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# WHIRITOA LIFEGUARD SERVICE INCORPORATED CONSTITUTION

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**Adopted at the Annual General Meeting**

**on** Click or tap to enter a date.

**Commencement Date**

Click or tap to enter a date.

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## PART 1 – DEFINITIONS AND INTERPRETATION

### 1 Definitions and Interpretation

1.1 **Definitions:** In this Constitution, unless the context otherwise requires, the words and phrases used have the following meanings:

**Act** means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time), and the Regulations.

**Active Member** means a Member in accordance with Rule 27.2.1.

**Annual General Meeting** or **AGM** means a meeting of the Members of the Club held once per year in accordance with this Constitution, which, among other things, will receive and consider reports on the Club's activities and finances.

**Applicant** means a person applying for membership under Rule 28.

**Associate Member** means a Member in accordance with Rule 27.2.2.

**Bylaws** means any bylaws, policies, regulations or codes of conduct of the Club in place at the date of this Constitution or made under Rule 19.

**Chair** means the Officer responsible for chairing Committee meetings and who provides leadership for the Club.

**Club Judicial Committee** means a committee appointed by the Committee comprised of no fewer than three persons with experience in disciplinary matters and/or relevant subject-matter expertise, provided that:

- where the Club is not a party to a Complaint, one or more Committee Members may be appointed to the Club Judicial Committee; and
- where the Club is a party to a Complaint, the Club Judicial Committee must be independent of the Committee.

**Committee** means the **Club's** governing body as elected under Rule 12.

**Committee Member** means a member of the Committee.

**Complaint** means where either a Member, an Officer, or the Club starts a procedure for resolving a Dispute in accordance with this Constitution.

**Complainant** means a Member or Officer or the Club who makes a complaint in accordance with the Dispute Resolution Procedure described in Rules 53 to 60.

**Contact Person** means the contact person or persons described in Rule 5.

**Constitution** means the rules in this document.

**Day** means any day of the week and is not limited to working days, unless otherwise specified. Where an action is required to be done within a specified time (such as 30 Days) this means clear days, so it should be calculated by excluding the date of the notice (or other relevant action) and the date of the meeting (or other relevant action).

**Dispute** has the meaning set out in section 38 of the Act.

**Event** means any competition held by (or under the auspices of) the Club, and any other event, meeting, function, or activity held by (or under the auspices of) the Club.

**General Meeting** means either an Annual General Meeting or a Special General Meeting of the Members of the Club.

**Interested Member** means a Member who is interested in a Matter for any of the reasons set out in section 62 of the Act, being where that Member:

- (or the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, sibling, nephew, niece, uncle, aunt, or first cousin of that Member) may obtain a financial benefit from the Matter;
- may have a financial interest in a person to whom the Matter relates;
- is a partner, director, Officer, Committee Member, or trustee of a person who may have a financial interest in a person to whom the Matter relates; or
- is interested in the Matter for any other reason specified in this Constitution, provided that a Member will not be deemed to be interested in a Matter where:
- the Member receives an indemnity, insurance cover, remuneration, or other benefits authorised under the Act;
- the Member's interest is the same or substantially the same as the benefit or interest of all or most other Members of the Club due to the membership of those Members; or
- if the Member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Member in carrying out their responsibilities under the Act or this Constitution.

**Interests Register** means the register of interests of Officers, kept under this Constitution and as required by section 73 of the Act.

**Lifeguarding** means the practice of lifeguards, preventing drowning and injury of those swimming and undertaking activities at or near beaches, coast, or sea and includes lifeguard patrol services, education and sports activities.

**Life Member** means a person awarded Life Membership under Rule 30.

**Matter** means:

- the Club's performance of its activities or exercise of its powers; or
- an arrangement, agreement, or contract (a transaction) made or entered into, or proposed to be entered into, by the Club.

**Member** means a person who has consented to become a Member of the Club and has been properly admitted to the Club who has not ceased to be a Member of the Club.

**Notice** to Members includes any notice given by email, post, courier, or by other electronic means of communication with a Member or Group of Members.

**Officer** means a natural person who is:

- a member of the Committee; or
- occupying a position in the Club that allows them to exercise significant influence over the management or administration of the Club, including any employee.

**Ordinary Resolution** means a resolution passed by a majority of votes properly cast.

**Register of Members** means the register of Members kept under this Constitution by the Club and SLSNZ as required by section 79 of the Act.

**Registrar** means the Registrar of Incorporated Societies appointed in accordance with the Act.

**Regulations** means any regulations made under the Act, including the Incorporated Societies Regulations 2023.

**Respondent** means a Member or Officer or the Club who is the subject of a complaint made in accordance with the Dispute Resolution Procedure described in Rules 53 to 60.

**SLSNZ** means Surf Life Saving New Zealand Incorporated.

**SLSNZ Constitution** means the Constitution of Surf Life Saving New Zealand Incorporated.

**SLSNZ Regulations** means the regulations, policies, bylaws or codes of conduct of Surf Life Saving New Zealand.

**Solvency Test** the Club satisfies the **Solvency Test** if,

(a) the society is able to pay its debts as they become due in the normal course of its operations; and

(b) the value of the society's assets is greater than the value of its liabilities, including contingent liabilities.

**Special General Meeting** or **SGM** means a meeting of the Members, other than an Annual General Meeting, called for a specific purpose or purposes.

**Special Resolution** means a resolution passed by two thirds of the votes cast.

**Working Day** means a day which is not a Saturday, Sunday or public holiday in Auckland

**Written Notice** means a notice in writing and delivered by email or post to the last known address of the individual or entity to whom it is directed. Notices given by email will be deemed to be received if they have not been returned as undeliverable within one Working Day, and Notices given by post will be deemed to be received five Working Days after they are sent.

1.2 **Construction:** In this Constitution:

1.2.1 a gender includes all other genders;

1.2.2 the singular includes the plural and vice-versa;

1.2.3 any reference to legislation includes any regulation, order-in-council, or other instrument issued or made under that legislation, and any modification or re-enactment of that legislation, or any legislation enacted in substitution of that legislation;

1.2.4 any agreement includes that agreement as modified, supplemented, innovated, or substituted from time to time;

1.2.5 a reference to persons includes bodies corporate;

1.2.6 a reference to a person includes the legal personal representatives, successors, and permitted assigns of that person; and

1.2.7 headings and the contents page are for reference only and are to be ignored in construing this Constitution.

## PART 2 – DETAILS OF CLUB NAME

### 2 Name

- 2.1 **Name of Club:** The name of the Society is Whiritoa Lifeguard Service Incorporated (in this Constitution referred to as the 'Club').
- 2.2 **Māori name of Club:** The Māori name of the Club is [ *the Club in discussions with Iwi and a name is yet to be gifted*]

### 3 Charitable Status

- 3.1 **Charitable Status:** The Club is registered as a charitable entity under the Charities Act 2005.

### 4 Registered Office

- 4.1 **Registered Office:** The registered office of the Club is at such place in New Zealand as the Committee from time to time decides.
- 4.2 **Change of Registered Office:** The Committee must notify changes to the registered office to the Registrar of Incorporated Societies at least five Working Days before the change of address for the registered office is due to take effect.

