Associations Incorporation Act 2009 (NSW) **(Act)**

Constitution of the Southern Phoenix FC Inc.

First Edition

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ASSOCIATIONS INCORPORATION ACT 2009 (NSW)

CONSTITUTION

SOUTHERN PHOENIX FC INCORPORATED

1. NAME OF CLUB

The name of the Club is **SOUTHERN PHOENIX FC** Incorporated (**Club**).

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Constitution unless the contrary intention appears:

Act means the *Associations Incorporation Act 2009 (NSW)*.

Board means the body managing the Club and consisting of those persons whom have been elected as members of the board.

Committee Member means an individual who is not a registered player, but whom in accordance with Clause 6, has applied for membership to the club, has been approved for membership and is financial.

Constitution means this Constitution of the Club.

Director means a member of the Board and includes any person acting in that capacity from time to time appointed in accordance with this.

Financial Year means (unless determined otherwise by the Board) the year ending on the next 30 June following incorporation and thereafter a period of 12 months commencing on 1 July and ending on 30 June each year.

General Meeting means the annual or any special general meeting of the Club.

Incapacitated means unable to fulfil duties as required by this Constitution or the Act, including being able to:

(a) understand the information relevant to the decisions that will have to be made in the role of Director;

(b) retain that information to the extent necessary to make those decisions;

(c) use or weigh that information as part of the decision making process; or

(d) communicate the decisions in some way.

Individual Member means a registered, financial Member of the Club who is at least 18 years of age.

Intellectual Property means all rights subsisting in copyright, business names, names, trade marks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films) or service marks relating to the Club or any activity of or conducted, promoted or administered by the Club.

Junior Member means a registered Member of the Club who is younger than 18 years of age.

Life Member means an Individual appointed as a Life Member of the Club under **clause 5.2**.

Local area means the geographical area for which the Club is responsible as recognised by the RSO and/or SSO for the Sport of which the Club is a Member. That being the South Eastern region of NSW.

Member means a Member of the Club for the time being under **clause 5**.

NSO means the National Sporting Organisation for the Sport being Football Australia.

Objects means the Objects of the Club in **clause 3**.

Public Officer means the person appointed to be the public officer of the Club in accordance with the Act.

Register means a register of Members kept and maintained in accordance with **clause 7**.

Regulations means any rules, by-laws or regulations made by the Board under **clause 35**.

RSO means the Regional Sporting Organisation which is a member of or affiliated with SSO.

Seal means the common Seal of the Club (if any).

Special Resolution means a Special Resolution defined in the Act.

Sport means the sport of Football/Soccer.

SSO means the State Sport Organisation for the Sport being Football NSW.

2.2 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 transmission.

2.3 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.

2.4 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. The model constitution under the Act is expressly displaced by this Constitution.

3. OBJECTS OF THE CLUB

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

(a) conduct, encourage, promote, advance and administer the Sport throughout the local area;

(b) act, at all times, on behalf of and in the interest of the Members and the Sport in the area;

(c) affiliate and otherwise liaise with the RSO, SSO and/or NSO of which the Club is a Member and adopt their rule and policy frameworks to further these Objects;

(d) abide by, promulgate, enforce and secure uniformity in the application of the rules of the Sport as may be determined from time to time by NSO and as may be necessary for the management and control of the Sport and related activities in New South Wales;

(e) advance the operations and activities of the Club throughout the local area;

(f) have regard to the public interest in its operations; and

(g) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

4. POWERS OF THE CLUB

Solely for furthering the Objects, the Club has, in addition to the rights, powers and privileges conferred on it under section 19 of the Act, the legal capacity and powers of a company limited by guarantee as set out under section 124 of the *Corporations Act 2001 (Cth)*.

5. MEMBERS

5.1 Members

The Members of the Club shall consist of:

(a) Life Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present, to debate and to vote, at General Meetings;

(b) Individual Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present, to debate and to vote at, General Meetings; and

(c) Junior Members, who subject to this Constitution, shall have the right to receive notice of General Meetings but no right to be present, or debate, or vote, at General Meetings; and

(d) Committee Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present, to debate and to vote at, General Meetings.

