

**STAR DIVING CLUB GUILDFORD**

**(A Charitable Association)**

**CONSTITUTION  
adopted on**

**17 January 2024**

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## CONSTITUTION adopted on 17 January 2024

### 1. ADOPTION OF THE CONSTITUTION

- 1.1 Star Diving Club Guildford (the "**Charity**") and its property will be administered and managed in accordance with the provisions of this constitution.
- 1.2 The Definitions used in this constitution are set out in Article 33 to this constitution.

### 2. NAME

- 2.1 The name of the Charity shall be Star Diving Club, Guildford.
- 2.2 The Charity colours shall be black and yellow.

### 3. OBJECTS

- 3.1 The objects of the Charity ("**Objects**") shall be specifically restricted to:
  - 3.1.1 the advancement of amateur sport; and
  - 3.1.2 the promotion of community participation in healthy recreation for the benefit of the inhabitants of Guildford, its surrounding area and the general public in particular,  
  
by the teaching, development and practice of highboard and springboard diving for its members and to such other bodies as the Club may determine from time to time.
- 3.2 In the furtherance of the Objects:
  - 3.2.1 The Charity is committed to treating everyone equally within the context of his or her activity and with due respect to the difference of individuals. It shall not apply nor endorse unlawful or unjustified discrimination and shall act in compliance with the protections afforded by the Equality Act 2010; and
  - 3.2.2 The Charity shall implement the Swim England Equality Policy (as may be amended or replaced from time to time).

### 4. AFFILIATION WITH SWIM ENGLAND

- 4.1 The Charity shall be affiliated to Swim England through Swim England South East Region and shall adopt and conform to the rules of Swim England South East Region, and to such other bodies as the Charity may determine from time to time.
- 4.2 The business and affairs of the Charity shall at all times be conducted in accordance with the Articles, Regulations and Technical Rules of Swim England ("**Swim England Regulations**") and in particular:
  - 4.2.1 All competing members shall be eligible competitors as defined in Swim England Regulations; and

- 4.2.2 The Charity shall in accordance with Swim England Regulations adopt Swim England's Child Safeguarding Policy and Procedures (known at the date hereof as "**Wavepower**") 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
- 4.2.3 Members of the Charity shall in accordance with Swim England Regulations comply with Wavepower.
- 4.3 By virtue of the affiliation of the Charity to Swim England South East Region, the Charity and all members of the Charity acknowledge that, to the extent the context requires, they are subject to the laws and rules of:
  - 4.3.1 Surrey County ASA;
  - 4.3.2 Swim England South East Region; and
  - 4.3.3 Swim England (to include the Code of Ethics); and
  - 4.3.4 British Swimming (in particular its Anti-doping Rules, Judicial Code and Athlete and Staff Code of Conduct, together the "Governing Body Rules"); and
  - 4.3.5 LEN, the European governing body for the aquatic sports or (i) such replacement name as LEN may operate under in the future or (ii) such successor organisation to LEN; and
  - 4.3.6 World Aquatics; the world governing body for the sport of swimming in all its disciplines, or (i) such replacement name as World Aquatics may operate under in the future or (ii) such successor organisation to World Aquatics,(together the "**Governing Body Rules**").
- 4.4 In the event that there shall be any conflict between:
  - 4.4.1 any Article or by-law of the Charity and any of the Governing Body Rules, then the provisions of the Governing Body Rules shall prevail; and
  - 4.4.2 the provision of any of the Governing Body Rules and the Charities Act, then the provisions of the Charities Act shall prevail.

## **5. MEMBERSHIP**

- 5.1 The total membership of the Charity, by category, or in total, may not be limited. If, however, the Trustees consider that there is a good reason to impose any limit from time to time including as a result of the availability of resources (principally pool time), teachers and/or coaches, then the Trustees shall put forward appropriate proposals for consideration at a General Meeting of the Charity. The members shall have the right to impose (and remove) from time to time any limits on total membership (or any category of membership) of the Charity.

- 5.2 Club membership may consist of up to four parts, all or some of which may have annual fees. The four parts with applicable fees to be paid by the due date are Club, County, Region and Swim England membership.
- 5.3 All persons who assist in any way with the Charity's activities shall become members of the Charity and hence of Swim England and the relevant Swim England Membership Fee shall be paid accordingly. Assisting with the Charity's activities shall include, but not be restricted to, administrators, associate members, voluntary instructors, teachers and coaches, committee members, Trustees, helpers, honorary members, life members, officers, patrons, presidents, technical and non-technical officials, temporary members, vice-presidents and verifiers or tutors of Swim England's educational certificates.
- 5.4 Paid instructors, teachers and coaches who are not members of the Charity must be members of a body which accepts that its members are bound by the Swim England's Code of Ethics, Swim England Regulations relating to Wavepower, those parts of the Judicial Regulations and procedures necessary for their implementation, and whilst engaged in activities under the jurisdiction of Swim England shall be subject to all the constraints and privileges of the Judicial Regulations.
- 5.5 Any person who wishes to become a member of the Charity must submit a signed application to the secretary (and in the case of a junior diver, the application must be signed by their parent or guardian). Election to membership shall be in the discretion of the Trustees but other person(s) authorised by the Trustees may make recommendation as to the applicants' acceptability. The Trustees shall be required to give reasons for the refusal of any application for membership. Any person refused membership may seek a review of this decision before a review panel appointed by the Trustees ("**Review Panel**") comprised of not less than three members (who may not be Trustees). The Review Panel shall (wherever practicable) include one independent member nominated by Swim England South East Region. The person refused membership shall be entitled to make representations to the Review Panel. The procedures for review shall be at the discretion of the Review Panel whose decision shall be final and binding.
- 5.6 In its consideration of applications for membership, the Club shall not act in a discriminatory manner and in particular shall adhere to the Equality Act 2010 (as may be amended). Accordingly, (unless the Charity chooses to restrict its membership to only people who share the same Protected Characteristic) the Charity shall not refuse membership on the basis of a Protected Characteristic within the Equality Act 2010, such as disability; gender; or gender identity; pregnancy; race; religion or belief or sexual orientation. Neither may refusal be made on the grounds of political persuasion.
- 5.7 The Charity may refuse membership only for good and sufficient cause, such as conduct or character likely to bring the Charity or the sport of highboard and springboard diving into disrepute, or, if acting reasonably and properly, it is considered to be in the best interests of the Charity to refuse the application.
- 5.8 Membership is not transferable to anyone else.

