee shall consist of the directors, the company secretary and nine other persons elected by and from amongst the club members. Advisory Committee members shall be over the age of 18. Only club members aged 16 years old and above may vote in the election of the Advisory Committee membership.

32.3 When electing the Advisory Committee, club members shall indicate which of such committee shall act as the chairman, treasurer and secretary (the "Executive Officers"). The club members shall also elect a welfare officer and an independent examiner (who must not be a member of the Advisory Committee or a member of the family of a member of the Advisory Committee), a membership officer and a membership secretary.

32.4 The Advisory Committee shall hold meetings not less than quarterly (save where the Advisory Committee itself shall by a simple majority resolve not to meet).

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- 32.5 The quorum of Advisory Committee meetings shall be such number as shall represent not less than a simple majority of the Advisory Committee members (to include not less than one director).
- 32.6 In the event that a quorum is not present within 30 minutes of the published start time of any Advisory Committee meeting, such a meeting shall stand adjourned to the time and date falling seven days after the date of the meeting, or such other date and time as may be determined by the chairman.
- 32.7 The minimum period of notice required to hold an Advisory Committee meeting is two days oral notice and shall be given to all Advisory Committee members.
- 32.8 Decisions of the Advisory Committee shall be made by a simple majority (and in the event of equality of votes the chairman (or the acting chairman of that meeting) shall have a casting or additional vote.)

### **33. MINUTES**

- 33.1 The directors must keep minutes of all:
- (a) appointments of officers made by the directors and appointments of members of the Advisory Committee;
  - (b) proceedings at meetings of the charity;
  - (c) meetings of the directors and committees of directors and of the Advisory Committee including:
    - (i) the names of the directors present at the meeting;
    - (ii) the decisions made at the meetings; and
    - (iii) Where appropriate the reasons for the decision.

### **34. ACCOUNTS**

- 34.1 The treasurer shall record all financial transactions of the charity and shall advise the directors as necessary on the same.
- 34.2 The directors must prepare for each financial year accounts as required by the Companies Acts. The accounts must be prepared to show a true and fair view and follow accounting standards issued or adopted by the Accounting Standards Board or its successor and adhere to the recommendations of applicable Statements of Recommended Practice.
- 34.3 The directors must keep accounting records as required by the Companies Acts.

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### **35. ANNUAL REPORT AND RETURN, REGISTER OF CHARITIES AND ACCIDENT BOOK**

35.1 The directors must comply with the requirements of the Charities Act 2011 with regard to the:

- (a) transmission of statements of account to the charity;
- (b) preparation of an Annual Report and its transmission to the Commission;
- (c) Preparation of an Annual Return and its transmission of a copy of it to the Commission.

35.2 The directors must notify the Commission promptly of any changes to the charity's entry on the Central Register of Charities.

35.3 In addition the requirements of article 35.1, the charity shall make an annual return to the ASA in the prescribed form.

35.4 The charity shall maintain an accident book in which all accidents to club members at swimming related activities shall be recorded. Details of such accidents shall be reported to the ASA office.

### **36. MEANS OF COMMUNICATION TO BE USED**

36.1 Subject to the articles, anything sent or supplied by or to the charity under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the charity.

36.2 Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

36.3 Any notice to be given to or by any person pursuant to the articles:

- (a) must be in writing; or
- (b) Must be given in electronic form.

36.4 The charity may give any notice to a member either:

- (a) personally;
- (b) by sending it by post in a prepaid envelope addressed to the member at his or her address;
- (c) by leaving it at the address of the member; or
- (d) By giving it in electronic form to the member's address.

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- (e) A member who does not register an address with the charity of who registers only a postal address this is not within the United Kingdom shall not be entitled to receive any notice from the charity.
- 36.5 A member present in person at any meeting of the charity shall be deemed to have received notice of the meeting and of the purposes for which it was called.
- 36.6 Evidence of notification:
- (a) Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.
- (b) Proof that an electronic form of notice was given shall be conclusive where the company can demonstrate that it was properly addressed and sent, in accordance with section 1147 of the Companies Act 2006.
- 36.7 In accordance with section 1147 of the Companies Act 2006 notice shall be deemed to be given:
- (a) 48 hours after the envelope containing it was posted; or
- (b) In the case of an electronic form of communication, 48 hours after it was sent.
- 37. INDEMNITY**
- 37.1 The charity may indemnify a relevant director against any liability incurred by him or her in that capacity, to the extent permitted by sections 232 to 234 of the Companies Act 2006.
- 37.2 In this article "relevant director" means any director or former director of the charity.
- 37.3 The charity may indemnify an auditor against any liability incurred by him or her or it:
- (a) in defending proceedings (whether civil or criminal) in which judgment is given in his or her or its favour of he or she or it is acquitted; or
- (b) in connection with an application under section 1157 of the Companies Act 2006 (power of Court to grant relief in case of honest and reasonable conduct) in which relief is granted to him or her or it by the Court.
- 38. AFFILIATION**
- 38.1 The club shall be affiliated to ASA London Region, and shall adopt and conform to the rules of this Association, and to such other bodies as the charity may determine from time to time.
- 38.2 The business and affairs of the charity shall at all times be conducted in accordance with the Laws and Technical Rules of the Amateur Swimming Association ("ASA Laws") and in particular:
- (a) all competing club members shall be eligible competitors as defined in ASA Laws;

