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MOUNT MARTHA LIFE SAVING CLUB INCORPORATED



CONSTITUTION

(RULES OF THE ASSOCIATION)

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ASSOCIATIONS INCORPORATION REFORM ACT 2012 (VIC)

CONSTITUTION

of

MOUNT MARTHA LIFE SAVING CLUB INCORPORATED

1. NAME OF ASSOCIATION

The name of the association is Mount Martha Life Saving Club Incorporated (**'Association'**).

2. THE PUROSES OF THE ASSOCIATION

The Association is a charitable community service based institution. The purposes (**'Objects'**) for which the Association is established are to:

- (a) participate as a member of Life Saving Victoria ("LSV") and Surf Life Saving Australia Limited ("SLSA") and The Royal Life Saving Society Australia ("RLSSA") through and by which lifesaving and the preservation of life in the aquatic environment can be conducted, encouraged, promoted, advanced and administered;
- (b) provide for the conduct, encouragement, promotion and administration of lifesaving throughout Mount Martha;
- (c) ensure the maintenance and enhancement of the Association, LSV, Life Saving Clubs, SLSA, RLSSA and lifesaving, its standards, quality and reputation for the benefit of the Members and lifesaving;
- (d) at all times promote mutual trust and confidence between the Association, LSV, Life Saving Clubs, SLSA, RLSSA and the Members in pursuit of these objects;
- (e) at all times act on behalf of and in the interest of the Members and lifesaving;
- (f) promote the economic and community service success, strength and stability of the Association, LSV, Life Saving Clubs, SLSA, RLSSA and lifesaving;
- (g) affiliate and otherwise liaise with LSV, SLSA and RLSSA, in the pursuit of these objects and the objects of lifesaving;
- (h) conduct, encourage, promote, advance and control lifesaving in Mount Martha, its many aspects devoted to aquatic safety and management and the preservation of life in the aquatic environment;
- (i) conduct or commission research and development for improvements in methods of lifesaving and life saving equipment and in all ways to improve and safeguard the use of the aquatic environment;
- (j) use and protect the Intellectual Property
- (k) apply the property and capacity of the Association towards the fulfilment and achievement of these Objects;
- (l) promote the involvement and influence of lifesaving standards, techniques, awards and education with bodies involved in lifesaving;
- (m) strive for Governmental, commercial and public recognition of the Association as the authority on aquatic safety and management in Mount Martha;

- (n) promulgate, and secure uniformity in, such rules as may be necessary for the management and control of lifesaving and related activities and the preservation of life in the aquatic environment;
- (o) further extend the operations and teachings of the Association throughout Mount Martha;
- (p) further develop lifesaving into an organised institution and with these objects in view, to foster, regulate, organise and manage assessments, competitions, displays and other activities and to issue badges, medallions and certificates and award trophies to successful Members;
- (q) review and/or determine any matters relating to lifesaving which may arise, or be referred to it, by any Member;
- (r) pursue through itself or other such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of lifesaving in Mount Martha;
- (s) adopt and implement appropriate policies, including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, infectious diseases and such other matters as arise from time to time as issues to be addressed in lifesaving;
- (t) represent the interests of its Members and of lifesaving generally in any appropriate forum in Mount Martha;
- (u) have regard to the public interest in its operations;
- (v) do all that is reasonably necessary to enable these objects to be achieved and to enable the Members to receive the benefits which these objects are intended to achieve;
- (w) ensure that environmental considerations are taken into account in all lifesaving and related activities conducted by the Association;
- (x) promote the health and safety of Members and all other users of the aquatic environment;
- (y) encourage Members to realise their potential and athletic abilities by extending to them the opportunity of education and participation in lifesaving competition and to award trophies and rewards to successful competitors;
- (z) encourage and promote performance-enhancing drug free competition;
- (aa) establish, grant and support awards to Members and others, in honourable public recognition of hard and meritorious rescues from the sea, deeds of exceptional bravery from time to time performed in the course of lifesaving and other distinguished services and acts;
- (bb) give, and seek where appropriate, recognition for Members to obtain awards or public recognition in fields of endeavour other than lifesaving;
- (cc) seek and obtain improved facilities for the enjoyment of the aquatic environment in Mount Martha;
- (dd) promote uniformity of laws for the control and regulation of the aquatic environment in Mount Martha and to assist authorities in enforcing these laws;

- (ee) effect such objects as may be necessary in the interests of lifesaving and the aquatic environment in Mount Martha; and
- (ff) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these objects.

3. POWERS OF THE ASSOCIATION

Solely for furthering the Objects, the Association has in, addition to the powers and functions under the *Associations Incorporation Reform Act 2012 (Vic) ('the Act')*, the legal capacity and powers of a company as set out under section 124 of the *Corporations Act*.