### 5 Contact Person

- 5.1 **Contact Persons:** The Committee will appoint at least one (1) but no more than three (3) Contact Person(s) whom the Registrar can contact when needed.
- 5.2 **Requirements:** Each Contact Person must be:
- 5.2.1 a Member or an employee of the Club;
  - 5.2.2 at least 18 years of age; and
  - 5.2.3 ordinarily resident in New Zealand.
- 5.3 **Registrar Notification:** Each Contact Person's name and contact details must be provided to the Registrar of Incorporated Societies in accordance with the Act.
- 5.4 **Contact Update:** Any change in that Contact Person or that person's name or contact details must be advised to the Registrar of Incorporated Societies within twenty (20) Working Days of that change occurring, or the Club becoming aware of the change.

## PART 3 - PURPOSES AND POWERS

### 6 Purposes

- 6.1 **Charitable Purpose:** The Club is established and maintained exclusively for the charitable purpose of benefiting the community by preventing the loss of lives and ensuring the safety of the community at the beach and on the water by providing Lifeguarding, patrol services, and other programmes and services at Whiritoa Beach and at other locations as determined by the Club. Any income, benefit or advantage must be used to advance the charitable purposes of the Club.
- 6.2 **Further Activities:** To facilitate the charitable purpose, and to prevent death by drowning of those swimming and undertaking activities on Whiritoa Beach by

providing, lifeguarding patrol services and other programmes and services, the Club's activities are to:

- 6.2.1 seek and promote membership of the Club;
- 6.2.2 liaise, co-operate, and act in good faith with its Members, SLSNZ, and other member clubs of SLSNZ to promote, develop, and deliver Lifeguarding services;
- 6.2.3 work collaboratively and cooperatively with the community, to develop, encourage, promote and deliver water safety messages and programmes;
- 6.2.4 be a member of SLSNZ and adhere to the SLSNZ Constitution and SLSNZ Regulations;
- 6.2.5 promote the health, safety and well-being of all participants in Lifeguarding;
- 6.2.6 encourage participation and achievement in Lifeguarding and attending local, regional and national competitions;
- 6.2.7 encourage family participation in the activities, administration, social events and entertainment through the Club;
- 6.2.8 establish, promote, and stage Lifeguarding competitions and Events that are safe, fair and inclusive;
- 6.2.9 act in good faith and loyalty to maintain and enhance the reputation of the Club, SLSNZ, and Lifeguarding through the implementation of standards and practices which fulfil these purposes and the purposes of SLSNZ;
- 6.2.10 give, and seek where appropriate, recognition for Members to obtain awards or public recognition for Lifeguarding or other services to the Club or the community;
- 6.2.11 seek and obtain improved facilities and equipment for Lifeguarding services;
- 6.2.12 provide information, assistance, demonstrations, arrange classes of instruction to increase water safety awareness, and resources to its Members and the public;
- 6.2.13 develop, train, and educate surf lifeguards, instructors, examiners, competitors, officials, coaches, managers, and other personnel involved in Lifeguarding;
- 6.2.14 represent the interests of its Members when engaging with SLSNZ;
- 6.2.15 do anything conducive or incidental to the attainment of the above purposes.

## **7 Powers**

- 7.1 **Club Capacity:** The Club has full capacity to carry on or undertake any activity, do any act, or enter into any transaction that the Committee may deem to be conducive or incidental to the attainment of the purposes of the Club.
- 7.2 **Club Restrictions:** For the purposes of Rule 7.1 and to support Rule 6.1, the Club has full rights, powers, and privileges, provided that:
  - 7.2.1 the Club must not be carried on for the financial gain of any of its Members;

- 7.2.2 the Club meets the Solvency Test; and
- 7.2.3 the Club's powers must be exercised in accordance with this Constitution, the SLSNZ Constitution and all applicable laws.

## **8 Tikanga, Kawa, Culture or Practice**

- 8.1 **Tikanga:** this Constitution must be interpreted having regard to that tikanga, kawa, culture or practice subject to the Act and all express provisions of this Constitution.

## **9 Act and Regulations**

- 9.1 **Consistency with Law:** Nothing in this Constitution authorises the Club to do anything which contravenes or is inconsistent with the Act, the Regulations, or any other legislation.

## **PART 4 – GOVERNANCE**

### **10 Honorary Patron**

- 10.1 **Honorary Patron:** The Patron is entitled to attend and speak at General Meetings but has no right to vote unless they are a Member in their own right.

### **11 Committee Composition**

- 11.1 **Committee Composition:** The Committee must consist of the following elected Officers:

- 11.1.1 President
- 11.1.2 Chair
- 11.1.3 Secretary
- 11.1.4 Finance Director
- 11.1.5 Lifeguard Director
- 11.1.6 Club Captain
- 11.1.7 Junior Club Captain
- 11.1.8 Facilities Director, and
- 11.1.9 Health and Safety Director,

together with any employee or other person invited to attend as an observer.

- 11.2 **Membership of Officers:** All Officers on the Committee must be Members of the Club.

### **12 Election of Officers**

- 12.1 **Nominations:**

- 12.1.1 Nominations for Committee Members are to be made by two (2) Members.



12.1.2 Nominations must be received by the Committee at least the day before the date set for the General Meeting and should include the confirmation of the nominee's written consent to the nomination.

12.1.3 Any person nominated pursuant to Rule 12.3.2 must give their consent to their nomination and provide their consent in writing as soon as reasonably practicable. Verbal consent recorded in the minutes will be deemed to be written consent for these purposes.

12.2 **Election:** The Committee Members are elected by the Members present and entitled to vote at a General Meeting.

12.3 **Voting: If the number of nominees for a position on the Committee:**

12.3.1 is one, the person chairing the General Meeting will declare the nominee elected.

12.3.2 is less than the number of vacancies for that position, further nominations may be received from the floor at the General Meeting, and must be accepted by and consented to by the nominee, and if no further nominations are received positions may be left vacant on the Committee; or

12.3.3 is greater than one, an election must be conducted by a show of hands unless a secret ballot is called for by two (2) members. The nominee for the vacant position which has the highest number of votes in favour will be declared elected.

### 13 Term

13.1 **Officer Tenure:** The term of office for all Officers elected to the Committee is two (2) years, expiring at the end of the Annual General Meeting in the year corresponding with the last year of each Officer's term of office.

13.2 **Re-election:** All Officers may be re-elected to the Committee.

### 14 Intentionally left blank

### 15 Removal of Officers

15.1 **Removal of Officers:** The Members in a Special General Meeting called for this purpose may, by Special Resolution remove any Committee Member before the expiration of their term of office as follows:

15.1.1 upon the Club receiving a request for a Special General Meeting for the purpose of removing a Committee Member, or the Committee as a whole, the Club must send the Notice of the Special General Meeting to the Committee Member concerned, or the Committee (as the case may be), in addition to the Members of the Club; and

15.1.2 before voting on the resolution to remove a Committee Member or the Committee as a whole, the Committee Member, or the Committee as a whole (as the case may be) affected by the proposed resolution must be given the opportunity before, and at, the Special General Meeting to make submissions in writing and/or verbally to the Members entitled to be present at the General Meeting about the proposed resolution.

## **16 Ceasing to Hold Office**

16.1 **Cessation Circumstances:** A Committee Member ceases to hold office on and from the date when the Committee Member:

16.1.1 dies, or in the opinion of the majority of the Committee, becomes so incapacitated that they are effectively incapable of performing the duties of a Committee Member;

16.1.2 resigns (by Written Notice to the Committee);

16.1.3 is absent from three (3) Committee meetings without leave of absence from the Committee;

16.1.4 the Committee passes a vote of no confidence in the Committee Member;

16.1.5 is disqualified from being an Officer under the Act or the Charities Act 2005;  
or

16.1.6 is removed from office as set out in Rule 15.