- 5.9 The Trustees must keep a register of names and addresses of the members which must be made available to any member upon request. Such register may be the register held by Swim England, there is no requirement for the Trustees to maintain a separate list.
- 5.10 Subject to Article 18, in the case of a junior diver, should the parents of such junior diver wish to attend members meetings and exercise the rights as if they were a member, they need to become a member of the charity in their own right.

## **6. SUBSCRIPTION AND OTHER FEES**

- 6.1 The Swim England Membership Fee and the joining fee (if any) shall be due on joining the Charity and thereafter annually on the 1<sup>st</sup> Day of January each year.
- 6.2 The annual membership subscription and coaching and squad fees (as applicable) shall be determined from time to time by the Trustees and the Trustees shall in so doing make special provision for different classes of membership as it shall determine. Such subscription and coaching squad fees shall be due on either a termly or continuing basis as determined by the Trustees having regard to the squad the diver is involved in from time to time.
- 6.3 The parents of junior members shall be responsible for the fees applicable to the junior members.
- 6.4 Any member whose subscription and/or other applicable fees is unpaid after the start of the term shall not be entitled to participate in any Charity activities, and may be suspended by the Trustees from some or all Charity activities from a date to be determined by the Trustees, until such payment is made. In coming to a decision as to the suspension of a member under this Article 6.4, the Trustees shall have the discretion to waive fees if they consider it to be in the best interests of the Charity or of a beneficiary of the Charity.
- 6.5 The Trustees shall from time to time have the power to determine the annual membership subscription and coaching and squad fee. This shall include the power to make such increase in such fees and shall, where the Charity pays the individual Swim England Membership Fees to Swim England on behalf of members, be consequential upon an increase in individual Swim England Membership Fees. Any increase in fees shall be advised to the members in writing with the reasons for any increase to be reported to the members at the next Annual General Meeting. The Trustees shall have the power in special circumstances to remit the whole or part of the fees, including the Swim England membership fees, to address issues of social inclusion.

## **7. TERMINATION OF MEMBERSHIP**

- 7.1 Membership is terminated if:
- 7.1.1 the member dies;
  - 7.1.2 the member gives to the secretary written notice of their resignation unless, after the resignation, there would be less than two members. A member's resignation shall only take effect when this Article 7.1 has been complied with.

- 7.1.3 a member's applicable subscription and/or other fees are more than two months in arrears. The period for determining arrears shall commence from the date of the relevant invoice, or the start of any term, whichever is the later. Where the membership of a member shall be terminated in this way they shall be informed in writing or via e-mail correspondence that they are no longer a member.
- 7.2 No member of the Charity is entitled to any refund of applicable fees on ceasing to be a member for any reason.
- 7.3 The Swim England Membership Department shall be informed should a member resign or have their membership terminated when still owing money or good to the Charity.

## **8. EXPULSION AND OTHER DISCIPLINARY ACTION**

- 8.1 The Trustees shall have power to expel a member when, in their opinion, it would not be in the interests of the Charity for them to remain a member. The Charity in exercising this power, shall comply with the provisions of this Article 8.
- 8.2 The Charity shall adopt and comply with the relevant Judicial Regulations for handling Internal Club Disputes Procedures (the "**Procedures**") (as may be amended or replaced from time to time). Copies of the current Procedures can be obtained from the Swim England Website, Swim England Handbook or from the Swim England Office of Judicial Administration.
- 8.3 A member may not be expelled or (subject to Article 8.4, below) be made the subject of any other penalty unless the panel hearing the complaint (consisting of the Charity officers or any person(s) to whom the Trustees delegate this power) shall by a two-thirds majority vote in favour of the expulsion of (or other penalty imposed upon) the member.
- 8.4 Where suspension is approved it shall take immediate effect and apply for the period specified. If expulsion is approved the individual shall cease to be a member of the Charity with immediate effect. A member who has been suspended or expelled is not entitled to any rebate on annual subscription.
- 8.5 The Trustees of the Charity (or any person(s) to whom the Trustees shall delegate this power) may temporarily suspend or exclude a member from particular training sessions, competitions and/or wider Charity activities when, in their opinion, such action is in the interests of the Charity. Where such action is taken the complaint will thereafter be dealt with in accordance with the appropriate Judicial Regulations
- 8.6 Upon expulsion the former member must return any Charity or external body's trophy, or trophies held forthwith. The Charity in exercising this power is required to comply with the provisions of Articles 8.2 and 8.3 above.
- 8.7 Swim England shall have power to temporarily suspend members or suspend members for a specified term in accordance with Judicial Regulations and Child Safeguarding Regulations as the same may be revised from time to time.