5.2 Life Members

(a) The Board may recommend to the annual General Meeting that any natural person who has rendered distinguished service to the Club be appointed as a Life Member.

(b) A resolution of the annual General Meeting to confer life membership (subject to **clause 5.2(c)**) on the recommendation of the Board must be a Special Resolution.

(c) A person must accept or reject the Club's resolution to confer life membership in writing. Upon written acceptance, the person's details shall be entered upon the Register, and from the time of entry on the Register the person shall be a Life Member.

(d) Any person who was, prior to the approval of this constitution, a life member of the previously constituted South East Phoenix FC or the Southern Branch FC are taken to be deemed life members.

6. MEMBERSHIP APPLICATION

6.1 Application for Membership

An application for membership must be:

(a) from the applicant, in writing on the form prescribed from time to time by the Board (if any), and lodged with the Club; and

(b) accompanied by the appropriate fee (if any).

By applying an applicant acknowledges and agrees that they voluntarily agree to be bound by the rules, regulations and policies of the Club (as well as those of the RSO, SSO and NSO) including but not only this Constitution.

6.2 Discretion to Accept or Reject Application

(a) The Board, may acting in the best interests of the Club and in good faith, accept or reject an application whether the applicant has complied with the requirements in **clause 6.1** or not. The Club shall not be required or compelled to provide any reason for such acceptance or rejection.

(b) Where the Board accepts an application, the applicant shall become a Member. Membership shall be deemed to commence upon acceptance of the application by the Board. The Register shall be amended accordingly as soon as practicable.

(c) Where the Board rejects an application, it shall refund any fees forwarded with the application and the application shall be deemed rejected by the Club. No reasons for rejection need be given.

(d) There is no right of appeal where the Board rejects an application for membership, whether a new application or a renewal application.

6.3 Renewal

(a) Members (other than Life Members) must re-apply for membership annually in accordance with the timeframes and procedures set down by the Club from time to time. Members acknowledge and agree that membership renewal is not automatic. **Clause 6.2** applies to re-applications for membership.

(b) Upon re-application a Member must provide details of any change in their personal details, and any other information reasonably required by the Club.

6.4 Deemed Membership

(a) All persons who are, prior to the approval of this Constitution under the Act, Members of the Club shall be deemed Members from the time of approval of this Constitution under the Act.

(b) Any persons, prior to approval of this Constitution under the Act, who are not deemed Members under **clause 6.4(a)** shall be entitled to carry on such functions analogous to their previous functions as are provided for under this Constitution.

7. REGISTER OF MEMBERS

7.1 Club to Keep Register

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

(a) the full name and address of the Member;

(b) the category of membership of the Member;

(c) the date on which the Member became a Member;

(d) any other information determined by the Board; and

(e) where applicable, the date of cessation of membership of any Member.

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

7.2 Inspection of Register

Having regard to privacy and confidentiality considerations, inspection of the Register will only be available as required by the Act and under **clause 29.2(b)**. If permitted, only an extract of the Register, excluding the address or other direct contact details of any Member, shall be made available for inspection (but not copying) by Members.

7.3 Use of Register

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

8. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

(a) this Constitution forms a contract between each of them and the Club and that they are bound by this Constitution and the Regulations.

(b) they shall comply with and observe this Constitution and the Regulations and any determination, resolution or policy which may be made or passed by the Board or other entity with delegated authority;

(c) by submitting to this Constitution and the Regulations, they are subject to the jurisdiction of the Club, RSO, SSO and NSO;

(d) the Constitution and the Regulations are necessary and reasonable for promoting the Objects and particularly the advancement and protection of the Sport;

(e) neither membership of the Club nor this Constitution gives rise to:

(i) any proprietary right of Members in, to or over the Club or its property or assets;

(ii) any automatic right of a Member to renewal of their membership of the Club;

(iii) subject to the Act and the Club acting in good faith, the right of Members to natural justice, unless expressly provided for in this Constitution;

(f) they are entitled to all benefits, advantages, privileges and services of Club membership; and

(g) a right, privilege or obligation of a person by reason of their membership of the Club:

(i) is not capable of being transferred or transmitted to another person; and

(ii) terminates upon the cessation of membership whether by death, resignation or otherwise.

