

# Constitution of the Adelaide Football Club Limited

ACN 008 101 568

Amended at AGM held 3 March 2021

MinterEllison

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## Part 1 - Preliminary

### 1. Name

The company the subject of this constitution is named the Adelaide Football Club Limited ACN 008 101 568 (**AFC**). The AFC may change its name or adopt another name from time to time in accordance with the requirements of the Corporations Act.

### 2. Status of the AFC and this constitution

- (a) The AFC is a public company limited by guarantee.
- (b) This constitution has effect as a binding contract:
  - (i) between the AFC and each Member;
  - (ii) between the AFC and each Director, Secretary and other officer of the AFC; and
  - (iii) between each Member and each other Member.
- (c) The completion of a Membership Application by a Member constitutes the Member's agreement to be bound by this constitution and the policies and procedures of the AFC so far as they relate to Members.

### 3. Replaceable rules

The replaceable rules in the Corporations Act do not apply to the AFC.

### 4. Objects and Powers of the AFC

The objects and powers for which the AFC is established are:

- (a) **Football and Sporting**
  - (i) To develop, maintain and foster the ideals of the AFC.
  - (ii) To promote the playing of Australian Football throughout Australia, with a specific focus on developing and growing the game of Australian Football in the State of South Australia.
  - (iii) To promote the playing of Australian Football. The AFC's primary purpose is to conduct the Licensed Operations, including by maintaining, providing, supporting and controlling a team or teams of footballers in the Australian Football League and in any other Australian Football competition within Australia and, if considered appropriate by the Board and the AFL, in countries other than Australia.
  - (iv) To enter into, manage and terminate (if necessary) employment contracts and relationships with applicable football personnel, including professional:
    - (A) footballers, to play in the AFC's teams; and
    - (B) staff in relation to the AFC's teams.
  - (v) To establish, rent, hire, acquire, own or enter into arrangements in relation to the use of grounds, equipment and other facilities necessary for the efficient and successful conduct of the Licensed Operations.

- (vi) To establish, promote or assist in establishing or promoting or to subscribe to or become a member of or amalgamate with:
  - (A) any club or association or league with objects similar either in whole or in part to those of the AFC; or
  - (B) any club or association or league which may be beneficial to the AFC, provided that any amalgamation may only be made with a club, association or league that:
    - (C) restricts the distribution of income and property to the same, or to a greater extent, as the AFC; and
    - (D) is not a club or team that competes in the Australian Football League, unless otherwise approved by the AFL in its discretion.
- (vii) To join and subscribe to the Australian Football League (including its successors) and/or any other body having similar objectives.
- (viii) To co-operate with and otherwise assist the AFL (including its successors and/or any other body having similar objects) with a view to conducting the Licensed Operations and developing and growing the game of Australian Football.

(b) **Social and Facilities**

- (i) To purchase, lease or otherwise acquire from time to time such land, premises, buildings, part of a building or any personal or other property that the AFC considers necessary for the conduct of the Licensed Operations and to construct, alter, add to or maintain that land, premises, buildings or other property for that same purpose.
- (ii) To sell, transfer, let, sub-let, mortgage, charge, pledge, dispose of or otherwise deal with (**Dispose**) the whole or any part of land, premises, building, part of a buildings or personal or other property that the AFC has the legal right to Dispose of.
- (iii) To obtain and maintain any permits, licenses or other approvals that are required by law to enable the AFC to:
  - (A) conduct the Licensed Operations; or
  - (B) develop, produce, store, sell, promote and advertise goods or services provided or distributed by the AFC.
- (iv) To obtain and maintain any permits, licenses or other approvals that are required by law in connection with gaming operations and other ancillary activities conducted, and proposed to be conducted by, on behalf of or in connection with the AFC and the Licensed Operations.
- (v) To conduct such other business, undertaking or enterprise which is considered to directly or indirectly advance the interests of the AFC, the Members, the conduct of the Licensed Operations and/or the game of Australian Football.

(c) **Administration**

- (i) To:
  - (A) enter into employment contracts and relationships with;

- (B) dismiss and discipline; and
  - (C) pay, salaries, wages, bonuses, gratuities and pensions to, administrative personnel (including staff, secretaries or managers and other persons considered necessary or desirable for administering and managing the business of the AFC and the Licensed Operations) in accordance with all applicable Laws relating to the employment of persons.
- (ii) To manage the financial affairs and business of the AFC, including through the acquisition of assets, conduct of investments and dealing with all money and assets of the AFC in accordance with procedures and policies determined by the Board from time to time.
  - (iii) To:
    - (A) insure against risks, liabilities and eventualities that a prudent professional organisation engaged in the activities of the same kind as the Licensed Operations would insure against; and
    - (B) apply the proceeds of any claim under any insurance policy in such manner and for such purpose as the Board from time to time considers appropriate in the circumstances.
- (d) **Community**
- To support any charitable or public institution, society, association or any other movement as approved from time to time by the Board.
- (e) **Other General Objects and Powers**
- (i) To accept any gift, loan or bequest of any real or personal property and apply that property to the conduct of the AFC's operations (including the Licensed Operations).
  - (ii) To pursue any other objects which are considered to directly or indirectly advance the interests of the AFC, the Members, the conduct of the Licensed Operations and/or the game of Australian Football.
  - (iii) To do other lawful things as are incidental or conducive to the attainment of the objects described in this clause 4.

## 5. No distribution to Members

- (a) Subject to clause 6(d), the income and property of the AFC will only be applied towards the promotion and objects of the AFC set out in clause 4.
- (b) The AFC must not in any circumstance pay or distribute any profits, income, dividend or assets to the Members.
- (c) This does not prevent the AFC from in good faith and in the ordinary course of business:
  - (i) entering into commercial arrangements with Members to acquire goods or services from a Member on reasonable commercial terms normally applicable to the provision of such goods or services (including the acquisition of personal or commercial services, bona fide loan or financing arrangements, and leases or licences of premises or other property); or

- (ii) reimbursing out-of-pocket expenses incurred by a Member on behalf of the AFC or in connection with the Licensed Operations.

## 6. Limited liability

- (a) The liability of Members is limited.
- (b) Subject always to clause 6(c) , in the event the AFC is wound up Members must contribute to the AFC's property such monies and other assets necessary to:
  - (i) discharge the AFC's debts and liabilities at the date the AFC is wound up and costs, charges and expenses properly incurred in connection with the winding up; and
  - (ii) adjust the rights of the contributories among themselves.
- (c) Notwithstanding any other provision of this constitution, no Member need contribute more than an aggregate of 10 cents (\$0.10) to the winding up of the AFC.
- (d) If any surplus remains following the winding up of the AFC, the surplus will not be paid to or distributed amongst Members, but must be given or transferred to an institution:
  - (i) which has objects similar to the AFC's objects;
  - (ii) which cannot distribute its income and assets to its Members; and
  - (iii) is determined by the Board at or before the time of winding up.
- (e) If the Board cannot, or does not do determine an appropriate institution in accordance with clause 6(d), the Supreme Court of South Australia may do so.