## 9. TRUSTEES AND EXECUTIVE OFFICERS

- 9.1 The Charity and its property shall be managed and administered by a committee comprising the officers and other members elected in accordance with this constitution. The officers and other members of the committee shall be the trustees of the Charity and in this constitution are together called the "**Trustees**".
- 9.2 The Trustees shall comprise:
- 9.2.1 a chair;
  - 9.2.2 a secretary; and
  - 9.2.3 a treasurer;
- (together the "**Executive Officers**" of the Charity); and
- 9.2.4 up to seven (7) elected members, all of whom must be members of the Charity.
- 9.3 All Trustees must be not less than 18 years of age, though the Trustees allow younger member(s) to attend its meetings, without the power to vote. Junior members have a right to be heard subject to chair approving subject of matter to be raised as being appropriate. The Executive Officers of the Charity shall be responsible for the day-to-day management of the Charity's activities.
- 9.4 No one may be appointed a trustee if he or she would be disqualified from acting under the provisions of Article 12.
- 9.5 The Charity shall have a welfare officer who shall:
- 9.5.1 not be a trustee, a coach, any of the Charity teachers or team managers;
  - 9.5.2 not be related to or in a relationship with any of the Executive Officers of the Charity or the Charity's coaches or teachers;
  - 9.5.3 be not less than 18 years of age;
  - 9.5.4 should have an appropriate background for the role; and
  - 9.5.5 undertake appropriate training in accordance with Wavepower.
- 9.6 The Trustees may invite the welfare officer to attend meetings of the Trustees at the Trustees' direction and the welfare officer will have a right to attend Trustee meetings for the purpose of sharing or addressing matters relating to welfare. However, the welfare officer shall not have the power to vote.

## 10. APPOINTMENT OF TRUSTEES

- 10.1 The Executive Officers and the Trustees shall be proposed, seconded and elected by ballot at the Annual General Meeting each year and shall remain in office until their successors are elected at the next Annual General Meeting unless they resign at a meeting of Trustees. Any vacancy occurring by

resignation (or otherwise) may be filled by the Trustees. Retiring Executive Officers and Trustees shall be eligible for re-election at that Annual General Meeting.

- 10.2 The Trustees may appoint any person who is willing to act as a Trustee. Subject to Article 10.5, they may also appoint Trustees to act as Executive Officers.
- 10.3 No-one may be elected a Trustee or an Executive Officer at any Annual General Meeting unless prior to the meeting the Charity is given a notice that:
  - 10.3.1 is signed by a member entitled to vote at the meeting;
  - 10.3.2 states the member's intention to propose the appointment of a person as a Trustee or as an Executive Officer;
  - 10.3.3 is signed by the person who is to be proposed to show his or her willingness to be appointed.
- 10.4 The appointment of a Trustee, whether by the Charity in the Annual General Meeting or by the other Trustees (including by use of the powers under Article 13.5) must not cause the number of trustees to exceed any number fixed in accordance with this constitution as the maximum number of Trustees, being a maximum total of ten (10) elected Trustees.
- 10.5 The Trustees may not appoint a person to be an officer if a person has already been elected or appointed to that office and has not vacated the office. Subject to Articles 14.1.2 and 14.1.3 the head coach of the Charity may be appointed as a Trustee in accordance with Articles 9 and 10. Where the head coach of the Charity is not appointed as a Trustee he may, at the Trustees discretion, be invited to attend the meetings of the Trustees.
- 10.6 The Annual General Meeting of the Charity, if it thinks fit, may elect an honorary president and vice-president(s). A president or vice-president need not be a member of the Charity and on election to such an honorary position shall, *ex officio*, be an honorary member of the Charity and must be included in the Charity's annual return of members to Swim England and have a Swim England membership fee paid in respect thereof.
- 10.7 The Trustees may elect any person as an honorary member of the Charity for such period as they think fit and they shall be entitled to all the privileges of membership except that they shall not be entitled to vote at meetings or serve as Executive Officers or as Trustees unless any such person shall have retained such roles in addition to his or her ordinary membership of the Charity. Such honorary members must be included in the Charity's annual membership return and have their Swim England membership paid.
- 10.8 Once created by the Trustees, honorary and/or life membership categories may only be removed (notwithstanding that persons who may hold these categories of membership) at an Annual General Meeting of the Charity, when it shall be properly proposed in accordance with these Articles.
- 10.9 A minimum of 21 days in advance of the Annual General Meeting, the Trustees shall write to all holders of honorary and/or Life membership effected by the above proposal drawing the proposal to their attention and

inviting them to attend the Annual General Meeting.

- 10.10 Where the effected holder or holders of the honorary and/or Life membership do not attend or are unable to attend the Annual General Meeting, the Chairman may allow the matter (in so far as it relates to the absent person(s)) to proceed directly to vote, which shall be by show of hands.

## **11. POWERS OF THE TRUSTEES**

- 11.1 The Trustees must manage the business of the Charity and, subject to the provisions of this constitution, have the following powers in order to further the Objects (but not for any other purpose):

- 11.1.1 to acquire and take over all or any part of the business, assets and liabilities of the present unincorporated association known as Star Diving Club Guildford;
- 11.1.2 teach highboard and springboard diving to individuals in the Guildford community;
- 11.1.3 promote the development and practice of highboard and springboard diving for its members and train and develop the teachers of these activities important in contributing to the advancement of amateur sport;
- 11.1.4 stimulate public opinion in favour of the learning and teaching of diving as a skill, important in contributing to the general health and well-being in the community served by the Charity;
- 11.1.5 to raise funds. In doing so, the Charity must comply with any relevant statutory regulations;
- 11.1.6 to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- 11.1.7 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;
- 11.1.8 to borrow and raise money and to charge the whole or any part of the property belonging to the Charity as security for repayment of the money borrowed. The Charity must comply as appropriate with sections 124 - 126 of the Charities Act, if they intend to mortgage land;
- 11.1.9 to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- 11.1.10 to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Objects;
- 11.1.11 to acquire, merge with or enter into any partnership or joint venture arrangement with any other charity formed for any of the Objects;