4. APPLICATION OF INCOME

4.1 The income and property of the Association shall be applied solely towards the promotion of the Objects.

4.2 Except as prescribed in this Constitution:

- (a) no portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member; and
- (b) no remuneration or other benefit in money or money's worth shall be paid or given by the Association to any Member who holds any office of the Association.

4.3 Nothing contained in **rules 4.1** or **4.2** shall prevent payment in good faith of or to any Member for:

- (a) any services actually rendered to the Association whether as an employee or otherwise;
- (b) goods supplied to the Association in the ordinary and usual course of operation;
- (c) interest on money borrowed from any Member;
- (d) rent for premises demised or let by any Member to the Association;
- (e) any out-of-pocket expenses incurred by the Member on behalf of the Association;

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

5. FINANCIAL YEAR

The financial year of the Association starts on 1 April of each year.

6. LIABILITY OF MEMBERS

The liability of the Members of the Association is limited.

7. MEMBER'S CONTRIBUTIONS

Every Member of the Association undertakes to contribute to the assets of the Association in the event of it being wound up while the Member, or within one year after ceasing to be a Member for payment of the debts and liabilities of the Association contracted before the time at which it ceases to be a Member and the costs, charges and expenses of winding up the Association, such an amount not exceeding one dollar (\$1.00).

8. DISTRIBUTION OF PROPERTY ON WINDING UP

If upon winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members but shall be given or transferred to some registered or exempt charity, having objects similar to the Objects and which prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Association by this Constitution. Such registered or exempt charity will 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 or other Court as may have or acquire jurisdiction in the matter.

9. DEFINITIONS AND INTERPRETATION

9.1 Definitions

In this Constitution unless the contrary intention appears:

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

“Association” means Mount Martha Life Saving Club Incorporated.

“Board” means the body managing the Association and consisting of the Directors under **Rule 30**.

“By Laws” means any By-Laws made by the Board under **Rule 35**.

“Constitution” means this Constitution of the Association.

“Delegate” means the person appointed from time to time to act for and on behalf of the Association and to attend, debate but not vote at general meetings of LSV.

“Director” means a member of the Board elected under **Rule 31** or appointed under **Rule 32** both in accordance with this Constitution.

“Financial year” means the year ending 31 March in each year.

“General Meeting” means the annual or any special general meeting of the Association convened in accordance with **Rule 21**.

“Individual Member” means a registered member of the Association and can only include junior (*“Nipper”*) members; cadet members; active members; reserve active members; general members; long service members; award members; associated members; honorary members; and life members of the Association which are defined in the By-Laws.

“Intellectual Property” means all rights subsisting in copyright, business names, names, trade marks (or signs), logos, designs, equipment, images (including photographs, television, videos or films) or service marks (whether registered or registrable) relating to the Association or any championship, competition, series or event or lifesaving activity of or conducted, promoted or administered by the Association.

“Life Member” means an individual appointed as a Life Member of the Association under **Rule 12.2**.

“Life Saving Club” means a lifesaving club, which is a member of or otherwise affiliated with LSV or SLSA.

“LSV” means the body recognised by SLSA as the body administering lifesaving in Victoria.

“Member” means a member for the time being of the Association.

“Objects” means the Purposes of the Association under **Rule 2**.

“President” means the President for the time being of the Association.

“Secretary” of the Association, formally referred to as the Public Officer, shall be elected at the Annual General Meeting. The position is Honorary and is not a voting position within the Board. The Secretary does not necessarily fulfil the requirements of the Administration Secretary. The holder of this position shall familiarise themselves with the duties, responsibilities and regulations of the Act.

“RLSSA” means The Royal Life Saving Society Australia.

“Seal” means the common seal of the Association and includes any official seal of the Association.

“SLSA” means Surf Life Saving Australia Limited.

“Special Resolution” means a resolution passed in accordance with the Act.

“State” means and includes a State or Territory of Australia.

9.2 Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the 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) a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

9.3 Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution.

9.4 Expressions in the Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act.

9.5 Sole Purpose

The Association is established solely for the Objects.

9.6 Model Rules

The model rules under the Act are expressly displaced by this Constitution.

10. STATUS AND COMPLIANCE OF ASSOCIATION

10.1 Recognition of Association

Subject to compliance with this Constitution, the LSV constitution, and the SLSA constitution, the Association shall continue to be recognised as a Member of LSV and shall administer lifesaving activities in Mount Martha in accordance with the Objects.

