

Constitution

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RINGWOOD DIVING CLUB INC.
(Registration No. A0009960M)
ABN: 38 158 840 391

TABLE OF CONTENTS

PART I – PURPOSES, POWERS AND INTERPRETATION	5
1. NAME	5
2. PURPOSES OF ASSOCIATION.....	5
3. POWERS OF ASSOCIATION.....	5
4. INTERPRETATION AND DEFINITIONS.....	5
4.1 Definitions	5
4.2 Interpretation	7
4.3 Enforceability	7
PART II – MEMBERSHIP	7
5. MEMBERSHIP OF CLUB	7
5.1 Minimum Number of Members	7
5.2 Categories of Member.....	8
5.3 Application for Membership – Individual Member	8
5.4 Application for Membership – Associate Member	8
5.5 Life Members	9
5.6 Renewal of Membership.....	9
5.7 Deemed Membership	9
5.8 Effect of Membership	9
6. SUBSCRIPTIONS AND FEES	10
7. REGISTER	10
7.1 Club to Keep Register of Members.....	10
7.2 Change of Address	11
7.3 Inspection of Register.....	11
8. RESIGNATION OF MEMBERS	11
8.1 Notice of Resignation	11
8.2 Expiration of Notice Period	11
8.3 Resignation by Failure to Pay Subscription	11
8.4 Resignation by other Means.....	12
8.5 Forfeiture of Rights.....	12
9. EXPULSION, SUSPENSION OR FINING OF MEMBERS	12
9.1 Establishing a Disciplinary Committee.....	12
9.2 Provisional Suspension	12
9.3 Disciplinary Committee Members	12
9.4 Notice of Alleged Breach.....	13
9.5 Determination of Disciplinary Committee.....	13
9.6 Appeal.....	14
9.7 Appeal Tribunal.....	14
9.8 Appeals Process	14
PART III – GENERAL MEETINGS	15
10. ANNUAL GENERAL MEETINGS.....	15
10.1 Annual General Meeting to be Held.....	15
10.2 Business of Meeting	15
10.3 Additional Meetings.....	15
11. GENERAL MEETINGS	15
11.1 General Meetings May be Held	15
11.2 Request for General Meetings.....	15

12.	NOTICE OF MEETINGS.....	16
12.1	Notice to be Given for Annual General Meetings.....	16
12.2	Notice to be Given for General Meetings.....	16
12.3	Business of Meeting.....	16
13.	PROCEEDINGS AT MEETINGS	16
13.1	Quorum.....	16
13.2	President to Chair	17
13.3	Chairperson May Adjourn Meeting	17
13.4	Use of Technology	17
14.	VOTING AT GENERAL MEETINGS	17
14.1	Voting Rights.....	17
14.2	Voting Procedure	17
14.3	Recording of Determinations	18
14.4	Poll at General Meetings.....	18
14.5	Proxy and Postal Voting.....	18
15.	MINUTES OF GENERAL MEETINGS	18
	PART IV – BOARD.....	18
16.	BOARD.....	18
16.1	Powers of the Board.....	18
16.2	Composition of the Board.....	19
16.3	Elected Directors.....	19
16.4	Appointed Directors.....	19
16.5	Casual Vacancy	20
16.6	Transitional Arrangements	20
17.	ELECTION OF ELECTED DIRECTORS.....	20
18.	VACANCY ON THE BOARD	21
18.1	Grounds for Termination of a Director	21
18.2	Removal of a Director.....	21
19.	QUORUM AND PROCEDURE AT BOARD MEETINGS.....	21
19.1	Convening a Board Meeting	21
19.2	Urgent Board Meetings	22
19.3	Quorum.....	22
19.4	Procedures at Board Meetings	22
19.5	Leave of Absence	23
20.	DIRECTORS' INTERESTS	23
20.1	Material Personal Interests.....	23
20.2	Financial Interest.....	24
20.3	Conflicts	24
21.	DELEGATED POWERS	25
21.1	Board May Delegate Functions	25
21.2	Exercise of Delegated Functions	25
21.3	Procedure of Delegated Entity.....	25
21.4	Committees.....	25
21.5	Delegates of the Club.....	26
22.	DUTIES	26
22.1	General Duties	26
22.2	Administration Officer	26
22.3	Secretary.....	27
22.4	Treasurer	27

23.	MINUTES OF BOARD MEETINGS.....	27
	PART V – MISCELLANEOUS	28
24.	GRIEVANCE PROCEDURES.....	28
25.	SOURCES OF FUNDS.....	29
26.	MANAGEMENT OF FUNDS	29
27.	APPLICATION OF INCOME	29
28.	SIGNING OF NEGOTIABLE INSTRUMENTS.....	29
29.	COMMON SEAL.....	29
30.	REGISTERED ADDRESS	29
31.	ALTERATION OF CONSTITUTION.....	30
32.	TRANSITIONAL ARRANGEMENTS.....	30
33.	DISSOLUTION	30
34.	INDEMNITY	31
35.	SERVICE OF NOTICES	31
36.	CUSTODY OF BOOKS AND OTHER DOCUMENTS	31
37.	REGULATIONS.....	32
38.	LIABILITY	32

Constitution of Ringwood Diving Club Inc.

PART I – PURPOSES, POWERS AND INTERPRETATION

1. NAME

The name of the incorporated association is Ringwood Diving Club Incorporated (**Club**).

2. PURPOSES OF ASSOCIATION

The Club is established solely for these purposes. The purposes of the Club are to:

- (a) conduct, encourage, promote, advance and administer diving throughout its local area;
- (b) act, at all times, on behalf of and in the interest of the members and diving;
- (c) affiliate and otherwise liaise with Diving Victoria, Diving Australia and/or FINA and adopt their rule and policy frameworks to further these purposes;
- (d) abide by, promulgate, enforce and secure uniformity in the application of the rules of diving as may be determined from time to time by Diving Victoria, Diving Australia and/or FINA and as may be necessary for the management and control of diving and related activities in the local area;
- (e) advance the operations and activities of the Club throughout the local area and to encourage as many of its members as possible to participate in state, national and international competition;
- (f) maintain and conduct a sporting and social Club and to build, maintain or otherwise provide facilities for the use and recreation of the members;
- (g) raise and borrow any monies, and to buy, sell or otherwise deal with any real or personal property, required for the purposes of the Club upon such terms and conditions and/or on such securities as may be determined;
- (h) have regard to the public interest in its operations; and
- (i) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these purposes.

