

# Constitution for Balaklava Football & Netball Club Inc.



APPROVED ON:

## TABLE OF CONTENTS

1. NAME OF CLUB.....	3
2. DEFINITIONS AND INTERPRETATION.....	3
3. OBJECTS OF THE CLUB.....	4
4. GROUNDS.....	5
5. POWERS OF THE CLUB.....	5
6. CLUB UNIFORM.....	6
7. MEMBERS.....	6
8. CESSATION OF MEMBERSHIP.....	7
9. DISCIPLINE.....	8
10. SUBSCRIPTIONS AND FEES.....	8
11. POWERS OF THE MANAGEMENT COMMITTEE.....	8
12. COMPOSITION OF THE MANAGEMENT COMMITTEE.....	9
13. ELECTED MANAGEMENT COMMITTEE MEMBERS.....	9
14. APPOINTED MANAGEMENT COMMITTEE MEMBERS.....	11
15. VACANCIES ON THE MANAGEMENT COMMITTEE.....	11
16. MEETINGS OF THE MANAGEMENT COMMITTEE.....	12
17. DELEGATIONS.....	13
18. DELEGATES TO THE RSO.....	13
19. SEAL.....	13
20. ANNUAL GENERAL MEETING.....	13
21. SPECIAL GENERAL MEETINGS.....	13
22. ATTENDANCE AND VOTING AT GENERAL MEETINGS.....	14
23. NOTICE OF GENERAL MEETING.....	14
24. BUSINESS.....	14
25. PROCEEDINGS AT GENERAL MEETINGS.....	14
26. VOTING AT GENERAL MEETINGS.....	15
27. DISPUTE RESOLUTION PROCEDURE.....	15
28. RECORDS AND ACCOUNTS.....	15
29. AUDITOR.....	15
30. PUBLIC OFFICER.....	16
31. FINANCES.....	16
32. APPLICATION OF INCOME.....	16
33. NOT FOR PROFIT ORGANISATION.....	16
34. WINDING UP.....	16
35. DISTRIBUTION OF ASSETS ON WINDING UP.....	17
36. CONSTITUTION.....	17
37. REGULATIONS.....	17
38. NOTICE.....	17
39. PATRONS AND VICE PATRONS.....	18
40. INDEMNITY.....	18
41. AUTHORITY TO TRADE.....	18
42. TRANSITIONAL PROVISIONS.....	18

# ASSOCIATIONS INCORPORATION ACT 1985 (SA)

## CONSTITUTION OF:

### BALAKLAVA FOOTBALL & NETBALL CLUB INC

#### 1. NAME OF CLUB

The name of the incorporated association is Balaklava Football & Netball Club Inc (herein after called the "Club").

#### 2. DEFINITIONS AND INTERPRETATION

##### 2.1 Definitions

In this Constitution unless the contrary intention appears:

**Act** means the *Associations Incorporation Act 1985 (SA)*.

**Annual General Meeting** means a meeting of the kind described in clause 20(a).

**Appointed Committee Member** means a committee member appointed under clause 14.

**Associate Member** means a financial member who is at least 18 years of age

**BFC** means the Balaklava Football Club

**BNC** means the Balaklava Netball Club

**Committee** means the body consisting of the Committee Members and constituting the committee for the purposes of the Act.

**Constitution** means this constitution of the Club.

**Committee Member** means a member of the Committee and includes Elected Committee Members and Appointed Committee Members and any person acting in that capacity from time to time appointed in accordance with this Constitution.

**Elected Committee Member** means a committee member appointed under clause 13.

**Financial Member** is a member that has paid the subscription for the season set by the Management Committee.

**Financial year** means the year ending on the next 30 September following incorporation and thereafter a period of 12 months commencing on 1 October and ending on 30 September each year.

**General Meeting** means a general meeting of Members and includes the Annual General Meeting or any Special General Meeting.

**Individual Member** means a financial member of the Club who is at least 16 years of age.

**Intellectual Property** means all rights subsisting in copyright, business names, names, trademarks (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 in South Australia.

**Junior Member** means a financial member of the Club who is under 17 years of age who can attend meetings but cannot vote.

**Life Member** means an individual member appointed as a life member of the Club according to the criteria outlined in clause 8.

**NSO** means the National Sporting Organisation governing either sport of Australian Rules Football or Netball

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

**Ordinary Resolution** means:

- (a) at a meeting of Members, a resolution passed at a General Meeting by a majority of Members present, entitled to vote and voting; or
- (b) at a meeting of the Committee or a committee of the Committee, a resolution passed by a majority of those present, entitled to vote and voting.

**Regulations** means a rule, regulation, by-law, or policy made by the Committee under this Constitution.

**RSO** means the Regional Sporting Organisation governing either sport of Australian Rules Football or Netball

**Seal** means the common seal of the Club.

**Special General Meeting** means a general meeting of Members convened in accordance with clause 21.

**Special Resolution** means a resolution passed at General Meeting of the Members if:

- (a) at least 21 days written notice specifying the intention to propose the resolution as a special resolution has been given to all Members; and
- (b) it is passed at a duly convened meeting of the Members by a majority of not less than three-quarters of the Members present, entitled to vote and voting.

