

# **MASTERS SWIMMING CANADA / MAÎTRES NAGEURS DU CANADA**

## **RECITAL**

1. The Corporation is the only authority specifically governing Masters Swimming in Canada.
2. The Corporation is a member of Swimming / Natation Canada which is, in turn, a member of the Aquatic Federation of Canada which is, in turn, a member of FINA.

## **BY-LAW NO. 1**

### **ARTICLE 1. INTERPRETATION AND BY-LAWS**

#### **Section 1.01 Interpretation**

In this By-law, words importing the singular number shall include the plural and vice versa. References to persons shall include firms and corporations.

#### **Section 1.02 Language**

This By-Law has been drafted in English; the official French text is a translation. In the case of conflicting interpretation, the English text shall prevail.

#### **Section 1.03 Definitions**

**“Chartered Masters Swim Club”** means any organized group of two (2) or more persons associated for the purpose of swimming and having a charter from Masters Swimming Canada.

**“Past President”** means the individual who held the office of President of the Corporation immediately prior to the current President and who has completed his or her term as such. If he or she is not available then next most immediately available Past President shall become the .Past President.

**“PMO”** means that geographically defined provincial or territorial masters swimming organization formally or informally organized representing all Chartered Masters Swim Clubs within the geographical defined Provincial or Territorial area.

**“Swimmer”** means a registered individual Member of a Chartered Masters Swim Club.

**“Voting Member”** means the Chartered Masters Swim Club.

#### **Section 1.04 Rules of Order**

Except where otherwise stated in these By-Laws, the Rules of Order which will be followed at meetings of Members, the Board of Directors and Committees will be as set out in the current edition of Robert.s Rules of Order.

## **ARTICLE II – Membership**

The Membership of the Corporation shall be limited to persons interested in furthering the objectives of the Corporation and shall consist of the following classes of Membership:

### **Section 2.01 Class I Members (Swimmers)**

**Qualification** Class I Member shall be a Swimmer who has applied for Membership with a Chartered Masters Swim Club and is registered with the Corporation as Class I Member.

**Voting** Each Swimmer shall be entitled to attend Members. Meetings but shall not have the right to vote thereat.

**Term** Each Swimmer shall remain a Member provided that he or she is registered with the Corporation and a Chartered Masters Swim Club or until he or she withdraws as a Member or until his or her Membership with the Corporation is suspended or terminated.

### **Section 2.02 Class II Members (Chartered Masters Swim Clubs)**

**Qualification** Class II Members shall be all Clubs which have applied for a charter with Masters Swimming Canada and are registered with the Corporation as a Class II Member (Chartered Masters Swim Clubs).

**Voting** Each Class II Member may elect or appoint one (1) representative who shall be entitled to attend all Members' Meetings and each Class II Member through its representative shall have the right to vote thereat. Each Club shall promptly notify the Secretary of the Corporation of the name of such Class II Representative and who has been elected or appointed by the Class 1 Members of the Club only and shall lodge with the Secretary of the Corporation a notice containing the name of the representative duly signed by an official of the Class II Member. The representative must be a Class 1 Member duly registered with such Class II Member.

**Term** Each Class II Member shall remain a Member provided that it is registered with the Corporation, within the fiscal year of the Corporation or until it withdraws as a Member, or until its Membership with the Corporation is suspended or automatically at the end of the Annual General Meeting unless it is registered for the subsequent year. Each Chartered Master Swim Club shall provide at the time of its registration, a list of its registered swimmers indicating their birth date, gender and addresses.

**Acronyms** Each Class II Member shall use the acronym assigned to them by the Corporation at the time of their initial registration.

### Section 2.03 **Class III Members (Provincial Masters. Organization, P.M.O.)**

**Qualification** Class III Members shall be swimming organizations from the ten (10) Provincial and three (3) Territorial geographic areas, provided such swimming organizations have applied for Membership and are registered with the Corporation as Class III Members.

From time to time such Class III Members through one (1) nominee from each may act as a single body in an advisory capacity to the Corporation; its Board of Directors and the Executive Committee and shall be entitled to attend all Members. Meetings, but such Class III Members shall not have a vote thereat.

Class III Members may elect two (2) Class I Members to serve as full Members of the Board of Directors for a period of two years and such elected Members to the Board shall have a vote thereat. However, such Members so elected to the Board of Directors may not be elected or appointed by the Board of Directors as an Officer of the Corporation.

### Section 2.04 **Fees**

Each Chartered Masters Swim Club shall pay a Membership fee or dues established by the Board of Directors from time to time.

Each Swimmer shall pay a Membership fee or dues established by the Board of Director from time to time. Such dues shall be collected by the Chartered Masters Swim Club and may be remitted to the Corporation directly or through its PMO. Accompanying the fees shall be a list of the Registered Swimmers setting out the name of his or her last chartered Masters Swim Club, their name, sex, postal and email addresses if available.

### Section 2.05 **Termination of Membership**

Membership in the Corporation shall be terminated if:

1. A Class I Member fails to pay such registration fees as may be determined from time to time by the Directors or otherwise fails to comply with all other registration policies of the Corporation, whereupon a Resolution of the Directors confirming such termination shall be passed;
2. A Class I or Class II Member resigns by delivering written notice of such resignation to the Secretary of the Corporation, which resignation shall take effect on delivery;
3. At a Members. Meeting, a Resolution is passed by not less than seventy-five (75%) percent of the votes cast on the question of the termination of the Class I and II Members;
4. At a meeting of the Directors, a Resolution of the Directors is passed by a 75% majority of votes cast terminating a Member; or

5. A Class II Member ceases to be a club in good standing or the Charter of club is withdrawn or revoked;

6. A Class I Member die or cease to be a Member in good standing with a Class II Member.

#### **Section 2.06 Status of Class I Member when Class II Members are terminated**

If the Membership for Class II Member is terminated, each Class I Member who holds Membership with it becomes an unattached Class I Member of the Corporation until or if Such Class I Member re-affiliate with another Class II Member.