3. POWERS OF ASSOCIATION

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

4. INTERPRETATION AND DEFINITIONS

4.1 Definitions

In this constitution, unless the contrary intention appears:

Act means the *Associations Incorporation Reform Act 2012* (Vic).

Annual general meeting means a meeting of members convened in accordance with rule 10.

Annual subscriptions means the annual fees payable by each category of member as determined by the Board under rule 6.

Appointed Director means a Director appointed under rule 16.4.

Associate Member means a natural person recognised by the Club as a member under clause 5.4(e) from time to time.

Board means the body consisting of the Directors under rule 16.2.

Club means Ringwood Diving Club Incorporated.

Committee means any committee of the Board created under rule 21.4 from time to time.

Constitution means this constitution of the Club as amended from time to time.

Delegate means a person appointed by the Board to represent the Club at Diving Victoria or other meetings.

Diving means the sport of diving as determined by FINA, with such variations as may be recognised by Diving Australia or Diving Victoria from time to time.

Diving Australia means Diving Australia Incorporated, the governing body for diving in Australia, or its successors.

Diving Victoria means Diving Victoria Incorporated, the governing body for diving in Victoria, or its successors.

Director means a member of the Board and includes an Elected Director and an Appointed Director.

Elected Director means a Director elected under rule 17.

FINA means Fédération Internationale de Natation, the international governing body for diving, or its successors.

Financial year means the year ending on 30 June.

General meeting means an annual general meeting together with any meeting of members convened in accordance with rule 11.

Individual Member means a natural person recognised by the Club as a member under rule 5.3(e) from time to time.

Life Member means an individual elected as such under rule 5.5.

Member means any person recognised as a member of the Club by the Board under rule 5 from time to time.

President means the president of the Club appointed in accordance with rule 16.2(a)(i)(A) from time to time.

Register means the register of members kept in accordance with rule 7.1.

Regulations means any regulations made by the Board under rule 37.

Relevant documents means the records and other documents, however recorded compiled or stored, that relate to the Club and management of the Club and includes membership records, financial statements, financial records, and records and documents relating to transactions, dealings, business or property of the Club.

Special resolution has the same meaning as the Act.

4.2 Interpretation

In this constitution:

- (a) a reference to a rule, regulation, schedule or annexure is to a rule, regulation, schedule or annexure of, or made under, this constitution;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing any gender include the other genders;
- (d) headings are for convenience only and shall not be used for interpretation;
- (e) words or expressions shall be interpreted in accordance with the provisions of the Act as they vary from time to time;
- (f) references to persons include natural persons, corporations and bodies politic, and any legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) expressions referring to “writing” shall, unless the contrary intention appears, be construed as including references to printing, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

4.3 Enforceability

If any provision of this constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision shall be read down for the purpose of that jurisdiction, if possible, so it is valid and enforceable. If it cannot be so read down the provision shall be severed to the extent of the invalidity or unenforceability. The remaining provisions of this constitution and its validity or enforceability shall not be affected by the severance in any other jurisdiction.

PART II – MEMBERSHIP

5. MEMBERSHIP OF CLUB

5.1 Minimum Number of Members

The Club must have at least 5 members.

5.2 Categories of Member

The members shall be, and shall be divided into, the following categories:

- (a) Individual Members, who shall have the right to be present, debate and vote at general meetings. The voting right of an Individual Member under the age of 16 years is transferred to that member's parent/guardian;
- (b) Associate Members, who shall have the right to be present at but not have the right to vote at general meetings;
- (c) Life Members, who shall have the right to be present, debate and vote at general meetings; and
- (d) such other category or categories of members as determined by the Board from time to time.

5.3 Application for Membership – Individual Member

- (a) To be eligible for membership as an Individual Member, the applicant must be a natural person and meet any other criteria set by the Board from time to time.
- (b) Subject to this constitution or any procedures set by the Board from time to time, an application for membership as an Individual Member must be:
 - (i) in writing in the form prescribed by the Board from time to time;
 - (ii) accompanied by the appropriate fee or fees, if any; and
 - (iii) lodged with the Board or its nominee.
- (c) The Board may, in its discretion, determine whether to approve or decline the application.
- (d) If the Board does not approve an application for membership, it shall, as soon as practicable, notify the applicant in writing that their application for membership is not approved. The Board is not required to give reasons for its decision.
- (e) If a person satisfies the criteria set by this rule 5.3 and the Board accepts the application for membership, the person shall be deemed an Individual Member, subject always to this constitution.

5.4 Application for Membership – Associate Member

- (a) To be eligible for membership as an Associate Member, the applicant must be a natural person and meet any other criteria set by the Board from time to time.
- (b) Subject to this constitution or any procedures set by the Board from time to time, an application for membership as an Associate Member must be:
 - (i) in writing in the form prescribed by the Board from time to time;
 - (ii) accompanied by the appropriate fee or fees, if any; and

- (iii) lodged with the Board or its nominee.
- (c) The Board may, in its discretion, determine whether to approve or decline the application.
- (d) If the Board does not approve an application for membership, it shall, as soon as practicable, notify the applicant in writing that their application for membership is not approved. The Board is not required to give reasons for its decision.
- (e) If a person satisfies the criteria set by this rule 5.4 and the Board accepts the application for membership, the person shall be deemed an Associate Member, subject always to this constitution.

5.5 Life Members

- (a) Nominations for life membership should be lodged with the Board or its nominee. The Board may recommend to the annual general meeting that any natural person who has rendered distinguished service to the Club be appointed as a Life Member.
- (b) A resolution of the annual general meeting to confer life membership on the recommendation of the Board must be a special resolution.
- (c) A person must accept or reject the Club's resolution to confer life membership in writing. Upon written acceptance, the person's details shall be entered upon the register and, from the time of entry on the register, the person shall be a Life Member, but remain subject to this constitution.