**Sport** means Australian Rules Football and/or Netball

**SSO** means the State Sporting Organisation governing either sport of Australian Rules Football or Netball

## 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 or 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) 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 another legislative authority having jurisdiction); and
- (h) unless the contrary intention appears, a requirement that something is in writing will be met if it is produced by electronic, photographic, lithographic or other means by which it can readily be read and reproduced.
- (i) any doubt arising as to the application or meaning of any clause or wording therein shall be decided by a vote at a General Meeting, which decision shall be final and conclusive.

## 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 the Constitution.

## 2.4 The Act

- (a) Words and phrases which are defined in the Act and which are not specifically defined in clause 2.1 above have the same meanings in this Constitution as they do in the Act.
- (b) Model rules under the Act are expressly displaced by this Constitution.

## 3. OBJECTS OF THE CLUB

The Objects of the Club are to:

- (a) encourage, promote, advance and administer the Sport in the Balaklava District and surrounds;
- (b) act, at all times, on behalf of and in the interest of the Members and the Sport;

- (c) affiliate and otherwise liaise with the RSO and SSO (and NSO where applicable) and comply with the constitutions, regulations and rules of these bodies to further these Objects;
- (d) adopt and implement such policies as may be developed by the SSO or the NSO, including (as relevant and applicable) Member protection, anti-doping, health and safety, player and child welfare, junior sport, infectious diseases and such other matters as may arise as issues to be addressed in the Sport;
- (e) abide by, promote, enforce and secure uniformity in the application of the rules of the Sport;
- (f) advance the operations and activities of the Club have regard to the public interest in the operations of the Club;
- (g) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects;
- (h) maintain and enhance the reputation of the Club and the Sport and the standards of play and behaviour of participants in the Sport;
- (i) promote at all times mutual trust and confidence between the Club, the RSO, the SSO, the NSO and the Members in pursuit of these Objects;
- (j) promote the economic and community service success, strength and stability of the Club, the Members and the Sport;
- (k) use and protect the Intellectual Property appropriately;
- (l) pursue such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the interests of the Club;
- (m) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects;
- (n) do all that is reasonably necessary to enable these Objects to be achieved and enable Members to receive the benefits which these Objects are intended to achieve; and
- (o) promote the health and safety of Members and all other participants in the Sport.

#### **4. GROUNDS**

4.1 The Ralli Park Sportsground is the Club's official home ground.

#### **5. POWERS OF THE CLUB**

Solely for furthering the Objects, the Club has the rights, powers and privileges conferred on it under section 25 of the Act, namely to:

- (a) acquire, hold, deal with, and dispose of, any real or personal property;
- (b) administer any property on trust;
- (c) open and operate ADI accounts;
- (d) invest its moneys —
  - (i) in any security in which trust moneys may, by Act of Parliament, be invested; or
  - (ii) in any other manner authorised by the rules of the Club;
- (e) borrow money upon such terms and conditions as the Club thinks fit;
- (f) give such security for the discharge of liabilities incurred by the Club as the Club thinks fit;
- (g) appoint agents to transact any business of the Club on its behalf; and
- (h) enter into any other contract it considers necessary or desirable.

## **6. CLUB UNIFORM**

The Club uniform is outlined in the Balaklava Football and Netball Club By-laws and consists of green, gold and white colours.

## **7. MEMBERS**

### **7.1 Categories of Members**

The Members of the Club consist of:

- (a) Life Members;
- (b) Individual Members;
- (c) Junior Members; and
- (d) Associate Members

### **7.2 Admission of Members**

- (a) Any person who supports the objects of the club and agrees to be bound by its rules shall be deemed elected as a member of the club upon payment of the relevant subscription set by the Management Committee.
- (b) A member shall be deemed financial if current and past subscriptions are not overdue.
- (c) The application must:
  - (i) be in a form approved by the Committee;
  - (ii) contain full particulars of the name and address and contact details of the applicant; and
  - (iii) contain any other information prescribed by Regulation for an application for membership.

### **7.3 Discretion to accept or reject application**

- (a) The Committee Members may accept or reject an application whether the applicant has complied with the requirements in clause 7.2 or not. The Committee Members are not required, nor can they be compelled to provide, any reason for rejection.
- (b) Membership begins on the later to occur of:
  - (i) acceptance of the application by the Committee Members; or
  - (ii) payment of any fees payable by the new Member.

### **7.4 Life Members**

- (a) Life Membership is the highest honour that can be bestowed by the Club for longstanding and valued service to the club.
- (b) Any Member may recommend a person for Life Membership by notice in writing to the Management Committee of the Club. A recommendation made under this clause must include a written report outlining the contributions to the club that the nominee has made in several capacities over a number of years. Life membership is automatically granted when a player has played 300 or more senior games of football or netball at the Club.
- (c) A person may be appointed a Life Member only by Special Resolution by the Management Committee of the Club. Any person or persons nominated will be issued with a life membership badge at an Annual General Meeting or such function as the committee arrange.
- (d) Life Members shall be entitled to all rights and privileges as that of an Individual Member as determined by the Management Committee of the Club .
- (e) Existing Life Members of either BFC or BNC will automatically become Life Members of the Club
- (f) A Life Member cannot be required to pay fees or subscriptions.