16.2 **Resignation Obligations:** Each Committee Member must within twenty (20) Days of submitting a resignation or ceasing to hold office, deliver to the Committee Secretary all books, papers and other property of the Club held by such former Committee Member.

## **17 Vacancies**

17.1 **Filling Vacancies:** Where there is a vacancy on the Committee, the remaining Committee Members may appoint a Member of their choice to fill the vacancy, or the Committee may leave the vacancy unfilled until the next Annual General Meeting.

17.2 **Term Expiration:** The term of office for a Member appointed as a Committee Member to fill a vacancy under this rule expires at the conclusion of the Annual General Meeting following their appointment, or of any Special General Meeting called to fill the vacancy.

## **18 Functions and Powers of the Committee**

18.1 **Management of the Club:** From the end of each Annual General Meeting until the end of the next, the Club must be managed by, or under the direction or supervision of, the Committee, in accordance with the Act, the Regulations, and this Constitution.

18.2 **Powers and Limitations:** The Committee has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of the Club, subject to such modifications, exceptions, or limitations as are contained in the Act or in this Constitution.

18.3 **Appointment of Sub-committees:** The Committee may appoint sub-committees consisting of such persons (whether or not Members of the Club) and for such purposes as it sees fit.

## **19 Bylaws, Policies and Codes of Conduct**

19.1 **Implementation and amendment of Bylaws, Policies and Codes of Conduct:** The Committee may make and amend Bylaws, and policies for the conduct and control of Club activities and codes of conduct applicable to Members. All such Bylaws, policies, or codes of conduct applicable to Members must be consistent with this Constitution, the Act, the Regulations, or any other legislation.

## **20 Committee Meetings Procedure**

- 20.1 **Frequency:** Committee meetings may be called at any time by the Chair or two (2) Committee Members but generally the Committee will meet at regular intervals agreed by the Committee.
- 20.2 **Procedure:** Other than as prescribed by the Act or this Constitution, the Committee may regulate its proceedings as it thinks fit.
- 20.3 **Notice:** The person convening the Committee meeting must give all Committee members at least five (5) Days' notice of Committee meetings, but in cases of urgency a shorter period of notice will suffice.
- 20.4 **Quorum:** The quorum for Committee meetings is at least a simple majority of the members of the Committee.
- 20.5 **Form:** A meeting of the Committee may be held by a quorum of the Committee Members:
- 20.5.1 meeting together at the place, date and time appointed for the meeting; or
  - 20.5.2 participating in the meeting by means of audio, audio and visual, or electronic communication by which all members of the Committee can simultaneously hear each other throughout the meeting; or
  - 20.5.3 by a combination of methods described in Rules 20.5.1 and 20.5.2.
  - 20.5.4 If failure in communication prevents Rules 20.5.1 and 20.5.2 from being satisfied and such failure results in the quorum not being met, the meeting shall be suspended until Rule 20.4 is satisfied again. If such condition is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have been terminated or adjourned.
- 20.6 **Chair:** The role of the Chair is to chair Committee meetings. If the Chair is unavailable for any reason, then the Committee must appoint another person to chair the meeting.
- 20.7 **Voting:** Each Committee Member will have one (1) vote at Committee meetings except the Chair who will have a casting vote in the event of a deadlock. Voting is by voice, or upon the request of any Committee Member, by a show of hands or by a ballot. Proxy and postal is not permitted.
- 20.8 **Resolutions:** A resolution of the Committee is passed at any meeting of the Committee if a majority of the votes cast on it are in favour of the resolution.
- 20.9 **Resolution in writing:** The Committee may make a decision by resolution in lieu of a meeting conducted by a written ballot by email, electronic voting system, or post, provided that:
- 20.9.1 the proposed resolution is sent to every Committee Member; and
  - 20.9.2 a majority of the Committee Members sign or consent to the resolution; and
  - 20.9.3 a copy of any such resolution is entered in the minute book of the Committee Meetings.
- 20.10 **Minutes:** The Committee must ensure that minutes of a Committee Meeting are recorded and incorporated in a minute book and that a copy of the minutes is forwarded to all Committee Members as soon as practicable after a Committee Meeting.

- 20.11 **Expenses:** The Committee may reimburse its Committee Members for their actual and reasonable expenses incurred in the conduct of the business of the Club or permit payments in accordance with Rule 52.
- 20.12 **Matters not Provided for:** If any matter arises that, in the opinion of the Committee, is not provided for in this Constitution then it may be determined by the Committee in such manner as the Committee deems fit. Every such determination should be disclosed to Members prior to or at the next General Meeting and is binding upon Members unless and until set aside by resolution at a General Meeting.

## **PART 5 - OFFICERS**

### **21 Qualifications of Officers**

21.1 **Qualifications:** Every Officer must be a natural person who:

21.1.1 has consented in writing to be an Officer of the Club; and

21.1.2 certifies that they are not disqualified from being elected or appointed or otherwise holding office as an Officer of the Club.

### **22 Officer Eligibility**

22.1 **Eligibility:** Officers must not be disqualified under section 47(3) of the Act or section 36B of the Charities Act 2005 from being appointed or holding office as an Officer of the Club, namely:

22.1.1 a person who is under 16 years of age;

22.1.2 a person who is an undischarged bankrupt;

22.1.3 a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993, or any other similar legislation;

22.1.4 a person who is disqualified from being a member of the governing body of a charitable entity under section 36B of the Charities Amendment Act 2023;

22.1.5 a person who has been convicted of any of the following, and has been sentenced for the offence, within the last seven (7) years:

(a) an offence under subpart 6 of Part 4 of the Act;

(b) a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961);

(c) an offence under section 143B of the Tax Administration Act 1994;

(d) An offence under section 22(2) of the Act;

(e) an offence, in a country other than New Zealand, that is substantially similar to an offence specified in Rule 22.1.5 (a) to (d); or

(f) a money laundering offence or an offence relating to the financing of terrorism, whether in New Zealand or elsewhere,

22.1.6 a person subject to:

- (a) a banning order under subpart 7 of Part 4 of the Act;
- (b) an order under section 108 of the Credit Contracts and Consumer Finance Act 2003;
- (c) a forfeiture order under the Criminal Proceeds (Recovery) Act 2009; or
- (d) a property order made under the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act,

22.1.7 a person who is subject to an order that is substantially similar to an order referred to in Rule 22.1.6 under a law of a country, State, or territory outside New Zealand that is a country, State, or territory prescribed by the Regulations.

## **23 Officer's Duties**

23.1 **Officer Duties:** At all times each Officer must:

23.1.1 act in good faith and in the best interests of the Club;

23.1.2 exercise their powers for proper purposes;

23.1.3 not act, or agree to the Club acting, in a manner that contravenes the Act or this Constitution;

23.1.4 not agree to, nor cause or allow, the activities of the Club to be carried on in a manner likely to create a substantial risk of serious loss to the Club or the Club's creditors;

23.1.5 must not agree to the Club incurring any obligations unless the Officer believes at that time on reasonable grounds that the Club will be able to perform the obligation when it is required to do so; and

23.1.6 exercise the care, diligence and skill that a reasonable person with the same responsibilities would exercise in the same circumstances taking into account, but without limitation:

- (a) the nature of the Club; and
- (b) the nature of the decision, and
- (c) the position of the Officer and the nature of the responsibilities undertaken by the Officer.