- 11.1.12 to employ and remunerate such staff as are necessary for carrying out the work of the Charity;
  - 11.1.13 to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
  - 11.1.14 to obtain and pay for such goods and services as are necessary for carrying out the work of the charity;
  - 11.1.15 to open and operate such bank and other accounts as the Trustees consider necessary and to invest funds and to delegate the management of funds in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000 as amended from time to time;
  - 11.1.16 to insure at the expense of the Charity and arrange insurance cover for and to indemnify its officers, staff, voluntary workers and members from and against all such risks incurred in the course of their duties as may be thought fit and in relation to the trustees (or any of them) so far as is permitted by Article 11.1.17;
  - 11.1.17 to provide indemnity insurance for the Trustees in relation to any such liability subject to the conditions in section 189 of the Charities Act;
  - 11.1.18 to insure the Charity and the Charity's property against such risks as the Trustees shall consider it prudent or necessary to insure against, including in respect of public liability and employer's liability;
  - 11.1.19 to pay out of the funds of the Charity the costs of forming and registering the Charity as a charity; and
  - 11.1.20 to do all such other lawful things as are necessary for the achievement of the Objects.
- 11.2 No alteration of this constitution or any resolution shall have retrospective effect to invalidate any prior act of the Trustees.
- 11.3 Any meeting of Trustees at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Trustees.

## **12. DISQUALIFICATION AND REMOVAL OF TRUSTEES**

- 12.1 A Trustee shall cease to hold office if he or she:
- 12.1.1 is disqualified from acting as a Trustee by virtue of sections 178 and 179 of the Charities Act;
  - 12.1.2 ceases to be a member of the Charity;
  - 12.1.3 a bankruptcy order is made against that person and it remains undischarged, or they have entered into a voluntary arrangement with their creditors;

- 12.1.4 in the written opinion, given to the Charity, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a Trustee and may remain so for more than three (3) calendar months;
- 12.1.5 resigns as a Trustee by notice to the Charity (but only if at least two (2) Trustees will remain in office when the notice of resignation is to take effect); or
- 12.1.6 is absent without the permission of the Trustees from all their meetings held within a period of six (6) consecutive months and the Trustees resolve that his or her office be vacated.

### **13. PROCEEDINGS OF TRUSTEES**

- 13.1 The Trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution.
- 13.2 Trustee meetings shall be held not less than once per school term (save where the Trustees shall by a simple majority resolve not to meet) and the quorum of that meeting shall be four (4) Trustees (including not less than one Executive Officer). A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which that Trustee is not entitled to vote. Any of the Charity Executive Officers shall have discretion to call further meetings of the Trustees if they consider it to be in the interests of the Charity. The secretary shall give all the Trustees not less than seven (7) days' written notice of a meeting. Decisions of the Trustees shall be made by a simple majority and, in the event of equality of votes, the chair or the acting chair of that meeting shall have a casting or additional vote. The secretary, or in his absence a substitute Trustee, shall take minutes.
- 13.3 The person elected as the Chair shall chair meetings of the Trustees. If the Chair is unwilling to preside or is not present within ten (10) minutes after the time appointed for the meeting, the Trustees present may appoint one of their number to chair that meeting. The person appointed to chair meetings of the Trustees shall have no functions or powers except those conferred by this constitution or delegated to him or her in writing by the Trustees.
- 13.4 No decision may be made by a meeting of the Trustees unless a quorum is present at the time the decision is purported to be made. In the event that a quorum is not present within thirty (30) minutes of the published start time, a meeting shall stand adjourned to the time and date falling seven (7) days after the date of the meeting or such other date and time as may be determined by the chairman. If a quorum is not present at the adjourned meeting then those Trustees attending may act for the purpose of calling a General Meeting of the members, to which the provisions as to minimum notice contained in Article 17.3 shall not apply.
- 13.5 In addition to the members so elected, the Trustees may, subject to Article 10.4, co-opt up to three (3) further members of the Charity who shall serve until the next Annual General Meeting. Co-opted members shall be entitled to vote at the meetings of the Trustees and shall be counted in establishing whether a quorum is present.
- 13.6 The Trustees may from time to time appoint from among their number such

sub-committees as it may consider necessary (and to remove, in whole or in part, or vary the terms of reference of such sub-committees) and may delegate to them some of the powers and duties of the Trustees as the Trustees may determine. Such appointments and delegation to be clearly documented and minuted by the Trustees. All sub-committees shall periodically report their proceedings to the Trustees and shall conduct their business in accordance with the directions of the Trustees and report to the Trustees for approval of any decisions. Such sub-committees cannot take any decisions that are not in accordance with this Constitution.

- 13.7 The Trustees shall be responsible for the management of the Charity and shall have the sole right of appointing and determining the terms and conditions of service of employees of the Charity. The Trustees shall have power to enter into contracts for the purposes of the Charity on behalf of all the members of the Charity. The Trustees shall be responsible for ensuring that the accounts of the Charity for each financial year be examined by an independent examiner to be appointed by the members at the Annual General Meeting. The Trustees shall also have power to make regulations and to settle disputed points not otherwise provided for in this constitution. The Trustees shall be responsible for ensuring that the annual financial statements are a true and fair representation of the financial health of the Charity. Financial statements will be available for scrutiny by any member of the Charity following publication at the Annual General Meeting each year.
- 13.8 A resolution in writing signed by all the Trustees entitled to receive notice of a meeting of Trustees or of a committee of Trustees and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the Trustees or (as the case may be) a committee of Trustees duly convened and held. The resolution in writing may comprise several documents containing the text of the resolution in like form each signed by one or more Trustees.
- 13.9 The Trustees shall be indemnified by the members of the Club against all liabilities properly incurred by them in the management of the affairs of the Club.
- 13.10 The Trustees shall ensure that the financial records and minutes of meetings are retained for a period of at least six (6) years.
- 13.11 The Trustees shall maintain a written record of accidents involving Charity members at diving related activities. Details of such accidents shall be reported to the insurers in accordance with the Accident/Incident Notification guidelines. The Charity shall make an annual return to the Swim England Membership Department indicating whether or not an entry has been made in the prescribed online form.