10.2 Compliance of Association

The Members acknowledge and agree the Association shall:

- (a) be or remain incorporated in Victoria;
- (b) appoint a Delegate annually to represent the Association at general meetings of LSV;
- (c) nominate such other persons as may be required to be appointed to LSV committees from time to time under this Constitution or the LSV constitution or otherwise;
- (d) forward to LSV a copy of its constituent documents and details of its Directors;
- (e) adopt the objects of LSV (in whole or in part as are applicable to the Association) and adopt rules which reflect, and which are, to the extent permitted or required by the Act, generally in conformity with the LSV constitution;
- (f) apply its property and capacity solely in pursuit of the Objects and lifesaving;
- (g) do all that is reasonably necessary to enable the Objects to be achieved;
- (h) act in good faith and loyalty to ensure the maintenance and enhancement of lifesaving, its standards, quality and reputation for benefit of the Members and lifesaving;
- (i) at all times act on behalf of and in the interests of the Members and lifesaving; and
- (j) by, adopting the objects of LSV, abide by the LSV Constitution.

10.3 Operation of Constitution

The Association and the Members acknowledge and agree:

- (a) that they are bound by this Constitution and that this Constitution, operates to create uniformity in the way in which the Objects and lifesaving are to be

conducted, promoted, encouraged, advanced and administered throughout Mount Martha;

- (b) to ensure the maintenance and enhancement of lifesaving, its standards, quality and reputation for the benefit of the Members and lifesaving;
- (c) not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of lifesaving and its maintenance and enhancement;
- (d) to promote the economic and community services success, strength and stability of each other and to act interdependently with each other in pursuit of their respective objects;
- (e) to act in the interests of lifesaving and the Members;
- (f) where the Association considers or is advised that a Member has allegedly:
 - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws, or any resolution or determination of the Association; or
 - (ii) acted in a manner prejudicial to the Objects and interests of the Association and/or lifesaving; or
 - (iii) brought the Association, any Life Saving Club or lifesaving into disrepute;

the Association may after allowing the Member a reasonable opportunity to explain, adjudicate and if necessary penalise the Member with such penalty as it thinks appropriate.

11. ASSOCIATION'S CONSTITUTION

11.1 Constitution of the Association

The Constitution will clearly reflect the objects of LSV and shall generally conform with the LSV constitution, subject to any requirements in the Act, and at least to the extent of:

- (a) the objects of LSV;
- (b) the structure and membership categories of LSV;
- (c) recognising SLSA as the national peak body for lifesaving in Australia, in accordance with the SLSA Constitution;
- (d) recognising LSV as the peak body for lifesaving in Victoria;
- (e) recognising SLSA as the final arbiter on matters pertaining to lifesaving in Australia, including disciplinary proceedings;
- (f) such other matters as are required to give full effect to the LSV constitution;

with such incidental variations as are necessary having regard to the Act.

11.2 Operation of the LSV Constitution

- (a) The Association will take all steps to ensure its Constitution is in conformity with the LSV constitution at least to the extent set out in **Rule 11.1** and in respect of those matters set out in **Rule 11.1** shall ensure this Constitution is amended in

conformity with future amendments made to the LSV constitution, subject to any prohibition or inconsistency in the Act.

- (b) The Association shall provide to LSV a copy of its Constitution and all amendments to this document. The Association acknowledges and agrees that LSV has power to veto any provision in its Constitution which, in LSV's opinion, is contrary to the objects of LSV.

12. MEMBERS

12.1 Categories of Members

The Members of the Association shall consist of:

- (a) Life Members, who subject to this Constitution, shall have the right to be present and to debate at General Meetings, but shall have no voting rights unless the Life Member is also an individual member under Rule 12.1(b);
- (b) Individual Members over 15 years of age, who shall have the right to be present, to debate and to vote at General Meetings;
- (c) Honorary Members shall be those nominated by the Committee of Management and elected by the membership present at a general meeting. An Honorary member is elected for 12 months and has no voting rights, and
- (d) Temporary Members - The following Classes of people will be deemed to be temporary members of the Club whilst they are on Club premises, as temporary members they are not able to vote at any General Meeting (Annual or Special) or participate in any other meeting that the Club may hold.
 - (i) All Members and Affiliates of Surf Life Saving Australia (SLSA), Life Saving Victoria (LSV) and affiliated Clubs and Associations.
 - (ii) All listed Official Guests to Club Functions,
 - (iii) A parent of a Club member, individual and family, and
 - (iv) As listed in the Club's by-laws.

12.2 Life Members

- (a) The Board may recommend to the Annual General Meeting that any natural person who has rendered distinguished service to the Association and lifesaving, where such service is deemed to have assisted the advancement of the Association and lifesaving in Mount Martha 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 Association'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.