23.2 **Duties owed to Club:** The duties set out in Rule 23.1 are owed to the Club, rather than to Members.

## **24 Conflicts of Interest**

24.1 **Interested Officer:** An Officer who is an Interested Member in respect of any Matter being considered by the Club, must disclose to the Committee details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) as soon as practicable after the Officer becomes aware that they are interested in the Matter.

24.2 **Interests Register:** The Committee must maintain an up-to-date register of the interests disclosed by Officers.

24.3 **Obligations:** An Interested Officer:

24.3.1 must not vote or take part in the decision of the Committee relating to the Matter unless all members of the Committee who are not interested in the Matter consent; and

24.3.2 must not sign any document relating to the entry into a transaction or the initiation of the Matter unless all members of the Committee who are not interested in the Matter consent; but

24.3.3 may take part in any discussion of the Committee relating to the Matter and be present at the time of the decision of the Committee (unless the Committee decides otherwise).

however:

24.3.4 an Officer who is prevented from voting on a Matter under this rule may still be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered; and

24.3.5 where 50 per cent or more of the Officers are prevented from voting on a Matter because they are interested in that Matter, a Special General Meeting must be called to consider and determine the Matter.

**25 Use of Information and Advice**

25.1 **Reliance:** An Officer, when exercising powers or performing duties as an Officer, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

25.1.1 an employee of the Club, or SLSNZ, whom the Officer believes on reasonable grounds to be reliable and competent in relation to the Matters concerned;

25.1.2 a professional adviser or expert in relation to Matters that the Officer believes on reasonable grounds to be within the person's professional or expert competence;

25.1.3 any other Committee Member, or subcommittee of Committee Members upon which the Officer did not serve in relation to Matters within the Committee Member's or subcommittee's designated authority.

25.2 **Limitation on Reliance:** However, Rule 25.1 applies to an Officer only if they:

25.2.1 act in good faith; and

25.2.2 make proper inquiry where the need for inquiry is indicated by the circumstances; and

25.2.3 have no knowledge that the reliance is unwarranted.

**PART 6 - MEMBERSHIP**

**26 Minimum Number of Members**

26.1 **Minimum number of members:** The Club must maintain a minimum of 10 Members, as required by the Act.

## **27 Membership Categories**

- 27.1 **Membership Defined:** The Club will have as its Members such individuals as the Committee considers appropriate provided that the membership, and the method by which Members are admitted, is consistent with the SLSNZ Constitution and the SLSNZ Regulations.
- 27.2 **Membership Categories:** For the purposes of this Constitution, the categories of membership are as follows:
- 27.2.1 **Active Members:** An Active Member is a person who participates or is involved in Lifeguarding through the Club and who has been accepted as an Active Member by the Club in accordance with Rule 28.
  - 27.2.2 **Associate Members:** An Associate Member is a person who has an interest in Lifeguarding and in being part of the Club and who has been accepted as an Associate Member by the Club in accordance with Rule 28.
  - 27.2.3 **Life Members:** A Life Member is a person who has been granted membership of the Club for the duration of their lifetime in recognition and appreciation of long-term service to the Club in accordance with Rule 30.
- 27.3 **Sub-categories:** Any Member may be classified into sub-categories of membership by the Committee for the purposes of deciding membership fees or privileges and rights.
- 27.4 **Category Change:** A Member's membership category may change during the year. If this occurs, the Member agrees to pay any additional fee(s) (if required) to cover such change.

## **28 Becoming a Member**

- 28.1 **Membership Application:** Any person wishing to apply to be a Member of the Club (Applicant) must:
- 28.1.1 complete the application for membership as prescribed by the Committee and SLSNZ; and
  - 28.1.2 supply any other information the Committee or SLSNZ requires.
- 28.2 **Committee Discretion:** The Committee (or such other person(s) as designated by the Committee) has complete discretion in deciding:
- 28.2.1 whether or not to allow the Applicant to become a Member: and
  - 28.2.2 the Applicant's membership category in accordance with any applicable SLSNZ Regulations or any policies or guidelines of the Club.
- 28.3 **Outcome Communicated:** The Committee must advise the Applicant of its decision but is not required to give the reasons should the Applicant be denied membership.
- 28.4 **Consent Records:** Every Applicant for Membership must consent in writing to becoming a Member, and applying to become a Member will be deemed to constitute such consent. The signed written consent of every Member to become a Club Member must be retained in the Club's membership records held and administered by SLSNZ and/or by the Club (as determined by the Committee in respect of each category of Member).

## **29 Transfers**

- 29.1 **Transfer of Membership:** Transfers of membership between clubs must be done in accordance with any applicable SLSNZ Regulations or policies.

## **30 Life Members**

- 30.1 **Nomination:** Nominations for Life Membership may be made by at least two current Members.

- 30.2 **Election:** Life Members are elected by a two thirds majority of those entitled to vote at a General Meeting, but are not Life Members until the nomination is accepted by the individual nominated and the election has taken place.

## **31 Consent to Becoming a Member**

- 31.1 **Member Consent:** A person who has completed the application process set out in Rule 28 is deemed to have consented to becoming a Member of both the Club and SLSNZ.
- 31.2 **Life Member Consent:** A person who accepts Life Membership as set out in Rule 30 is deemed to have consented to becoming a Member of both the Club and SLSNZ.

## **32 Members' Rights and Privileges**

- 32.1 **Active Member:** Each Active Member is entitled to:

- 32.1.1 compete for the Club in Lifeguarding competitions and Events if chosen as a Club representative;
- 32.1.2 use the Club's facilities and equipment as permitted by the Club;
- 32.1.3 participate in programmes and activities offered by the Club;
- 32.1.4 attend, speak and vote at all General Meetings of the Club either directly, or if under 16/ years of age, this may be exercised through their parent or other legal guardian;
- 32.1.5 if over 16 years of age be elected as a member of the Committee in accordance with Rule 12; and
- 32.1.6 if over 18 years of age be elected or appointed as a Delegate to represent the Club at General Meetings of SLSNZ.

- 32.2 **Associate Members:** Each Associate Member is entitled to:

- 32.2.1 use the Club's facilities and equipment as permitted by the Club;
- 32.2.2 participate in programmes and activities as permitted by the Club;
- 32.2.3 attend, speak, and vote, at all General Meetings of the Club either directly, or if under 16 years of age, this may be exercised through their parent or other legal guardian;
- 32.2.4 if over 16 years of age, be elected as a member of the Committee in accordance with Rule 12; and
- 32.2.5 if over 18 years of age be elected or appointed as a Delegate to represent the Club at General Meetings of SLSNZ.



- 32.3 **Life Members:** Each Life Member is entitled to:
- 32.3.1 compete for the Club in Lifeguarding competitions and Events if chosen as a Club representative;
  - 32.3.2 use the Club's facilities and equipment as permitted by the Club;
  - 32.3.3 participate in programmes and activities offered by the Club;
  - 32.3.4 attend, speak and vote at all General Meetings of the Club;
  - 32.3.5 if over 16 years of age, be elected as a member of the Committee in accordance with Rule 12; and
  - 32.3.6 be elected or appointed as a Delegate to represent the Club at General Meetings of SLSNZ.