## Part 2 - Membership

### 7. Members

#### 7.1 Classes of Membership

The AFC will consist of the following classes of Members:

- (a) **AFL**

The AFL, who through its delegate will have the right to attend, debate and vote at general meetings for and on behalf of the AFL.
- (b) **Life Members**

The Board may from time to time and in its absolute discretion nominate a Member to become a life member of the AFC, including any player of the AFC who has, in the opinion of the Board, rendered special service to the AFC or to football (**Life Member**).
- (c) **Electing Member**

A person who:

  - (i) will be 18 years of age or older as at the date of completing the Membership Application;



(ii) has completed and submitted the current Membership Application and complied with all other applicable application and renewal procedures required by the AFC from time to time; and

(iii) has paid the applicable Membership Fee,

may be admitted by the Board as an electing member (**Electing Member**).

(d) **Other Classes of Membership & Variations to Existing Classes**

(i) Subject to the Corporations Act and clause 7.1(d)(ii), the Board in its absolute discretion has the right to establish other classes of membership, or vary existing classes of membership, from time to time.

(ii) The Board may not amend any of the rights of the AFL before the Development Grant Completion Date without the prior consent of the AFL.

## 7.2 Cessation of AFL Membership

(a) The AFL will cease to be a Member on the Development Grant Completion Date.

(b) From the Development Grant Completion Date, the Board may grant all of the rights held by the AFL to any other class of Member that is in existence on the Development Grant Completion Date or is otherwise established by the Board.

(c) If the Board does not grant the rights of the AFL Voting Member to another class or classes, the Board will grant all of the rights held by the AFL to the Electing Members.

## 8. Membership Rights

Members have the following rights (according to the class of Membership they belong to):

(a) The AFL, through its delegate, is entitled to attend, speak and vote at any general meeting of the AFC.

(b) An Electing Member is entitled to:

(i) stand for election as an Elected Director in accordance with this constitution;

(ii) vote on any ballot in relation to the election of an Elected Director; and

(iii) attend that part of any meeting where an election is held for an Elected Director (or the entirety of that meeting at the discretion of the Board).

(c) A Life Member will have the right to attend, but not debate, vote or call a general meeting.

(d) Subject to clauses 8(b) and 8(c), no Member other than the AFL has a right to receive notice of, attend at or vote at meeting of the AFC.

## 9. Membership Application and Fees

### 9.1 Membership Application and Fees

(a) Subject to clause 9.1(g), the Board has the power from time to time to determine:

(i) the Membership Fees (including fines or sanctions whether for late payment of fees or for any other matter in respect of which the Board considers fines or sanctions should be imposed) and other terms and conditions that apply to each class of membership and to determine any period of grace for late payment;

- (ii) that Membership Fees (other than fines or sanctions the Board consider should be imposed in respect of matters other than an application for membership of the AFC) that would otherwise be payable in respect of any class of membership, are not applicable or are waived for any reason. Any such determination may be subject to any terms or conditions the Board may from time to time decide and that are not otherwise inconsistent with the terms of this constitution; and
  - (iii) different Membership Fees for different classes of membership from time to time.
- (b) For the purpose of determining whether a Membership Fee (either in whole or alternatively in part under an instalment payment plan) has been paid when due, the due date is subject to any grace period determined by the Board from time to time.
  - (c) Upon approval of each Membership Application, the Secretary must cause the details of each Member to be entered into the Register of Members that is maintained under, and in accordance with the requirements of, clause 44.
  - (d) Subject to clauses 7.1(a) and 7.1(d)(i), membership of the AFC will be for one year (or part thereof) , other than in the case of the AFL or a Life Member. A Member's membership will commence on the later of:
    - (i) payment of the Membership Fee for that year; and
    - (ii) the close of the annual general meeting for the previous year,
 and such membership will cease immediately after the close of the annual general meeting for that year.
  - (e) The Board may vary, in its discretion, the period of Membership or the conclusion and commencement dates described in clause 9(d), including to align with the dates of the AFL season or such other times as the Board sees fit.
  - (f) The AFC:
    - (i) has the absolute right to refuse any Membership Application;
    - (ii) must not accept more than one Membership Application from any person; and
    - (iii) must not, before the Development Grant Completion Date, accept a Membership Application made by a body corporate, a nominee or by a person acting as trustee for another person other than from the AFL.
  - (g) Neither the AFL nor any Life Member is required to pay Membership Fees or make a Membership Application (unless the Life Member is also an Electing Member).

## 9.2 Payment of Membership Fee

- (a) For the purposes of clause 7, a Membership Fee will be deemed to have been paid by a Member in respect of a particular year if the relevant Member:
  - (i) has paid the Membership Fee for the current year prior to 30 June of that year (or such other time as the Board may decide); or
  - (ii) is paying the current Membership Fee under an installment payment plan approved by the Board and all payments under that plan are up-to-date.
- (b) The payment by any Member of their Membership Fee will confirm their agreement to be bound by this constitution and the policies and procedures of the AFC that apply to Members.

## 10. Discipline

- (a) Members must not remove, replace, modify, adapt or damage any AFC property without the express written permission of the Board. The Board may require any Member that causes damage to or loss of the AFC's property to immediately replace or reimburse the costs of replacing or repairing the relevant property, and that amount will be a debt due and payable by the Member to the AFC.
- (b) The Board acting reasonably may from time to time establish codes of conduct and/or disciplinary procedures applicable to Members pertaining to the development, maintenance and protection of the AFC's image, reputation, property and culture, and each Member must comply with these codes and procedures. The Board must make any codes or procedures established under this clause 10(b) available for inspection at a place accessible to Members.
- (c) If the conduct of a Member infringes any applicable code of conduct in place at the time of the breach:
  - (i) the Chairman or the Chief Executive Officer may suspend the membership of that Member until the next occurring Board meeting by providing written notice to the relevant Member within 72 hours of the time to the suspension is to take effect (such notice which must include the reasons for the suspension and details of the next occurring Board meeting (if known)) (**Suspension**);
  - (ii) the Board must consider the Suspension at the Board meeting immediately following that Suspension, and has the power to:
    - (A) caution and/or reprimand the Member;
    - (B) fine the Member any reasonable sum determined by the Board;
    - (C) suspend:
      - (I) the Member from the AFC; and/or
      - (II) any membership privileges for any period including for life;
    - (D) request the Member to resign his or her membership; and
    - (E) if a Member does not resign within seven days of being requested by the Board pursuant to clause 10(c)(ii)(D), expel the Member from membership of the AFC.
- (d) The Board may not expel or suspend a Member under clause 10(c)(ii) without giving that Member a reasonable prior opportunity to be heard.
- (e) Persons expelled from membership will not be eligible for membership at any time, except with the consent of the Board.
- (f) For the avoidance of doubt, this clause 10 does not apply to the AFL.

## Part 3 – Proceedings of Members

### 11. Who may call meetings

- (a) Subject always to the rights and obligations of Members and the Board as described in the Corporations Act:

- (i) the Board may call a meeting of Members, when and where the Board decides;
- (ii) the Board must call a meeting of Members when requested by the Members in circumstances where Members are entitled under the Corporations Act to call a meeting; and
- (iii) Members who are entitled to do so under the Corporations Act may call a meeting of Members in the circumstances and subject to the terms provided for in the Corporations Act.

## 12. Annual General Meetings

The AFC must hold an annual general meeting on a date nominated by the Board and in accordance with the Corporations Act.