9. DISCONTINUANCE OF MEMBERSHIP

9.1 Notice of Resignation

(a) A Member who has paid all arrears of fees payable to the Club may resign or withdraw from membership of the Club by giving notice in writing to the Club of such withdrawal or resignation.

(b) When the Club receives a notice given under **clause 9.1(a)**, it must make an entry in the Register that records the date on which the Member ceased to be a Member.

9.2 Discontinuance for Breach

Notwithstanding anything in the Act or this Constitution:

(a) membership of the Club may be discontinued by the Board upon breach of any clause of this Constitution or the Regulations, including, but not limited to, the failure to pay any monies owed to the Club, failure to comply with the Regulations or any resolutions or determinations made or passed by the Board or any duly authorised committee;

(b) membership shall not be discontinued by the Board under **clause 9.2(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach; and

(c) where a Member fails, in the Board's view to adequately explain the breach, that Member's membership shall be discontinued under **clause 9.2(a)** by the Board giving written notice of the discontinuance to the Member. The Register shall be amended to reflect any discontinuance of membership under this **clause 9.2** as soon as practicable.

9.3 Member to Re-Apply

A Member whose membership has ceased or been discontinued under **clauses 9.1** or **9.2**:

(a) must seek renewal and re-apply for membership in accordance with this Constitution; and

(b) may be re-admitted at the discretion of the Board. There is no right of appeal where the Board refuses to re-admit a former Member under this clause.

9.4 Forfeiture of Rights

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

9.5 Membership may be Reinstated

Membership which has been discontinued under this **clause 9** may be reinstated at the discretion of the Board, with such conditions as it deems appropriate.

9.6 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.

10. DISCIPLINE

10.1 Disciplinary proceedings

The Board may commence or cause to be commenced disciplinary proceedings against a Member who has allegedly:

(a) breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations or any resolution or determination of the Board or any duly authorised committee;

(b) acted in a manner unbecoming of a Member, or prejudicial to the purposes and interests of the Club and/or the Sport; or

(c) brought themselves, the Club, any other Member or the Sport into disrepute.

10.2 Procedure

(a) That Member will be subject to and submits unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Club set out in the Regulations or as otherwise determined by the Board.

(b) Without limiting the operation of **clause 10.2(a)** the Board may appoint a Judiciary Committee to deal with any disciplinary matter referred to it. Such a Judiciary Committee shall operate in accordance with the procedures expressed in the Regulations or as otherwise determined by the Board but subject always to the Act.

11. SUBSCRIPTIONS AND FEES

(a) The annual membership subscription and any other fees or levies payable by Members or categories of Members to the Club, the benefits which apply, the time for, and manner of payment, shall be determined by the Board from time to time.

(b) The Board is empowered to prevent any Member whose annual subscription or any other fees are in arrears from exercising the whole or any of the rights or privileges of membership of the Club, including but not limited to the right to vote at General Meetings. There is no right to natural justice or any right of appeal where the Board exercises its power under this **clause 11(b)**.

12. EXISTING DIRECTORS

The Members of the administrative or governing body (by whatever name called) of the Club in office immediately prior to approval of this Constitution under the Act shall continue in those positions until the next annual general meeting following such adoption of this Constitution. After this General Meeting the positions of Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution.

13. POWERS OF THE BOARD

Subject to the Act and this Constitution, the business of the Club shall be managed and the powers of the Club shall be exercised by the Board. In particular, the Board shall act in accordance with the Objects and shall operate for the benefit of the Members and the Sport and community throughout the Local area.

14. COMPOSITION OF THE BOARD

14.1 Composition of the Board

The Board shall comprise up to:

(a) seven (7) elected Directors who will be elected to one of the following roles:

(i) President

(ii) Vice President

(iii) Secretary

(iv) Treasurer

(v) Member Protection Officer

(vi) General Board Member x 2, and

(b) two (2) appointed Directors who need not be Members and who may be appointed by the Directors under **clause 16**.