### **33 Members' Obligations**

- 33.1 **Obligations:** Members acknowledge and agree that:
- 33.1.1 they must comply with and observe this Constitution, the Bylaws, the SLSNZ Constitution, the SLSNZ Regulations, and any policies and procedures of the Club, and SLSNZ, and any determination, resolution or decision which may be made or passed by the Club Committee;
  - 33.1.2 they are only entitled to exercise the rights of membership (including attending and voting at General Meetings, accessing or using the Club's premises, facilities, equipment and other property, and participating in Club activities) if all subscriptions and any other fees have been paid to the Club by their respective due dates, but no Member or Life Member is liable for an obligation of the Club by reason only of being a Member;
  - 33.1.3 the Committee may decide what access or use Members may have of or to any premises, facilities, equipment or other property owned, occupied, or otherwise used by the Club, and to participate in Club activities, including any conditions of and fees for such access, use or involvement;
  - 33.1.4 membership does not confer on any Member any right, title, or interest (legal or equitable) in the property of the Club;
  - 33.1.5 every Member must provide the Club in writing with that Member's name and contact details (namely physical or email address and a telephone number) and promptly advise the Club in writing of any changes to those details;
  - 33.1.6 any Member that is a body corporate must provide the Committee, in writing, with the name and contact details of the person who is the organisation's authorised representative, and that person will be deemed to be the organisation's proxy for the purposes of voting at General Meetings;
  - 33.1.7 they will promote the interests and purposes of the Club and must not do anything to bring the Club or SLSNZ into disrepute; and
  - 33.1.8 they will be liable for all reasonable costs incurred by the Club in relation to recovery of Membership Fees, and any other sums owed to the Club by the Member, and/or reasonably necessary for the Club to enforce its legal rights under this rule in respect of that Member.

### **34 Subscriptions and Fees**

34.1 **Setting Fees** The Committee will determine the fees payable by Members, and notify the fees to Members, including:

34.1.1 the annual subscription fee(s) and any other fees;

34.1.2 the due date for the fee(s);

34.1.3 the manner of payment for the fee(s); and

34.1.4 any discounts for prompt payment, or reasonable penalties for late payment.

34.2 **Consequences of non-payment:** Any Member failing to pay the annual subscription or other fee(s) by the due date specified by the Committee is considered as not in good standing and (without being released from the obligation of payment) will not be entitled to participate in any Club activity or to access or use the Club's premises, facilities, equipment and other property until all the arrears are paid.

34.3 **Termination:** If such arrears are not paid within thirty (30) Days of the due date for payment of the subscription, any other fees, or levy the Committee may terminate the Member's membership (without being required to give prior notice to that Member).

### **35 Ceasing to be a Member**

35.1 **Ceasing to be a Member:** A Member ceases to be a Member with immediate effect:

35.1.1 by resignation from that Member's class of membership by Written Notice by that Member to the Committee (or such person(s) as designated by the Committee). A resignation is effective when it is received by the Committee or at a later time specified in the notice;

35.1.2 on termination of a Member's membership following a Dispute resolution process under this Constitution;

35.1.3 on death;

35.1.4 where the Club has been unable to establish contact with a Member for a period of at least ninety (90) Days. The Committee must give the Member seven (7) Days' Notice of the intention to terminate the Member's membership; or

35.1.5 by resolution of the Committee where the Member has failed to pay a subscription or other amount due to the Club as set out in Rule 34.

### **36 Obligations Once Membership Has Ceased**

36.1 **Obligations once Membership has ceased:** A Member who has ceased to be a Member under this Constitution:

36.1.1 remains liable to pay all subscriptions and other fees owing to the Club at the time of termination, unless waived by the Committee;

36.1.2 must cease to hold themselves out as a Member of the Club;

36.1.3 must return to the Club Secretary all property provided to Members by the Club or SLSNZ;

36.1.4 must not use any property (including Intellectual Property) of the Club or SLSNZ;

- 36.1.5 ceases to be entitled to any of the rights of a Member;
- 36.1.6 forfeits all claims upon the Club or SLSNZ; and
- 36.1.7 is deemed to have also withdrawn or terminated their membership of SLSNZ.

### **37 Becoming a Member Again**

- 37.1 **Re-admission Process:** Any former Member may apply for re-admission in the manner prescribed for new Applicants in accordance with Rule 28.
- 37.2 **Disciplinary Re-admission:** But, if a former Member's membership was terminated following a disciplinary or Dispute resolution process, the Applicant may be re-admitted only by a Special Resolution passed at a General Meeting on the recommendation of the Committee.
- 37.3 **Appeal:** A Member may only appeal a decision made under Rule 37.2 to SLSNZ in accordance with the SLSNZ Constitution and SLSNZ Regulations.

## **PART 7 - GENERAL MEETINGS**

### **38 Annual General Meeting**

- 38.1 **AGM:** An Annual General Meeting (AGM) must be held once a year at the time, date, place, and/or the manner as the Committee decides and be consistent with any requirements in the Act and the Constitution.
- 38.2 **Timing:** The Annual General Meeting must be held no later: 6 months after the balance date of the Club and 15 months after the previous annual meeting.
- 38.3 **Notice:** The Committee must give all Members at least fourteen (14) Days' Notice of the Annual General Meeting. The Notice must set out:
  - 38.3.1 the date, time, place, and manner for the Annual General Meeting;
  - 38.3.2 closing date(s) for nominations for any elections, proposed motions, and other items of business to be submitted to the Club; and
  - 38.3.3 the business to be conducted at that General Meeting.
- 38.4 **Business:** The business of an Annual General Meeting is to:
  - 38.4.1 confirm the minutes of the last Annual General Meeting and any Special General Meeting(s) held since the last Annual General Meeting;
  - 38.4.2 adopt the annual report on the operations and affairs of the Club during the most recently completed accounting period;
  - 38.4.3 to accept the financial statements of the Club for the most recently completed accounting period including the Auditors report for the same;
  - 38.4.4 appoint, or reappoint, an auditor for the next accounting period;
  - 38.4.5 adopt the Committee's report on the finances of the Club, and the audited annual financial statements for that period;
  - 38.4.6 receive a report of any disclosures of conflicts of interest made by Officers during that period (including a summary of the Matters, or categories of Matters, to which those disclosures relate);

- 38.4.7 If required, elect Committee Members;
- 38.4.8 consider any motion(s) of which prior notice has been given to Members with Notice of the Meeting; and
- 38.4.9 consider any general business, including general business raised from the floor, if agreed by the Members present at the Meeting.

### **39 Special General Meeting**

- 39.1 **SGM:** Any other General Meeting of the Members is a Special General Meeting (SGM).
- 39.2 **Calling of SGM:** Special General Meetings may be called at any time by the Committee by resolution.
- 39.3 **SGM on Member request:** The Committee must call a Special General Meeting if it receives a written request signed by at least 40 Members.
- 39.4 **Business of SGM:** Any resolution or written request must state the business that the Special General Meeting is to deal with.
- 39.5 **Notice:** The Committee must give all Members at least 14 Days' Written Notice of any Special General Meeting unless the Committee, in its discretion, decides that the nature of the SGM business is of such urgency that a shorter period of notice is given to Members. The Notice must set out the:
  - 39.5.1 date, time, place and/or the manner for the Special General Meeting; and
  - 39.5.2 proposed motion(s) that have been properly submitted for consideration.
- 39.6 **No additional business:** A Special General Meeting must only consider and deal with the business specified in the Committee's resolution or the written request by Members for the Meeting.
- 39.7 **Process:** The rules in this Constitution relating to the procedure to be followed at General Meetings also apply to a Special General Meeting.