5.6 Renewal of Membership

- (a) Individual Members must reapply for membership each financial year through the procedure set out in this constitution or by the Board from time to time.
- (b) Associate Members must reapply for membership each financial year through the procedure set out in this constitution or by the Board from time to time.
- (c) Members other than Individual Members and Associate Members must reapply for membership as determined by the Board from time to time.

5.7 Deemed Membership

All persons who are, prior to the approval of this constitution under the Act, members of the Club shall be deemed members from the time of approval of this constitution under the Act. Such membership shall continue subject to the terms of this constitution.

5.8 Effect of Membership

- (a) Members acknowledge and agree that:
 - (i) this constitution constitutes a contract between each of them and the Club and that they are bound by this constitution and the regulations;
 - (ii) they shall comply with and observe this constitution and the regulations;

- (iii) by submitting to this constitution and the regulations they are subject to the jurisdiction of the Club;
 - (iv) this constitution and regulations are necessary and reasonable for promoting the purposes of the Club; and
 - (v) they are entitled to all benefits, advantages, privileges and services of their membership as determined by the Board.
- (b) Members may by virtue of membership of the Club and subject to this constitution:
- (i) express in writing or otherwise their views and opinions in any meeting in respect of which they are entitled to participate in accordance with this constitution;
 - (ii) make proposals or submissions to the Board;
 - (iii) engage and participate in any activity approved, sponsored or recognised by the Club; and
 - (iv) conduct any activity approved by the Club.
- (c) A right, privilege or obligation of a person by reason of their membership of the Club:
- (i) is not capable of being transferred or transmitted to another person; and
 - (ii) terminates upon the cessation of membership whether by death, resignation or otherwise.

6. SUBSCRIPTIONS AND FEES

- (a) The annual subscriptions and any other fees payable by members or categories of members to the Club, the benefits which apply, the time for, and manner of payment, shall be determined by the Board from time to time.
- (b) The date on which annual subscriptions shall fall due is 1 July or as determined by the Board from time to time.
- (c) The Board is empowered to prevent any member whose annual subscription or any other fees are in arrears from exercising the whole or any of the rights or privileges of membership of the Club, including but not limited to the right to vote at general meetings.
- (d) If a new member is accepted more than 6 months after the date on which the annual subscriptions fall due, subscription for the remaining portion of the year shall be equivalent to a 6-month prorata subscription or an amount as determined by the Board from time to time.

7. REGISTER

7.1 Club to Keep Register of Members

The Club shall keep and maintain a register of members in which shall be entered:

- (a) the full name and address of the member;
- (b) the category of membership of the member;
- (c) the date on which the member became a member;
- (d) whether the member has been granted voting rights;
- (e) any other information determined by the Board; and
- (f) for each former member, the date of ceasing to be a member.

7.2 Change of Address

Every member shall communicate in writing to the Board any change to their address.

7.3 Inspection of Register

Inspection of the register will only be available as required by the Act and in accordance with rule 36.

8. RESIGNATION OF MEMBERS

8.1 Notice of Resignation

Any member who has paid all monies due and payable to the Club may resign from the Club by giving 30 calendar days' notice in writing to the Club of such intention to resign. Upon the expiration of that period of notice, the member shall cease to be a member.

8.2 Expiration of Notice Period

Upon the expiration of a notice given under rule 8.1, an entry, recording the date on which the member who gave notice ceased to be a member, shall be recorded in the register.

8.3 Resignation by Failure to Pay Subscription

- (a) A member is taken to have resigned:
 - (i) if the member's annual subscription is outstanding more than 3 months after the due date determined by the Board in accordance with 6(b); or
 - (ii) if no annual subscription is payable:
 - (A) the Board has made a written request to the member to confirm that he or she wishes to remain a member; and
 - (B) the member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member.
- (b) Should a sufficient explanation be made to the Board for the failure to pay the subscription or reason for not responding to a request, the Board shall have

the power to restore the membership upon payment of the amount due (if any).

8.4 Resignation by other Means

A member is taken to have resigned effective immediately if:

- (a) the member becomes a member of another diving club; or
- (b) the member receives coaching from a non-Club coach without prior approval of the Club.

8.5 Forfeiture of Rights

A member who ceases to be a member, for whatever reason, shall forfeit all right in and claim upon the Club and its property.

9. EXPULSION, SUSPENSION OR FINING OF MEMBERS

9.1 Establishing a Disciplinary Committee

- (a) Where the Board considers that a member has:
 - (i) breached, failed, refused or neglected to comply with a provision of this constitution or the regulations;
 - (ii) acted in a manner unbecoming of a member or prejudicial to the purposes and interests of the Club, or another member; or
 - (iii) brought themselves, the Club, diving or another member into disrepute,

the Board may by resolution and in accordance with rule 21.4, establish a disciplinary committee to convene to hear a matter against any member and to determine what action, if any, to take against that member (**disciplinary hearing**), and that member will be subject to, and submits unreservedly to the jurisdiction, disciplinary procedures and penalties and the appeal mechanisms (if any) in this constitution.

- (b) The grounds listed at 9.1(a) do not constitute a grievance, and rule 24 does not apply.

9.2 Provisional Suspension

- (a) Upon establishing a disciplinary committee in accordance with rule 9.1(a), the Board may, by resolution, provisionally suspend the member subject to the disciplinary hearing until such time as the disciplinary committee makes a finding.
- (b) The disciplinary committee may lift a provisional suspension prior to making a finding at the disciplinary hearing.

9.3 Disciplinary Committee Members

The members of the disciplinary committee:

- (a) may be members or anyone else; but

- (b) must not be biased against, or in favour of, the member concerned; and
- (c) must not be a Director.