#### **Section 2.07 Privacy of Memberships**

The Corporation, Directors or Officers of the Corporation shall not release to any organization for commercial use or any other use not related to Master Swimming Canada, a list of Class I or Class II Members without first having obtained written consent of the Member.

### **ARTICLE III - Members' MEETINGS**

#### **Section 3.01 Annual Meetings**

The Annual Meeting of Members shall be held annually at such time, at such place in Canada and on such day as shall be determined by the Directors within six (6) months from the fiscal year end. At the Annual Meeting, the most recent financial statements of the Corporation shall be reviewed, auditors shall be appointed and Directors shall be elected or appointed in accordance with the provisions hereof, the Directors. report shall be received and any other business transacted. All of the transactions as may properly be brought before the Annual Meeting in accordance with this By-Law, the Canada Corporations Act and the Letters Patent and Supplementary Letters Patent of the Corporation shall be done so. The Members may resolve that a particular meeting of Members be held outside Canada. All Reports and Resolutions to be voted upon shall be presented in both the French and English language.

#### **Section 3.02 Special Members. Meetings**

Unless otherwise provided in this By-Law, special Members. Meetings may be called by the President of the Corporation upon written request to the Secretary of the Corporation, by a majority vote of the Board of Directors upon written request to the Secretary of the Corporation, or by written request to the Secretary of the Corporation of not less than fifty (50%) percent of all voting Class II Members. Upon receipt of such request, the Secretary of the Corporation shall forthwith call the special Members. Meeting in accordance with the provisions hereof. All Reports and Resolutions to be voted upon shall be presented in both the French and English language.

### Section 3.03 **Notice of Annual Meetings**

Notice of the time and place of each Annual Meeting shall be provided to each voting Class II Members and Directors and auditors of the Corporation in the French and English languages as hereinafter described. Such notice shall state the general nature of the matters to be considered at the Annual Meeting in sufficient detail to allow the voting Class II Members to form a reasoned judgment in respect of such matters and the notice shall include a draft copy of any Resolution or By-Law to be considered at such meeting. Notice shall be provided to the voting Class II Members at its last known address as indicated on the Membership rolls at the head office of the Corporation by written notification and will be postmarked not fewer than thirty (30) days prior to the Annual Meeting. Subject to the provisions hereof, all notices of an Annual Meeting will indicate that voting Class II Members shall be entitled to vote by proxy as described herein. The proxies must be executed in writing. The proxy holder must be the Past President who shall vote the proxy.

### Section 3.04 **Notice of Special Members' Meetings**

Notice of the time and place of each special Members. Meeting of the Corporation shall be provided to each voting Class II Members and Directors and auditors of the Corporation in the French and English languages as hereinafter described. Such notice shall state the nature of the matters to be considered at the special Members. Meeting in sufficient detail to allow the voting Class II Members to form a reasoned judgment in respect of such matters and the notice shall include a draft copy of any Resolution or By-Law to be considered at such meeting. Notice shall be provided to voting Class II Members at its last known address indicated on the Membership rolls at the head office of the Corporation by written notification and will be postmarked not fewer than thirty (30) days prior to the special Members. Meeting. Subject to the provisions hereof, all notices of special Members. Meetings will indicate that voting Class II Members will be entitled to vote by proxy as described herein. All proxies must be executed in writing. The proxy holder must be the Past President who shall vote the proxy.

### Section 3.05 **Invalidation of Proceedings**

No error or omission in giving notice of any Members' Meeting or adjourned Members' Meeting shall invalidate such meeting or make void any proceeding taken thereat and any voting Class II Member may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For the purpose of sending notice to any voting Class II Member for any Members' Meeting or otherwise, the address of the Member shall be its last postal or email address recorded on the Membership rolls at the head office of the Corporation.

### Section 3.06 **Quorum**

At all Members. Meetings, a quorum shall consist of 20 eligible voting Class II Members who are present and if not present filed with the Secretary of the Corporation a voting proxy. If 20 voting Class II Members are not present or have lodged a voting proxy the meeting shall be adjourned for one (1) month with Notice to all voting Class II Members that a second meeting is scheduled and then these voting Class II Members present and those represented by proxy shall be the Quorum.

### Section 3.07 **Voting**

- i) At every Member's Meeting, every question, unless otherwise required by the Canada Corporations Act, the Letters Patent, Supplementary Letters Patent, or By-Laws of the Corporation, shall be determined by a majority of votes cast in person or by electronic or a written proxy given to the Past President on the question. In the case of a tie, the chair presiding over the Members' Meeting shall have the deciding vote on any such matter. Voting shall be by show of hands, and count of written votes by proxy. Any Voting Member may demand a poll and a demand for a poll may be withdrawn at any time prior to the taking thereof. In the case of a second meeting of Members called because of a lack of Quorum for the first meeting then all questions to be determined by a vote shall require a seventy-five (75%) percent majority of vote as cast in person or by proxy in favour on the question.
- ii) On any question that requires a vote, a voting Member having less than 51 swimmers registered shall have 1 vote, voting Members having less than 101 swimmers but more than 50 swimmers registered shall have 2 votes and thereafter, a voting Member shall receive 1 extra vote for every 50 additional swimmer registered.