### **40 Notice of Meetings**

- 40.1 **Notice of Meeting:** A Notice will be addressed to the Member at the contact address or email address notified to the Club and recorded in the Club's Register of Members. The General Meeting and its business will not be invalidated simply because one or more Members do not receive the Notice of the General Meeting.

### **41 Agenda**

- 41.1 **Agenda:** An agenda must be sent to all Members no later than seven (7) Days before the date of any General Meeting. The agenda must include:
  - 41.1.1 the date, time, location and/or manner of the General Meeting;
  - 41.1.2 notice of any motions received;
  - 41.1.3 any information provided by a Member, or the Committee, in support of the motions; and
  - 41.1.4 for an Annual General Meeting, a list of the nominees for election and the documents and information set out in Rule 38.4.

## **42 General Meeting Procedure**

- 42.1 **Attendance and Voting:** All Members may attend and speak at a General Meeting. Only Voting Members may vote at a General Meeting.
- 42.2 **Quorum:** No General Meeting may be held unless at least 10 Members entitled to vote attend throughout the meeting, and this will constitute a quorum. If, within thirty (30) minutes after the time appointed for a meeting a quorum is not present, the meeting:
- 42.2.1 if called upon request of Members under Rule 39 as a Special General Meeting is dissolved; and
  - 42.2.2 in any other case, is adjourned to a day, time and place determined by the Committee, and if at such adjourned meeting a quorum is not present within thirty (30) minutes after the time appointed for the meeting, those Members present in person or otherwise participating in the meeting will be deemed to constitute a sufficient quorum.
- 42.3 **Form:** A General Meeting may be held by a quorum of the Members:
- 42.3.1 meeting together at the place, date and time appointed for the meeting;
  - 42.3.2 participating in the meeting by means of audio, audio and visual, or electronic communication by which all Members can simultaneously hear each other throughout the meeting; or
  - 42.3.3 by a combination of methods described in Rules 42.3.1 and 42.3.2.
  - 42.3.4 If failure in communication prevents Rules 42.3.1 and 42.3.2 from being satisfied and such failure results in the quorum not being met, the meeting shall be suspended until Rule 42.2 is satisfied again. If such condition is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have been terminated or adjourned.
- 42.4 **Minutes:** The Club must keep minutes of all General Meetings and make them available on request to any Member.
- 42.5 **Chair:** All General Meetings are chaired by the President. If the President is absent, the Committee may appoint a Committee Member to chair the meeting. Any person chairing a General Meeting has a deliberative and, in the event of a tied vote, a casting vote.
- 42.6 **Omissions and Irregularities:** A General Meeting and its business will not be invalidated by an irregularity, error or omission in Notices, agenda and relevant papers of the General Meeting or the omission to give notice within the required time frame to all Members, or any other error in the organisation of the General Meeting. These issues can be waived if:
- 42.6.1 the Chair in their discretion determines that it is still appropriate for the General Meeting to proceed despite the irregularity, error or omission; and
  - 42.6.2 a motion to proceed is put to the General Meeting and is passed by Special Resolution.

## **43 Motions**

- 43.1 **Committee Motions:** The Committee may propose motions for the Club to vote on ('Committee Motions'), which must be notified to Members with the Notice of the General Meeting.

43.2 **Member Motions:** Any Member may request that a motion be voted on ('Member's Motion') at a General Meeting, by giving notice to the Committee at least twenty-one (21) Days before that meeting. The Member may also provide information in support of the motion.

#### 44 **Adjournment:**

44.1 **Adjournment:** If necessary, the President or the person chairing a General Meeting can adjourn the meeting to another time and place, with the Members' consent. At any adjourned meeting, only the unfinished business from the original meeting can be transacted.

#### 45 **Voting**

45.1 **Majority:** Unless otherwise required by this Constitution, all questions will be decided by a simple majority of those voting at a General Meeting. The Chairperson will have a casting vote in the situation of equality of votes.

45.2 **Voting:** Voting at a General Meeting is by voices or by show of hands or other means when done electronically or via hybrid as determined by the Chair, unless a secret ballot is required under this Constitution or on demand of the Chair or a majority of the Members present or in the case of the election of Officers, in accordance with R12.3.3.

45.3 **Secret Ballot:** If a secret ballot is called, 2 scrutineers must be appointed by the Chair to count the votes.

45.4 **Proxies:** Proxy voting is permitted. Where a Member appoints a proxy, notice of the proxy signed by the Member must be:

45.4.1 received by the Secretary twenty-four (24) hours prior to the start of the General Meeting. The form of the proxy is set

45.4.2 out in Appendix 1 (or as otherwise determined by the Committee), and

45.4.3 Only proxies which indicate whether a Member has voted in favour of, or against, a proposed motion as set out in their proxy form shall be valid.

### PART 8 - RECORDS

#### 46 **Register of Members**

46.1 **Register of Members:** The Club must keep an up-to-date Register of Members containing each Member's:

46.1.1 name and contact details;

46.1.2 membership category; and

46.1.3 date on which they became a Member (if there is no record of the date they joined, this date will be recorded as 'Unknown').

46.2 **Member Information:** Every current Member must provide the Club with that Member's details in 46.1 and promptly advise the Club of any change in the Member's contact details.

46.3 **Retention of Register of Members:** The Club must also keep a record of the name of each person who ceased to be a Member within the previous seven (7) years, and the date on which they ceased to be a Member.

## **47 Access to Information for Members**

- 47.1 **Privacy:** The collection, use, storage, and disclosure of any personal information in relation to the Register of Members must comply with the Privacy Act 2020. Any Member's entry on the Register of Members must be available for inspection by that Member and Committee Members upon reasonable request and in compliance with the Privacy Act 2020.
- 47.2 **Access to Information:** A Member may at any time make a written request to the Club for information held by the Club. The request must specify the information sought in sufficient detail to enable the information to be identified. The Club must, within a reasonable time after receiving a request:
- 47.2.1 provide the information;
  - 47.2.2 agree to provide the information within a specified period;
  - 47.2.3 agree to provide the information within a specified period if the Member pays a reasonable charge to the Club (which must be specified and explained) to meet the cost of providing the information; or
  - 47.2.4 refuse to provide the information, specifying the reasons for the refusal.
- 47.3 **Refusal to Provide Information:** Without limiting the reasons for which the Club may refuse to provide the information, the Club may refuse to provide the information if:
- 47.3.1 withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons;
  - 47.3.2 the disclosure of the information would, or would be likely to, prejudice the commercial position of the Club or of any of its Members;
  - 47.3.3 the disclosure of the information would, or would be likely to, prejudice the financial or commercial position of any other person, whether or not that person supplied the information to the Club;
  - 47.3.4 the information is not relevant to the operation or affairs of the Club;
  - 47.3.5 withholding the information is necessary to maintain legal professional privilege;
  - 47.3.6 the disclosure of the information would, or would be likely to, breach an enactment;
  - 47.3.7 the burden to the Club in responding to the request is substantially disproportionate to any benefit that the Member (or any other person) will or may receive from the disclosure of the information;
  - 47.3.8 the request for the information is frivolous or vexatious; or
  - 47.3.9 the request seeks information about a Dispute or Complaint which is or has been the subject of the procedures for resolving such matters under this Constitution and the Act.
- 47.4 **Charges for Information:** If the Club requires the Member to pay a charge for the information, the Member may withdraw the request, and must be treated as having done so unless, within ten (10) Days after receiving notification of the charge, the Member informs the Club:

47.4.1 that the Member will pay the charge; or

47.4.2 that the Member considers the charge to be unreasonable.