### **7.5 Obligations of Members**

Each Member must:

- (a) treat all volunteers, members, contractors, and representatives of the Club and the RSO, SSO and NSO with respect and courtesy at all times;

- (b) maintain and enhance the standards, quality, and reputation of both the Club and Australian Rules Football and Netball; and
- (c) not act in a manner unbecoming of a Member or prejudicial to the Objects or the interests or reputation of the Club, the RSO, SSO and NSO or Australian Rules Football and Netball.

#### **7.6 Register of Members**

- (a) The Club must keep and maintain a register of Members in accordance with the Act.
- (b) In addition to the information required by the Act, the Register may contain such other information as the Committee considers appropriate.
- (c) Members must provide the Club with the details required by the Club to keep the register complete and up to date.

#### **7.7 Effect of Membership**

- (a) This Constitution constitutes a contract between each of the Members and the Club and each Member is bound by this Constitution and the Regulations.
- (b) Each Member is also bound by the rules and regulations governing competitions in which the Member participates.
- (c) Each Member authorises the Club to apply on the Member's behalf for the Member to be admitted to membership of the RSO, SSO and NSO for the Sport.

### **8. CESSATION OF MEMBERSHIP**

#### **8.1 General**

A Member ceases to be a Member of the Club if:

- (a) the Member dies;
- (b) the Member is dissolved, wound up or bankrupted;
- (c) the Member resigns from membership in accordance with clause 8.2; or
- (d) the Member is expelled from the Club under clause 8.3.

#### **8.2 Notice of Resignation**

A Member may resign from membership of the Club by giving one month's notice in writing to the Club. A resigning Member is liable for any outstanding fees or subscriptions which may be recovered as a debt due to the Club.

#### **8.3 Expulsion for breach**

- (a) Subject to clause 8.3(c) but despite anything contained in any Regulation made under clause 10(a), the Committee may expel a Member from membership of the Club if, in the opinion of the Committee, the Member has materially breached any of its obligations under this Constitution or the Regulations.
- (b) The Committee may, in its discretion, convene a judiciary committee under clause 10(c) to hear and determine an allegation that a Member has materially breached one or more of its obligations under this Constitution or the Regulations and to make recommendations to the Committee about the appropriate consequences of its findings. The Committee may rely on the findings and recommendations of the judiciary committee.
- (c) A member may not be expelled under clause 8.3(a) unless the Member has been afforded natural justice.
- (d) Where a Member fails, in the Management Committee's view, to adequately explain or remedy the breach, that Member's membership shall be discontinued under **clause 8.3(a)**. The Club shall give written notice of the discontinuance to the Member. The register shall be amended to reflect any discontinuance of membership under this **clause 8.3** as soon as practicable.

#### **8.4 Return of Property**

A Member who ceases to be a Member must not thereafter use any property of the Club (including, without limitation, its Intellectual Property) and must immediately return to the Club all of the Club's documents, records or other property in the possession, custody or control of the former Member.



## **8.5 Membership may be Reinstated**

- (a) Nothing in this clause 8 prevents a former Member from applying for readmission to Membership but, in considering the readmission application the Committee is entitled to take into account the facts and circumstances in which the prior membership (or memberships) ceased.
- (b) Membership which has ceased under this clause 8 may be reinstated at the discretion of the Committee without an application having been made under clause 8.5(a), with such conditions as it deems appropriate.

## **8.6 Refund of Membership Fees**

Membership fees or subscriptions paid by the former Member may, at the Committee's discretion, be refunded on a pro-rata basis to the Member on cessation of the membership.

## **9. DISCIPLINE**

A member may be expelled by resolution of the committee of management upon an act of misconduct detrimental to the interests and objects of the club, subject to the following:

- (a) The member is provided with details of the charge at least fourteen (14) days prior to the meeting of the committee at which the matter will be determined;
- (b) The member is provided with the opportunity to be heard or make a written submission to the committee before or during the meeting of the committee at which the matter will be determined.
- (c) The determination of the committee is communicated to the member, and in the event of a decision to expel, the member shall (subject to 9(d) below) cease to be a member of the club within fourteen (14) days after this communication has been made.
- (d) The member shall have the right to appeal the expulsion from the club at a General Meeting. The intention to appeal should be received in writing to the Secretary of the club within fourteen (14) days from the communication of the determination of the committee.
- (e) In the event of an appeal under 9(d) above, membership of the club shall not be terminated unless the determination of the committee for expulsion of the member is upheld by the members of the club at a General Meeting after the appellant has been given the opportunity to be heard, and in which case the membership will be terminated at the date of the General Meeting at which the original determination was upheld.