### Section 3.08 **Resolution**

A Resolution prepared in the French and English languages in writing, signed by seventy-five (75%) percent voting Class II Members entitled to vote on that Resolution is as valid as if it had been passed at a Members' Meeting.

### Section 3.09 **Members' Meetings**

Each PMO by its authorized nominee may attend voting Class II Members. Meetings and provide advice and guidance thereto but shall not have a vote thereat.

### Section 3.10 **Proxy**

Each proxy must be in writing and attached to the notice of meeting and shall numerate and set out all questions in the French and English languages to be voted upon by the proxy holder and shall direct the proxy holder on how he or she is to vote on the question. The proxy holder shall be the Past President.

## **ARTICLE IV – DIRECTORS**

#### Section 4.01 **Board Composition**

The property and business of the Corporation shall be managed by a Board of Directors which shall, consist of not more than ten (10) Class I Member Swimmers, two (2) of which shall be elected to the Board by the Class III Members. The Past President shall serve on the Board of Directors in an ex officio capacity. The President and the Vice President shall be a Director of the Corporation. The Secretary and Treasurer may be a Director of the Corporation. Each Director shall be a Class I Member, a resident of Canada, as that term is defined in the Income Tax Act (Canada), and, must have the power under law to contract. At the first meeting of Members, under these By-Laws passed on the 25<sup>th</sup> of September, 2005, four (4) of the Directors receiving the most votes shall be elected for a term of two(2) years and the remaining four (4) shall be elected for a term of one (1) year and then thereafter Directors shall be elected for a term of two (2) years except that the functionally bilingual Francophone candidate receiving the largest number of votes shall be elected for a two year term.

#### Section 4.02 **Directors**

Each voting Class II Members shall be entitled to vote up to the maximum number of Directors to be elected from the list of nominees presented by the nominating committee of the Corporation.s Board of Directors for the term as described herein. Such elected Director shall take office at the Directors' Meeting immediately following such individual.s election.

#### Section 4.03 **Terms**

The term of each Director shall be for a period of two (2) years to commence when elected except the first election as set out in Section 4.01. Vacancies shall be filled by the Directors and shall only be for the time remaining in the term of office of the vacated Director and the new Director may be eligible for re-election. The term of office of current Directors shall end at the time of adjournment of the Annual General Meeting of Class II Members at which new Directors are elected or the anniversary of the two (2) year period whichever is the last to occur. Directors may serve for more than two (2) consecutive terms but no longer than ten (10) years.

#### Section 4.04 **Powers**

The Directors shall be empowered to receive and act upon all matters of termination of Members, uphold By-Laws of the Corporation and set policies to enable the Corporation to comply with its objects as described in its Letters Patent, or Supplementary Letters Patent, to recommend amendments to this By-Law and other By-Laws of the Corporation, to form such permanent or temporary committee as it sees fit, to administer and control monies, funds, investments and securities of the Corporation, to administer

the affairs of the Corporation in all things and make or cause to be made for the Corporation, in its name, any kind of contract into which the Corporation may lawfully enter, to exercise all such other powers and do all such other acts and things as the Corporation is by its charter or otherwise authorized to exercise and do and to perform any other duties as from time to time may be in the best interests of the Corporation. The Directors shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interests of the Corporation in accordance with such terms as the Board of Directors may prescribe. The Directors shall take such steps as they may deem requisite to enable the Corporation to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endorsements and donations of any kind whatsoever for the purpose of furthering the objects of the Corporation. The Directors shall have unlimited power to delegate their power or any portion thereof to the Executive Committee and Director of Operation of the Corporation.

#### Section 4.05 **Vacation of Office**

The office of Director shall be vacated upon the occurrence of any of the following events:

1. The Director resigns his or her office by delivering written notice of such resignation to the Secretary of the Corporation, which resignation shall take effect upon delivery;
2. He or she is found by a court to be of unsound mind;
3. He or she becomes bankrupt or suspends payment or compounds with his or her creditors;
4. At a duly called meeting of the Directors, a Resolution is passed by at least seventy-five (75%) percent of Directors, removing the said Director;
5. Such Director is removed from office by at least fifty (50%) percent of votes cast by Class II Members at a Class II Members Meeting; or
6. on death;

provided that if any vacancy shall occur for any reason in the position of a Director, the Board of Directors shall fill such vacancy by appointment within sixty (60) days of notification of such vacancy, by notice to the Secretary of the Corporation and such appointed Directors shall serve out the remaining term of vacating Director.

### **ARTICLE V - MEETINGS OF THE BOARD OF DIRECTORS**

#### Section 5.01 **Quorum**

A majority of the Directors shall constitute a quorum.

#### Section 5.02 **Frequency of Meetings**

The Directors shall meet no fewer than two (2) times in each financial year of the Corporation, which meetings shall be held at a time to be determined by the President of the Corporation.

#### Section 5.03 **Notice**

Notice of the time and place of each Directors' Meeting shall be provided verbally or in writing by the President not fewer than seven (7) days prior to the said Directors' Meeting. This notice may be waived or the time for the sending of the notice may be waived or abridged at any time with the consent in writing of a Director or upon the attendance of a Director at the Directors' Meeting, provided that no Directors' Meeting may be held without the written waiver, consent or attendance in person of all Directors and provided that notice by postal mail shall always be given not fewer than thirty (30) days in advance.