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- (b) the charity shall in accordance with ASA Laws adopt the ASA Child Protection Procedures; and shall recognise that the welfare of children is everyone's responsibility and that all children and young people have a right to have fun, be safe and be protected from harm; and
  - (c) Club members of the charity shall in accordance with ASA Laws comply with the ASA Child Protection Procedures.
- 38.3 By virtue of the affiliation of the charity to ASA London Region, the charity and all members and club members of the charity acknowledge that they are subject to the laws, rules and constitutions of:
- (a) ASA London Region and
  - (b) the Amateur Swimming Association (to include the ASA/IOS Code of Ethics); and
  - (c) British Swimming (to include in particular its Doping Control Rules and Protocols and Disciplinary Code); and
  - (d) FINA, the world governing body for the sport of swimming in all its disciplines
- (Together "the Governing Body Rules")
- 38.4 In the event that any conflict exists or arises between any rule or by-law of the charity and any of the Governing Body Rules then the relevant Governing Body Rule shall prevail, so far as these do not conflict with the articles of association of the charity, the Charities Act 2011 or the Companies Acts.
- 38.5 In the event that any conflict exists or arises between the articles of association of the charity, as amended from time to time, and the ASA rules as referred to in article 38.1, the ASA Laws or the Governing Body Rules, the articles of association of the charity shall prevail.

### **39. RULES**

- 39.1 The directors may from time to time make such reasonable and proper rules as they may deem necessary or expedient for the proper conduct and management of the charity.
- 39.2 The rules may regulate the following matters but are not restricted to them:
- (a) the admission of members of the charity (including the admission of organisations to membership) and the rights and privileged of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;
  - (b) the conduct of members of the charity in relation to one another, and to the charity's employees and volunteers;
  - (c) the setting aside of the whole or any part or parts of the charity's premises at any particular time or times or for any particular purpose or purposes;

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- (d) the procedure at general meetings and meetings of the directors in so far as such procedure is not regulated by the Companies Acts or by the articles of association of the charity;
- (e) Generally, all such matters as are commonly the subject matter of company rules.

39.3 The charity in a general meeting has the power to alter, add to or repeal the rules or by-laws.

39.4 The directors must adopt such means as they think sufficient to bring the rules and by-laws to the notice of members of the charity.

39.5 The rules shall be binding on all members of the charity. No rule shall be inconsistent with, or shall affect or repeal anything contained in the articles of association of the charity.

### **40. CLUB MEMBERS**

#### **40.1 CLUB MEMBERSHIP**

- (a) The total membership of the swimming club ("club membership") shall not normally be limited. If however the Advisory Committee members consider that there is a good reason to impose any limit from time to time then the Advisory Committee members shall put forward appropriate proposals for consideration at a meeting of the board of directors. The board of directors shall have the right to impose (and remove) from time to time any limits on total club membership (or any category of club membership) of the swimming club.
- (b) All persons who assist in any way with the charity's activities shall become club members and of the ASA and the relevant ASA membership fee shall be paid. Assisting with the club's activities shall include, but not be restricted to, directors, members, administrators, associate members, voluntary instructors, teachers and coaches, helpers, Honorary club members, life club members, officers, patrons, , technical and non-technical officials, temporary members and verifiers or tutors of the ASA's educational certificates.
- (c) Paid instructors, teachers and coaches who are not club members must be members of a body which accepts that its members are bound by the ASA's Code of Ethics, the Laws relating to Child Protection and those parts of the Judicial Laws, Judicial Rules and procedures necessary for their implementation and whilst engaged in activities under the jurisdiction of the ASA shall be subject to all the constraints and privileges of the Judicial Laws and Rules.
- (d) Any person who wishes to become a club member must submit a signed application to the membership secretary (and in the case of a swimmer under the age of 18, the application must be signed by the swimmer's parent or guardian). Election to club membership shall be determined by the membership officer, but other person(s) authorised by the charity may make recommendation as to the applicants' acceptability.

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The membership officer may refuse an application for club membership and shall not be required to give reasons for the refusal.

- (e) An application for club membership will not be refused on discriminatory grounds, whether in relation to ethnic origin, age, sex, religion, disability, political persuasion or sexual orientation.