9.4 Notice of Alleged Breach

Where a disciplinary committee is established, the Club shall serve on the member not earlier than 28 calendar days and not later than 14 calendar days before the disciplinary hearing is to be held, a notice in writing:

- (a) setting out the alleged breach of the member and the grounds on which it is based;
- (b) stating that the member may address the disciplinary committee at the disciplinary hearing. The member is not entitled to be legally represented at the disciplinary hearing;
- (c) stating the date, place and time of that disciplinary hearing; and
- (d) informing the member that he, she or it may do one or more of the following:
 - (i) attend that disciplinary hearing;
 - (ii) give the disciplinary committee prior to or at that disciplinary hearing a written statement regarding the alleged breach.

9.5 Determination of Disciplinary Committee

- (a) At the disciplinary hearing the disciplinary committee shall:
 - (i) give the member every opportunity to be heard;
 - (ii) give due consideration to any written statement submitted by the member; and
 - (iii) determine whether the alleged breach occurred.
- (b) If the disciplinary committee determines there was a breach of rule 9.1(a), it will determine what penalty (if any) shall be given to the member, and give notice of this to the Board.
- (c) The penalties able to be given to the member by the disciplinary committee include:
 - (i) expel a member from the Club; or
 - (ii) suspend a member from membership of the Club or accessing certain privileges of membership for a specified period; or
 - (iii) fine a member; or
 - (iv) impose such other penalty, action or educative process as the disciplinary committee sees fit.

9.6 Appeal

- (a) Subject to rule 9.6(b), an appeal tribunal may be appointed by the Board to hear and adjudicate on any appeal lodged by a member against the decision of the disciplinary committee.
- (b) An appeal may only be lodged by a party directly affected by a decision and where such an appeal is based on the ground that new information or evidence can be presented that was not available at the time of the original decision being appealed against.

9.7 Appeal Tribunal

- (a) The Board will appoint an appeal tribunal to determine an appeal lodged in accordance with the provisions of rule 9.6. The composition of an appeal tribunal shall be:
 - (i) an individual with a high level of legal training and experience in arbitration; or
 - (ii) a panel of 2 or 3 persons deemed suitable by the Board, whereby a chairperson shall be appointed with experience in legal process or dispute resolution.
- (b) No member of the appeal tribunal pursuant to rule 9.7(a) may have been a party to or directly interested in the decision under appeal or the original matter brought for determination.

9.8 Appeals Process

- (a) Formal advice to the Board of an appeal against a decision of the disciplinary committee shall be forwarded to the Board in writing within 48 hours of formal advice of the decision being appealed.
- (b) The lodgement of appeal must be accompanied by payment of an appeal fee as determined by the Board. The fee shall be fully refundable if the appeal is successful.
- (c) The Board shall determine whether the appeal falls within the grounds for appeal pursuant to rule 9.6(b). If satisfied, an appeal tribunal will be appointed within 7 calendar days of formal lodgement of the appeal.
- (d) The appeal tribunal will schedule a date and venue for a hearing as soon as possible and no later than 21 calendar days after formal lodgement of the appeal.
- (e) If, as the circumstances may be, all parties are unable to be present at an appeal hearing, they may participate by teleconference or other medium as determined appropriate at the discretion of the appeal tribunal.
- (f) The parties will be advised of the grounds for appeal and invited to lodge written submissions which must be received by the Club no later than 2 business days prior to the scheduled hearing. The Board shall ensure that all written submissions are distributed to all parties and the appeal tribunal in a timely manner prior to the hearing.

- (g) The appeal tribunal may then deal with the appeal forthwith, adhering to the general process set out above in relation to the disciplinary committee.
- (h) The appeal tribunal may adjourn a hearing to obtain further information or evidence.
- (i) At the conclusion of the hearing, the appeal tribunal shall:
 - (i) uphold the appeal and rescind the original decision, or
 - (ii) dismiss the appeal; or
 - (iii) dismiss the appeal and review or vary the penalty.
- (j) The decision of the appeal tribunal shall be final.
- (k) The appeal tribunal must forward to the Board a written report outlining their determination of the matter.

PART III – GENERAL MEETINGS

10. ANNUAL GENERAL MEETINGS

10.1 Annual General Meeting to be Held

- (a) The Club shall convene and hold an annual general meeting of its members annually in accordance with the Act.
- (b) The annual general meeting of the Club shall, subject to the Act and to rule 10.1(a), be convened at a time, date and venue to be determined by the Board.

10.2 Business of Meeting

The annual general meeting will transact any business required by the Act and any other business of which notice is given in accordance with this constitution.

10.3 Additional Meetings

The annual general meeting shall be in addition to any other general meetings that may be held in the same year. Any general meeting other than an annual general meeting is a special general meeting.

11. GENERAL MEETINGS

11.1 General Meetings May be Held

The Board may, whenever it thinks fit, convene a general meeting of the Club and, where but for this rule more than 15 months would elapse between annual general meetings, it shall convene a general meeting before the expiration of that period.

11.2 Request for General Meetings

- (a) The Board shall convene a general meeting upon receiving a request in writing from not less than 10% of members who would be entitled to vote at such general meeting. The Board may also convene a general meeting.

- (b) The request for a general meeting shall be in writing and shall state the object(s) of the meeting and shall be signed by the members making the request and be sent to the Board. The request may consist of several documents in a like form, each signed by one or more of the members making the requisition.
- (c) If the Board does not cause a general meeting to be held within 30 calendar days after the date on which the request is sent to the Club, the members making the request, or any of them, may convene a general meeting to be held not later than 60 calendar days after that date.
- (d) A general meeting convened by members under this constitution shall be convened in the same manner, or as nearly as possible as that, in which general meetings are convened by the Board.

12. NOTICE OF MEETINGS

12.1 Notice to be Given for Annual General Meetings

The Board shall, at least 21 calendar days before the date fixed for holding an annual general meeting, send to each member entitled to vote at such meeting and each Director a notice in writing stating the place, date, time and nature of the proposed business to be transacted at the meeting. Notice may be given in any form permitted under rule 35.