#### **14. CONFLICTS OF INTERESTS AND CONFLICTS OF LOYALTIES**

14.1 A Trustee must:

- 14.1.1 declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Charity or in any transaction or arrangement entered into by the Charity which has not been previously declared;

- 14.1.2 absent himself or herself from any discussions of the Trustees 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); and
  - 14.1.3 where that Trustee is the head coach of the Charity absent himself or herself from any discussions of the Trustees that relate to any possible, actual, alleged and/or perceived breach of compliance with Article 4. In such circumstances the head coach of the Charity may, at the Trustees discretion, be invited to attend the meeting of the Trustees, considering such issues of compliance with Article 4 in an advisory capacity only. In such circumstances the head coach must not vote or be counted as part of the quorum in any decision of the Trustees on the matter.
- 14.2 Any Trustee absenting himself or herself from any discussions in accordance with Article 14.1 must not vote or be counted as part of the quorum in any decision of the Trustees on the matter.

## **15. ANNUAL GENERAL MEETING**

- 15.1 The Annual General Meeting of the Charity shall be held each year on a date in June. Its date, time and venue (including virtual attendance option in accordance with Article 20.1) shall be fixed by the Trustees.
- 15.2 For the purpose of participation in voting at an Annual General Meeting of the Club, all persons shall have been a member as at the membership deadline day which is the date of closure of nominations and submission of proposals.
- 15.3 The purpose of the Annual General Meeting is to transact the following business:
  - 15.3.1 To receive the chairman's report on the activities of the Charity during the previous year;
  - 15.3.2 To receive and consider the accounts of the Charity for the previous year and the report on the accounts of the independent examiner and the treasurer's report as to the financial position of the Charity;
  - 15.3.3 To remove and elect the independent examiner or auditor (who must not be a Trustee or a member of the family of a Trustee) or confirm that they remain in office;
  - 15.3.4 To elect the Executive Officers and other Trustees;
  - 15.3.5 To decide on any resolution which may be duly submitted in accordance with Article 15.4;
  - 15.3.6 To decide on the dissolution of existing honorary and/or Life membership categories.
- 15.4 Nominations for election of members to any office or for Trustees shall be made in writing by the proposer and seconder to the secretary no later than twenty-one (21) days before the Annual General Meeting. The nominee shall be required to indicate in writing on the nomination form their willingness to

stand for election. Notice of any resolution proposed to be moved at the Annual General Meeting shall be given in writing to the secretary not later than twenty-one (21) days before the Annual General Meeting.

## **16. SPECIAL GENERAL MEETING**

- 16.1 A Special General Meeting may be called at any time by the Trustees and also in accordance with Article 16.2.
- 16.2 For the purpose of participation in voting at a Special General Meeting of the Club, all persons shall have been a member as at the membership deadline day which is the date that the requisition for the meeting was made by the Trustees or members.
- 16.3 It shall be called by the secretary within twenty-eight (28) days of receipt by him of a request by the Trustees to do so and/or of a requisition in writing signed by not less than five (5) members entitled to attend and vote at a General Meeting, stating the purposes for which the meeting is required and the resolutions proposed. A request may be made in hard copy form or in electronic form and must be authenticated by the person or persons making it.
- 16.4 A request by the member must state the general nature of the business to be dealt with at the meeting and must include the text of a resolution that is proposed to properly be dealt with at the meeting.
- 16.5 On receipt of the request, the Trustees are required to call a General Meeting of the Charity within twenty-one (21) days from the date on which they become subject to the request and such meeting is to be held on a date not more than twenty-eight (28) days after the date of the notice covering the meeting. If the requests received by the Charity identify a resolution intended to be proposed at the meeting, the notice of the meeting must include the nature of the resolution.

## **17. NOTICE OF MEETING**

- 17.1 The minimum period of notice required to hold any General Meeting of the Charity is fourteen clear days from the date on which the notice is deemed to have been given.
- 17.2 The notice must be given to all the members and to the Trustees.
- 17.3 The secretary shall be responsible for the handing out or sending to each member at his last known address a written agenda giving notice of the date, time and place of the General Meeting together with the resolutions to be proposed thereat, and in the case of the Annual General Meeting a list of the nominees for Trustee posts and a copy of the examined accounts. The notice of meeting shall in addition, wherever possible, be displayed on the Charity noticeboard and website, where one exists.

## **18. JUNIOR MEMBERS AND PROXIES**

- 18.1 A proxy form (available on request to the Trustees) shall be completed on behalf of each junior member (under the age of sixteen) by that junior member's parent or legal guardian, naming one of his or her parents or legal

guardians as his or her proxy in relation to all general meetings held until such time as the junior member becomes 16 years of age when such Deemed Proxy shall immediately cease ("**Deemed Proxy**"). The appointment of the Deemed Proxy shall take immediate effect on delivery of the proxy form by the parent or legal guardians of the junior member to the secretary of the Charity.