#### Section 5.04 **Votes**

Every Director in attendance at or participating in each Director's Meeting shall have one (1) vote, with the exception of the Past-President who shall not have a vote thereat.

#### Section 5.05 **Place of Meetings**

Directors' Meetings shall be held at the head office of the Corporation or elsewhere as the President may determine. Upon the consent of all Directors, any Directors' Meeting may be conducted by conference telephone or any other communication facility that would permit all Directors to participate in such a Meeting, by such means, is deemed to be present at the meeting. Minutes of each Director's Meeting shall be taken and approved at the next Directors' Meeting.

#### Section 5.06 **Chair**

The President, or in his or her absence, the Vice-President, shall preside over all Directors' Meetings as chair.

#### Section 5.07 **Votes to Govern**

At all Directors' Meetings, every question, except those regarding By-Laws, as noted in 11.01, shall be decided by a majority of votes cast unless otherwise specified herein. If the vote is tied, the question shall be deemed to be defeated.

#### Section 5.08 **Proxies**

Directors shall not be entitled to vote by proxy.

Section 5.09 **Invalidation**

No error or omission in giving notice of any meeting of the Directors or any adjourned meeting of the Directors shall invalidate such meeting or make void any proceedings taken thereat and any Director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For the purpose of sending notice to any Director, the address of the Director shall be his or her last address recorded on the books of the Corporation.

Section 5.10 **Remuneration**

Directors shall not receive any remuneration or any profit from their position as Directors either directly or indirectly, other than reimbursement for reasonable disbursements, disbursements for traveling and other expenses reasonably incurred in discharging the office of Director.

Section 5.11 **Resolution**

Directors entitled to vote on a Resolution must be present in person to vote.

**ARTICLE VI – OFFICERS**

Section 6.01 **Composition**

The Officers of the Corporation shall be the President, the Vice-President, the Secretary, the Treasurer, and any such other Officer as the Board of Directors determine. No one (1) Officer shall hold two (2) offices.

Officers must be:

1. A Swimmer and Member of the Corporation; and
2. A Director of the Corporation except the position of a Treasurer and Secretary who may be elected or appointed by the Board of Directors from the Class I Membership, and in the opinion of the Board of Directors holds a professional designation qualifying him or her to hold that office.

Section 6.02 **Manner of Appointment**

The Directors shall within thirty (30) days after the Annual Meeting of Members of the Corporation elect the President, Vice-President, Treasurer and Secretary. They shall be elected in that order. Any candidate not elected for a position shall be eligible to be nominated to a subsequent position.

Section 6.03 **Term**

The President and Vice President of the Corporation shall hold office until the expiry of their term as a Director of the Corporation. Any vacancy occurring in respect of their

office may be filled by appointment at any time by the Directors. The person appointed to fill the vacated office shall serve for the balance of his or her term as Director or the term of the President or Vice President who is being replaced whatever is shorter. No person may hold the same office for more than two (2) consecutive terms. The term of office of President or Vice President of the Corporation shall end at the adjournment of the Board Meeting at which election of successor President or Vice President takes place.

The Secretary and Treasurer of the Corporation shall hold office until the expiry of their term as a Director of Corporation. If when elected they, he or she was not a Director of the Corporation they, he or she shall hold office for a term of two (2) years and may hold office if re-elected for a further term of two (2) years but in any case shall not serve for more than four (4) consecutive years. Any vacancy occurring in respect to their office may be filled by appointment at any time by the Directors. Any person so appointed shall serve for the balance of the term of the Director who is being replaced. If the Secretary and Treasurer when elected or appointed are not Members of the Board of Directors, they, he or she shall become ex officio Member(s) of the Board of Directors and shall not, thereat, have a vote.

#### Section 6.04 **President**

The President shall preside over all Members' Meetings and meetings of the Directors. He or she shall oversee the general and active management of the affairs of the Corporation. He or she shall see that all orders and Resolutions of the Directors are carried into effect.

#### Section 6.05 **Vice-President**

The Vice-President shall, in the absence or disability of the President perform the duties and exercise the powers of the President and shall perform such other duties as shall from time to time be imposed upon him or her by the Directors.

#### Section 6.06 **Treasurer**

The Treasurer shall have custody of the funds and securities of the Corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the Corporation in the books belonging to the Corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the Corporation in such chartered bank or trust company, or, in the case of securities, with such registered dealer in securities as may be designated by the Board of Directors from time to time. He or she shall disburse the funds of the Corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the President and Directors at a regular meeting of the Directors, or whenever they may require it, an accounting of all the transactions and a statement of the financial position of the Corporation. He or she shall also perform such other duties as may from time to time be directed by the Board of Directors. In the performance of his or her duties, the Treasurer may enlist the assistance of a bookkeeper

who is eligible to receive compensation for this work. The appointment of any individual to assist the Treasurer shall be subject to the approval of the Directors in each and every case.

#### Section 6.07 **Secretary**

The Secretary shall carry on the affairs of the Corporation generally under the supervision of the Officers thereof and shall attend all Members' Meetings, Directors' Meetings and Executive Committee Meetings and record or cause a record of all votes and minutes of all proceedings in the books to be kept for that purpose. He or she shall give or cause to be given narratives of all meetings of the Members and of the Directors and shall perform such other duties as may be

Prescribed by the Directors or President, under whose position he or she shall be. He or she shall be custodian of the seal of the Corporation which he or she shall deliver only when authorized by a Resolution of the Directors to do so and to such person or persons as may be named in the Resolution.