12.2 Notice to be Given for General Meetings

The Board shall, at least 21 calendar days before the date fixed for holding a general meeting, send to each member entitled to vote at such meeting and each Director a notice in writing stating the place, date and time and the nature of the proposed business to be transacted at the meeting. Notice may be given in any form permitted under rule 35.

12.3 Business of Meeting

- (a) No business other than that set out in the notice convening the meeting shall be transacted at the general meeting.
- (b) A member desiring to bring any business before a meeting shall give at least 30 calendar days' notice in writing of that business to the Club, which shall include that business in a notice calling the next general meeting after the receipt of the notice.

13. PROCEEDINGS AT MEETINGS

13.1 Quorum

- (a) No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business.
- (b) A quorum for general meetings of the Club shall be 10% of members with a right to vote at the general meeting.
- (c) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
 - (i) if convened upon the requisition of members, shall be dissolved; and

- (ii) in any other case, shall stand adjourned to:
 - (A) the same day in the next week at the same time and (unless members are notified of an alternate venue) at the same place; or
 - (B) any date, time and place determined by the chairperson;and if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting shall lapse.

13.2 President to Chair

The President shall chair each general meeting of the Club. If the President is absent from a general meeting or is unwilling to act, then the Directors present shall elect one of their number to preside as chairperson at the meeting.

13.3 Chairperson May Adjourn Meeting

- (a) The chairperson of a general meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (b) Where a meeting is adjourned for 14 calendar days or more, a notice of the adjourned meeting shall be given as in the case of the general meeting. Except as provided in this rule, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

13.4 Use of Technology

- (a) A member not physically present at a general meeting may participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- (b) A member participating in a general meeting as permitted under rule 13.4(a) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

14. VOTING AT GENERAL MEETINGS

14.1 Voting Rights

Subject to any other provision of this constitution, each member entitled to vote as set out in rule 5.2 shall have one vote at general meetings.

14.2 Voting Procedure

- (a) Subject to this rule 14, votes at a general meeting shall be given in person by those present and entitled to vote.
- (b) Subject to rule 14.4, all questions arising at a general meeting shall be determined on a show of hands.

- (c) In the case of an equality of votes on a question, the motion shall fail. Neither the President nor the chairperson of the meeting is entitled to exercise a second or casting vote.

14.3 Recording of Determinations

When a declaration is made by the chairperson that a resolution has, on a show of hands, been carried, carried unanimously, carried by a particular majority or lost, then an entry to that effect in the minute book of the Club is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

14.4 Poll at General Meetings

If a poll is demanded by the chairperson or any 2 members, it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll shall be the resolution of the meeting.

14.5 Proxy and Postal Voting

- (a) There shall be no proxy voting.
- (b) Unless otherwise determined by the Board, there shall be no postal voting on any matter.

15. MINUTES OF GENERAL MEETINGS

- (a) The Board must ensure that minutes are taken and kept of each general meeting.
- (b) The minutes must record:
 - (i) the business considered at the meeting;
 - (ii) any resolution on which a vote is taken and the result of the vote; and
 - (iii) the names of persons present at all meetings.
- (c) In addition, the minutes of each annual general meeting must include:
 - (i) any reports or financial statements submitted to the members at the annual general meeting; and
 - (ii) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

PART IV – BOARD

16. BOARD

16.1 Powers of the Board

- (a) The affairs of the Club shall be managed by the Board constituted under rule 16.2.
- (b) Subject to this constitution and the Act, the Board:

- (i) shall control and manage the business and affairs of the Club;
- (ii) may exercise all such powers and functions as may be exercised by the Club, other than those powers and functions that are required by this constitution to be exercised by the members in a general meeting; and
- (iii) has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Club.

16.2 Composition of the Board

- (a) The Board shall consist of:
 - (i) 8 Elected Directors who must all be Individual Members and who shall be elected in accordance with rule 17 in the following roles:
 - (A) President;
 - (B) Vice-President;
 - (C) Administration Officer;
 - (D) Treasurer; and
 - (E) 4 ordinary Elected Directors.
 - (ii) up to 2 Appointed Directors, who may be appointed by the Elected Directors in accordance with rule 16.4.
- (b) At the discretion of the Board, Directors may be allocated portfolios if required by the Club from time to time.
- (c) The duties associated with each portfolio may be defined and amended by the Board from time to time.
- (d) Gender equity will be given due consideration in the election and/or appointment of all Directors.

16.3 Elected Directors

- (a) Subject to rule 18, each Elected Director shall take office from the conclusion of the annual general meeting at which they are elected and shall hold office until the conclusion of the second annual general meeting following their election.
- (b) 4 Elected Directors shall be elected in every odd-numbered year and 4 in every even-numbered year.
- (c) Directors are eligible for re-election.

16.4 Appointed Directors

- (a) The Elected Directors may appoint up to 2 Appointed Directors. An Appointed Director may have specific skills in commerce, finance, marketing, law or business generally or such other skills, which complement the Board

composition, but need not have experience in or exposure to diving. The Appointed Director does not need to be an Individual Member.

- (b) The Appointed Director may be appointed by the Elected Directors in accordance with this constitution for a maximum term of 2 years from his or her appointment, or for a period as determined by the Board.

16.5 Casual Vacancy

In the event of a casual vacancy in the office of any Elected Director, the Board may appoint an appropriate Individual Member to the vacant office and the person so appointed may continue in office up to the end of the term of the Elected Director they are replacing.

16.6 Transitional Arrangements

Notwithstanding any other rule of this constitution, the transitional arrangements set out at rule 32 shall apply from the date of adoption of this constitution.

17. ELECTION OF ELECTED DIRECTORS

- (a) The Board shall call for nominations at an appropriate time determined by the Board. All members shall be notified of the call for nominations in a manner determined by the Board.
- (b) Candidates must:
 - (i) be aged 18 years or over; and
 - (ii) reside in Australia.
- (c) Nominations of candidates for election as Elected Directors shall be:
 - (i) made in writing on the form provided by the Club from time to time (if any), signed by 2 Individual Members as nominees and accompanied by the written consent of the nominee. The candidate must be an Individual Member; and
 - (ii) delivered to the Board or person nominated by the Board by the date specified on the call for nominations.
- (d) If the number of nominations received is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be declared elected.
- (e) If there are insufficient nominations received to fill all vacancies on the Board, the remaining positions will be deemed casual vacancies under rule 16.5.
- (f) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in alphabetical order for each vacancy on the Board.
- (g) Voting shall be conducted at the annual general meeting in such a manner and by such a method as determined by the Board from time to time.