Any resigning or expelled members shall be liable for any outstanding subscriptions as determined by the committee of management.

## **10. SUBSCRIPTIONS AND FEES**

- (a) The Operating Committee of BFC and BNC will:
  - (i) fix annual membership subscriptions;
  - (ii) fix such other fees or levies as the Committee considers prudent for the effective and sustainable management of the affairs of the Club; and
  - (iii) determine the time for and manner of payment of the subscriptions, fees, and levies by Members to the Club.
- (b) On admission to membership a new Member must pay the current full year's subscription unless the Committee agrees to accept payment in instalments.
- (c) The Committee may waive part of a Member's subscriptions, fees or levies and may agree terms of payment for a Member different from those applicable to other Members if the Committee is satisfied that there are special reasons to do so.

## **11. POWERS OF THE MANAGEMENT COMMITTEE**

### **11.1 General powers of Management Committee**

- (a) Subject to the Act and this Constitution, the business and affairs of the Club must be managed by the Committee which may exercise the powers of the Club for that purpose.
- (b) The Committee must perform its functions in the pursuit of the Objects and in the interests of the Club as a whole, having regard to the Club's position in the structure of the Sport and their role in supporting the Sport's reputation in the State.



## **11.2 Limitation**

The Management Committee may not cause the Club to disaffiliate from either RSO without a Special Resolution of the Members in General Meeting.

## **12. COMPOSITION OF THE MANAGEMENT COMMITTEE**

### **12.1 Composition of the Management Committee**

The Management Committee will comprise up to twelve (12) Elected Committee Members being:

- (a) President
- (b) Football Vice President
- (c) Netball Vice President
- (d) Secretary
- (e) Treasurer
- (f) Head of Sponsorship
- (g) Head of Social Committee
- (h) Head of Publicity

### **12.2 Chair of the Management Committee**

The President of the Club will act as Chair of the meeting and the Chair will have a casting vote. If the President cannot attend the meeting one of the Vice Presidents will act as Chair of that meeting.

### **12.3 Composition of the Operating Committee**

The Management Committee will establish two (2) Operating Committees to act as subcommittees to deal with the day to day running of the football and netball operational activities.

Each Operating Committee should comprise the Vice President of the relevant sport together with the Senior, Junior and Administration Manager of the relevant sport who will also be members of the Operating Committee.

The Operating Committee must also appoint additional committee members, preferably an additional 3 committee members.

### **12.4 Portfolios**

The Management Committee will allocate portfolios to Committee Members. Portfolios are outlined in the Balaklava Football Club and Balaklava Netball Club Handbook.

## **13. ELECTED MANAGEMENT COMMITTEE MEMBERS**

### **13.1 Nominations**

- (a) The Management Committee must call for nominations for Elected Committee Member for the Club at least twenty-one (21) days prior to the Annual General Meeting.
- (b) The Management Committee may, when it calls for nominations, indicate which portfolios on the Committee it wishes to fill, the job descriptions for those portfolios and the qualifications or experience it considers desirable for those portfolios. All job descriptions and portfolios will be outlined in the Balaklava Football and Netball Club Handbook.
- (c) Each candidate for selection as a member of the Management Committee must be nominated by a financial member of the Club.

### **13.2 Form of Nomination**

Nominations must:

- (a) be in writing;
- (b) be in the prescribed form (if any) provided for that purpose;
- (c) be signed by the nominee; and
- (d) be delivered to the Club not less than seven (7) days before the date fixed for the Annual General Meeting.

### 13.3 Elections

- (a) If the number of nominations received for the Management Committee for the Club does not exceed the number of vacancies to be filled, then those nominated will be declared elected at the Annual General Meeting.
- (b) If there are insufficient nominations received to fill all vacancies on the Management Committee for the Club, nominations for the remaining Elected Management Committee Member positions for the Club may be made from the floor of the Annual General Meeting. If the number of nominations received from the floor does not exceed the number of vacancies to be filled, then those nominated will be declared elected at the Annual General Meeting.
- (c) If at any stage the number of nominations for the Management Committee for the Club exceeds the number of vacancies then to be filled, an election must be conducted at the Annual General Meeting.
- (d) Elections must be conducted by show of hands or in such manner and by such method as may be determined by the Management Committee for the Club from time to time or if the Management Committee for the Club has not made a determination, by the method determined by the chairperson of the Annual General Meeting.
- (e) If at the close of the Annual General Meeting, vacancies on the Management Committee of the Club remain unfilled, the vacant positions will be casual vacancies under clause 15.1.