- 18.2 Where a Deemed Proxy is also a member of the Charity, such Deemed Proxy shall only be entitled to one vote on a show of hands or poll vote, regardless of being a member of the Charity and regardless of the number of junior members for which that person is a Deemed Proxy.

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

- 19.1 Subject to Article 18.1, proxies may only validly be appointed by a notice in writing (a "**proxy notice**") which:

- 19.1.1 states the name and address of the member appointing the proxy;
- 19.1.2 identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
- 19.1.3 is signed by the member appointing the proxy or by legal representative; and
- 19.1.4 is delivered to the Charity's registered address not less than 48 hours before the time appointed for holding the first meeting or adjourned first meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate; and a proxy notice which is not delivered in such manner shall be invalid, unless the Trustees, in their discretion, accept the notice at any time before the meeting.

- 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:

- 19.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions to put to the meeting; and
- 19.4.2 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.

- 19.5 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.

- 19.6 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.

- 19.7 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.
- 19.8 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 appointor's behalf.

## **20. PROCEDURE AT THE ANNUAL AND SPECIAL GENERAL MEETINGS**

- 20.1 The Trustees can decide to hold the Annual or Special General Meeting virtually (either entirely virtually or by blended physical and virtual attendance), using such electronic and video technology as they see fit.
- 20.2 The quorum for the Annual and Special General Meetings shall be seven (7) members or five per cent (5%) of the total membership (whichever is the smaller number of members) entitled to attend and vote at the meeting, virtual attendees shall count towards the quorum and multiple members can appear via a single virtual log-in.
- 20.3 The Chairman, or in his absence a member selected by the Trustees, shall take the chair.
- 20.4 Each member present shall have one vote and resolutions shall be passed by a simple majority. For the procedures for submitting resolutions to be considered at a General Meeting, members are referred to Article 15.4. In the event of an equality of votes, the chairman shall have a casting or additional vote. Only paid-up members who have reached their 16th birthday shall be entitled to be heard and to vote on all matters. (Members who have not reached their 16<sup>th</sup> birthday shall be entitled to be heard and vote only on those matters determined by the chairman as matters concerning juniors, such as the election of club captains.)
- 20.5 The secretary, or in his absence a Trustee, shall take minutes at the Annual and Special General Meetings.
- 20.6 The Chairman shall at all General Meetings have unlimited authority upon every question of order and shall be, for the purpose of such meeting, the sole interpreter of this constitution, the Articles of the Charity and the Swim England Regulations and rules.
- 20.7 The members present at a meeting may resolve that the meeting shall be adjourned.
- 20.8 The person who is chairing the meeting must decide the date time and place at which meeting is to be re-convened unless those details are specified in the resolution.
- 20.9 No business shall be conducted at an adjourned meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- 20.10 If a meeting is adjourned by a resolution of the members for more than seven

days, at least seven (7) clear days' notice shall be given of the re-convened meeting stating the date time and place of the meeting.

20.11 A resolution in writing agreed by a simple majority 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:

20.11.1 a copy of the proposed resolution has been sent to every eligible member;

20.11.2 a simple majority of members has signified its agreement to the resolution; and

20.11.3 it is contained in an authenticated document which has been received at the registered office within the period of twenty-eight (28) days beginning with the circulation date.

20.12 A resolution in writing may comprise several copies to which one or more members have signified their agreement.

## **21. ALTERATION OF THE ARTICLES AND OTHER RESOLUTIONS**

21.1 Subject to obtaining Charity Commission for England and Wales ("**Commission**") approval for Regulated Alterations, these Articles may be altered by resolution at an Annual or Special General Meeting provided that the resolution is carried by a majority of at least two-thirds of members present and entitled to vote at the relevant general meeting. No amendment(s) to the Articles shall become effective until such amendment(s) have been submitted to and validated by such person as authorised to do so by Swim England through Swim England South East Region.

21.2 Any member shall be entitled to put forward any proposal for consideration at any General Meeting provided the proposal in writing has been handed to or posted to the secretary of the Charity so as to be received by him not later than twenty-one (21) days before the AGM (in the case of the Annual General Meeting), or in the case of a Special General Meeting 14 days before the date of the meeting. Thereafter the secretary shall supply a copy of the proposal or resolution to the members in the manner provided in Article 13.8.

21.3 The Chairman may at his discretion allow amendments to any resolutions proposed to be voted on at a meeting provided that they do not materially affect the substance of the matter under discussion.

21.4 The members may, by a majority of at least two-thirds of the members present and entitled to vote at the relevant meeting, direct the Trustees to take, or refrain from taking, specified action, but no such special resolution shall invalidate anything which the Trustees have done before the passing of the resolution.

21.5 No amendment may be made:

21.5.1 that would have the effect of making the Charity cease to be a charity at law; or

21.5.2 to alter the objects if the change would undermine or work against

the previous objects of the Charity.

21.6 A copy of any resolution amending this constitution shall be sent to the Commission within twenty-one days of it being passed.

## **22. BY-LAWS**

The Trustees shall have power to make, repeal and amend such by-laws as it may from time to time consider necessary for the well-being of the Charity. These by-laws, repeals and amendments shall have effect until set aside by the Trustees or at a General Meeting.

## **23. BENEFITS AND PAYMENTS TO CHARITY TRUSTEES AND CONNECTED PERSONS**

### **23.1 General provisions**

23.1.1 Subject to Articles 23.2 and 23.3, no Trustee or Connected Person may:

- (i) buy or receive any goods or services from the Charity on terms preferential to those applicable to members of the public;
- (ii) sell goods, services or any interest in land to the Charity;
- (iii) be employed by, or receive any remuneration from, the Charity unless the payment is permitted by a majority of the Trustees;
- (iv) receive any other financial benefit from the Charity; unless the payment is permitted by Article 23.2, 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.