## 13. Calling meetings of Members

- (a) At least 21 days' notice must be given of a general meeting. However, unless prohibited by the Corporations Act, the AFC may call on shorter notice:
  - (i) an annual general meeting, if the AFL agrees beforehand; and
  - (ii) any other general meeting, if the AFL Members, agrees beforehand.
- (b) Notice of a meeting must be given to all Members entitled to be present at or vote at the meeting in accordance with this constitution, Directors and the AFC's auditor.
- (c) A notice of a general meeting must be given in accordance with the Corporations Act and:
  - (i) set out the place, date and time for the meeting;
  - (ii) state the general nature of the meeting's business;
  - (iii) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
  - (iv) contain a statement setting out the following information:
    - (A) that the Member (if it is eligible to vote at the meeting) has the right to appoint a proxy; and
    - (B) that the proxy must be a Member of the AFC or otherwise approved in writing by the Board; and
  - (v) contain anything else required by the Corporations Act.
- (d) The business of the annual general meeting may include any of the following, even if not referred to in the notice of meeting:
  - (i) the consideration of the annual financial report, Directors' report and auditor's report;
  - (ii) the appointment of the auditor; and
  - (iii) the fixing of the auditor's remuneration.
- (e) Non receipt of notice of a meeting, or failure to give proper notice of a meeting to a person entitled to receive it, does not invalidate anything done at the meeting if:

- (i) the failure was not as a result of the malice of the Secretary or any other person designated to call the meeting;
- (ii) the person gives notice to the AFC that the person waives proper notice or agrees to the thing done at the meeting; or
- (iii) the person attends the meeting and:
  - (A) does not object at the start of the meeting to the holding of the meeting; or
  - (B) if the notice omitted an item of business, does not object to the consideration of the business when it is presented to the meeting.

## 14. Membership at a specified time

For the purpose of a particular general meeting, a person will be regarded as a Member (and, if applicable, a Voting Member) of the AFC if they are a Member (and, if applicable, a Voting Member) in accordance with clause 7.1 at the time that notice of the relevant meeting is given under clause 13. In the event of a dispute or ambiguity regarding a person's membership status, the Chairman of the Board may determine whether that person is a Member and the Chairman's decision will be final and binding.

## 15. Quorum

- (a) A quorum at any general meeting of the AFC will only be constituted where:
  - (i) the AFL is present; or
  - (ii) if the meeting relates to the election of an Elected Director, 40 Electing Members entitled to vote at the meeting are present and the AFL.
- (b) No decisions or resolutions will be made or passed (as applicable), and no other business will be in any way conducted or transacted, at any general meetings unless and until a quorum exists at the commencement of the meeting.
- (c) In determining whether a quorum is present, the Chairman must count Members entitled to vote at the meeting, proxies, attorneys and any other persons entitled to vote. If an individual is attending both as a Member entitled to vote in its own capacity and as a proxy, attorney or in any other capacity, the Chairman must count the individual only once.
- (d) In respect of any general meeting, if there is no quorum present within 15 minutes after the time set out in the notice of meeting then the meeting is adjourned to any day, time and place the Chairman reasonably decides. Any Members in attendance at that adjourned meeting will constitute a quorum. If at the adjourned meeting a quorum is not present within 15 minutes after the time set out in the notice of meeting, the meeting will be deemed to have lapsed.

## 16. Chairman

- (a) The Chairman of the Board shall chair all meetings of Members.
- (b) In the event that:
  - (i) there is no Chairman of the Board, or if the Chairman is not present within 10 minutes after the time set out in the notice of meeting or is unable or unwilling to act, the Deputy Chairman of the Board may chair the meeting;

- (ii) there is no Deputy Chairman, or if the Deputy Chairman is not present within 10 minutes after the time set out in the notice of meeting or is unable or unwilling to act, the Directors present must elect one of themselves to chair the meeting;
  - (iii) the Directors present do not elect one of themselves to chair the meeting in accordance with clause 16(b)(ii), the Members present must elect a Director who is present to chair the meeting; and
  - (iv) the Members present do not elect a person to chair the meeting in accordance with clause 16(b)(iii), the meeting is dissolved.
- (c) The Chairman:
- (i) is responsible for:
    - (A) the proper conduct of a meeting of Members; and
    - (B) the procedures of a meeting of Members; and
  - (ii) may act under clause 16(c)(i) in any way that is not inconsistent with this constitution or the Corporations Act.
- (d) When questions of order or procedure arise at general meetings, the ruling of the Chairman of the meeting will be accepted as the final determination of such questions.
- (e) The Chairman of the meeting may exclude any person from a meeting, or cause that person to be ejected or removed from a meeting if that person:
- (i) in the opinion of the Chairman:
    - (A) is not complying with the reasonable directions of the Chairman; or
    - (B) is unduly disrupting or annoying other Members or the conduct of the Meeting;
  - (ii) has any audio or visual recording device;
  - (iii) has a placard or banner;
  - (iv) has an article or other thing the Chairman considers to be dangerous, offensive or liable to cause destruction, disruption or offence;
  - (v) refuses to comply with security measures imposed by the AFC at the meeting;
  - (vi) behaves or threatens to behave in a dangerous, offensive or disruptive manner, or is endangering the health or safety of any person; or
  - (vii) is not:
    - (A) a member entitled to be present at the meeting in accordance with this constitution;
    - (B) a proxy, attorney or representative of a Member entitled to vote at the meeting; or
    - (C) the auditor.

## 17. Adjournment

- (a) Where the Chairman considers it reasonable and necessary in the circumstances, the Chairman may adjourn a meeting of Members to a day, time and place reasonably determined by the Chairman.
- (b) The Chairman must adjourn a meeting of Members if a majority of Members present and entitled to vote at the meeting agree or direct the Chairman to do so. The Chairman may adjourn the meeting to any day, time and place reasonably determined by the Chairman having regard to the circumstances surrounding the relevant adjournment.
- (c) When a meeting is adjourned for a period of one month or more, a new notice of the resumed meeting must be given in accordance with this constitution and the Corporations Act.
- (d) Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## 18. How Members make decisions at meetings

- (a) A meeting of Members may only make a decision by passing a resolution in accordance with this clause 18.
- (b) Subject to clause 18(c), a resolution is only passed when more than 50% of the votes cast by Members entitled to vote at the meeting and attending that meeting (whether in person, by proxy or by attorney) are in favour of the resolution.
- (c) Where the Corporations Act or other law provides that a matter may only be approved by a special resolution of a meeting of Members, a special resolution will only be deemed to have been passed where:
  - (i) notice has been given of that special resolution in accordance with the Corporations Act and that notice states the resolution and sets out an intention to propose the special resolution; and
  - (ii) at least 75% of the votes cast by Members entitled to vote at the meeting and attending that meeting (whether in person, by proxy or by attorney) are in favour of the resolution.
- (d) A challenge to a right to vote at a meeting of Members:
  - (i) may only be made in accordance with the Corporations Act; and
  - (ii) must be promptly determined by the Chairman of the meeting, and that decision is final and conclusive.