### 13.4 Term of Appointment for Elected Management Committee Members

At the first Annual General Meeting of the Club to be held after the conclusion of the 2021 season the following positions filled by Elected Management Committee Members will be for a term of one (1) year

- (a) Football Vice President
- (b) Treasurer
- (c) Head of Social Committee
- (d) Head of Publicity

For the avoidance of doubt at the first Annual General Meeting of the Club nominations are required for all 12 positions and at the end of the next year the above positions on the Management Committee will be subject to election and the positions listed below will continue

At the first Annual General Meeting the following Elected Management Committee Members will be elected for a two (2) year term

- (e) President
  - (f) Netball Vice President
  - (g) Secretary
  - (h) Head of Sponsorship
- (a) Subject to clause 13.4(b), the term of office of each Elected Management Committee Member of the Club begins at the conclusion of the Annual General Meeting at which their election occurs.
  - (b) If the law requires the Elected Management Committee Member to have a particular qualification or clearance (for example, Working With Children's Check), the Elected Management Committee Member's term will not begin until the qualification or clearance has been established.
  - (c) Subject to clause 13.4(d), the term of office of each Elected Management Committee Member ends at the conclusion of the second Annual General Meeting following their election, but the Elected Committee Member is eligible for re-election.
  - (d) At least half of the Elected Management Committee Members must retire every year. If the number of Elected Management Committee Members whose term ends in any one year (**Retiring Committee Members**) is less than one half of the number of Elected Management Committee Members, then an additional number of the Elected Management Committee

Members who are not due to retire (**Non-Retiring Committee Members**) must retire so as to make up one half.

- (e) If the Non-Retiring Management Committee Members cannot agree on which of the Non-Retiring Management Committee Members will retire, it will be determined by show of hands or secret ballot of all of the members of the Management Committee.

## **14. APPOINTED MANAGEMENT COMMITTEE MEMBERS**

### **14.1 Appointment of Appointed Management Committee Members**

The Elected Management Committee Members of the Club may appoint up to two (2) Appointed Management Committee Members.

### **14.2 Qualifications for Appointed Management Committee Members**

In appointing Appointed Management Committee Members, the Elected Management Committee Members should have regard to which personal skills and experience the Management Committee thinks will complement the Management Committee composition.

### **14.3 Term of Appointment**

- (a) The term of office of each Appointed Management Committee Member must be fixed by the Elected Management Committee Members at the time of the Appointed Management Committee Member's appointment but it cannot exceed two (2) years.
- (b) An Appointed Management Committee Member whose term of office ends is eligible for re-appointment.

## **15. VACANCIES ON THE MANAGEMENT COMMITTEE**

### **15.1 Casual Vacancies**

Any casual vacancy occurring in the position of Elected Management Committee Member of the Club may be filled by the remaining Elected Committee Members. A person appointed to fill a casual vacancy holds office only until the next Annual General Meeting irrespective of the term of office of the person whom he or she replaces.

### **15.2 Grounds for Termination of Committee Member**

The office of an Management Committee Member becomes vacant if the Committee Member:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (c) suffers from mental or physical incapacity;
- (d) is disqualified from office under section 30 of the Act;
- (e) resigns his or her office by notice in writing to the Club;
- (f) is absent without the consent of the Committee from meetings of the Committee held during a period of six (6) months;
- (g) holds any office of employment with the Club;
- (h) is directly or indirectly interested in any contract or proposed contract with the Club and fails to declare the nature of his or her interest;
- (i) in the case of an Appointed Committee Member, is removed from office by the Elected Management Committee Members;
- (j) is removed by the Members in General Meeting; or
- (k) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth)*.

If a Management Committee Member is removed by resolution of the Members of the Club, the Management Committee Member cannot be reappointed to the Committee as an Appointed Management Committee Member without a further resolution of Members authorising the appointment.

### **15.3 Committee May Act**

If there are any vacancies on the Management Committee, the remaining Management Committee Members may act but, if the number of remaining Management Committee Members is not sufficient to constitute a quorum at a meeting of the Management Committee of the Club, they may act only for the purpose of increasing the number of Management Committee Member to a number sufficient to constitute a quorum.

## **16. MEETINGS OF THE MANAGEMENT COMMITTEE**

### **16.1 Committee to Meet**

- (a) The Committee must meet as often as it considers necessary in every calendar year for the dispatch of business (and must meet at least as often as is required under the Act). Subject to this Constitution, the Management Committee may adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Any Committee Member may at any time convene a meeting of the Committee on reasonable notice to the other Committee Members.

### **16.2 Attendance by Telephone**

A Management Committee Member may attend a meeting by telephone or other electronic means by which he or she can hear and be heard.

### **16.3 Decisions of Committee**

Subject to this Constitution, questions arising at any meeting of the Management Committee may be decided by Ordinary Resolution. Each Management Committee Member has one (1) vote on any question. The chair does not have a casting vote.

### **16.4 Resolutions not in Meeting**

- (a) Subject to clause 16.4(d), the Management Committee may pass a resolution without a Management Committee meeting being held if all the Management Committee Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Management Committee Member signs.
- (b) For the purposes of clause 16.4(a), separate copies of a document may be used for signing by those entitled to vote if the wording of the resolution and statement is identical in each copy.
- (c) Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- (d) A resolution may not be passed under clause 16.4(a) if, before it is circulated for voting under clause 16.4(a), the Management Committee resolves that it can only be put at a meeting of the Management Committee.
- (e) A resolution passed under this clause must be recorded in the minutes.