### **23.2 Scope and powers permitting trustees' or connected persons' benefits**

23.2.1 A Trustee 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 trustees do not benefit in this way.

23.2.2 A Trustee 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, section 185 of the Charities Act.

23.2.3 Subject to Article 23.3, a Trustee or Connected Person may provide the Charity with goods that are not supplied in connection with services provided to the Charity by the Trustee or Connected Person.

23.2.4 A Trustee or Connected Person may receive interest on money lent to the Charity at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base

rate).

23.2.5 A Trustee or Connected Person may receive rent for premises let by the Trustee or Connected Person to the Charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The Trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.

23.2.6 A Trustee 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.

### 23.3 **Payment for supply of goods only – controls**

23.3.1 The Charity and its Trustees may only rely upon the authority provided by Article 23.2.4 if each of the following conditions is satisfied:

- (i) the amount or maximum amount of the payment for the goods is set out in an agreement in writing between the Charity and the Trustee 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;
- (ii) 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;
- (iii) the other Trustees 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 Trustee or Connected Person. In reaching that decision the Trustees must balance the advantage of contracting with a Trustee or Connected Person against the disadvantages of doing so;
- (iv) 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.

## 24. **FINANCE**

24.1 All moneys payable to the Charity shall be received by an Executive Officer and be deposited in a bank account in the name of the Charity. Cheques which exceed £50 must be signed by the treasurer and one other signatory appointed by the Trustees. Cheques below £50 can be signed by the treasurer or other officer of the Charity save where they relate to their own legitimate expenses. Any electronic transfer may be done by a person so authorised by the Executive Officers. Any moneys not required for immediate use may be invested at the discretion of the Trustees with the advice of the treasurer.

24.2 The income and property of the Charity shall be applied only in furtherance of the Objects and no part thereof shall be paid by way of bonus, dividend, profit

or otherwise to any members of the Charity (save as set out in Article 28.5).

- 24.3 The Trustees shall have power to authorise the payment of remuneration and expenses to any officer, member or employee of the Charity and to any other person or persons for services rendered to the Charity.
- 24.4 The financial transactions of the Charity shall be recorded by the treasurer in such manner as the Trustees think fit.
- 24.5 The financial year of the Charity shall be the period commencing on April 1 and ending on March 31. Any change to the financial year shall require the approval of the members in a General Meeting.

## **25. ACCOUNTS, ANNUAL REPORT, ANNUAL RETURN**

- 25.1 The Trustees must comply with their obligations under the Charities Act with regard to:
  - 25.1.1 the keeping of accounting records for the Charity;
  - 25.1.2 the preparation of annual statements of account for the Charity;
  - 25.1.3 the transmission of the statements of account to the Commission;  
and
  - 25.1.4 the preparation of an Annual Report and its transmission to the Commission.
- 25.2 Accounts must be prepared in accordance with the provisions of any statement of recommended practice issued by the Commission, unless the Trustees are required to prepare accounts in accordance with the provisions of such a statement prepared by another body.

## **26. REGISTERED PARTICULARS**

The Trustees must notify the Commission promptly of any changes to the Charity's entry on the Central Register of Charities.

## **27. BORROWING**

- 27.1 The Trustees may borrow money on behalf of the Charity for the purposes of the Charity from time to time at its own discretion (up to such limits on borrowing as may be laid down from time to time by the General Meeting) for the general upkeep of the Charity, or with the prior approval of a General Meeting for any other expenditure, additions or improvements.
- 27.2 When so borrowing, the Trustees shall have power to raise in any way any sum or sums of money and to raise and secure the repayment of any sum or sums of money in such manner or on such terms and conditions as they think fit, and in particular by mortgage of or charge upon or by the issues of debentures charged upon all or any part of the property of the Charity.
- 27.3 The Trustees shall have no power to pledge the personal liability of any member of the Charity for the repayment of any sums so borrowed.

## **28. PROPERTY**

- 28.1 The property of the Charity, other than cash at the bank, shall be vested in not more than four custodians. They shall deal with the property as directed by resolution of the Trustees and entry in the minute book shall be conclusive evidence of such a resolution.
- 28.2 The custodians shall be elected at a General Meeting of the Charity and shall hold office until death or resignation unless removed by a resolution passed at a General Meeting.
- 28.3 The terms of the appointment of any custodian must provide that they may act only in accordance with lawful directions of the Trustees and that if they do so they will not be liable for the acts and defaults of the Trustees or of the members of the Charity.
- 28.4 The Trustees may remove the custodians at any time.
- 28.5 The custodians shall be entitled to an indemnity out of the property of the Charity for all expenses and other liabilities properly incurred by them in the discharge of their duties.

## **29. DISSOLUTION**

- 29.1 A resolution to dissolve the Charity shall only be proposed at a General Meeting and shall be carried by a majority of at least three-quarters of the members present and entitled to vote. A specific date for the dissolution shall be included in the resolution.
- 29.2 The dissolution shall take effect from the date specified in the resolution and the Trustees shall remain in office as Trustees and be responsible for winding up the affairs of the Charity in accordance with this Article 29.
- 29.3 The Trustees must collect in all the assets of the Charity and must pay or make provision for all the liabilities of the Charity.
- 29.4 The Trustees must apply any remaining property or money:
  - 29.4.1 directly for the Objects;
  - 29.4.2 by transfer to any charity or charities for purposes the same as or similar to the Charity;
  - 29.4.3 in such other manner as the Commission may approve in writing in advance.
- 29.5 The members may pass a resolution before or at the same time as the resolution to dissolve the Charity specifying the manner in which the Trustees are to apply the remaining property or assets of the Charity and the Trustees must comply with the resolution if it is consistent with Article 29.4 above.
- 29.6 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).
- 29.7 The Trustees must notify the Commission promptly that the Charity has been dissolved. If the Trustees are obliged to send the Charity's accounts to the

Commission for the accounting period which ended before its dissolution, they must send the Commission the Charity's final accounts.