14.2 Election and Appointment of Directors

(a) The elected Directors shall be elected under **clause 15**.

(b) The appointed Directors may be appointed under **clause 16**.

14.3 Portfolios

The Board may from time to time allocate portfolios and/or titles to Directors beyond their elected position. Subject to this Constitution and any properly passed resolution of the Board, the allocation of portfolios or titles does not effect the powers and duties of Directors.

15. ELECTED DIRECTORS

15.1 Nomination for Board

(a) Nominations for elected Director positions shall be called for forty-eight (48) days prior to the annual general meeting. When calling for nominations, details of the necessary qualifications and job descriptions for the positions shall also be provided. Qualifications and job descriptions may be determined by the Board from time to time.

(b) Nominees for elected Director positions must declare any position they hold in the NSO, SSO or RSO.

15.2 Form of Nomination

Nominations must be:

(a) in writing or in electronic form;

(b) on the prescribed form (if any) provided for that purpose;

(c) signed by two (2) Individual Members;

(d) certified by the nominee (who must be an Individual Member) expressing their willingness to accept the position for which they are nominated; and

(e) delivered to the Club not less than twenty-eight (28) days before the date fixed for the annual general meeting.

15.3 Elections

(a) If the number of nominations received is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated may be declared elected only if approved by a majority of Members present and entitled to vote.

(b) If there are insufficient nominations received to fill all vacancies on the Board, or if a person is not approved by the majority of Members under **clause 15.3(a)**, the positions will be deemed a casual vacancy under **clause 17.1**.

(c) 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.

(d) Voting shall be conducted in such a manner and by such a method as determined by the Board from time to time.

15.4 Term of Appointment for Elected Directors

(a) Directors elected under **clause 15** shall be elected for a term of twelve (12) months. Subject to provisions in this Constitution relating to early retirement or removal of Directors, elected Directors shall remain in office from the conclusion of the annual General Meeting at which the election occurred until the conclusion of the next annual General Meeting following.

16. APPOINTED DIRECTORS

16.1 Appointment of Directors

The elected Directors *may* appoint up to two (2) appointed Directors. The purpose of an appointed director is to allow the board to identify additional skills that would help the board facilitate its business and to appoint a person as director accordingly.

16.2 Qualifications for Appointed Directors

The appointed Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition. They do not need to be Members.

16.3 Term of Appointment

(a) Appointed Directors may be appointed by the elected Directors under this Constitution for a term of twelve (12) months, which shall commence from the first Board meeting after the annual General Meeting until after the conclusion of the next annual General Meeting that follows.

(b) Appointed Directors should be appointed to ensure rotational terms that coincide with the elected Directors' rotational terms.

(c) Any adjustment to the term of appointed Directors appointed under this Constitution necessary to ensure rotational terms under this Constitution shall be determined by the Board.

(d) Following the adoption of this Constitution, no person who has served as an appointed Director for a period of four (4) consecutive full terms (four (4) years) shall be eligible for appointment as an appointed Director until the next annual General Meeting following the date of conclusion of their last term as an appointed Director.

17. VACANCIES ON THE BOARD

17.1 Casual Vacancies

Any casual vacancy occurring in the position of Director may be filled by the remaining Directors from among appropriately qualified persons; or by a person applying to the board to fill a vacancy and that application being accepted by a majority vote of the Directors. Any casual vacancy may only be filled for the remainder of the Director's term under this Constitution.

17.2 Grounds for Termination 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 their creditors generally;

(e) after reasonable consideration by the Board, is determined by the Board to have become Incapacitated and the Board reasonably expects the Director will remain Incapacitated for a period exceeding 3 months, provided always that:

(i) the Director is first given the opportunity to make written or oral submissions to the Board before a determination is made; and

(ii) any determination made under this **clause 17.2** shall be made with the Directors acting reasonably; or

(c) resigns their office in writing to the Club;

(d) is absent without the consent of the Board from meetings of the Board held during a period of six (6) months;

(e) holds any office of employment with the Club without the approval of the Board;

(f) is directly or indirectly interested in any contract or proposed contract with the Club and fails to declare the nature of that interest;

(g) in the reasonable opinion of the Board (but subject always to this Constitution) has:

(i) acted in a manner unbecoming or prejudicial to the Objects and interests of the Club;

(ii) brought themselves or the Club into disrepute;

(h) is removed by Special Resolution; or

(i) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth.)*.