#### Section 6.08 **Other**

The duties of all other Officers of the Corporation shall be such as the term of their engagement call for or the Directors require of them.

#### Section 6.09 **Remuneration**

Officers shall not receive any remuneration or any profit from their position as Officers either directly or indirectly, other than reimbursement for reasonable disbursements, disbursements for traveling and other expenses reasonably incurred in discharging such office except the Treasurer or Secretary may if they are acting in their professional capacity.

#### Section 6.10 **Vacation of Office**

The office of an Officer shall be vacated upon the occurrence of any of the following events:

1. An Officer resigns by delivering a written notice of such resignation to the Secretary of the Corporation, which resignation shall take effect upon delivery;
2. He or she is found by a court to be of unsound mind;
3. He or she becomes bankrupt or suspends payment or compounds with his or her creditors;
4. On the death of such individual; and
5. If at a duly called Directors. Meeting, a Resolution is passed by at least seventy-five (75%) percent of votes cast, removing the Officer.

## **ARTICLE VII - EXECUTIVE COMMITTEE**

### **Section 7.01 Composition**

The Executive Committee shall consist of the President, the Vice-President, Treasurer, Secretary and the Past President.

### **Section 7.02 Powers**

The Executive Committee shall exercise such powers as are authorized by the Board of Directors and shall be responsible for the transaction of all business requiring the attention of the Corporation between meetings of the Board of Directors.

### **Section 7.03 Quorum**

A majority of Members of the Executive Committee shall constitute a quorum.

### **Section 7.04 Notice**

Meetings of the Executive Committee may be called by the President verbally or in writing and on not fewer than seventy-two (72) hours notice, except in the case of notice which is postal mailed. This notice may be waived or the time for the sending of notice may be waived or abridged at any time with the consent in writing of the Members of the Executive Committee or upon the attendance of a Member of the Executive Committee at the meeting of the Executive Committee, provided that no meeting of the Executive Committee may be held without written waiver, consent or attendance in person of all Members of the Executive Committee and provided that any notice by postal mail shall always be given not fewer than fourteen (14) days in advance.

### **Section 7.05 Chair**

The President, or in his or her absence, the Vice-President, shall chair any meetings of the Executive Committee.

### **Section 7.06 Votes**

Each Member of the Executive Committee, including the chair, and Past President, shall be entitled to one (1) vote at all meetings of the Executive Committee. Every question shall be decided by a majority of votes cast. In the event of a tied vote, the motion shall be automatically referred to the next Executive Meeting to be dealt with thereat.

### **Section 7.07 Invalidation**

No error or omission in giving notice of any meeting of the Executive Committee or any adjourned meeting of the Executive Committee shall invalidate such meeting or make

void any proceedings taken thereat and any Member of the Executive Committee may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For the purpose of sending notice to any Member of the Executive Committee for any meeting or otherwise, the address of the Member of the Executive Committee shall be his or her last postal or email address recorded on the books of the Corporation.

#### Section 7.08 **Remuneration**

Members of the Executive Committee shall not receive any remuneration or any profit from their position as Members of the Executive Committee either directly or indirectly other than reimbursement for reasonable disbursements, disbursements for traveling and other expenses reasonably incurred in discharging their office except the Treasurer or Secretary may if they are acting in their professional capacity.

#### Section 7.09 **Vacation of Office**

The office of an Executive Committee Member shall be automatically vacated if:

1. The individual resigns his or her office by delivering a written notice of such resignation to the Secretary of the Corporation, which resignation shall take effect upon delivery;
2. He or she is found by a court to be of unsound mind;
3. He or she becomes bankrupt or suspends payment or compounds with his or her creditors; and
4. At a duly called meeting of the Directors, a Resolution is passed by at least seventy-five (75%) percent of votes cast, removing the said Member from his or her office.

#### Section 7.10 **Declaration re: Delegation of Authority (Director of Operations)**

The powers of the Executive Committee may be delegated to a “Director of Operations” by the Directors. Such powers being delegated shall be enumerated and set out in a Motion of the Directors voted upon and receiving an affirmative vote of at least seventy-five (75%) percent of the Directors. The Executive Committee shall continue and shall exercise a supervisory function over such Director.

#### Section 7.11 **Director of Operations**

The Director or Operations shall be eligible to receive compensation for the performance of such duties as are required of him or her. The Director of Operations need not be a Swimmer or otherwise connected to the swimming community.

### **ARTICLE VIII - COMMITTEES**

#### Section 8.01 **Committees**

The following shall apply in respect of all standing committees and ad hoc committees:

1. All committees shall serve at the pleasure and discretion of the Directors, except the Executive Committee;
2. All standing committees shall have Membership approved by the Directors or by the Executive Committee.
3. The Executive Committee shall review the composition of the committees annually and make recommendations to the Board.
4. All committees shall report to the Annual General Meeting.
5. All committee Members must be a Class I Member.

#### Section 8.02 **Composition**

The standing committees of the Corporation shall be those enumerated below and wherever possible, each committee shall strive for equal gender and representation from across Canada:

1. By-Laws
2. Finance
3. Competitions
4. Nominating and Elections

#### Section 8.03 **Powers and Duties**

1. **By-Laws**. The committee shall recommend, maintain and update rules and operating procedures of the Board of Directors and review and recommend revisions to the Corporation's By-Laws as they are required and shall be chaired by a Member of the Board of Directors.