13. SUBSCRIPTIONS AND FEES

The annual membership subscription (if any) and fees payable by Members to the Association, the time for and manner of payment shall be as determined by the Board from time to time.

14. APPLICATION

14.1 Application for Membership

An application for membership by an individual ('applicant') must be:

- (a) in writing on the form prescribed from time to time by LSV and/or SLISA, from the applicant or its nominated representative and lodged with the Association; and
- (b) accompanied by the appropriate fee, if any.

14.2 Discretion to Accept or Reject Application

- (a) The Association may accept or reject an application whether the applicant has complied with the requirements in **Rule 14.1** or not, and shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Where the Association accepts an application the applicant shall, subject to notification to LSV, become a Member.
- (c) Membership of the Association shall be deemed to commence upon acceptance of the application by the Association. The Register shall be updated accordingly as soon as practicable.
- (d) If the Association rejects an application, it shall refund any fees forwarded with the application, and the application shall be deemed rejected by the Association. No reasons for rejection need be given.

14.3 Re-Application

- (a) Members must re-apply for membership of the Association in accordance with the procedures set down by the Association from time to time.
- (b) Upon re-application a Member must provide details of any change in their personal details, and any other information reasonably required by the Association.

14.4 Deemed Membership

- (a) All individuals who are, prior to the approval of this Constitution, members of the Association shall be deemed Members of the Association from the time of approval of this Constitution under the Act.
- (b) The Members shall provide the Association with such details as may be required by the Association under this Constitution within one month of the approval of this Constitution under the Act.
- (c) Any members of the Association prior to approval of this Constitution under the Act, who are not deemed Members under **Rule 14.4(a)** shall be entitled to carry on such functions analogous to their previous functions as are provided for under this Constitution.

15. REGISTER OF MEMBERS

15.1 Register

The Association shall keep and maintain a Register in which shall be entered (as a minimum):

- (a) the full name, address, class of membership and date of entry of the name of each Member; and
- (b) the full name, address and date of entry of the name of each Director and Delegate.

Members shall provide notice of any change and required details to the Association within one month of such change.

15.2 Inspection of Register

Having regard to confidentiality considerations and privacy laws, an extract of the Register, excluding the address or other direct contact details of any Member, Director or Delegate, shall be available for inspection (but not copying) by Members, upon reasonable request.

15.3 Use of Register

Subject to confidentiality considerations and privacy laws, the Register may be used by the Association to further the Objects, as the Board considers appropriate.

15.4 Right of LSV to Register

The Association shall provide a copy of the Register at a time and in a form acceptable to LSV, and shall provide regular updates of the Register to LSV. The Association agrees that LSV may utilise the information contained in the Register and the Register itself to further the objects of LSV, subject always to reasonable confidentiality considerations and privacy laws.

16. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Association and that they are bound by this Constitution and By-Laws, the LSV constitution and regulations and the SLSA constitution and regulation;
- (b) they shall comply with and observe this Constitution and the By-Laws, and any determination, resolution or policy which may be made or passed by the Board or any other entity with delegated authority;
- (c) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of the Association, LSV and SLSA;
- (d) the Constitution and By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of lifesaving as a community service in Mount Martha; and
- (e) they are entitled to all benefits, advantages, privileges and services of Association membership.

17. DISCONTINUANCE OF MEMBERSHIP

17.1 Notice of Resignation

A Member having paid all arrears of fees payable to the Association may resign or withdraw from membership of the Association by giving notice in writing to the Association of resignation or withdrawal.

17.2 Discontinuance by Breach

- (a) Membership of the Association may be discontinued by the Board upon breach of any rule of this Constitution, including but not limited to the failure to pay any monies owed to the Association, failure to comply with the By-Laws or any resolution or determination made or passed by the Board or any duly authorised committee.
- (b) Membership shall not be discontinued by the Board under **rule 17.2(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach.
- (c) Where a Member fails, in the Board's view to adequately explain or remedy the breach, that Member's membership shall be discontinued under **rule 17.2(a)** by the Association giving written notice of the discontinuance.

17.3 Failure to Re-Apply

If a Member has not re-applied for Membership with the Association within one month of re-application falling due, that Member's membership will be deemed to have lapsed from that time. The Register shall be amended to reflect any lapse of membership under this **rule 17.3** as soon as practicable.

17.4 Member to Re-Apply

A Member whose membership has been discontinued or has lapsed under **rule 17.3**:

- (a) must seek renewal or re-apply for membership in accordance with this Constitution; and
- (b) may be re-admitted at the discretion of the Board.

17.5 Forfeiture of Rights

A Member who ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Association and its property and shall not use any lifesaving equipment or other property of the Association including Intellectual Property. Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association immediately.