### **16.5 Quorum**

At meetings of the Management Committee the number of Management Committee Members whose presence is required to constitute a quorum is five (5):

### **16.6 Chairperson**

The initial chairperson will be the President of the Management Committee who has been elected by members at the Annual General Meeting. The chairperson will act as chair of any Management Committee meeting or General Meeting at which he or she is present. If the chairperson is not present, or unable to preside at a Committee meeting one of the Vice Presidents will preside as chair for that meeting only.

## **16.7 Committee Members' Interests**

The Management Committee Members must comply with sections 31 and 32 of the Act regarding disclosure of interests and voting on contracts in which a Management Committee Member has an interest.

## **17. DELEGATIONS**

The Management Committee may, in writing, establish subcommittees and delegate to each of them the exercise of the functions of the Committee that are specified in the instrument of delegation, other than:

- (a) this power of delegation; and
- (b) a function that is a function imposed on the Committee by the Act, by any other law, or by resolution of the Club in General Meeting.

## **18. DELEGATES TO THE RSO**

The delegates to the RSO to which the club is affiliated, will be determined by the members of the Management Committee. They will attend all meetings of the RSO called by the RSO Secretary.

## **19. SEAL**

- (a) The Club will have a Seal on which its corporate name appears in legible characters.
- (b) The Seal may not be used without the express authorisation of the Committee and every use of the Seal must be recorded in the minute books of the Club. The affixing of the Seal must be witnessed by two (2) Management Committee Members or by one Management Committee Member and another person authorised by the Management Committee for that purpose. The Club Secretary will be responsible holder of the Seal.

## **20. ANNUAL GENERAL MEETING**

- (a) An Annual General Meeting of the Club must be held in accordance with the Act and this Constitution and on a date and at a venue to be determined by the Management Committee.
- (b) each financial member will be entitled to one vote and must be in attendance at the Meeting;
- (c) Voting will be by show of hands unless the Chairperson determines that a ballot should be taken;
- (d) All General Meetings other than the Annual General Meeting will be Special General Meetings.

## **21. SPECIAL GENERAL MEETINGS**

### **21.1 Special General Meetings may be held**

The Management Committee may, whenever it thinks fit, convene a Special General Meeting of the Club.

### **21.2 Requisition of Special General Meetings**

- (a) On the requisition in writing of not less than five per cent (5%) of the total number of Members, the Management Committee must, within one month after the receipt of the requisition convene a Special General Meeting for the purpose specified in the requisition.
- (b) Every requisition for a Special General Meeting must be signed by requisitioning Members, state the purpose of the meeting, and be sent to the Club. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisitions.
- (c) If the Management Committee does not cause a Special General Meeting to be held within one month after the receipt of the requisition, the Members making the requisition may convene a Special General Meeting to be held not later than three (3) months after the receipt of the requisition.
- (d) A Special General Meeting convened by Members under this Constitution must be convened in the same manner, or as nearly as practical to the same manner, as a meeting convened by the Management Committee and for this purpose the Management Committee must ensure that the Members making the requisition are supplied free of charge with particulars

of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting must be borne by the Club.

## **22. ATTENDANCE AND VOTING AT GENERAL MEETINGS**

- (a) Each Member is entitled to attend and vote at General Meetings, apart from a Junior Member who cannot vote.
- (b) Each of the Committee Members and the auditor (if any) is entitled to attend General Meetings, but not to vote unless he or she is a Member.

## **23. NOTICE OF GENERAL MEETING**

- (a) Notice of every General Meeting must be given to every Member, and the Committee Members by the means authorised in clause 38.
- (b) A notice of a General Meeting must specify the place, day and hour of the meeting and state the nature and order of the business to be transacted at the meeting.
- (c) At least twenty-one (21) days' notice of a General Meeting must be given to those Members entitled to receive notice, together with:
  - (i) the agenda for the meeting;
  - (ii) any notice of motion received from Members entitled to vote.

## **24. BUSINESS**

- (a) The ordinary business to be transacted at the Annual General Meeting includes the consideration of accounts and the reports of each of the Committees and auditors, the election of Committee Members under this Constitution and the appointment of the auditors.
- (b) All business that is transacted at a General Meeting or an Annual General Meeting, other than those matters referred to in clause 24(a), is special business.
- (c) No business other than that stated on the notice for a General Meeting may be voted on at that meeting.

## **25. PROCEEDINGS AT GENERAL MEETINGS**

### **25.1 Quorum**

No business may be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. Subject to clause 25.3(a)(ii), a quorum for General Meetings is fifteen (15) Members.

### **25.2 Chairperson to preside**

The chairperson of the Management Committee will, subject to this Constitution, preside as chairperson at every General Meeting except where the Chairperson of the Management Committee has a conflict of interest.

If the chairperson of the Management Committee is not present or is unwilling or unable to preside, the Vice Chairperson will preside as chair for that meeting only.