17.3 Board May Act

If a casual vacancy or vacancies arises in the office of a Director or Directors, the remaining Directors may act. If the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board however, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum.

18. MEETINGS OF THE BOARD

18.1 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act). Subject to this Constitution, it 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.

18.2 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 for all purposes be deemed a determination of the Board. All Directors shall have one (1) vote on any question. Where voting is equal, the chair may exercise a casting vote. If the chair does not exercise a casting vote, the motion will be lost.

18.3 Resolutions Not in Meeting

(a) A resolution in writing that has been signed or assented to by any 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 the 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 this Constitution. The notice will specify that Directors are not required to be present in person;

(iii) if a failure in communications prevents **clause 18.3(b)(i)** from being satisfied by the 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 clause to be held, then the meeting shall be suspended until **clause 18.3(b)(i)** 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; 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 the meeting, provided a Director is there present. If no Director is there present, the meeting shall be deemed to be held at the place where the chair of the meeting is located.

18.4 Quorum

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is five (5). A quorum must remain present throughout the meeting.

18.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their apology or presence) not less than fourteen (14) days written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than four (4) days prior to such meeting.

18.6 Chair

The Board chair will be the President. The chair shall be the nominal head of the Club and will act as chair of any Board meeting or General Meeting at which they are present. If the chair is not present, or is unwilling or unable to preside at a Board meeting the remaining Directors shall appoint another Director to preside as chair for that meeting only.

18.7 Conflict of Interest

A Director shall declare their interest in any contractual, selection, disciplinary, or financial matter in which a conflict of interest arises or may arise. He shall, unless otherwise determined by the Board, absent themself from discussions of such matters and shall not be

entitled to vote in respect of such matters. If the Director casts a vote, the vote shall not be counted. If there is any uncertainty as to whether it is necessary for a Director to absent themself from discussions and refrain from voting, the issue should be immediately determined by the Board. If this is not possible, the matter shall be adjourned or deferred.

18.8 Disclosure of Interests

(a) The nature of the interest of a Director must be declared at the meeting of the Board at which the relevant matter is first taken into consideration, if the interest then exists. In any other case, the interest should be disclosed to the Board at the next meeting of the Board. If a Director becomes interested in a matter after it is made or entered into, the declaration of the interest must be made at the first meeting of the Board held after the Director interest has arisen.

(b) All disclosed interests must also be disclosed to each annual General Meeting.

18.9 General Disclosure

A general notice stating that a Director is a member of any specified firm or company and that they are 'interested' in all transactions with that firm or company is sufficient declaration under **clause 18.8**. After such general notice, it is not necessary for the Director to give a special notice regarding any particular transaction with that firm or company.

18.10 Recording Disclosures

Any declaration made, any disclosure or any general notice given by a Director under **clauses 18.7, 18.8** and/or **18.9** must be recorded in the minutes of the relevant meeting and otherwise in accordance with the Act.

19. DELEGATIONS

19.1 Board May Delegate Functions

The Board may, by instrument in writing, create, establish or appoint special committees, individual officers and consultants to carry out specific duties and functions. The Board will determine what powers these committees are given. In exercising its power under this clause, the Board should take into account broad stakeholder involvement.

19.2 Delegation by Instrument

In the establishing instrument, the Board may 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, any other law or this Constitution.

19.3 Delegated Function Exercised in Accordance with Terms

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

19.4 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 **clause 18**. The entity exercising delegated powers shall make decisions in accordance with the Objects, and it shall promptly provide the Board with

details of all material decisions. The entity shall also provide any other reports, minutes and information as required by the Board from time to time.

19.5 Delegation May Be Conditional

A delegation under this clause may be made subject to certain conditions or limitations regarding the exercise of any function. These may be specified in the delegation.