17.6 Membership may be Reinstated

Membership which has been discontinued under this **rule 17** may be reinstated at the discretion of the Board, upon such conditions as it deems appropriate.

17.7 Refund of Membership Fees

Membership fees or subscriptions paid by the discontinued Member may be refunded on a pro-rata basis to the Member upon discontinuance.

18. GRIEVANCES, JUDICIAL AND DISCIPLINE

18.1 Subject to these Rules, if the board is of the opinion that a member has refused to comply with the Rules or has engaged in conduct prejudicial to the association, or refuses to support the purposes of the Association, the board may by resolution

- (a) suspend that member from membership of the Association for a specified period; or
- (b) expel that member from the Association; or
- (c) fine that member an amount not exceeding \$500

18.2 A resolution of the board under **rule 18.1** does not take effect unless—

- (a) at a meeting held in accordance with **rule 18.3**, the board confirms the resolution; and
- (b) if the member exercises a right of appeal to the Association under this rule, the Association confirms the resolution in accordance with this rule.

18.3 A meeting of the board to confirm or revoke a resolution passed under **rule 18.1** must be held not earlier than 14 days, and not later than 28 days, after notice has been given to the member in accordance with **rule 18.4**.

18.4 For the purposes of giving notice in accordance with **rule 18.3**, the Secretary must, as soon as practicable, cause to be given to the member a written notice:

- (a) setting out the resolution of the board and the grounds on which it is based; and
- (b) stating that the member, or his or her representative, may address the board at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that member; and
- (c) stating the date, place and time of that meeting; and
- (d) informing the member that he or she may do one or both of the following—
 - (i) attend that meeting;
 - (ii) give to the board before the date of that meeting a written statement seeking the revocation of the resolution; and
- (e) informing the member that, if at that meeting, the board confirms the resolution, he or she may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that he or she wishes to appeal to the Association in general meeting against the resolution.

18.5 At a meeting of the board to confirm or revoke a resolution passed under **rule 18.1**, the board must:

- (a) give the member, or his or her representative, an opportunity to be heard; and
- (b) give due consideration to any written statement submitted by the member; and
- (c) determine by resolution whether to confirm or to revoke the resolution.

- 18.6** If at the meeting of the board, the board confirms the resolution, the member may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that he or she wishes to appeal to the Association in general meeting against the resolution.
- 18.7** If the Secretary receives a notice under **rule 18.6**, he or she must notify the board and the board must convene a general meeting of the Association to be held within 21 days after the date on which the Secretary received the notice.
- 18.8** At a general meeting of the Association convened under **rule 18.7**:
- (a) no business other than the question of the appeal may be conducted; and
 - (b) the board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution; and
 - (c) the member, or his or her representative, must be given an opportunity to be heard; and
 - (d) the members present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- 18.9** A resolution is confirmed if, at the general meeting, not less than two-thirds of the members vote in person, or by proxy, in favour of the resolution. In any other case, the resolution is revoked.

19. DISPUTES AND MEDIATION

- (a) The grievance procedure set out in this rule applies to disputes under these Rules between:
 - i. a member and another member; or
 - ii. a member and the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 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 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 of the Association; or
 - b. in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (e) A member of the Association 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; and
 - 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.

20. ANNUAL GENERAL MEETING

- (a) An Annual General Meeting of the Association shall be held in accordance with the provisions of the Act, on a date not less than five months from the end of the Association's financial year and at a venue to be determined by the Board.
- (b) All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

21. NOTICE OF GENERAL MEETING

- (a) Written notice of every General Meeting shall be provided to every Member entitled to receive notice, at the address for receiving notices as appearing in the Register kept by the Association.
- (b) The auditor (if any) and Directors shall also be entitled to notice of every General Meeting, which shall be sent to their last notified address. No other person shall be entitled as of right to receive notices of General Meetings.
- (c) A notice of a General Meeting shall specify the place and day and hour of meeting and shall state the business to be transacted at the meeting.
- (d) At least 21 days' notice of a General Meeting shall be given to those Members entitled to receive notice, together with:
 - (i) the agenda for the meeting; and
 - (ii) any notice of motion received from Members.

22. BUSINESS

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts and the reports of the Board and auditors, the election of Directors under this Constitution, the motion for affiliation with LSV and the appointment, setting of the Association's annual subscriptions and fixing of the remuneration of the auditors.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of those matters set down in **rule 22(a)** shall be special business.

- (c) No business other than that stated on the notice shall be transacted at that meeting.

23. NOTICES OF MOTION

Members shall be entitled to submit notices of motion for inclusion as special business at a General Meeting. All notices of motion must be submitted in writing to the Secretary not less than 30 days (excluding receiving date and meeting date) prior to the General Meeting.