## 19. How voting is carried out

- (a) A resolution put to the vote at a meeting of Members must be decided on a show of hands, unless a poll is properly requested in accordance with clauses 19(c) and 19(d).
- (b) A declaration by the Chairman that a resolution is passed, or passed by a particular majority, or lost, and an entry to that effect in the minutes, is sufficient evidence of that fact, unless proved incorrect.
- (c) A poll may be requested by:
  - (i) the Chairman of the meeting; or

- (ii) the AFL.
- (d) The poll may be requested:
  - (i) before a vote is taken;
  - (ii) before the voting results on a show of hands are declared; or
  - (iii) immediately after the voting results on a show of hands are declared.
- (e) A request for a poll may be withdrawn.
- (f) A poll requested on a matter other than the election of a Chairman of the meeting or the question of an adjournment must be taken when and in the manner the Chairman directs.
- (g) A poll on the election of a Chairman of the meeting or the question of an adjournment must be taken immediately.
- (h) A request for a poll does not prevent the meeting dealing with other business.
- (i) If a poll is properly requested, the result of the poll is the resolution of the meeting of that matter.

## 20. How many votes a Member has

- (a) Subject to clause 20(b), at a meeting of the AFC each Member entitled to vote at the meeting either in person, by proxy or attorney, has one vote, both on a show of hands or on a poll.
- (b) If a person represents 2 or more Members entitled to vote at the meeting, that person has only one vote on a show of hands.
- (c) Notwithstanding any other provision of this constitution, a Member who is otherwise entitled to vote at the meeting is not entitled to vote if that Member or his or her appointees owes any money to the AFC (excluding money owed to the AFC by the Member within the AFC's ordinary commercial trading terms) or has not paid the relevant Membership Fees in accordance with clause 9.
- (d) The Chairman has a casting vote, and also a vote in their capacity as a Member (if that Member is otherwise entitled to vote at the meeting).

## 21. Proxies, attorneys and representatives

- (a) A Member, who is entitled to vote at a meeting of Members, may vote on a show of hands and on a poll:
  - (i) personally;
  - (ii) by one proxy; or
  - (iii) by one attorney.
- (b) A proxy or attorney must be a Member of the AFC or otherwise approved in writing by the Board.
- (c) An appointment of a proxy or attorney must be in a form approved by the Board.
- (d) An appointment of a proxy is valid if it:



- (i) is signed or authenticated by the Member making the appointment in accordance with the Corporations Act; and
- (ii) it contains the following information:
  - (A) the Member's name and address;
  - (B) the AFC's name;
  - (C) the proxy's name or the name of the office held by the proxy; and
  - (D) the meetings at which the appointment may be used; and
- (iii) otherwise complies with the Corporations Act.

The Board may decide to accept a proxy even if it contains only some of that information or is otherwise incomplete. The Board may specify the form of proxy to be used from time to time, in which case that form of proxy must be used.

- (e) A later appointment of a proxy or attorney revokes an earlier one if both appointments could not be validly exercised at the meeting.
- (f) An appointment may specify the way a proxy or attorney is to vote on a particular resolution. A proxy may vote only as directed. The proxy or attorney must vote and otherwise conduct themselves in accordance with the Corporations Act. Unless otherwise specified in the appointment, the proxy or attorney may:
  - (i) agree to short notice for the meeting;
  - (ii) even if the appointment directs how to vote on a particular resolution:
    - (A) vote on an amendment to the particular resolution, a motion not to put the particular resolution or any similar motion; or
    - (B) vote on a procedural motion, including a motion to elect the Chairman, to vacate the chair or adjourn the meeting;
  - (iii) speak at the meeting;
  - (iv) vote (but only to the extent allowed by the appointment); and
  - (v) request or join in a request for a poll.
- (g) An appointment of a proxy is effective only if the AFC receives the appointment (and any authority under which the appointment was signed or certified copy of the authority) at least 48 hours before the meeting or resumed meeting. The Board may reduce the period for receipt of a proxy in the notice of meeting to which that proxy relates. The AFC receives an appointment or authority when it is received at any one of the following:
  - (i) the AFC's registered office;
  - (ii) a fax number at the AFC's registered office; or
  - (iii) a place, fax number or electronic address specified for the purpose in the notice of meeting.
- (h) Subject to the Corporations Act, the requirements of clause 21(g) also apply to the appointment of an attorney. A power of attorney may be lodged for more than one meeting and may apply to all meetings held until a specified date or until the power is revoked.

## Part 4 – The Board of Directors

### 22. Composition of the Board

#### 22.1 Number and composition of Directors

- (a) The Board will consist of at least 7 directors but not more than 10 directors (including the Chief Executive Officer if he or she is to be a member of the Board in accordance with clause 39(a)).
- (b) The Board will be comprised as follows:
  - (i) up to 2 Directors elected by the Electing Members under this constitution (each an **Elected Director**); and
  - (ii) the remainder appointed by the AFL, following consultation with and nominations from the nominations committee, under this constitution (each an **Appointed Director**).
- (c) To be eligible to being appointed or elected a Director a person must:
  - (i) be a person of at least 18 years of age who ordinarily resides in Australia;
  - (ii) not be a current player or full-time employee of the AFC; and
  - (iii) in the case of an Elected Director, be an Electing Member.
- (d) The AFC in general meeting may increase or reduce the number of Directors permitted by this constitution, subject to AFL written approval.

#### 22.2 Appointment of directors

- (a) Appointed Directors must be appointed after the AGM in each year. The appointment can be made at any time after that AGM, but the term of appointment of any Appointed Director commences immediately after the AGM in the year of his or her appointment.
- (b) When appointing an Appointed Director pursuant to clause 22.1 the existing Directors, and prior to the Development Grant Completion Date the AFL, must:
  - (i) consider the overall needs of the AFC and the relevant skills and expertise needed at the board level of the AFC at the time of the appointment; and
  - (ii) only appoint persons who possess skills and expertise in one or more of the following areas:
    - (A) business management;
    - (B) law;
    - (C) financial management;
    - (D) marketing;
    - (E) media;
    - (F) company directorship;
    - (G) sports and/or event management; and
    - (H) Australian Football,

and who are not, by reason of any provision of the Corporations Act or this constitution, ineligible to be or prohibited from being a director.

- (c) The AFL will form and take recommendations from a nominations committee (established under clause 37) made up of members of the Board for the purpose of that committee considering nominees and recommending nominees to the AFL having reviewed such nominees in accordance with the skill matrix and requirements of the AFC set out in clauses 22.2(b)(i) and (b)(ii).

### 22.3 Alternate directors

No Director is entitled to appoint an alternate Director.