19.6 Revocation of Delegation

The Board may by resolution and/or instrument in writing, at any time revoke wholly or in part any delegation made under this clause. The Board may also amend or repeal any decision made by a body or person under this **clause 19**.

20. SEAL

(a) The Club may have a Seal upon which its corporate name shall appear in legible characters.

(b) The Seal shall not be used without the express authorisation of the Board. Every use of the Seal shall be recorded in the Club's minute book. Two (2) Directors must witness every use of the Seal, unless the Board determines otherwise.

21. ANNUAL GENERAL MEETING

(a) The Club's annual General Meeting shall be held in accordance with the Act and this Constitution. It should be held on a date and at a venue 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.

22. SPECIAL GENERAL MEETINGS

22.1 Special General Meetings May be Held

The Board may, whenever it thinks fit, convene a special General Meeting. When, but for this clause, more than fifteen (15) months elapses between annual General Meetings, the Board shall convene a special General Meeting before the expiration of that period.

22.2 Requisition of Special General Meetings

(a) The secretary will convene a special General Meeting when at least five per cent (5%) of Members entitled to vote submit a requisition in writing.

(b) The requisition for a special General Meeting shall state the object(s) of the meeting, be signed by the Members making the requisition and be sent to the Club. The requisition may consist of several documents in a like form, each signed by one (1) or more of the Members making the requisition.

(c) If the Board does not cause a special General Meeting to be held one (1) month after the date in which the requisition is sent to the Club, the Members making the requisition, or any of them, may convene a special General Meeting to be held no later than three (3) months after that date.

(d) A special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as close as possible, as those convened by the Board.

23. NOTICE OF GENERAL MEETING

(a) Notice of every General Meeting shall be given to every Life Member and Individual Member entitled to receive notice. Notices shall be sent to the addresses appearing in the Club's Register. The auditor and Directors shall also be entitled to receive notice of every General Meeting. No other person shall be entitled, as of right, to receive notices of General Meetings.

(b) A notice of a General Meeting shall specify the place, day and hour of the meeting and shall state the business to be transacted at the meeting.

(c) At least twenty-one (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 entitled to vote.

(d) Notice of every General Meeting shall be given in the manner in **clause 37**.

24. 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 and subject to the requirements of the Act, the appointment of the auditors.

(b) All business that is transacted at a General Meeting and at an annual General Meeting, with the exception of those matters set down in **clause 24(a)**, shall be special business.

(c) No business other than that stated on the notice for a General Meeting shall be transacted at that meeting.

25. NOTICES OF MOTION

Members entitled to vote may submit notices of motion for inclusion as special business at a general meeting. All notices of motion must be submitted in writing to the Club no less than twenty-eight (28) days (excluding receiving date and meeting date) prior to the General Meeting.

26. PROCEEDINGS AT GENERAL MEETINGS

26.1 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 of the Club shall be 51% of Members entitled to vote.

26.2 Chair to Preside

The chair of the Board shall, subject to this Constitution, preside as chair at every General Meeting except:

(a) in relation to any election for which the chair is a nominee; or

(b) where a conflict of interest exists.

If the chair is not present, or is unwilling or unable to preside, the Member present shall appoint another Director to preside as chair for that meeting only.

26.3 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 a date, time or place determined by the chair. 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 chair 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. 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 thirty (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 **clause 26.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

26.4 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 chair; or

(b) a simple majority of the Members.

26.5 Recording of Determinations

Unless a poll is demanded under **clause 26.4**, the chair's declaration shall be conclusive evidence of the result of a resolution decided by a show of hands. The declaration does not need to record the number of votes in favour of or against the resolution; the result of the resolution must be recorded in the Club's book of proceedings.

26.6 Where Poll Demanded

If a poll is duly demanded under **clause 26.4** it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chair directs. The result of the poll shall be the resolution of the meeting.

26.7 Procedural irregularities

(a) No decision of the Club, the Board or any Board authorised entity shall be invalid merely because of a failure to give proper notice under this Constitution or the Regulations or other irregularity in procedure required by this Constitution or the Regulations unless a person suffers substantial prejudice as a result of that failure to give proper notice or irregularity in procedure.