18. VACANCY ON THE BOARD

18.1 Grounds for Termination of a Director

For the purposes of this constitution, the office of a Director becomes vacant if the Director:

- (a) in the case of an Elected Director, ceases to be an Individual Member;
- (b) becomes bankrupt;
- (c) resigns their office by notice in writing given to the Club;
- (d) is subject to any sanction under rule 9;
- (e) is directly or indirectly interested in any contract or proposed contract with the Club and, in the opinion of the Board, has deliberately, recklessly or negligently failed to declare the nature of his or her interest;
- (f) is removed from office in accordance with this constitution;
- (g) dies or becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (h) would be prohibited from being a director of a company under the *Corporations Act 2001* (Cth); or
- (i) fails to attend 3 consecutive meetings of the Board without having previously obtained leave of absence in accordance with rule 19.5 or provided reasonable excuse for such absence.

18.2 Removal of a Director

- (a) The Club in a general meeting may, by special resolution, remove any Director, before the expiration of his or her term of office and appoint another member in his or her place to hold office until the expiration of the term of the first-mentioned Director.
- (b) Where the Director to whom a proposed resolution referred to in rule 18.2(a) makes representations in writing to the Board or the President and requests that such representations be notified to the members, the Board or the President may send a copy of the representations to each member or, if they are not so sent, the Director may require that they be read out at the meeting, and the representations shall be so read.

19. QUORUM AND PROCEDURE AT BOARD MEETINGS

19.1 Convening a Board Meeting

- (a) The Board shall meet as often as is deemed necessary for the dispatch of business. Subject to this constitution, in particular this rule 19, the Board may regulate its meetings as it thinks fit.
- (b) Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced in writing or by their presence) not less than 2 calendar days' written notice of the Board meeting shall be given to each Director.

- (c) Written notice of each Board meeting, specifying the general nature of the time, date and place of the Board meeting and the business to be transacted, shall be served on each Director by:
 - (i) delivering it to that Director personally; or
 - (ii) sending it in writing, by facsimile or other means of electronic communication (subject to receiving appropriate confirmation that the notice has been effectively dispatched);in accordance with the Director's last notified contact details.
- (d) Notice may be given of more than one Board meeting at the same time.

19.2 Urgent Board Meetings

- (a) In cases of urgency, a meeting can be held without notice being given in accordance with rule 19.1 provided that as much notice as practicable is given to each Director by the quickest means practicable.
- (b) Any resolution made at an urgent Board meeting must be passed by an absolute majority of the Board.

19.3 Quorum

- (a) 5 Directors shall constitute a quorum for the transaction of the business of a meeting of the Board.
- (b) No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same place and at the same hour of the same day in the following week, or any date, time and place determined by the President.
- (c) The Board may act notwithstanding any casual vacancy. However, if there are casual vacancies in the office of a Director such that the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, those Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

19.4 Procedures at Board Meetings

- (a) At meetings of the Board, the President shall chair the meeting. If the President is absent or unwilling to act, the Board shall appoint one of its members to chair the meeting.
- (b) Questions arising at a meeting of the Board shall be determined on a show of hands or, if demanded by a Director, by a poll taken in such manner as the person presiding at the meeting may determine.
- (c) Each Elected Director and Appointed Director present at a meeting of the Board (including the person presiding at the meeting) is entitled to one vote. In the event of an equality of votes on any question, the motion shall fail; neither the President nor chairperson may exercise a second or casting vote.
- (d) Voting by proxy is not permitted.

- (e) A resolution in writing signed or assented to by facsimile or other form of electronic communication by all the voting Directors shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Directors.
- (f) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of the Directors may be held where one or more of the Directors is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board;
 - (iii) in the event that a failure in communications prevents condition 19.4(f)(i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this rule to be held then the meeting shall be suspended until condition 19.4(f)(i) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption, the meeting shall be deemed to have terminated; and
 - (iv) any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the chairperson of the meeting is located.

19.5 Leave of Absence

- (a) The Board may grant a Director leave of absence from Board meetings for a period not exceeding 3 months.
- (b) The Board must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Director to seek the leave in advance.

20. DIRECTORS' INTERESTS

20.1 Material Personal Interests

- (a) A Director who has a material personal interest in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.
- (b) A Director with such a material personal interest must not:
 - (i) be present while the matter is being considered at the meeting; and
 - (ii) must not vote on the matter.
- (c) This rule 20.1 does not apply to a material personal interest that:

- (i) exists only because the Director belongs to a class of persons for whose benefit the Club is established; or
 - (ii) that the Director has in common with all, or a substantial proportion of, the members.
- (d) A general notice that a Director is to be regarded as having a material personal interest in a matter being considered is sufficient declaration for such Director and the said matter. After such general notice it is not necessary for such Director to give a special notice relating to the said matter.
- (e) It is the duty of the Administration Officer to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with this rule 20.1.

20.2 Financial Interest

- (a) A Director is disqualified from:
- (i) holding any place of profit or position of employment in the Club, or in any company or incorporated association in which the Club is a shareholder or otherwise interested; or
 - (ii) contracting with the Club either as a vendor, purchaser or otherwise,
- except with express resolution of approval of the Board. Any contract or arrangement in which any Director is in any way interested which is entered into by or on behalf of the Club without the approval of the Board will be voided for such reason.
- (b) The nature of the financial interest of such Director must be declared by the Director at the meeting of the Board at which the contract or arrangement is first taken into consideration if the interest then exists, or in any other case at the first meeting of the Board after the acquisition of the interest.
- (c) A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under rule 20.2(b) for such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.
- (d) It is the duty of the Administration Officer to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with this rule 20.2.