## 23. Retirement and Rotation of Directors

- (a) Subject to clauses 39(b) and 56, each Appointed Director has a term of 3 years commencing on the date described in clause 22.2(a).
- (b) Subject to clauses 23(c), 39(b) and 56, each Elected Director has a term of 2 years commencing from the date of his or her election under this constitution.
- (c) If, at any time, both Elected Directors come up for election at the same annual general meeting, the successful candidate receiving the greater number of votes will have a term of 2 years and the other successful candidate will have a term of 1 year.
- (d) Retiring Directors are eligible for re-appointment or re-election (and an Elected Director can become an Appointed Director or vice versa).
- (e) In the event of the retirement of, or any casual vacancy in the office of:
  - (i) Non-Executive Directors (other than the Elected Directors) – the Board and/or the AFL may at their discretion and by simple majority appoint a Director to fill the vacancy arising on the retirement or casual vacancy (provided that the AFL consents to such appointment and in the case of an appointment by the AFL, the AFL consults with the Board); and
  - (ii) Elected Directors – those elected directorships will remain vacant until filled by election by ballot under clause 24 at the next annual general meeting.
- (f) Subject to the Corporations Act and any decision of the Board to the contrary at the time of appointment, any Non-Executive Directors (other than Elected Directors) who have been appointed to fill a retirement or casual vacancy will hold the applicable office until required to retire in accordance with this clause 23 or the office becomes vacant under clause 25.
- (g) If the number of Directors drops below 7, the AFL and/or the remaining Directors will use their reasonable endeavors to replace the vacating Directors by appointing additional Directors to restore a total of 7 Directors to the Board until the next AGM (provided that the AFL consents to such appointment and in the case of an appointment by the AFL, the AFL consults with the remaining Directors).
- (h) The process for filling directorship vacancies created by this clause 23 is as follows:
  - (i) the retiring Directors will continue in office until the end of the annual general meeting at which they are due to retire;
  - (ii) the Chairman of the general meeting will declare during the meeting the final results of the ballot resolution for Elected Director vacancies; and
  - (iii) those persons the subject of the Chairman's declaration under clause 23(h)(ii) will all take office at the end of that general meeting.

## 24. Election of Directors by Members

- (a) The Board may prescribe rules for the nomination and election of the Elected Directors.
- (b) The rules prescribed under clause 24(a) may provide for elections to be held by postal or electronic ballot conducted otherwise than at a meeting of the Electing Members, but the ballot must be conducted before and declared at the AGM.
- (c) Subject to clauses 24(a) and (b), an election of the Elected Directors may be conducted at a meeting of Electing Members and nominations may be made from the floor.

## 25. Vacation of office

- (a) Without limiting clause 23, a Director ceases to be a Director if:
  - (i) the Corporations Act so provides;
  - (ii) the Director resigns by notice to the AFC;
  - (iii) the Director is absent, without the consent of the Directors, from all Directors' meetings conducted during any six month period;
  - (iv) the Director becomes mentally incapable of fulfilling that Director's duties as a director and the Director's estate or property has had a personal representative or trustee appointed to administer it;
  - (v) the Director becomes an insolvent under administration;
  - (vi) the Director is convicted of an indictable offence;
  - (vii) the Director:
    - (A) ceases to be a Member; or
    - (B) fails to pay membership fees by 30 June of the relevant financial year, pursuant to this constitution; or
  - (viii) the Director retires pursuant to clause 23.
- (b) Notwithstanding any other provision of this constitution, if:
  - (i) any liquor control and/or gaming legislation applies to the AFC from time to time (whether in its own name, or by virtue of any of its associates); and
  - (ii) such legislation contains requirements in relation to the appointment, election and/or removal of Directors,then any appointment, election or removal of any Directors under this constitution will be subject to the AFC complying with all such legislative requirements.
- (c) If any Director is found not to be a fit and proper person to act in the capacity of Director, after all avenues of appeal have been exhausted, that Director must resign from their office.

## 26. Remuneration

- (a) Unless otherwise approved by the AFC in general meeting or the relevant Director (whether directly or through associated entities) is a contractor to the AFC in some other capacity approved by the Board:

- (i) a Director is not entitled to remuneration for their conduct of their directorship; but
  - (ii) a Director will be entitled to be reimbursed, and the AFC must reimburse each Director, for all expenses properly incurred by the Director in their capacity as a Director.
- (b) Without limiting clause 26(a), the AFC must pay reasonable travelling and other expenses that a Director properly incurs in undertaking the AFC's business.

## 27. Director's interests

- (a) Subject to the Corporations Act, the Licence Agreement, clause 22.1(c)(ii), and any other applicable laws, a Director may during his/her directorship:
- (i) hold some other office or position (except as auditor) within the AFC, on any terms the Board decides (including a position for which that Director receives market remuneration for the bona fide provisions of any services);
  - (ii) hold an office or otherwise be interested in any related body corporate or other body corporate, including a related body corporate or other body corporate in which the AFC is interested; and
  - (iii) retain benefits for doing so,
- provided that:
- (iv) the Director complies with clause 27(d); and
  - (v) the relevant office, position or other interest is not a position, office, stake or other interest in a corporation or business engaged in or involved in the fielding of a team in any professional football code (including soccer, rugby union or rugby league) other than the Australian Football League or any Australian Football match other than a match approved by the AFL.
- (b) Subject to the Corporations Act and other applicable laws, a Director who has a material personal interest in a matter that is being considered at a Board meeting may not:
- (i) be present while the matter is being considered at the meeting;
  - (ii) vote on the matter; and
  - (iii) be counted in a quorum for a meeting considering the matter.
- (c) Subject to clause 27(b) and the Corporations Act and other applicable laws:
- (i) a Director (or a spouse, parent, child and other relatives of a Director or child of a spouse or other relative, or any entity in which a Director or a spouse, parent, child or other relative of a Director or child of a spouse has an interest) may contract or make an arrangement with the AFC (or a related body corporate or a body corporate in which the AFC is interested) in any matter in any capacity; and
  - (ii) a Director may retain benefits under that contract or arrangement and the AFC cannot avoid that contract or arrangement because of the Director's interest.
- (d) Directors must disclose to the Board all contracts, arrangements, offices, positions, stakes or other interests referred to in clauses 27(a) and 27(c) that are held by the Director or of which the Director is aware.

## Part 5 – Proceedings of Directors

### 28. Circulating resolutions

- (a) The Directors may pass a resolution without a Board meeting being held, if a majority of the Directors 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.

In this Part 5 only, a "**Majority**" means:

- (i) in the event there are an even number of Director positions comprising the Board — fifty percent of those positions plus one; and
  - (ii) in the event there are an odd number of Director positions comprising the Board — fifty percent of those positions rounded up the nearest whole number.
- (b) Separate copies of a document may be used for signing by Directors, if the wording of the resolution and statement is identical in each copy.
  - (c) The resolution is passed when a majority of Directors have signed the resolution.
  - (d) Passage of the resolution must be recorded in the AFC's minute books.

### 29. Calling and conducting meetings of the Board

- (a) A Board meeting may be called by any Director giving reasonable notice individually to each other Director.
- (b) On the request of any Director, the Secretary must call a Board meeting.
- (c) The Board may:
  - (i) meet at such times and places;
  - (ii) adjourn its meetings to such times and places; and
  - (iii) otherwise conduct and regulate its meetings,as, when and how the Board determines from time to time.
- (d) A Board meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw consent within a reasonable period before the meeting.
- (e) A Director will only be deemed to:
  - (i) be present at a Board meeting that is held by telephone link up or other contemporaneous audio or audio visual communication device for the period during which the Director is connected to his or her telephone or other communication device; and
  - (ii) have left a meeting that is held by telephone link up or other contemporaneous audio or audio visual communication device:
    - (A) where that Director clearly states to the Chairman of the meeting that the Director is disconnecting his or her telephone or other communication device; or

- (B) where and for the period that the Director's connection to the telephone or other communication device is interrupted or disconnected for some other reason.
- (f) The ruling of the Chairman of the meeting will be accepted as the final determination of all questions of order or procedure that arise at a Board meeting.