(b) The Club, the Board or other Board authorised entity may confirm an earlier decision which may have been otherwise invalid because of a failure to give proper notice or other irregularity in procedure and the decision shall be deemed to be valid from the time it was originally made.

27. VOTING AT GENERAL MEETINGS

27.1 Members Entitled to Vote

Each Individual Member shall be entitled to one (1) vote at General Meetings. No other Member shall be entitled to vote but shall, subject to this Constitution, have and be entitled to exercise those rights set out in **clause 5.1**.

27.2 Chair May Exercise Casting Vote

Where voting at General Meetings is equal, the chair may exercise a casting vote. If the chair does not exercise a casting vote the motion will be lost.

27.3 Proxy Voting

Proxy voting is not permitted at any General Meeting.

27.4 Postal or Electronic Voting

No motion shall be determined by a postal or electronic ballot unless determined by the Board. If the Board so determines, the postal or electronic ballot shall be conducted under procedures determined by the Board from time to time.

28. GRIEVANCE PROCEDURE

(a) The grievance procedure set out in this clause applies to disputes arising under this Constitution between a Member and:

(i) another Member; or

(ii) the Club.

It does not, however, apply to any appeal by a Member against a decision made in accordance with the disciplinary proceedings described in **clause 10**.

(b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen days after the dispute comes to the attention of all 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 may refer the dispute to:

(i) any independent tribunal established by the SSO in accordance with the procedures determined by the SSO from time to time; or

(ii) a community justice centre for mediation under the *Community Justice Centres Act 1983 (NSW)* or a suitable alternative.

(d) The Board may prescribe additional grievance procedures in Regulations consistent with this **clause 27.4**.

(e) If the dispute is not resolved the Board may take whatever steps it considers appropriate in regard to the dispute in the best interests of the Club and the Members concerned.

29. RECORDS AND ACCOUNTS

29.1 Records

The Club shall establish and maintain proper records and minutes concerning all of its transactions, business, meetings and dealings (including those of the Club and the Board). It shall produce these as appropriate at each Board or General Meeting.

29.2 Records Kept in Accordance with the Act

(a) Proper accounting and other records of the Club including books, minutes, documents and securities shall be kept in accordance with the Act and otherwise shall be kept in the care and control of the secretary.

(b) Subject to the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the financial records, accounts, books, securities or other relevant documents of the Club will be open for inspection by the Members.

29.3 Board to Submit Accounts

The Board shall submit the Club's statements of account to the Members at the annual General Meeting in accordance with this Constitution and the Act.

29.4 Accounts Conclusive

The statements of account, when approved or adopted by an annual General Meeting, shall be conclusive except when errors have been discovered within three (3) months after such approval or adoption.

29.5 Accounts to be available to Members

The secretary shall ensure all persons entitled to receive notice of General Meetings under this Constitution, receive or have access to a copy of the statements of account, the Board's report, the auditor's report and every other document required under the Act (if any).

29.6 Negotiable Instruments

All cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Club, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two (2) duly authorised directors or in such other manner as the Board determines.

30. AUDITOR

(a) A properly qualified auditor or auditors shall be appointed by the Club in General Meeting. The auditor's duties shall be regulated in accordance with the Act, the *Corporations Act 2001 (Cth.)* and generally accepted principles and/or any applicable code of conduct. The auditor may be removed by the Board.

(b) The accounts of the Club 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.

31. INCOME

(a) Income and property of the Association shall be:

(i) derived from such sources; and

(ii) managed in such manner;

as the Board determines from time to time subject always to the Act and this Constitution.

(b) The income and property of the Club shall be applied solely towards the promotion of the Objects.

(c) Except as prescribed in this Constitution or the Act:

(i) no portion of the income or property of the Club shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member or Director; and

(ii) no remuneration or other benefit in money or money's worth shall be paid or given by the Club to any Member who holds any office of the Club.