### **30. ACKNOWLEDGEMENT**

- 30.1 The members acknowledge that these Articles constitute a legally binding contract to regulate the relationship of the members with each other and the Charity.
- 30.2 This constitution must be readily available to all club members. This may be via posting on the Club website, the Commission website or shared with members annually at time of membership renewal.
- 30.3 The following statement must appear on Club membership forms and is to be signed by member. It must also be countersigned by the parent, or a person having parental responsibility for the member, if under 18 years of age.

**“I acknowledge receipt of the rules of Star Diving Club Guildford and confirm my understanding and acceptance that such rules (as amended from time to time) shall govern my membership of the club. I further acknowledge and accept the responsibilities of membership upon members as set out in these rules.”**

### **31. MEANS OF COMMUNICATION**

- 31.1 Any notice required by this constitution to be given to or by any person must be:
  - 31.1.1 in writing; or
  - 31.1.2 given using electronic communications.
- 31.2 The Charity may give any notice to a member either:
  - 31.2.1 personally;
  - 31.2.2 by sending it by post in a prepaid envelope addressed to the member at his or her address;
  - 31.2.3 by leaving it at the address of the member; or
  - 31.2.4 by giving it using electronic communications to the member's email address as provided to the Charity by the member.
- 31.3 A member who does not register an address with the Charity or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the Charity.
- 31.4 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.
- 31.5 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.
- 31.6 A notice shall be deemed to be given forty-eight (48) hours after the envelope

containing it was posted or, in the case of an electronic communication, forty-eight (48) hours after it was sent.

### 32. DISPUTES

If a dispute arises between members of the Charity about the validity or propriety of anything done by the members under this constitution, 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.

### 33. INTERPRETATION AND DEFINITION

33.1 Throughout this Constitution words denoting the masculine gender include the feminine gender and vice versa.

33.2 In this constitution the following words shall have the following meaning, save where expressly otherwise stated:

**"Annual General Meeting"** is a meeting held by the Charity in accordance with Article 15;

**"Articles"** means these articles of association, which may also be referred to as the Rules of the Charity;

**"Charities Act"** means the Charities Act 2011 as amended from time to time;

**"Charity"** has the meaning given in Article 1.1, and which may also be referred to as the club;

**"Code of Ethics"** means the Swim England code of ethics as detailed in the 2023 Swim England Handbook, as may be amended, revised, updated or replaced from time to time;

**"Commission"** has the meaning given in Article 21.1;

**"Connected Person"** means:

- (i) a child, parent, grandchild, grandparent, brother or sister of the Trustee;
- (ii) the spouse or civil partner of the Trustee or of any person falling within limb (i) above;
- (iii) a person carrying on business in partnership with the Trustee or with any person falling within limbs (i) or (ii) above;
- (iv) an institution which is controlled:
  - (A) by the Trustee or any connected person falling within limbs (i), (ii) or (iii) above; or
  - (B) by two or more persons falling within limb (iv)(A), when taken together;
- (v) a body corporate in which:

- (A) the Trustee or any connected person falling within Articles (i), (ii) or (iii) has a substantial interest; or
- (B) two or more persons falling within Article (v)(A) who, when taken together, have a substantial interest.

Sections 350 – 352 of the Charities Act apply for the purposes of interpreting the terms used in this definition.

**"Executive Officers"** has the meaning given in Article 9.2;

**"General Meeting"** means an Annual General Meeting or a Special General Meeting;

**"Governing Body Rules"** has the meaning given in Article 4.3.5 as may be amended, revised, updated or replaced from time to time;

**"Guidelines"** has the meaning given in Article 8.2 as may be amended, revised, updated or replaced from time to time;

**"Judicial Laws and Regulations"** means the "Constitutional Laws" of Swim England as set out in the relevant Swim England Handbook as may be amended, revised, updated or replaced from time to time;

**"Objects"** has the meaning given in Article 3.1;

**"Regulated Alteration"** means the following categories of changes to the Articles:

- (i) any change to the statement of the objects of the Charity;
- (ii) any change to what happens to the Charity's property on winding up;
- (iii) any change which authorises the Charity's funds or property to be used to benefit the Trustees or members, or people or organisations connected with them.

**"Review Panel"** has the meaning given in Article 5.5;

**"Special General Meeting"** has the meaning given in Article 16;

**"Supplier"** has the meaning given in Article 23.3.1(i);

**"Swim England "** means the national governing for swimming in England or (i) such replacement name as Swim England may operate under in the future or (ii) such successor organisation to Swim England;

**"Swim England Equality and Diversity Policy"** means the equality and diversity policy document (reference IOSPOL010; current version 5 (at the date hereof) as published on the official Swim England website, as may be amended, revised, updated or replaced from time to time;

**"Swim England Handbook"** means the official handbook of Swim England as published on an annual basis on the official Swim England website as may be amended, revised, updated or replaced from time to time;

**"Swim England Membership Fees"** means the fees payable to Swim England in respect of membership of Swim England;

**"Swim England South East Region"** means the affiliated region being located in the south east of England;

**"Trustees"** has the meaning given in Article 9.1; and

**"Wavepower"** means the Swim England's child safeguarding policy and procedures publication entitled "Wavepower 2022-23" (reference IOSPOL027; current version 8 (at the date hereof) as published on the official Swim England website, as amended, updated or replaced from time to time.