## 30. Notice

- (a) Notice of a Board meeting must be given to each Director.
- (b) The notice must:
  - (i) specify the day, time and place of the meeting;
  - (ii) state the business to be transacted; and
  - (iii) be given at least 48 hours before the meeting, unless all Directors otherwise agree to a shorter period of notice.
- (c) If a Director does not receive the notice of a meeting, or a complete notice, as required under clause 30(a), that non-receipt or incomplete notice does not in itself invalidate anything done at the meeting if:
  - (i) the failure was genuinely accidental;
  - (ii) the Director gives notice to the AFC that he or she waives the requirement for notice or agrees to the thing or things done at the meeting; or
  - (iii) the Director attends the meeting.

## 31. Quorum

- (a) The quorum for a Board meeting is the number of Directors entitled to vote approved by the Board from time to time, and in any event, must not be less than four.
- (b) For the avoidance of doubt:
  - (i) the quorum must be present at all times during the meeting; and
  - (ii) decisions of the Board are only validly passed where a majority of Directors entitled to vote are present during the making of that decision.
- (c) If at the time a Board meeting is scheduled to be conducted there are not sufficient Directors in office to form the quorum required by clause 31(a), the remaining Directors may only act at that meeting:
  - (i) to increase the number of Directors to a quorum, subject to other requirements set out in this constitution;
  - (ii) to call a general meeting of the AFC; or
  - (iii) in an emergency.

## 32. Chairman and Deputy Chairman

- (a) The Directors may elect a Director as Chairman for a period determined by the Directors (which period must not be less than 2 years) and may determine from time to time that the title of that person is to be Chairman or President at their discretion.

- (b) The Directors may elect a Director as Deputy Chairman for any period they decide.
- (c) An appointed Director may hold the office of Chairman or Deputy Chairman.
- (d) If Chairman or Deputy Chairman is to be removed within two years of appointment, the Directors may remove that person by approval of not less than 75% of the Board.
- (e) Subject to this clause 32, the Chairman is entitled to, and must where reasonably practicable, chair each Board meeting.
- (f) In the event that:
  - (i) there is no Chairman of the Board, or if the Chairman is not present within 15 minutes after the time set out in the notice of meeting or is unable or unwilling to act (for the whole or any part of a meeting), the Deputy Chairman of the Board may chair the relevant part of the meeting;
  - (ii) there is no Deputy Chairman, or if the Deputy Chairman is not present within 15 minutes after the time set out in the notice of meeting or is unable or unwilling to act (for the whole or any part of a meeting), the Directors present must elect one of themselves to chair the relevant part of the meeting;
  - (iii) the Directors present do not elect one of themselves to chair the meeting in accordance with clause 32(f)(ii), the meeting is dissolved.

### 33. Board Decisions

- (a) Subject to the Corporations Act, each Director has one vote at each Board Meeting.
- (b) Unless otherwise stated in this constitution or required by the Corporations Act, where this constitution refers to:
  - (i) a resolution of the Board;
  - (ii) the approval or determination of the Board; or
  - (iii) the exercise of a discretion by the Board,
 that resolution is passed, the approval or determination is obtained or a discretion is exercised (as applicable) by a Majority of the votes cast by Directors entitled to vote on the relevant resolution or other matter.
- (c) In the case of an equality of votes, the Chairman has a casting vote in addition to his or her vote as a Director.
- (d) All acts performed or matters resolved by any Board meeting or by any person acting as a Director will be valid as if that person was validly appointed, notwithstanding the subsequent discovery of some defect in the appointment of such person.

## Part 6 - Directors' powers

### 34. General powers

- (a) The Licensed Operations and other business and affairs of the AFC are to be managed by or under the direction of the Board.



- (b) The Board will liaise with the Chief Executive Officer in respect of all policies that are established or developed by the Board from time to time and particularly as regards the establishment and/or implementation of such policies.
- (c) The Board may exercise all the powers of the AFC except any powers that the Corporations Act or this constitution requires the AFC to exercise in general meeting.

### 35. Execution of documents

- (a) Subject to the Corporations Act, the AFC may execute a document without a common seal if the document is signed by:
  - (i) two Directors of the AFC; or
  - (ii) a Director and a Secretary of the AFC.
- (b) The Board will prepare or cause to be prepared a policy for executing documents (**Document Execution Policy**).
- (c) The Board may delegate the authority to execute documents in accordance with the Document Execution Policy.
- (d) The Board may decide, generally or specifically, that a Director or Secretary may sign certificates for membership of the AFC by mechanical or other means.
- (e) This clause does not limit the ways in which the Board may decide that the AFC may execute a document (including a deed).

### 36. Negotiable instruments

The Board may decide how negotiable instruments (including cheques) may be signed, drawn, accepted, endorsed or otherwise executed by the AFC.

### 37. Committees and delegates

- (a) The Board may delegate any of their powers (including this power to delegate) to a committee of Directors. The Board may revoke or vary that delegation from time to time.
- (b) A committee must exercise the powers delegated subject to any directions of the Board and in accordance with the scope of the delegation. The effect of the committee or delegate exercising a power in this way is the same as if the Board exercised it.
- (c) Part 5 of this constitution applies with the necessary changes to meetings of a committee, except that a person that is not a Director does not have a vote at such meetings.
- (d) The Chairman of each of the committees must report to each meeting of the Board and the Board must, subject to and in accordance with the Corporations Act, review and resolve to adopt the reports of each committee.

### 38. Attorney and agent

- (a) The Board may appoint any person to be the attorney or agent of the AFC for any purpose, for any period and on any terms (including as to remuneration) the Board from time to time decides.
- (b) The Board may delegate any of their powers to an attorney or agent.

- (c) The Board may from time to time revoke or vary:
  - (i) the appointment under clause 38(a); or
  - (ii) any power delegated to the attorney or agent.

## Part 7- Executive Officers

### 39. Chief Executive Officer

- (a) The Board must appoint a Chief Executive Officer. The Chief Executive Officer will be:
  - (i) responsible for the management of the business and affairs of the AFC (including the conduct of the Licensed Operations); and
  - (ii) required to comply with and implement the policies and directions of the Board.
- (b) The Board in its discretion, but with the prior written consent of the Chief Executive Officer, may determine that the Chief Executive Officer is to be an executive Director and member of the Board, in which case he or she will remain a member of the Board while he or she remains Chief Executive Officer.
- (c) The terms and conditions of the Chief Executive's employment (including the period of engagement and remuneration) will be determined by the Board in its discretion.
- (d) The Chief Executive Officer will:
  - (i) develop a plan to implement the policies and directions of the Board;
  - (ii) be responsible for the implementation of the policies and directions that are established or developed by the Board. In implementing such policies, the Chief Executive Officer will follow any directions or specific resolutions of the Board;
  - (iii) be responsible for the carrying out on behalf of the AFC of any duties required or appropriate to be carried out by the AFC under the provisions of any applicable legislation;
  - (iv) be responsible for ensuring that correct accounts, reports and books showing the financial affairs of the AFC are kept and maintained, including by doing so in accordance with applicable laws, accounting practices and AFL requirements;
  - (v) have the power to call a Board meeting in case of urgent business giving reasonable notice to each Director;
  - (vi) will arrange to receive and bank all moneys due to the AFC and for the payments of all accounts and debts in the name of the AFC;
  - (vii) keep a correct account of the receipts and expenditure of the AFC and submit an extract thereof to the Board at each meeting; and
  - (viii) without limiting clauses 39(d)(i) or (ii), perform such other tasks, address such matters, and do such other things, as are reasonably required by the Board from time to time.
- (e) Other than his or her duties and responsibilities as a Director (assuming he or she is appointed as a Director), Chief Executive Officer may delegate any or all of his or her powers or responsibilities.