(d) Nothing in **clauses 31(b)** or **31(c)** shall prevent payment in good faith to any Member for:

(i) any services actually rendered to the Club whether as an employee, director or otherwise;

(ii) goods supplied to the Club in the ordinary and usual course of operation;

(iii) interest on money borrowed from any Member;

(iv) rent for premises demised or let by any Member to the Club; or

(v) any out-of-pocket expenses incurred by a Member on behalf of the Club;

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.

32. WINDING UP

(a) Subject to this Constitution the Club may be wound up or cancelled in accordance with the Act.

(b) The liability of the Members of the Club is limited.

(c) Every Individual Member undertakes to contribute to the assets of the Club if it is wound up or cancelled while they are a Member, or within one year after ceasing to be a Member, for payment of the debts and liabilities of the Club contracted before the time at which they ceased to be a Member and towards the costs, charges and expenses of winding up or cancelling the registration of the Club, such an amount not exceeding one dollar ($1.00).

33. DISTRIBUTION OF PROPERTY ON WINDING UP

If upon winding up or cancellation of the Club there remains, after satisfaction of all its debts and liabilities, any assets or property, they shall not be paid to or distributed among the Members. Instead, the assets or property shall be given or transferred to another organisation(s) that has objects similar to those of the Club. Such organisation(s) must prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Club by this Constitution. Such organisation(s) will be determined by the Members in a General Meeting at or before the time of winding up or

cancellation. If this does not occur, the decision is to be made by a judge of the Supreme Court of New South Wales or other Court as may have or acquire jurisdiction in the matter.

34. ALTERATION OF CONSTITUTION

This Constitution shall not be altered except by Special Resolution.

35. REGULATIONS

35.1 Board to Formulate Regulations

The Board may formulate, issue, adopt, interpret and amend Regulations for the proper advancement, management and administration of the Club, the advancement of the Objects and the Sport in the Local Area. Such Regulations must be consistent with this Constitution and any policy directives of the Board.

35.2 Regulations Binding

All Regulations are binding on the Club and all Members.

35.3 Regulations Deemed Applicable

All clauses, rules, by-laws and regulations of the Club (by whatever name) in force at the date of the approval of this Constitution (as long as such clauses, rules, by-laws or regulations are not inconsistent with or have been replaced by, this Constitution) shall be deemed to be Regulations and shall continue to apply and be in operation.

35.4 Changes Binding on Members

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by such means as are determined and approved by the Board from time to time. The Club shall take reasonable steps to distribute such changes to Members. All changes are binding on all Members.

36. STATUS AND COMPLIANCE OF CLUB

36.1 Recognition of Club

The Club is a Member of the RSO (where relevant) and SSO and is recognised by those bodies as the entity responsible for the delivery of the Sport in the Local area in accordance with the Objects but subject always to compliance with this Constitution and the RSO and SSO's constitutions.

36.2 Constitution of the Club

This Constitution will clearly reflect the objects of the RSO and SSO and will generally conform to the Constitutions of those bodies, subject always to the Act.

36.3 Region and SSO

The Club may not resign, disaffiliate or otherwise seek to withdraw from its RSO and/or SSO without approval by Special Resolution.

37. NOTICE

(a) Notices may be given by the Club to any person entitled under this Constitution to receive any notice. The notice can be:

(i) sent by pre-paid post to the Member's registered address or; or

(ii) sent by facsimile transmission or by electronic mail to the Member's facsimile number or electronic mail address; or

(iii) prominently posted on the Club's website.

(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 or by posting on the Club's website, service of the notice shall be deemed to be effected the next business day after it was sent or posted.

38. INDEMNITY

(a) Every Director and employee of the Club will be indemnified out of the property and assets of the Club against any liability incurred by them in their capacity as Director or employee in defending any proceedings, civil or criminal, in which judgement is given in their favour or in which they are acquitted or connected with any application in relation to any such proceedings in which relief is granted by the Court.

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

(i) in the case of a Director, performed or made while acting on behalf of and with the authority, express or implied, of the Club; or

(ii) in the case of an employee, performed or made in the course of, and within the scope of, their employment by the Club.