2. **Finance**. The committee shall review, update and recommend policies regarding the expenditures, management of finances and budget of the Board of Directors and of the Corporation generally.

3. **Competitions**. The Committee shall oversee the competitive component of the Corporation operations. The Committee shall solicit, obtain and review all bids for the Canadian Masters Swimming Championship. It shall be responsible for the oversight of the Canadian Masters Swim Championship to determine that all rules and guidelines established by the Board of Directors are adhered to. It shall make recommendations to

the Board of Directors as to the locations of the Canadian Masters Swimming Championship. All requests for modification to the rules and guidelines established shall be made to the Committee for it to advise and make recommendations to the Board of Directors for final disposition.

4. **Nominating and Elections.** There shall be a standing nominating committee of four (4) Class I Members. None of the Members of the nominating committee shall be standing for election to a Director.s position.

(a) Composition:

The committee shall be composed of the Past-President as chair, a Class I Member appointed by the Class III Members, a Class I Member appointed by the Directors, if he or she is not standing for re-election, and one (1) other person chosen by mutual agreement by the first three. If any of the above are standing for election to any Officer position or re-election to the Board of Directors the Directors will appoint any necessary replacements.

(b) Process:

- i) Call for Nominations: As soon as possible after the formation of the Nominating Committee, this committee shall meet.
- ii) Nomination Deadline: Nominations for Directors shall be received by the Nominating Committee, at least sixty (60) days before the Annual General Meeting of Members. If nominations for all vacant Directorships have not been received by such time, the deadline may be extended.

#### **Nomination and Election Process**

- i) Six (6) months prior to the vote, the Nominating Committee shall send out a request to all Chartered Master Swim Clubs for nominations for upcoming vacant Directors positions.
- ii) The Nominating Committee shall encourage likely candidates to allow their names to stand in nomination.
- iii) The Committee shall examine nominations received with the goal of achieving regional, equality, gender equality, and experience.
- iv) Persons allowing their names to stand in nomination shall complete a nomination form, such form to be countersigned by 2 (two) Swimmers of the Chartered Masters Swim Club that the nominee is a Member.
- v) Completed forms received by the Nominating Committee shall be distributed, in ballot form, among all Chartered Masters Swim Clubs, at least thirty (30) days prior to the Annual General Meeting of Members at which the election of Directors takes place.
- vi) The election ballot shall list the nominees. names in the order that the nominations were received by the Nominations Committee.

(c) Election:

- i) In the event that there is only one (1) Director standing for each Director's position, there is no need for an election and each shall acclaimed;

- ii) Each Class II Member entitled to vote shall vote up to a maximum of eight (8) Directors at the first election of Directors under these By-Laws, and thereafter, up to a maximum of four (4) Directors;
- iii) Each Nominee receiving the most votes in descending order shall be elected as a Director until the maximum number of Directors are elected, except for the provision in clause iv below;
- iv) In the case that the term of the functionally bilingual Francophone member of the board is expiring, the functionally bilingual Francophone candidate receiving the largest number of votes shall be elected;
- v) Ballots shall be prepared by the Nomination Committee, and its Chair shall act as the returning Officer;
- vi) Ballots are secret and shall be deposited in the Ballot Box at the Annual General Meeting or returned before the Annual General Meeting to the Returning Officer in a sealed envelope;
- vii) A motion to destroy the ballots following the election shall be in order.

#### **Section 8.04 Specific Terms of Reference for Standing Committees**

In addition to those general terms of reference enumerated below, the following terms of reference shall apply:

1. The finance committee shall at all times be chaired by the Treasurer of the Corporation.
2. Each committee should either:
  - (a) have a Director on the committee, or
  - (b) report to a Director, who will represent this committee in Directors' Meetings.

#### **Section 8.05 Ad Hoc Committees**

The Directors may from time to time create ad hoc committees on such terms and conditions as they deem necessary.

### **ARTICLE IX - PROTECTION OF DIRECTORS AND OFFICERS**

#### **Section 9.01 Limitation of Liability**

No Director or Officer of the Corporation shall be liable for the acts or omissions of any other Director or Officer or employee of the Corporation or for any loss, damage or expense suffered by the Corporation through the insufficiency or deficiency of title to any property acquired by order of the Board of Directors, or in respect of any deficiency of any security in or upon which any monies of the Corporation shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any of the monies, securities or effects of the Corporation shall be deposited or for any loss occasioned by any error of judgment or oversight on his or her part, or for any loss or damage which may occur in the execution of the duties of his or her office, in relation thereto or in respect of any other act or omission of a Director in his or her

capacity as such causing loss, damage or expense, unless the same shall happen through his or her own willful neglect or default.

#### Section 9.02 **Indemnity**

Every Director and Officer of the Corporation and his or her heirs, executors, administrators and estates shall from time to time and at all times be indemnified and saved harmless by the Corporation from and against all costs, charges and expenses that such Director or Officer sustains or incurs by way of action, suit or proceeding commenced against him or in respect of any acts, deeds, matters or thing whatsoever made, done or permitted by him in or about the execution of the duties of his or her office, except such costs, charges or expenses which are occasioned by his or her own willful neglect or default.

#### Section 9.03 **Insurance**

The Corporation may purchase and maintain such insurance for the benefit of the Directors and Officers of the Corporation, as the Board of Directors may determine from time to time.