- (f) At the discretion of the Board, and assuming the Chief Executive Officer has not been appointed as an executive Director under clause 39(b), the Chief Executive Officer may attend and speak at Board meetings, and is entitled to notice of the holding of Board meetings, as if he or she was a Director.

## 40. Company Secretary

- (a) The Board may appoint one or more company secretaries of the AFC for any period and on any terms (including as to the payment and quantum of remuneration) the Board decides.
- (b) Subject to any agreement between the AFC and the Secretary, the Board may remove or dismiss the Secretary at any time, with or without cause.
- (c) Unless the Board otherwise decides, the Secretary will also act as the public officer of the AFC.
- (d) The Secretary will, in addition to any duties and responsibilities detailed in this constitution, record in the minute books of the AFC minutes of all resolutions and proceedings of all general meetings, Board meetings and committee meetings, and will keep and maintain the register of Members and all associated records (including by doing so in accordance with applicable laws, accounting practices and AFL requirements).

## 41. Indemnity

- (a) To the extent permitted by the Corporations Act, the AFC:
  - (i) must indemnify each person who is or has been an Officer against any liability incurred as and in connection with their being an Officer of the AFC; and
  - (ii) may at its cost obtain and maintain insurance in respect of each Officer against that liability referred to in clause 41(a)(i).
- (b) Subject to the Corporations Act, the AFC may enter into an agreement or deed with an Officer under which the AFC agrees to do all or any of the following:
  - (i) allow the Officer and the Officer's advisers access to the AFC's books (including minute books) for any agreed period;
  - (ii) indemnify the Officer against any liability incurred by the Officer as and in connection with their being an Officer of the AFC; and
  - (iii) keep the Officer insured for any period in respect of any act or omission done by the Officer as and in connection with their being an officer of the AFC.
- (c) In this clause, Officer means an officer of the AFC and includes the Secretary, the public officer of the AFC, the Chief Executive Officer and the Directors.

## 42. Auditors

- (a) The AFC will:
  - (i) appoint auditors to audit the books of account of the AFC; and
  - (ii) report the results of such audit to the Members on an annual basis, including by doing so in accordance with applicable laws, accounting practices and AFL requirements.

- (b) The appointment, conduct, and removal of the auditor will be governed by the Corporations Act and other applicable laws.

### 43. Returning Officer

- (a) The Returning Officer will be the auditors of the AFC or such other persons or organisation determined by the Board from time to time as being appropriate to conduct a ballot.
- (b) The Returning Officer of the AFC will be responsible for conducting each ballot for the election of Directors under Part 4, in accordance with any rules, guidelines and/or procedures detailed in this constitution or established by the Board from time to time.
- (c) The Returning Officer is not entitled to:
  - (i) vote at any meeting of the AFC;
  - (ii) stand for election or accept appointment as a Director; or
  - (iii) nominate or second any candidate for election as a Director (or participate in their candidature in any way).

## Part 8 — Records

### 44. Register of Members

- (a) The AFC must keep a Register of Members:
  - (i) in accordance with applicable requirements of the Corporations Act; and
  - (ii) that contains:
    - (A) the full names, addresses and dates of birth of all Members, together with their respective membership number and membership category; and
    - (B) such other details as the Board requires from time to time.
- (b) The Register of Members may be kept using such means of technology as determined by the Board from time to time.
- (c) The AFC is only required to allow the inspection of any Register of Members where obligated to do so by the Corporations Act and other applicable laws (including privacy laws).
- (d) Unless proved incorrect, the register of Members is sufficient evidence of the matters shown in the register.

### 45. Minute Book

- (a) The AFC must keep minute books in which it promptly records:
  - (i) proceedings and resolutions of meetings of the Members;
  - (ii) proceedings and resolutions of Board meetings (including meetings of a committee of the Board);
  - (iii) resolutions passed by Members without a meeting; and
  - (iv) resolutions passed by the Board without a meeting.

- (b) The AFC must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
  - (i) the chair of the meeting; or
  - (ii) the chair of the next meeting.
- (c) The AFC must ensure that the minutes of a resolution passed without a meeting are signed by a Director within a reasonable time after the resolution is passed.
- (d) A minute that is so recorded and signed is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

## 46. Financial records

- (a) The AFC must keep and maintain the financial records and produce and disseminate the reports required by the Corporations Act.
- (b) The financial records must be audited as required by the Corporations Act.
- (c) A copy of the most recent financial report of the AFC must be provided to a Member on request.

## 47. Inspection

Unless authorised by the Board, the AFC in general meeting or the Corporations Act, a Member is not entitled to inspect the AFC's books.

## Part 9 - Notices and Interpretation

### 48. Written

Notices given in connection with this constitution must be in writing and in English, and may be given by an authorised representative of the sender.

### 49. Notice to Members

- (a) The AFC may give notice to a Member:
  - (i) personally;
  - (ii) by sending it by post to the address of the Member in the Register of Members or the alternative address (if any) nominated by the Member from time to time; or
  - (iii) by sending it to the fax number or electronic address (if any) nominated by the Member from time to time.
- (b) A notice to a Member is sufficient even if the Member (whether or not a joint Member) is dead, mentally incapacitated, an infant or a bankrupt, and the AFC has notice of that event.

### 50. Notice to Directors

The AFC may give notice to a Director:

- (a) personally;

- (b) by sending it by post to the Director's usual residential or business address or any other address nominated by them from time to time;
- (c) if a notice calling a meeting - by sending it to the fax or electronic address (if any) nominated by the Director from time to time, only if all the Directors have consented to the use of that technology; or
- (d) if any other notice - by sending it to the fax or electronic address (if any) nominated by the Director from time to time.

## 51. Notice to the AFC

A person may give notice to the AFC:

- (a) by leaving it at the AFC's registered office;
- (b) by sending it by post to the AFC's registered office; or
- (c) by sending it to the fax or electronic address (if any) of the AFC's registered office.

## 52. Addresses outside Australia

A notice sent by post to or from a place outside Australia must be sent by air mail.

## 53. Time of service

- (a) A notice sent by post within Australia is taken to be given 3 Business Days after posting.
- (b) A notice sent by post to or from a place outside Australia is taken to be given 7 Business Days after posting.
- (c) A notice sent by fax, or other electronic means, is taken to be given on the Business Day after it is sent (if the sender's transmission report shows that the whole notice was sent to the correct facsimile number or electronic address).