24. SPECIAL GENERAL MEETINGS

24.1 Special General Meetings May be Held

The Board may, whenever it thinks fit, convene a Special General Meeting of the Association and, where, but for this rule more than 15 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

24.2 Requisition of Special General Meetings

- (a) The Secretary shall on the requisition in writing of 10% of voting Members convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Members making the requisition and be sent to the Association. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisitions.
- (c) If the Secretary does not cause a Special General Meeting to be held within one month after the date on which the requisition is sent to the Association, the Members making the requisition, or any of them, may convene a Special General Meeting to be held not later than three months after that date.
- (d) A Special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

25. PROCEEDINGS AT GENERAL MEETINGS

25.1 Quorum

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings shall be the lesser of either 30 members or **10% of Voting** Members represented personally.

25.2 President to Preside

The President shall, subject to this Constitution, preside as chairman at every General Meeting except:

- (a) in relation to any election for which the President is a nominee; or
- (b) where a conflict of interest exists.

If the President is not present, or is unwilling or unable to preside the Members shall appoint one of the Directors to preside as chairman for that meeting only.

25.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the meeting, a quorum is not present the meeting shall be adjourned until the same day in the next week at the same time and place or to such other day and at such other time and place as the chairman may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting will lapse.
- (b) The chairman may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **rule 25.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

25.4 Voting Procedure

At any meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:

- (a) the chairman; or
- (b) a simple majority of Members.

25.5 Recording of Determinations

Unless a poll is demanded under **rule 23.4**, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

25.6 Where Poll Demanded

If a poll is duly demanded under **rule 23.4** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

26. VOTING AT GENERAL MEETINGS

26.1 Members entitled to Vote

Each Member entitled to vote as set out in **rule 12.1** shall have one vote at General Meetings which, subject to this Constitution, shall be exercised by him or her.

26.2 Casting Vote

Where voting at General Meetings is equal the chairman may exercise a casting vote. The chairman does not have a deliberative vote.

27. PROXY VOTING

Proxy voting shall not be permitted at any General Meeting

28. EXISTING DIRECTORS

The members of the governing or managing body (by whatever name called) of the Association 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 and other Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution.

29. POWERS OF THE BOARD

Subject to the Act and this Constitution, the business of the Association shall be managed, and the powers of the Association shall be exercised, by the Board.

30. COMPOSITION OF THE BOARD

30.1 Composition of the Board

The Board shall comprise:

- (a) the President;
- (b) the Administration Director (formerly called the Secretary);
- (c) 5 other Directors; and
- (d) the Secretary (formerly the Public Officer (non-voting) if not also held by another Board member,

who must all be Individual Members and who shall be elected under **rule 31**.

30.2 Portfolios

If the Board considers it appropriate, in order to further the Objects, it may allocate Directors to specific portfolios, with specific responsibilities, as determined in the discretion of the Board.

30.3 Right to Co-Opt

It is expressly acknowledged that the Board may co-opt any person with appropriate experience or expertise to assist the Board in respect of such matters and on such terms as the Board thinks fit. Any person so co-opted shall not be a Director, and shall not exercise the rights of a Director, but shall act in an advisory role only.

30.4 Appointment of Delegate

- (a) The Board shall, from amongst its members, appoint a Delegate to attend general meetings of LSV for such term as the Board determines, and otherwise in accordance with the LSV Constitution.
- (b) The Association must advise the LSV Chief Executive Officer in writing of its Delegate.

31. ELECTION OF DIRECTORS

31.1 Nominations of Candidates

- (a) Nominations for candidates to be elected to the Board shall be called for by the Association twenty-eight (28) days prior to the Annual General Meeting. When calling for nominations the Association shall also provide details of the necessary

qualifications and job description for the positions (if any). Qualifications and job descriptions shall be as determined by the Board from time to time.

- (b) Nominations of candidates for election as Directors (including the President) shall be:
 - (i) made in writing, signed by two Members and accompanied by the written consent of the nominee (which may be endorsed on the form of nomination); and
 - (ii) delivered to the Association not less than fourteen (14) days before the date fixed for the holding of the Annual General Meeting, and the Association shall send the nominations to the Members entitled to receive notice under this Constitution together with the agenda for that General Meeting.
- (c) If insufficient nominations are received to fill all available vacancies on the Board the candidates nominated shall, subject to declaration by the chairman, be deemed to be elected.
- (d) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall, subject to declaration by the chairman, be deemed to be elected.
- (e) 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.

31.2 Voting procedures

Elections shall be conducted by such means as is prescribed by the Board.