### **ARTICLE X - CONFLICTS OF INTEREST**

#### Section 10.01 **Interest in Contracts**

Subject to compliance with the Canada Corporations Act and the applicable provisions of the By-Laws of the Corporation, no Director, Officer or Member of the Executive Committee shall be disqualified from such position by reason of contracting with the Corporation, nor shall any contract or arrangement entered into, by or on behalf of the Corporation, with any Director, Officer or Member of the Executive Committee (or in which such contract or arrangement any such individual is in any way interested) be subject to avoidance. No Director, Officer or Member of the Executive Committee so contracting or being so interested shall be liable to account to the Corporation or any of its Members for any profit realized by any such contract or arrangement, by reason of such Director, Officer or Member of the Executive Committee holding such office or the fiduciary relationship resulting there from, subject to compliance with the Canada Corporations Act and the applicable provisions of the By-Laws of the Corporation.

#### Section 10.02 **Declaration of Interest**

Every Director, Officer or Member of the Executive Committee who is in any way, either directly or indirectly interested in a contract or arrangement or a proposed contract or a proposed arrangement with the Corporation, shall declare such interest to the extent and in the manner required by the Canada Corporations Act and any By-Law of the Corporation and shall refrain, to the extent required by the Canada Corporations Act or the By-Laws of the Corporation, from voting in respect of the contract or arrangement or proposed contract or proposed arrangement. If any Director, Officer or member of the Executive Committee holds a fiduciary position or who has voting privileges as a

fiduciary for any other aquatic organization, he or she shall declare such and refrain from voting on any question which is or maybe in conflict with the other aquatic organization.

#### **ARTICLE XI - BY-LAWS**

##### **Section 11.01 Creation, Amendments and Repeal of By-Laws**

The Directors may from time to time make By-Laws not contrary to the Letters Patent of the Corporation or may formulate, amend, vary or repeal the same. Such repeals, amendments or variations must be confirmed or approved by a vote of sixty-six and two thirds (66 2/3%) percent of the Class II Members of the Corporation voting in person or electronically following procedures approved by Corporations Canada, or by written proxy, at a Class II Members' Meeting dully called for the purpose of considering the said by-law, provided that the repeal or amendment of such by-laws shall not be enforced or acted upon until the approval of the Minister of Industry has been obtained.

##### **Section 11.02 Ministry Approval**

No repeal, amendment or variation in respect of this By-Law or any subsequent repeal, amendment or variation of this By-Law shall be enforced or acted upon until it has received the approval of the Minister of Industry Canada, Corporations Canada.

##### **Section 11.03 Fiscal Year End**

The fiscal year end of the Corporation shall be December 31.

#### **ARTICLE XII - HEAD OFFICE**

##### **Section 12.01 Location**

The Board shall establish the address of the Corporation from time to time.

#### **ARTICLE XIII - CONTRACTS**

##### **Section 13.01 Execution of Instruments**

Contracts, agreements, deeds, leases, mortgages, hypothecs, charges, conveyances, transfers and assignments of property, leases and discharges for the payment of money or other obligations, conveyances, transfers and assignments of shares, stocks, bonds, debentures, or other securities, agencies, powers of attorney, instruments of proxy, voting certificates, returns, documents,

reports, or any other instruments in writing to be executed by the Corporation shall be executed by any one (1) of the President, Vice-President or Treasurer together with the Secretary; and the corporate seal may be affixed to instruments in writing as aforesaid. In addition, the Board of Directors may from time to time direct the manner in which the person or persons by whom any particular instrument or class of instruments may or shall be signed. The Directors may give the Corporation's power of attorney to any registered

dealer in securities for the purposes of transferring and dealing with any stocks, bonds and other securities of the Corporation. The seal of the Corporation when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any Officer or Officers appointed by Resolution of the Board of Directors.

#### Section 13.02 **Banking**

The banking business of the Corporation, or any part thereof, shall be transacted with such bank, trust company or other firm or corporation carrying on a banking business as the Board may designate, appoint or authorize from time to time by resolution and all such banking business, or any part thereof, shall be transacted on the Corporation's behalf by such one or more Officers and/or other persons as the Board may designate, direct or authorize from time to time by resolution and to the extent therein provided, including, but without restricting the generality of the foregoing, the operation of the Corporation's accounts; the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing, or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders relating to any such banking business and defining the rights and powers of the parties thereto; and the authorizing of any Officer of such banker to do any act or thing on the Corporation's behalf of facilitate such banking business.

### **ARTICLE XIV - AUDITORS**

#### Section 14.01 **Designation**

At each Annual Meeting of the Corporation, the Voting Members shall appoint an auditor to audit the accounts of the Corporation for report to the Members at the next Annual Meeting and to hold office until the next Annual Meeting, provided that the Board of Directors may fill any vacancy in the office of the auditor. The remuneration of the auditor shall be fixed by the Board of Directors.

### **ARTICLE XV - CORPORATE SEAL**

#### Section 15.01 **Seal**

The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Corporation.

### **ARTICLE XVI. APPEALS PROCESS**

NOTE: In this Article Member refers to all categories of Members in Masters Swimming Canada, as well as to all individuals engaged in activities with or employed by MSC, including, but not limited to, athletes, coaches, officials, volunteers, Directors, Officers, team managers, team captains, medical and paramedical personnel, administrators and employees including contract personnel; Appellant refers to the Member appealing a decision; and Respondent refers to the body whose decision is being appealed.

### Section 16.01 **Scope of Appeal**

1. Any Member of MSC who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of the Board of Directors, shall have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 5 of this policy. Such decisions may include, but are not limited to, employment, contract matters, harassment, selection and discipline.