## 54. Dispute Resolution

- (a) Any dispute arising between a Member and the AFC in relation to this constitution or otherwise, must be resolved in accordance with the procedure set out in this clause 54 before either party commences any other process for resolving the dispute, including the commencement of court action.
- (b) If a party believes that a dispute has arisen, it must serve a dispute notice on the other party, and:
  - (i) the dispute notice must state that a dispute has arisen and identify in sufficient detail what the dispute is about;
  - (ii) the dispute notice must be provided to the other party following receipt of which the parties must meet within a period of 14 days to seek to resolve the dispute;
  - (iii) failing resolution of the dispute by the parties, the parties may jointly request the appointment of a mediator or failing agreement as to a mediator within 21 days of service of the dispute notice, either party may apply to the President of the Law Society of South Australia to appoint a mediator;

- (iv) once the mediator has accepted the appointment, the parties must comply with the mediator's instructions; and
  - (v) if the dispute is not resolved within 45 days of the appointment of the mediator, or any other period agreed by the parties in writing, the mediation ceases and the parties are entitled to pursue any other avenue available to them to resolve the dispute.
- (c) The mediator may fix the charges for the mediation which must be paid equally by the parties. The mediator acts as a mediator only and not as an arbitrator.
  - (d) If the dispute is settled, all parties must sign a terms of settlement agreement and those terms are binding on the parties.
  - (e) The mediation is confidential and statements made by the mediator or the parties as well as discussions between the participants to the mediation whether before, after or during the mediation, cannot be used in any legal proceedings.
  - (f) It will be a term of the engagement of the mediator that the parties release the mediator from any Court proceedings relating to the dispute or the mediation.
  - (g) The mediator is not bound by the rules of natural justice and may discuss the dispute with a party in the absence of any other party.
  - (h) This clause 54 does not prevent a person from commencing proceedings for urgent or interlocutory relief.
  - (i) If there are not a sufficient number of candidates nominated to fill all Elected Director vacancies:
    - (i) all candidates are deemed to have been elected;
    - (ii) the remaining vacancies may be filled by persons proposed at the annual general meeting by Electing Members provided that a motion to elect them is carried by two third majority of those Electing Members present (if there are more candidates proposed at the meeting than vacancies remaining then those candidates receiving the highest, the next highest and so on number votes as well as attaining the two third majority will be elected to fill the vacancies until all positions are filled); and
    - (iii) the remaining vacancies may be filled by the Board at its discretion.

## 55. Interpretation

In this constitution, unless the context otherwise requires:

- (a) a word or phrase has the same meaning as it has in the Corporations Act unless the contrary intention appears;
- (b) singular includes plural and plural includes singular;
- (c) words of one gender include any other gender;
- (d) reference to legislation includes any amendment to it, any legislation substituted for it, and any statutory instruments issued under it and in force;
- (e) reference to a person includes a corporation, a firm and any other entity;
- (f) headings do not affect interpretation;

- (g) the AFC must not exercise any power in contravention of the Corporations Act and any provision of this constitution that is in contravention of the Corporations Act is to that extent to be read down or, if not capable of being read down, severed;
- (h) a reference to dollars, "\$"; or other monies is a reference to the lawful currency of Australia;
- (i) the words "include" and "including" are not used as nor are they to be interpreted as, words of limitation and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and
- (j) where a person has a discretion or power under this constitution, that discretion or power is absolute and unfettered, unless otherwise stated, but subject always to the restrictions in this constitution and the Corporations Act.

## 56. AFL Licence

- (a) The terms of the Licence Agreement prevail to the extent of any inconsistency between this constitution and the Licence Agreement.
- (b) Notwithstanding any other provision of this constitution, until the Development Grant Completion Date this constitution may not be amended in any way unless the relevant amendment has been approved by the AFL in its absolute discretion. Each resolution seeking or approving an amendment to this constitution will by virtue of this clause be conditional on the approval of the AFL.

## 57. Transition

- (a) Subject to clause 25, a Director who is in a current term of office at the date this constitution is adopted (**Continuing Director**) will serve the term of that office (**Pre-Existing Term**) before retiring and being replaced in accordance with 23.
- (b) For the purpose of determining under clauses 22.1 and 23 how each Continuing Director is to be replaced at the end of his or her pre-existing Term:
  - (i) a Continuing Director who was elected by the members, will be designated as an Elected Director;
  - (ii) if the number of Continuing Directors designated as Elected Directors under the preceding clause is less than two, the Board must, before the next annual general meeting after the date this constitution is adopted, designate one more of the other Continuing Directors to be treated as Elected Directors to bring the total number of designated Elected Directors up to two;
  - (iii) Then, if the Board decides to reduce the number of Directors to a number not less than seven, the Board must, before the next annual general meeting after the date this constitution is adopted, designate which of the remaining Continuing Directors is not to be replaced at the end of his or her term so as to achieve the required reduction; and
  - (iv) the then remaining Continuing Directors will be taken to have been designated as Board appointees.
- (c) Nothing in this clause prevents a Continuing Director from standing for re-election or re-appointment in accordance with clause 24(c) at or after the end of his or her term.



## 58. Definitions

The following words have the following meaning, unless the contrary intention appears:

**AFC** means the Adelaide Football Club Limited ACN 008 101 568;

**AFL** means the Australian Football League ACN 004 155 211 and its successors or lawful assigns;

**Appointed Directors means** those Directors that are appointed by the Board pursuant to Part 4;

**Australian Football League** means the Australian Football competition conducted and administered by the AFL throughout Australia, and which includes:

- (a) the official football season (including any pre-season and final fixtures) conducted as part of that competition; and
- (b) other events and things connected with the official football season;

**Board** means the Board of Directors of the AFC as constituted from time to time;

**Business Day** means any day except a Saturday or Sunday or other public holiday in South Australia;

**Chairman** means the person elected by the Directors to the office of Chairman of the Board in accordance with clause 32. References to Chairman means the President if the Board elects to use that title in accordance with clause 32(a);

**Chief Executive Officer** means the person appointed by the Board pursuant to clause 39;

**Corporations Act** means the *Corporations Act 2001* (Cth);

**Deputy Chairman** means the person elected by the Directors to the office of Deputy Chairman of the Board in accordance with clause 32;

**Development Grant Completion Date** means 31 October 2028 (or such earlier time as the AFC and the AFL agree);

**Director** means a director of the AFC;

**Elected Directors** means those Directors that are elected by Members pursuant to Part 4;

**Electing Member** has the meaning described in clause 7.1(c);

**Licence Agreement** means:

- (a) licence agreement to be executed by the AFC and the AFL and dated 27 March 2014; and
- (b) any subsequent variation to, or replacement of, the licence agreement referred to in paragraph (a);

**Licensed Operations** means all matters of and incidental to the fielding of a team by the AFC in the Australian Football League pursuant to the Licence Agreement;

**Life Member** has the meaning given to that term in clause 7.1(b);

**Member** means a member of the AFC according to this constitution, including the AFL Voting Member;

**Membership Application** means the application form approved by the Board from time to time for the specific purpose of becoming a Member of the AFC or renewing an existing membership;

**Membership Fees** means the membership fees determined in accordance with this constitution, as payable by a Member in respect of each year they are or apply to become a Member of the AFC (including fines and penalties whether for late payment of fees or for any other matter in respect of which the Board considers fines or penalties should be imposed);

**Officer** has the meaning given to that term in Section 9 of the Corporations Act in relation to "officers of a corporation";

**Register of Members** means the register required under clause 44, and which contains the details of all current and past Members of the AFC and such other details as are required by clause 47;

**Returning Officer** means the person or organisation serving as Returning Officer of the AFC in accordance with clause 43;

**Secretary** means the person appointed under this constitution to perform the duties of company secretary of the AFC.