31.3 Term of Office of Directors

The Directors shall be elected in accordance with this Constitution annually, and subject to this Constitution, shall hold office from the conclusion of the Annual General Meeting at which they were elected until the conclusion of the next following Annual General Meeting. Directors may be re-elected.

32. VACANCIES OF DIRECTORS

32.1 Grounds for Termination of Office of Director

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns his office in writing to the Association;
- (e) ceases to be a member of the Association;

- (f) is absent without the consent of the Board from meetings of the Board held during a period of 3 months;
- (g) without the prior consent or later ratification of the Members in General Meeting holds any office of profit under the Association;
- (h) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest;
- (i) is removed by Special Resolution;
- (j) has been expelled or suspended from membership (without further recourse under these Rules or the LSV Rules); or
- (k) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

32.2 Remaining Directors May Act

In the event of a casual vacancy or vacancies in the office of a Director or Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

32.3 Special Requirements – Secretary

- (a) The Secretary must be over 18 years of age, and live in Australia.
- (b) If the Secretary stops living in Australia, they cannot remain the Secretary.
- (c) If the Secretary stops being the Secretary, the Committee must appoint a new Secretary within 14 days.

32.4 Casual Vacancy

In the event of a casual vacancy in the office of any Director, the Board may appoint a Member to the vacant office and the person so appointed may continue in office up to the conclusion of the Annual General Meeting at which the term of the previous appointee would have expired.

33. MEETINGS OF THE BOARD

33.1 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business and subject to this Constitution may adjourn and otherwise regulate its meetings as it thinks fit. A Director may at any time convene a meeting of the Board within a reasonable time.

33.2 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors shall be deemed a determination of the Board. All Directors shall have one vote on any question. The chairman may exercise a casting vote where voting is equal.

33.3 Resolutions not in Meeting

- (a) A resolution in writing, signed or assented to by telegram, cablegram, radiogram, facsimile, telex or other form of visible or other electronic communication by all the Directors for the time being present in Australia shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Directors.
- (b) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of Board 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 or these Rules and such notice specifies that Directors are not required to be present in person;
 - (iii) in the event that a failure in communications prevents **rule 33.3(b)(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 **Clause 33.3(b)(i)** is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated or adjourned; 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 Chairman of the meeting is located.

33.4 Quorum

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is a majority of the Directors.

33.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than 7 days oral or written notice of the meeting of the Board must be given to each Director.

33.6 Conflict of Interest

A Director shall declare his interest in any contractual, selection, disciplinary or other matter in which a conflict of interest arises or may arise, and shall absent himself or herself from discussions of such matter and shall not be entitled to vote in respect of such matter. In the event of uncertainty as to whether it is necessary for a Director to absent himself from discussion or refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred. All disclosed interests must be submitted to the Annual General Meeting in accordance with the Act.

34. DELEGATIONS

34.1 Board may Delegate Functions

The Board may by instrument in writing create or establish or appoint from amongst its own members, or otherwise, special committees, sub-committees, individual officers and consultants to carry out such duties and functions, and with such powers, as the Board determines.

34.2 Delegation by Instrument

The Board may in the establishing instrument delegate such functions as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board by the Act or any other law, or this Constitution or by resolution of the Association in General Meeting.

34.3 Delegated Function Exercised in Accordance With Terms

A function, the exercise of which has been delegated under this rule, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

34.4 Procedure of Delegated Entity

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 33**. The entity exercising delegated powers shall make decisions in accordance with the Objects, and shall promptly provide the Association with details of all material decisions and shall provide any other reports, minutes and information as the Association may require from time to time.

34.5 Delegation may be Conditional

A delegation under this rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

34.6 Revocation of Delegation

The Board may by instrument in writing, revoke wholly or in part any delegation made under this rule, and may amend or repeal any decision made by such body or person under this rule.

35. BY-LAWS

35.1 Board to Formulate By-Laws

The Board may formulate, issue, adopt, interpret and amend such By-Laws for the proper advancement, management and administration of the Association, the advancement of the Objects and lifesaving in **Mount Martha** as it thinks necessary or desirable. Such By-Laws must be consistent with the Constitution, the LSV constitution, the SLSA constitution and any regulations or by-laws made by LSV or SLSA. If any By-Laws are inconsistent with the LSV or SLSA constitution and regulations the By-Laws shall be null and void and will be inapplicable.

35.2 By-Laws Binding

All By-Laws made under this rule shall be binding on the Association and Members of the Association.

35.3 By-Laws Deemed Applicable

All clauses, rules, by-laws and regulations of the Association 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.

35.4 Notices Binding on Members

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Members of the Association by means of Notices approved and issued by the Board.

36. FUNDS, RECORDS AND ACCOUNTS

36.1 Source of Funds

The Board will determine the sources from which the funds of the Association are to be or may be derived and the manner in which such funds are to be managed..