47.5 **IPP 6 not Limited:** Nothing in this rule limits Information Privacy Principle 6 of the Privacy Act 2020 relating to access to personal information.

## **PART 9 - FINANCES**

### **48 Control and Management**

48.1 **Control and Management of Finances:** The funds and other assets of the Club must be:

48.1.1 controlled, invested and disposed of by the Committee, subject to this Constitution and in line with any reserves policy which shall be reported against as part of the annual accounts presented at the AGM; and

48.1.2 devoted solely to the promotion of the Purposes of the Club.

48.2 **Bank Accounts:** The Committee must maintain and operate bank accounts in the name of the Club in accordance with the policy determined by the Committee. All money received on account of the Club must be banked in bank accounts in the name of the Club.

48.3 **Approval of Liabilities:** The Club has the power to borrow money from time to time which may be secured by a mortgage or without any security and upon such terms and as to priority as the Club thinks fit. Provided that such activities may only be undertaken by the Club in accordance with a Special Resolution passed at a General Meeting.

### **49 Accounting Records**

49.1 **Accounting Records:** The Committee must ensure that accounting records are always kept that:

49.1.1 correctly record the transactions of the Club;

49.1.2 allow the Club to produce financial statements that comply with the requirements of the Act; and

49.1.3 would enable the financial statements to be readily and properly audited.

49.2 **Accounting System:** The Committee must establish and maintain a satisfactory system of control of the Club's accounting records.

49.3 **Retention of records:** The accounting records must be kept in written form or in a form or manner that is easily accessible and convertible into written form. The accounting records must be kept for the current accounting period and for the last seven (7) completed accounting periods of the Club.

### **50 Balance Date**

50.1 **Balance Date:** The balance date of the Club is 31 March of each year or on the date the Committee decides. The Club must file financial returns statements with the Registrar within six months of the Balance Date.



## **51 Audit**

51.1 **Audit of Financial Statements:** The financial statements of the Club are to be audited by a qualified/independent auditor appointed at the Annual General Meeting on the recommendation of the Committee.

## **52 Payments to Members**

52.1 **No Personal Benefit:** The monies and other assets of the Club must not be used for personal or individual benefit of any Member or Officer, except in the circumstances described in section 24 of the Act.

52.2 **Permitted Benefits:** Nothing in Rule 52 prevents payment in good faith of, or to, any Member or Officer for any of the following provided that such payment does not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction:

52.2.1 any services actually rendered to the Club, whether as an employee or otherwise;

52.2.2 goods supplied to the Club in the ordinary and usual course of operation;

52.2.3 interest on money borrowed from any Member or Committee Member;

52.2.4 rent for premises demised or let by any Member or Committee Member to the Club;

52.2.5 any out-of-pocket expenses incurred by a Member or Committee Member on behalf of the Club for any other reason,

52.2.6 and provided that no Officer or Member is allowed to influence any such decision made by the Club in respect of payments or transactions between it and them, their direct family or any associated entity.

## **PART 10 -DISPUTE RESOLUTION PROCEDURES**

### **53 How a Complaint is Made**

53.1 **Notice of Complaint:** A Member or an Officer (the 'Complainant') may make a Complaint by giving to the Committee or specified sub committee (if there is one) a notice in writing that:

53.1.1 states that the Complainant is starting a procedure for resolving a Dispute in accordance with the Club's Constitution;

53.1.2 sets out the allegation to which the Dispute relates and whom the allegation is against; and

53.1.3 sets out any other information reasonably required by the Club.

53.2 **Club can initiate Complaint:** The Club may make a Complaint involving an allegation against a Member or an Officer (the 'Respondent') by giving to the Respondent a notice in writing that:

53.2.1 states that the Club is starting a procedure for resolving a Dispute in accordance with the Club's Constitution; and

53.2.2 sets out the allegation to which the Dispute relates.

53.3 **Respondent Information:** The information given to the Respondent under Rule 53.1 or 53.2 must be enough to ensure that a Respondent is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

#### **54 Complainant's Right to be Heard**

54.1 **Right to be Heard:** A Complainant has a right to be heard before the Complaint is resolved or any outcome is determined.

54.2 **Officer may Exercise Right of Club:** If the Club makes a Complaint an Officer may exercise the right to be heard on behalf of the Club.

54.3 **Method of Hearing:** Without limiting the manner in which the Complainant may be given the right to be heard, they must be taken to have been given the right if:

54.3.1 they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held);

54.3.2 an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing;

54.3.3 an oral hearing (if any) is held before the decision maker; and

54.3.4 the Complainant's written or verbal statement or submissions (if any) are considered by the decision maker.

#### **55 Respondent's Right to be Heard**

55.1 **Application:** This rule applies if a Complaint involves an allegation that a Member, an Officer, or the Club (the 'Respondent'):

55.1.1 has engaged in misconduct;

55.1.2 has breached, or is likely to breach, a duty under the Club's Constitution, Bylaws, code of conduct, policies or the Act; or

55.1.3 has damaged the rights or interests of a Member or the rights or interests of Members generally.

55.2 **Right to be Heard:** The Respondent has a right to be heard before the Complaint is resolved or any outcome is determined.

55.3 **Officer may Exercise Right of Club:** If the Respondent is the Club, an Officer may exercise the right to be heard on behalf of the Club.

55.4 **Method of Hearing:** Without limiting the manner in which a Respondent may be given a right to be heard, a Respondent must be taken to have been given the right if:

55.4.1 the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the respondent to prepare a response;

55.4.2 the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held);

55.4.3 an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing;

55.4.4 an oral hearing (if any) is held before the decision maker; and

55.4.5 the Respondent's written statement or submissions (if any) are considered by the decision maker.

## **56 Investigating and Determining Dispute**

56.1 **Investigation:** The Club must, as soon as is reasonably practicable after receiving or becoming aware of a Complaint made in accordance with the Constitution, ensure that the Dispute is investigated and determined.

56.2 **Fair Process:** Disputes must be dealt with under the Constitution in a fair, efficient, and effective manner and in accordance with the provisions of the Act.

56.3 **Cooperation:** All Members (including the Committee) must cooperate to resolve Disputes efficiently, fairly, and with minimum disruption to the Club's activities.

## **57 Club May Decide Not to Proceed Further**

57.1 **Club may Decide not to Proceed:** Despite Rule 56, the Club may decide not to proceed further with a Complaint if:

57.1.1 the Complaint is considered to be trivial;

57.1.2 the Complaint does not appear to disclose or involve any allegation of the following kind:

- (a) that a Member or an Officer has engaged in material misconduct;
- (b) that a Member, an Officer, or the Club has materially breached, or is likely to materially breach, a duty under the Club's Constitution or policies or the Act;
- (c) that a Member's rights or interests or Members' rights or interests generally have been materially damaged;

57.1.3 the Complaint appears to be without foundation or there is no apparent evidence to support it;

57.1.4 the person who makes the Complaint has an insignificant interest in the matter;

57.1.5 the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under the Constitution; or

57.1.6 there has been an undue delay in making the Complaint.

## **58 Club May Refer Complaint**

58.1 **Referral of Complaint:** The Club may refer a Complaint to:

58.1.1 a subcommittee, a Club Judicial Committee, or an external person or organisation to investigate and report; or

58.1.2 a subcommittee, a Club Judicial Committee, an arbitral tribunal, or an external person or organisation to investigate and make a decision.