20.3 Conflicts

A Director, notwithstanding the interest, may be counted in the quorum present at any meeting but cannot vote in respect of any contract or arrangement in which the Director is interested. If the Director votes, the vote shall not be counted.

21. DELEGATED POWERS

21.1 Board May Delegate Functions

- (a) The Board may, by instrument in writing, create, establish or appoint special committees, individual officers and consultants to carry out specific duties and functions. In the establishing instrument, the Board may delegate such functions as are specified in the instrument, other than:
 - (i) this power of delegation; and
 - (ii) a function imposed on the Board or the executive officer by the Act, any other law, this constitution, or by resolution of the Club in a general meeting.
- (b) At any time, the Board may, by instrument in writing, revoke wholly or in part any delegation made under this rule. It may amend or repeal any decision made by a body or person under this rule.

21.2 Exercise of Delegated Functions

- (a) A function, the exercise of which has been delegated under this clause, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- (b) A delegation under this rule may be made subject to certain conditions or limitations regarding the exercise of any function. These may be specified in the delegation.

21.3 Procedure of Delegated Entity

- (a) The procedures for any entity exercising delegated power shall, subject to this constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under rule 19.
- (b) The entity exercising delegated powers shall make decisions in accordance with the specific duties and functions of the entity, and it shall promptly provide the Board with details of all material decisions.
- (c) The entity shall also provide any other reports, minutes and information required by the Board.
- (d) A Club can appoint an unrestricted number of committees. Such committees may include technical committees, selection committees, judicial committees and social committees.

21.4 Committees

- (a) As set out in rule 21.1, the Board may establish and delegate any of its functions, powers or duties (except this power to delegate) to such committees as it thinks fit. The Board may recall or revoke any such delegation or appointment and may amend or repeal any decision made by such committee(s).
- (b) The Board shall determine in writing the duties and powers afforded to any committee and the committee shall, in the exercise of such delegated powers, conform to any directions or regulations that may be prescribed by the Board.

- (c) A Director shall be an ex-officio member of any committee so appointed.

21.5 Delegates of the Club

- (a) The Board shall appoint delegates to attend meetings and events on its behalf from time to time. This shall include, but not be limited to, Diving Victoria meetings.
- (b) The Club shall advise Diving Victoria prior to a relevant meeting or event who its delegates will be. If the Club does not provide notification to Diving Victoria, the President and Administration Officer of the Club shall be deemed to be the delegates.
- (c) The delegates shall make regular reports to the Board and at general meetings.

22. DUTIES

22.1 General Duties

- (a) As soon as practicable after being elected or appointed to the Board, each Director must become familiar with this constitution and the Act.
- (b) The Board is collectively responsible for ensuring that the Club complies with the Act and that individual Directors comply with this constitution.
- (c) In addition to any duties imposed by this constitution, a Director must perform any other duties imposed from time to time by resolution at a general meeting.
- (d) The Board must ensure that the Club complies with all requirements in the Act regarding financial statements.

22.2 Administration Officer

The responsibilities of the Administration Officer are to:

- (a) act as Secretary of the Club in accordance with rule 22.3;
- (b) keep minutes of the resolutions and proceedings of each general meeting and each Board meeting in the manner stated by the Club, together with a record of persons present at Board meetings;
- (c) be responsible to the Board for the management of the affairs of the Club, and for this purpose may exercise all powers of the Club which are not, under the Act or this constitution, required to be exercised by the Board or by the members;
- (d) conduct all correspondence in connection with the general business of the Club;
- (e) prepare for submission to the annual general meeting the report of the Board, and on the activities of the Club during the year; and
- (f) in any other respect carry out the duties usually associated with the office of Administration Officer.

22.3 Secretary

- (a) The Administration Officer shall act as Secretary of the Club and shall be appointed by the Board for such term and upon such conditions as the Board thinks fit.
- (b) The Secretary must give the registrar notice of his or her appointment within 14 calendar days after the appointment.
- (c) If the position of Secretary becomes vacant, the Board must appoint a person to the position within 14 calendar days after the vacancy arises.

22.4 Treasurer

- (a) The Treasurer must:
 - (i) receive all moneys paid to or received by the Club and issue receipts for those moneys in the name of the Club;
 - (ii) ensure that all moneys received are paid into the account of the Club within 5 business days after receipt;
 - (iii) make any payments authorised by the Club or by a general meeting of the Club from the Club's funds;
 - (iv) ensure that the financial records of the Club are kept in accordance with the Act;
 - (v) submit a statement of cash transactions and the financial position of the Club, including bank balances, at each meeting of the Board;
 - (vi) coordinate the preparation of the financial statements of the Club and their submission to the annual general meeting of the Club;
 - (vii) ensure that at least 2 Directors have access to the accounts and financial records of the Club; and
 - (viii) keep in their custody or under their control:
 - (A) the financial records for the current financial year; and
 - (B) any other financial records as authorised by the Board.

23. MINUTES OF BOARD MEETINGS

- (a) The Board must ensure that minutes are taken and kept of each Board meeting.
- (b) The minutes must record:
 - (i) the business considered at the meeting;
 - (ii) any resolution on which a vote is taken and the result of the vote; and
 - (iii) any interest declared under rules 20.1 or 20.2.

PART V – MISCELLANEOUS

24. GRIEVANCE PROCEDURES

- (a) The grievance procedure set out in this rule applies to disputes under this constitution between:
 - (i) a member and another member; or
 - (ii) a member and the Club.
- (b) The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 calendar days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 business days, hold a meeting in the presence of a mediator.
- (d) The mediator must be:
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - (A) in the case of a dispute between a member and another member, a person appointed by the Board; or
 - (B) in the case of a dispute between a member and the Club, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (e) A member can be a mediator.
- (f) The mediator cannot be a member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The mediator, in conducting the mediation, must:
 - (i) give the parties to the mediation process every opportunity to be heard;
 - (ii) allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (i) The mediator must not determine the dispute.
- (j) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

25. SOURCES OF FUNDS

The funds of the Club shall be derived from annual subscriptions, donations and such other sources as the Board determines.