36.2 Association to Keep Records

The Association shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board and shall produce these as appropriate at each Board or General Meeting.

36.3 Records Kept in Accordance with Act

Proper accounting and other records shall be kept in accordance with the Act. The books of account shall be kept in the care and control of the Board.

36.4 Association to Retain Records

The Association shall retain such records for 7 years after the completion of the transactions or operations to which they relate.

36.5 Board to Submit Accounts

The Board shall submit to the Members at the Annual General Meeting the Statements of Account of the Association in accordance with this Constitution and the Act.

36.6 Accounts Conclusive

The Statements of Account when approved or adopted by an Annual General Meeting shall be conclusive except as regards any error discovered in them within 3 months after such approval or adoption.

36.7 Accounts to be Sent to Members

The Board shall cause to be inform all persons entitled to receive notice of Annual General Meetings in accordance with this Constitution, a copy of the Statements of Account, the Board's report, the auditor's report (if any) and every other document required under the Act (if any).

36.8 Negotiable Instruments

All cheques, promissory notes, bankers, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two duly authorised Directors or in such other manner as the Board determines.

37. MEMBERS' ACCESS TO ASSOCIATION'S DOCUMENTS

37.1. A member may, subject to rules 37.3 to 37.5, inspect the rules of the Association, general meeting minutes, relevant documents (as defined in the Act) and the members register at a reasonable time.

Note: "relevant documents" includes documents such as financial records, contracts and asset records of the Association.

37.2. A member can write to the Secretary asking for copies of these documents (with the exception of the members register). The Secretary can charge a reasonable fee for providing copies.

37.3. The Secretary can refuse a request to inspect or get copies of relevant documents, or provide only limited access, if the documents contain confidential, personal, employment, commercial or legal matters, or if granting the request would breach a law or may cause damage or harm to the Association.

37.4. Members cannot inspect or get copies of Committee meeting minutes or parts of the minutes, unless the Committee specifically allows it.

37.5. Members can write to the Secretary to ask that the Secretary restrict access to their details on the members register if they have special circumstances. The Secretary will decide if there are special circumstances, and will write to the member outlining their decision. If a member disagrees with the Secretary's decision about special circumstances, they can apply to VCAT for a review of the decision. 'Special circumstances' are not defined in the Act, but could include, for example, where a member has had threats made against them by another member or where some other harm or danger is linked to a member's details being available on the register.

38. AUDITOR

(a) A properly qualified auditor or auditors shall be appointed, and the remuneration of such auditor or auditors fixed by the Association in General Meeting. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with the *Corporations Act* and generally accepted principles, and/or any applicable code of conduct. The auditor may be removed by the Association in General Meeting.

(b) The accounts of the Association shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each Financial Year.

39. NOTICE

39.1 Manner of Notice

(a) Notices may be given to any person entitled under this Constitution to receive any notice by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address.

- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected three days after posting.
- (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/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

39.2 Notice of General Meeting

Notice of every General Meeting shall be given in the manner authorised in this Constitution.

40. SEAL

40.1 Safe Custody of Seal

The Board shall provide for safe custody of the Seal.

40.2 Affixing Seal

The Seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by two Directors.

41. ALTERATION OF CONSTITUTION

- (a) The Constitution of the Association shall not be altered except by Special Resolution in accordance with the Act, and in compliance with all other procedures under the Act (if any).
- (b) In addition, there shall be no alteration or amendment to **rule 42** without the consent of the relevant Minister or other authorised person under the Act.

42. INDEMNITY

42.1 Directors to be Indemnified

Every Director, officer, auditor, manager, employee or agent of the Association shall be indemnified out of the property or assets of the Association against any liability incurred by him in his capacity as Director, officer, auditor or agent in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him by the Court.

42.2 Association to Indemnify Directors

The Association shall indemnify its Directors, officers, managers and employees against all damages and costs (including legal costs) for which any such Director, officer, manager or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) in the case of a Director or officer, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his employment by the Association.

43. DISSOLUTION

Subject to **rules 6, 7 and 8**, the Association may be wound up in accordance with the provisions of the Act.

44. AUTHORITY TO TRADE

The Association is authorised to trade in accordance with the Act.

45. LIQUOR LICENCE OBLIGATIONS

45.1 No payments

No officer or servant of the Association can be paid by way of commission or allowance from the receipts of the Association from the sale and disposal of liquor.

45.2 Guests

A visitor to the Association's premises must not be supplied with liquor in those premises unless the visitor is:

- (a) a guest in the company of an adult Member.

45.3 Records

The Association must maintain records of guests to the Association's premises.