### **40.2 SUBSCRIPTION AND OTHER FEES**

- (a) Club members may be required to pay annual club membership subscription fee, coaching and squad fees, as applicable (the "Fees"). The Fees shall be determined from time to time by the board of directors, taking advice from the Advisory Committee, which shall make special provision for different classes of club membership as it shall reasonably determine. The board of directors may increase the Fees, including as a result of an increase in individual ASA membership fees where the charity pays the individual ASA Membership Fees to the ASA on behalf of club member. Any increase in Fees shall be notified to the club members in writing, and the reasons for any increase shall be reported to the club members.
- (b) Each club member shall pay a minimum of one twelfth of the applicable Fees for that year on or before the 7th of each calendar month, by way of a standing order, with the exception of university members whose total Fees shall be paid by cheque in January of each calendar year.
- (c) Any club member whose subscription is unpaid by the date falling 30 days after the due date for payment may be suspended by the charity from some or all swimming club activities from a date to be determined by the charity and until such payment is made.

### **40.3 RESIGNATION**

- (a) A club member wishing to resign membership of the club must give to the membership secretary written notice of his resignation. A club member's resignation shall only take effect when this article 40.3(a) has been complied with.
- (b) Notwithstanding the provisions of article 40.3(a) above a club member whose subscription is more than three months in arrears shall be deemed to have resigned. Where the membership of a club member shall be terminated in this way he shall be informed in writing that he is no longer a club member by notice handed to him or sent by post to his last known address.

### **40.4 EXPULSION AND OTHER DISCIPLINARY ACTION RELATING TO CLUB MEMBERS**

- (a) The board of directors shall have power to expel a club member when, in their opinion, it would not be in the interests of the charity for him to remain a club member. The board of directors in exercising this power shall comply with the provisions of articles 40.4(b) and 40.4(c) below.



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- (b) The charity shall adopt and comply with the ASA Guidelines for handling Internal Club Disputes (“the Guidelines”) as the same may be revised from time to time. The Guidelines are set out as an Appendix to the ASA Judicial Laws and appear in the ASA Handbook. (A copy of the current Guidelines may be obtained from the ASA Legal Affairs Department.)
- (c) A club member may not be expelled or (subject to article 40.4(d) below) be made the subject of any other penalty unless the panel hearing the complaint shall unanimously vote in favour of the expulsion of (or other penalty imposed upon) the club member.
- (d) The directors or members (or any person to whom they shall delegate this power) may temporarily suspend or exclude a club member from particular training sessions and/or wider club activities, when in their opinion; such action is in the interests of the club. Where such action is taken the complaint will thereafter be dealt with in accordance with the Guidelines.

### **40.5 HONORARY MEMBERS**

The board of directors may elect any person as an honorary club member for such period as it thinks fit and they shall be entitled to all the privileges of club membership. Such honorary club members must be included in the charity’s annual return of members to the ASA.

### **41. DISPUTES**

- 41.1 If a dispute arises between members of the charity about the validity or propriety of anything done by the members of the charity under these articles, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

### **42. DISSOLUTION**

- 42.1 The members of the charity may pass a resolution to dissolve the company at any time.
- 42.2 The members of the charity may at any time before, and in expectation of, this dissolution resolve that any net assets of the charity after all its debts and liabilities have been paid, or provision has been made for them, shall on or before the dissolution of the charity be applied or transferred in any of the following ways:
  - (a) directly for the Objects;
  - (b) by transfer to any charity or charities for purposes similar to the Objects; or
  - (c) To any charity or charities for use for particular purposes that fall within the Objects.
- 42.3 Subject to any such resolution of the members of the charity, the directors of the charity may at any time before and in expectation of its dissolution resolve that any net assets of the charity

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after all its debts and liabilities have been paid, or provision made for them, shall on or before dissolution of the charity be applied or transferred:

- (a) directly for the Objects;
- (b) by transfer to any charity or charities for purposes similar to the Objects; or
- (c) To any charity or charities for use for particular purposes that fall within the Objects.

42.4 In no circumstances shall the net assets of the charity be paid to or distributed among the members of the charity (except to a member that is itself a charity) and if no resolution in accordance with article 42.1 is passed by the members or the directors the net assets of the charity shall be applied for charitable purposes as directed by the court or the Commission.

### **43. AMENDING THESE ARTICLES**

43.1 No amendment(s) to these articles shall become effective until such amendment(s) shall have been submitted to and validated by such person as is authorised to do so by the County Association/ASA London Region.

### **44. INTERPRETATION**

44.1 In article 7, article 9.2 and article 31.2 "connected person" means:

- (a) a child, parent, grandparent, grandchild, brother or sister of the director;
- (b) the spouse or civil partner of the director or of any person falling within sub-clause (a) above;
- (c) a person carrying on business in partnership with the director or with any person falling within sub-clause (a) or (b) above;
- (d) an institution which is controlled:
  - (i) by the director or any connected person falling within sub-clause (a), (b) or (c) above; or
  - (ii) by two or more persons falling within sub-clause (d)(i) when taken together
- (e) a body corporate in which:
  - (i) the director or any connected person falling within sub-clauses (a) to (c) above has a substantial interest; or
  - (ii) two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest;
  - (iii) Sections 350-352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this article.