### **25.3 Adjournment of meeting**

- (a) If within half an hour from the time appointed for the General Meeting a quorum is not present, the meeting must be adjourned until the same day in the next week at the same time and place or to such other day, time and place as the chairperson determines. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the adjourned meeting
  - (i) if the meeting was convened on the requisition of Members under clause 21.2, the meeting will lapse; and
  - (ii) in any other case, those Members present will constitute a quorum.
- (b) The chairperson may, with the consent of any meeting at which a quorum is present, and must, if directed by the meeting, adjourn the meeting from time to time and from place to place but no business may 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 must be given as in the case of an original meeting.
- (d) Except as provided in clause 25.3(c), it is not necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

#### **25.4 Voting Procedure**

At any meeting a resolution put to the vote of the meeting will 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 chairperson; or
- (b) a simple majority of Members present at the meeting.

#### **25.5 Recording of Determinations**

A declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the minutes of the proceedings of the Club is conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

### **26. VOTING AT GENERAL MEETINGS**

#### **26.1 Members entitled to vote**

Each Member, apart from a Junior Member, is entitled to one (1) vote at General Meetings.

#### **26.2 Casting vote**

The Chairperson of a General Meeting will not be entitled to vote unless there is a tie in which case the Chairperson will have a casting vote.

### **27. DISPUTE RESOLUTION PROCEDURE**

- (a) The dispute resolution procedure set out in this clause applies to disputes between a Member and:
  - (i) another Member of either BFC or BNC; or
  - (ii) the Club.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) 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 must, within ten (10) days after the scheduled meeting, refer the dispute to the peak body this club is affiliated with, RSO or SSO, who may refer the matter to an external agency, including the State Sport Dispute Centre, for resolution.
- (d) Either the Management or Operating Committees may prescribe additional grievance procedures in Regulations consistent with this Rule 11.
- (e) In this clause 'Member' includes any former Member who was a Member not more than six months before the dispute occurred.

### **28. RECORDS AND ACCOUNTS**

The Club must comply with its obligations under of the Act in respect of accounts, records and minutes.

### **29. AUDITOR**

- (a) A properly qualified auditor or auditors shall be appointed by the Management Committee and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Act.
- (b) The following people may not be appointed as an auditor:
  - (i) an officer of the Club, including a Committee member (and any partners, employers or employees of officers); or
  - (ii) an employee of the Club, including any partners, employers or employees of employees.
- (c) The auditor may be removed by the Management Committee



- (d) The auditor has a right of access at all reasonable times to the accounting records and other records of the Club and is entitled to require from any officer of the Club such information and explanations as he or she desires for the purpose of an audit.
- (e) The auditor must provide the Management Committee with reports that comply with the Act with sufficient time for the Board to lay such material before the Members as and when required (including for the Annual General Meeting).
- (f) The reasonable fees and expenses of the auditor are payable by the Club.

### **30. PUBLIC OFFICER**

- (a) The Public Officer of the Club shall be the Secretary of the Club or a Member of the Club selected by the Management Committee
- (b) Any change in Public Officer shall be notified to the Office of Consumer and Business Affairs within fourteen (14) days of appointment

### **31. FINANCES**

- 31.1 The finances and accounts of the Club are to be appropriately maintained.
- 31.2 Signatories to the accounts to which the Club is a named account holder will be persons nominated by the Management Committee of the Club.
- 31.3 No moneys shall be withdrawn from account(s) to which the Club is a named account holder without the authority of the Management Committee or in cases of urgency, the President and a Vice President of the Club.
- 31.4 Any expenditure exceeding \$1,000 must be approved by the Management Committee of the Club.

### **32. APPLICATION OF INCOME**

- 32.1 The income and property of the Club must be applied solely towards the promotion of the Objects.
- 32.2 Except as prescribed in this Constitution or the Act, no portion of the income or property of the Club may be paid or transferred, directly or indirectly or whether by way of dividend, bonus or otherwise, to any Member or any associate of a Member.
- 32.3 Subject to clause 32.4, nothing in clauses 32.1 or 32.2 prevents a payment in good faith to any Member:
  - (a) in accordance with clauses 3 and 32.1 where that Member is a not-for-profit entity with a similar purpose to the Club;
  - (b) for any services rendered to the Club whether as an employee, Operating Committee Member or otherwise;
  - (c) for goods supplied to the Club in the ordinary and usual course of operation;
  - (d) for interest on money borrowed from any Member;
  - (e) for rent for premises demised or let by any Member to the Club;
  - (f) for any reasonable out-of-pocket expenses incurred by the Member on behalf of the Club.
- 32.4 No payment made under clause 32.3 may exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

### **33. NOT FOR PROFIT ORGANISATION**

The assets and income of the Club shall be applied exclusively to the promotion of the Objects set out above and no portion shall be paid or distributed directly or indirectly to the Members or their associates except as bona fide remuneration for services rendered or expenses incurred on behalf of the Club.

### **34. WINDING UP**

Subject to this Constitution, the Club may be wound up or deregistered in accordance with the Act.