58.2 **Referral to Dispute Resolution Service:** The Club may, with the consent of all parties to a Complaint, refer the Complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).

58.3 **No Limitation on Referral to Authorities:** For the avoidance of doubt, this Rule 58 will not limit the Club's discretion to refer any matter to any appropriate regulatory authority or in the case of suspected criminal activity arising in relation to any Complaint, to the Police.

58.4 **Remedies:** The decision-maker may:

58.4.1 order the Complainant (if a Member) or the Member complained against, to meet any of the Club's reasonable costs in dealing with the Complaint; and

58.4.2 make such directions as the decision-maker thinks appropriate (with which the Club and Members will comply), including upholding a Complaint, and

(a) reprimanding the Member; and/or

(b) suspending the Member from membership for a specified period; and/or

(c) terminating the Member's membership.

58.5 **Procedure:** Before any decision under Rule 58.4 is made the Member concerned:

58.5.1 must be given fourteen (14) Days' Written Notice by the decision-maker of the proposed resolution to impose a sanction; and

58.5.2 have the right to be present, make submissions, and be heard at the meeting in which the proposed sanction is to be determined.

58.6 **Suspension pending investigation:** Where the Committee has reason to consider that a Member who is the subject of a Complaint may pose a material risk to the health, safety and wellbeing of any person, the Committee may suspend that Member from Club premises and Events and from entry into any SLSNZ events pending determination of the Complaint.

## 59 Decision Makers

59.1 **Impartiality of Decision Maker:** A person may not act as a decision maker in relation to a Complaint if two (2) or more members of the Committee or a Complaints subcommittee (if appointed) consider that there are reasonable grounds to believe that the person may not be:

59.1.1 impartial; or

59.1.2 able to consider the matter without a predetermined view.

## 60 Appeals

60.1 **Appeal to SLSNZ:** A Complainant or Respondent may appeal a decision made in accordance with this Constitution to SLSNZ in accordance with the rules and requirements for referring a Dispute set out in the SLSNZ Constitution.

## PART 11 – ALTERATIONS TO THE CONSTITUTION

### 61 Amending this Constitution

61.1 **Special Resolution:** Subject to Rule 62.3, this Constitution may only be altered, added to, or repealed by a resolution passed by a three fourths majority at a General Meeting in accordance with this Constitution.

- 61.2 **Notice:** Notice of an intention to alter this Constitution must be given by the Committee or any Member no later than fourteen (14) Days prior to a General Meeting.
- 61.3 **Limitation of Amendments:** No alteration, addition to or revision of this Constitution will be approved if it affects the not-for-profit purposes, personal benefit prohibition, or the winding up rules of the Club. This rule must not be removed from this Constitution and must be included in any alteration, addition to, or revision of this Constitution.
- 61.4 **Minor/technical Amendments:** Any minor or technical amendments may be notified to Members as outlined in section 31 of the Act.
- 61.5 **Notification to Registrar:** When an amendment is approved by a General Meeting it must be notified to the Registrar of Incorporated Societies in the form and manner specified in the Act for registration and will take effect from the date of registration.
- 61.6 **Notification to Charities Services:** The amendment must also be notified to Charities Services as required by section 40 of that Act.

## **PART 12 - LIQUIDATION AND REMOVAL FROM THE REGISTER**

### **62 Voluntary Liquidation**

- 62.1 **Voluntary Liquidation:** The Club may be voluntarily liquidated if:
- 62.1.1 a Special Resolution is passed at a General Meeting; and
  - 62.1.2 such resolution is confirmed by Special Resolution in a subsequent General Meeting called for that purpose and held no later than thirty (30) Days after the date on which the resolution to be confirmed was passed.
- 62.2 **Notice of Liquidation Proposal:** The Committee must give thirty (30) Days Written Notice to all Members of the proposed resolution to put the Club into liquidation.
- 62.3 **Notice of Meeting:** The Committee must also give Written Notice to all Members of the General Meeting at which any such proposed resolution is to be considered. The Notice must include all information as required by section 228(4) of the Act.

### **63 Liquidation or removal in accordance with the Act**

- 63.1 **Liquidation:** The Club may also be put into liquidation or removed from the Register of Incorporated Societies in accordance with the provisions of Part 5 of the Act.

### **64 Surplus Assets**

- 64.1 **Surplus Assets:** If the Club is liquidated or removed from the Register of Incorporated Societies and there are surplus assets after settling all debts and liabilities, these assets must not be paid or distributed among the Club's Members. Instead, they must be given or transferred to some other not-for-profit entity, charitable organisation, or charitable body having purposes similar to the purposes of the Club or SLSNZ and used to further a charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005.
- 64.2 **General Meeting:** The organisation or body in Rule 64.1 must be determined by Members in a General Meeting to be held with sufficient notice to satisfy the requirements of section 228 of the Act.
- 64.3 **Meeting following Liquidation:** If a General Meeting for the purposes of Rule 64.2 cannot be held before liquidation or removal from the Register of Incorporated

Societies, the Club must apply to the Registrar in accordance with section 217 of the Act to be treated as being still in existence for the purposes of passing a resolution for disposal of surplus assets.

- 64.4 **Registrar may Decide:** If the Members are unable to reach agreement on the body or bodies to which surplus assets will be distributed, or the Club is otherwise unable to pass a resolution specifying the body or bodies, the surplus assets will be distributed in a manner determined by the Registrar, having regard for the purposes of the Club and other relevant matters provided for in this Constitution.

## **PART 13 - OTHER**

### **65 Club Colours, Costumes and Uniforms:**

- 65.1 **Colours:** The Club's colours are Blue and Yellow. (The Blue is defined as PMS 293C [CMYK C98, M83, y18,k4] and the Yellow as 3514C [CMYK C0, M20, Y100, K0]).
- 65.2 **Costumes & Uniforms:** The cut and style of swimming costumes and uniforms to be worn when undertaking Lifeguarding for the Club will be as directed by SLSNZ and the Committee.

### **66 SLSNZ Regulations**

- 66.1 **Competition:** All competitions held by the Club must be carried out in accordance with the SLSNZ Regulations and any other manuals, policies and standard procedures issued by SLSNZ.

### **67 Indemnity and Insurance**

- 67.1 **Indemnity:** The Club will indemnify all current and former Committee Members, Officers and employees in respect of:
- 67.1.1 liability to any person other than the Club or SLSNZ for any act or omission in their capacity as a Committee Member or employee; and
  - 67.1.2 costs (including legal costs) incurred by the Committee Member or employee in defending or settling any claim or proceeding relating to any such liability.
- 67.2 **Scope of indemnity:** The indemnity set out in Rule 67.1 does not extend to:
- 67.2.1 criminal liability; or
  - 67.2.2 a liability that arises out of a failure to act in good faith and in the best interests of the Club when acting in capacity as a Committee Member or employee.
- 67.3 **Insurance:** the Club may, at the expense of the Club, obtain any appropriate insurance cover in respect of the indemnity provision in Rule 67.1.

## **Appendix 1 Proxy Form**

I [insert name] of [insert address] being a member of [insert organisation name] appoint [insert name of proxy] as

my proxy to speak [and vote] for me at the General Meeting to be held on [insert date] and at any adjournment of

that General Meeting.

I direct my proxy to vote in the following manner [insert resolutions and whether the proxy is to vote for or against].