2. This policy shall not apply to matters relating to the rules of the swimming, which may not be appealed.

### Section 16.02 **Timing of Appeal**

1. Members who wish to appeal a decision shall have twenty-one (21) days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, along with detailed reasons for the appeal, to the President of MSC.

2. Any party wishing to initiate an appeal beyond the twenty-one (21) day period must provide a written request stating reasons for an exemption to this requirement. The decision to allow, or not allow an appeal outside the twenty-one (21) day period shall be at the sole discretion of the President of MSC.

### Section 16.03 **Grounds for Appeal**

A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include the respondent:

- i) making a decision for which it did not have authority or jurisdiction as set out in governing documents;
- ii) failing to follow procedures as laid out in the bylaws or approved policies of MSC;
- iii) making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views;
- iv) exercising its discretion for an improper purpose;
- v) making a decision which was grossly unreasonable.

### Section 16.04 **Screening Of Appeal**

1. Within seven (7) days of receiving the notice of appeal, the President of MSC shall decide whether or not the appeal is based on one or more of the categories of possible errors by the respondent as set out in Section 5. The President of MSC shall not determine if the error has been made, only if the appeal is based on such an allegation of error by the respondent. In the absence of the President of MSC, an ad-hoc committee shall perform this function.

2. If the appeal is denied on the basis of insufficient grounds, the Appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President of MSC, or designate, and may not be appealed.

#### **Section 16.05 Appeals Panel**

If the President of MSC is satisfied that there are sufficient grounds for an appeal, within fifteen (15) days of having received the original notice of appeal the executive shall establish an Appeals Panel (the Panel) as follows:

- (a) The Panel shall be comprised of three (3) individuals who shall have no significant relationship with the affected parties, shall have had no involvement with the decision being appealed, and shall be free from any other actual or perceived bias or conflict.
- (b) At least one (1) of the Panel Members shall be from among the Appellant's peers.
- (c) The Appellant shall be given the opportunity to recommend the peer Member on the Panel, provided that Member satisfies criteria (a) above.
- (d) Should the Appellant not recommend the Panel Member as set out in (c) above within five (5) days, the President shall appoint the peer Member of the Panel.

#### **Section 16.06 Preliminary Conference**

1. The Panel may determine that the circumstances of the dispute warrant a preliminary conference:

- (a) The matters which may be considered at a preliminary conference include date and location of hearing, time lines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.
- (b) The Panel may delegate to its Chairperson the authority to deal with these preliminary matters.

#### **Section 16.07 Procedure For The Appeal**

1. The Panel shall govern the appeal by such procedures as it deems appropriate, provided that:

- (a) The appeal hearing shall be held within twenty-one (21) days of the Panel appointment.
- (b) The Appellant, respondent and affected parties shall be given fourteen (14) days written notice of the date, time and place of the appeal hearing.
- (c) The Panel Members shall select from themselves a Chairperson.
- (d) A quorum shall be all three (3) Panel Members.
- (e) Decisions shall be by majority vote, where the Chairperson carries a vote.
- (f) Copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least five (5) days in advance of the hearing.

(g) Any of the parties may be accompanied by a representative or advisor, including legal counsel.

(h) The Panel may direct that any other individual participate in the appeal.

(i) In the event that one (1) of the Panel Members is unable or unwilling to continue with the appeal, the matter will be concluded by the remaining two (2) Panel Members.

(j) Unless otherwise agreed by the parties, there shall be no communication between Panel Members and the parties except in the presence of, or by copy to, the other parties.

2. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a conference call or video conference.

### Section 16.08 **Appeal Decision**

1. Within seven (7) days of concluding the appeal, the Panel shall issue its written decision, with reasons. In making its decision, the Panel shall have no greater authority than that of the original decision-maker. The Panel may decide:

(a) To void or confirm the decision being appealed;

(b) To vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;

(c) To refer the matter back to the initial decision-maker for a new decision; and

(d) To determine how costs of the appeal shall be allocated, if at all.

2. A copy of this decision shall be provided to each of the parties and to the President of MSC.

3. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Panel may direct that these time lines be abridged. If the circumstances of the disputes are such the appeal cannot be concluded within the time lines dictated in this policy, the Panel may direct that these time lines be extended.

### Section 16.09 **Documentary Appeal**

Any party to the appeal may request that the Panel conduct the appeal by way of documentary evidence. The Panel may seek agreement from the other parties to proceed in this fashion. If agreement is not forthcoming, the Panel shall decide whether the appeal shall proceed by way of documentary evidence or an in-person hearing.

### Section 16.10 **Arbitration**

1. All differences or disputes shall first be submitted to appeal pursuant to the appeal process set out in this policy. If any party believes the Appeal Panel has made an error such as those described in Section 5 of this Policy, the matter shall be referred to arbitration, such arbitration to be administered under the Alternate Dispute (ADR) Program for Amateur Sport and its Rules of Arbitration, as amended from time to time.

2. Should a matter be referred to arbitration, all parties to the original appeal shall be parties to the arbitration.
3. The parties to an arbitration shall enter into a formal Arbitration Agreement and the decision of any arbitration shall be final and binding and not subject to any further review by any court of competent jurisdiction or any other body.

#### **Section 16.11 Location And Jurisdiction**

Any appeal shall take place via conference call or may be held elsewhere as may be decided by the Panel as a preliminary matter.

No action or legal proceeding shall be commenced against MSC in respect of a dispute, unless MSC has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute, as set out in this policy.