## **35. DISTRIBUTION OF ASSETS ON WINDING UP**

- (a) If upon winding up or dissolution of the Club, there remains, after satisfaction of all its debts and liabilities, any assets or property, the same shall not be paid to or distributed to its Members, but instead, those assets or property must be given or transferred to another organisation(s) that has objects similar to the Objects of the Club.
- (b) Those organisation(s) must prohibit the distribution of income and property among its members to an extent at least as great as that imposed on the Club by this Constitution.
- (c) The organisation(s) is to be determined by the Members in a Meeting at or before the time of dissolution. If this does not occur, the decision will be made by a judge of the Supreme Court of South Australia or other court as may have or acquire jurisdiction in the matter.

## **36. CONSTITUTION**

### **36.1 Alteration of Constitution**

- (a) Subject to clause 36.1(b), this Constitution may be repealed or altered or a new provision may be added by Special Resolution passed at a duly convened General Meeting.
- (b) If, in the opinion of the Committee, it is necessary to amend this Constitution:
  - (i) to achieve or maintain affiliation of the Club with the appropriate RSO/SSO.
  - (ii) to comply with the relevant RSO/SSO constitution and regulations; or
  - (iii) to achieve or maintain a particular tax status,the Committee may, by Ordinary Resolution, make the amendments that it considers necessary for the purpose.

## **37. REGULATIONS**

### **37.1 Committee to formulate Regulations**

The Committee may make and amend rules, regulations, by-laws or policies (**Regulations**) for the proper advancement, management and administration of the Club, the advancement of the purposes of the Club and Australian Rules Football and Netball in South Australia as it thinks necessary or desirable, including without limitation regulations governing:

- (a) the conduct of club competitions or events (including but not limited to the rules of competition and codes of conduct);
- (b) the conduct of meetings;
- (c) the resolution of disputes;
- (d) discipline of Members for breaches of this Constitution or the Regulations; and
- (e) any other matter in respect of which this Constitution authorises the Committee to make Regulations or which the Committee considers is necessary or appropriate for the good governance of the Club and its affairs.

The Regulations must be consistent with the Constitution, the RSO, SSO and NSO constitution and any regulations made by the RSO, SSO and NSO.

### **37.2 Regulations Binding**

All Regulations are binding on the Club and all Members.

### **37.3 Publication of Regulations**

Regulations and any amendments, alterations or other changes to or interpretations of the Regulations may be communicated to Members by inclusion in the Club By-laws or via a notice on the Club's website or in any journal or publication which is published by or on behalf of the Club and which is circulated by the Club to the Members.

## **38. NOTICE**

- (a) Any notice required or authorised by this Constitution to be given to a Member may be served on the Member personally or by sending it through the post in a prepaid envelope addressed to the Member at the Member's last known place of business or by facsimile, email or other electronic means or by its insertion on the Club's website or in any journal or publication

which is published by or on behalf of the Club and which is circulated by the Club to its members.

- (b) Any notice required or authorised by this Constitution to be given to the Club may be served by delivering it personally to the Club at its registered office or by sending it through the post in a prepaid envelope addressed to the Club at the registered office.
- (c) A notice served by post will be taken to have been received by the recipient on the second working day after it was posted.
- (d) A notice served by facsimile, email or other electronic means will be taken to have been received by the Member two hours after it was sent.

#### **39. PATRONS AND VICE PATRONS**

The Club at its Annual General Meeting may appoint annually a patron and as many vice patrons as it considers necessary, subject to approval of that person(s).

#### **40. INDEMNITY**

- (a) Every Management and/or Operating Committee Member and employee of the Club is entitled to be indemnified out of the property and assets of the Club against any liability incurred by them in their capacity as a Committee Member or employee in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any proceedings in which relief is granted by the Court.
- (b) The Club must indemnify all of its Committee Members and employees against all damages and losses (including legal costs) for which any such Committee Member or employee may be or become liable to any third party in consequence of any act or omission:
  - (i) in the case of a Committee Member, performed or made in good faith whilst acting on behalf of and with the authority, express or implied of the Club; and
  - (ii) in the case of an employee, performed or made in good faith during, and within the scope of their employment by the Club.

#### **41. AUTHORITY TO TRADE**

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

#### **42. TRANSITIONAL PROVISIONS**

##### **42.1 Continuing Membership**

Each person who is a Member of either BFC or BNC on the day on which this Constitution is adopted, will automatically be admitted to membership of the Club in the category that, in the reasonable opinion of the Committee, is the category most appropriate for that Member.

##### **42.2 Committee Members**

Should this Constitution be adopted before the conclusion of the 2021 season then all current committee members of BFC and BNC will form the Management Committee until the Annual General Meeting is held after the conclusion of the 2021 season.

##### **42.3 Regulations deemed applicable**

All rules, by-laws, policies and regulations of either BFC or BNC in force at the date of the approval of this Constitution are to be deemed to be Regulations of the Club and continue to apply unless they are inconsistent with, or have been replaced by this Constitution.