26. MANAGEMENT OF FUNDS

- (a) The Club must open an account with a financial institution from which all expenditure of the Club is made and into which all of the Club's revenue is deposited.
- (b) The banking account of the Club shall be kept with such bank as is determined by the Board from time to time.
- (c) The Board may authorise one Director to expend funds on behalf of the Club up to a specified limit without requiring approval from the Board for each item on which the funds are expended. This may be as a part of a designated portfolio in accordance with rule 16.2(b).
- (d) All funds of the Club must be deposited into the financial account of the Club no later than 5 business days after the receipt.
- (e) With the approval of the Board, one Director may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction. This may be as a part of a designated portfolio in accordance with rule 16.2(b).

27. APPLICATION OF INCOME

- (a) The income and property of the Club shall be applied solely towards the promotion of the purposes of the Club as set out in this constitution.
- (b) No portion of the income or property of the Club shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any member, but this shall not preclude payment to a member in good faith for expenses incurred or services rendered.

28. SIGNING OF NEGOTIABLE INSTRUMENTS

All cheques and other negotiable instruments shall be signed by 2 Directors or in such other manner approved by the Board from time to time.

29. COMMON SEAL

- (a) The Club may have a seal upon which its corporate name shall appear in legible characters. The Administration Officer shall have custody of the common seal.
- (b) The seal shall not be used without the express authorisation of the Board. Every use of the seal shall be recorded in the Club's minute book. Every use of the seal must be witnessed by 2 Directors, unless the Board determines otherwise.

30. REGISTERED ADDRESS

The registered address of the Club is:

- (a) the address determined from time to time by resolution of the Board; or
- (b) if the Board has not determined an address to be the registered address, the postal address of the Secretary.

31. ALTERATION OF CONSTITUTION

This constitution shall not be altered except by special resolution in accordance with the Act.

32. TRANSITIONAL ARRANGEMENTS

- (a) Notwithstanding any other rule of this constitution, the transitional arrangements set out in this rule 32 shall apply from the date of adoption of this constitution.
- (b) The Directors in place immediately prior to approval of this constitution under the Act shall continue in those positions until the next annual general meeting following such approval, and thereafter the positions of the President, Vice-President, Treasurer, Administration Officer and other Directors shall be filled, vacated and otherwise dealt with in accordance with this constitution.
- (c) The Directors in place upon this constitution coming into force shall determine which of their number shall face elections in even-numbered years and which shall face elections in odd-numbered years, in accordance with rule 16.3(b).
- (d) All clauses, rules, by-laws and regulations of the Club in force at the date of the approval of this constitution insofar as such clauses, rules, by-laws and regulations are not inconsistent with, or have been replaced by this constitution, shall be deemed to be by-laws under this rule 32.
- (e) All individuals who are, prior to the approval of this constitution, members of the Club shall be deemed members of the Club from the time of approval of this constitution under the Act. All such members shall provide the Club with such details as may be required by the Club under this constitution within one month of the approval of this constitution under the Act.

33. DISSOLUTION

- (a) The Club may be wound up voluntarily by special resolution.
- (b) In the event of the Club being wound up, the liability of the member shall be limited to any outstanding monies due and payable to the Club, including the amount of the annual subscription payable in respect of the current financial year. No other amount shall be payable by the member.
- (c) If upon winding up or dissolution of the Club there remains, after satisfaction of all its debts and liabilities, any property, the same shall not be paid to or distributed amongst the members, but shall be given or transferred to some other organisation having purposes similar to the purposes of the Club and which prohibits the distribution of its or their income and property among its or their members and which is also not carried on for the profit or gain to its members. Such body or bodies are to be determined by the members at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of Victoria as may have or acquire jurisdiction in the matter.

34. INDEMNITY

- (a) Every Director and employee of the Club shall be indemnified out of the property and assets of the Club against any liability incurred by him or her in his or her capacity as Director or employee in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application in relation to any such proceedings in which relief is granted to him or her by the Court.
- (b) The Club shall indemnify its Directors and employees against all damages and costs (including legal costs) for which any such Directors or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:
 - (i) in the case of a Director, performed or made whilst acting on behalf of and with the authority, express or implied of the Club; and
 - (ii) in the case of an employee, performed or made in the course of, and within the scope of his or her employment by the Club.

35. SERVICE OF NOTICES

- (a) Notices may be given to members by sending the notice by post or facsimile transmission or where available, by electronic mail, to the member's address or facsimile number or electronic mail address shown in the register.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected at the time the letter would have been delivered in the ordinary course of post.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to the correct facsimile number.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected by properly addressing and upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

36. CUSTODY OF BOOKS AND OTHER DOCUMENTS

- (a) Except as otherwise provided in this constitution, the Administration Officer shall keep in his or her custody or control all books, minutes, documents and securities of the Club.
- (b) If requested by a member, the Board must permit such member to inspect:
 - (i) the rules of the Club; and/or
 - (ii) the minutes of each general meeting.
- (c) Upon written request and payment of a fee determined by the Board from time to time, a member may obtain a copy of the documents listed at rule 36(b).

- (d) If requested by a member and subject to the Act, the Board must permit such member to inspect the register of members.
- (e) Subject to the Act and rules 36(b) and 36(d), no member is entitled to inspect the financial records, accounts, books, securities, minutes of Board meetings or other relevant documents of the Club, unless authorised in writing by the Board.

37. REGULATIONS

- (a) The Board may make regulations and alter, amend or rescind the same as occasions may require, and enforce penalties for their breach. Such regulations shall have the same force and effect as this constitution, but shall not in any way oppose or be in conflict with this constitution. Such regulations shall be available for inspection in the Club premises.
- (b) Amendments, alterations, interpretation or other changes to regulations shall be advised to members by means of notice approved by the Board. Notices shall be binding upon all members.

38. LIABILITY

If a member by any breach of these rules, or by any unlawful act, causes the Club or any officer of the Club to pay any money, such member shall be civilly liable to the Club or each officer for the amount so paid.