

## DEFINITIONS

### 1. Definitions

In this Constitution, unless the context or subject matter requires otherwise:

**Act** means the *Corporations Act (Cth)* as amended from time to time;

**Appointed Director** means a Director who has been appointed as a Director in accordance with this Constitution;

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

**By-Laws** means and regulations, rules, guidelines or similar document created, or ratified, by the Board from time to time

**General Manager** means the General Manager of the Club, or such other person who has been appointed to carry out the roles and responsibilities of the General Manager;

**Chairman** means the Chairman of the Board;

**Club** means South West Queensland Thunder Football Club Limited ACN **160 855 470**;

**Constitution** means this Constitution as amended or replaced from time to time;

**Director** means a member, for the time being, of the Board and includes Appointed Directors and Elected Directors;

**Elected Director** means a Director who has been elected as a Director in accordance with this Constitution, or appointed to fill a casual vacancy of an Elected Director;

**Eligible Member** means a Member entitled to attend and vote at any general meeting of the Club;

**FIFA** means Federation Internationale de Football Association;

**First Directors** means the persons named in clause 18;

**First Members** means the persons named in clause 5;

**FFA** means Football Federation Australia Limited ACN 106 478 068

**Football** means "Association Football" as recognized by FIFA from time to time. Football includes the games of football, soccer football, indoor or five a side (futsal) football and beach football;

**FQ** means Football Queensland Ltd ACN 063 925 333;

**Governing Body** means FQ and/or FFA and their successor or affiliated Zone or other organisations;

**Laws of the Game** means the rules of Football referred to in the FIFA Statutes and Regulations;

**Life Member** means a person who has been offered, and has accepted, a life membership of the Club under clause 7;

**Member** means a person who obtains membership under clause 4;

## **2. The objects for which the Club is established are as follows:**

### 2.1 Football & Sporting:

- A. To hold and maintain a licence from the Governing Body entitling the Club to operate and to field a team or teams to play Football in National, State and/or local Football competitions administered by the Governing Body;
- B. To promote, advance and develop the playing and enjoyment of the game of Football, and if considered necessary and desirable by the Board, other sports, athletic pursuits, games and recreational activities;
- C. To employ, or from time to time hire the services of and pay, football players, coaches, trainers and managers;
- D. To provide a clubhouse, facilities and grounds for the use and enjoyment of members and to promote social discourse between them;
- E. To promote and hold, either alone or jointly with any other association, clubs or persons, Football meetings, competitions and matches and to offer,

give or contribute towards prizes and awards and to promote, give or support, dinners, balls, concerts and other entertainments of any kind;

## 2.2 Social & Facilities:

- A. To purchase, acquire, take on lease from time to time, or otherwise hold any real or personal property as may be required from time to time for the purposes of the Club and construct, alter, add to or maintain the said land and any premises or any building or part of a building required for the purposes of the Club;
- B. To sell, transfer, let, sub-let, mortgage, charge, pledge, dispose of or otherwise deal with the whole or any part of the land, premises or buildings or part of a building or personal property owned or leased by the Club;
- C. To apply for, hold, receive, renew, transfer and surrender any permits or licenses that may be required from time to time to allow the Club to provide for or sell to Members liquor or any other goods in accordance with any and all applicable laws;
- D. To apply for, hold, receive, renew, transfer and surrender any permits or licenses that may be required from time to time to allow the Club to conduct gaming and other ancillary activities in accordance with any and all applicable laws;
- E. To establish, maintain and carry on for the purposes set out in this Constitution, club rooms and facilities for the accommodation, convenience and enjoyment of Members and their friends upon premises upon which the Club is the bona fide occupier and generally to afford all such persons the usual privileges, advantages, conveniences, accommodation and means of enjoyment (including the provision of liquor and lawful games) as are usually provided for the Members of the Club and to apply such of the funds as the Board shall deem appropriate from time to time derived from such activities towards the achievement of the objects set out in this Constitution;

## 2.3 Administration

- A. To engage and employ staff, secretaries or managers and all other persons considered necessary for carrying on the Club and to dismiss such persons and to pay such persons in return for services rendered to the Club salaries, wages, bonuses, gratuities and pensions;
- B. To invest and deal with the moneys of the Club not immediately required for carrying on the Club in such manner as may from time to time be determined by the Club and to lease, sell or deal with any real or personal property of the Club as may from time to time be determined by the Club;

- C. To borrow or raise or secure the payment of money in such manner as determined by the Club and in particular by the issue of debentures or debenture stock and/or by similar mortgage or charge or lien upon all or any part of the property or assets (whether present or future) of the Club and to purchase, redeem or pay off any such loans or securities or accept the surrender of same;
- D. To draw, make, accept, endorse, execute, discount and issue promissory notes, bills of exchange, debentures and other negotiable or transferable instruments and to give any guarantee for the payment of money or the performance of any obligation or undertaking and on that behalf to give any security upon the property of the Club;
- E. To insure against all risks, liabilities and eventualities as may seem advisable and to apply the proceeds of any claim under any insurance in such manner and for such purpose or purposes as will be thought fit;

#### 2.4 Community

- A. To support and subscribe to any charitable or public institution, society, association or any movement;

#### 2.5 Other General Objects and Powers

- A. To accept any gift of any real or personal property;
- B. To amalgamate with, establish, assist in establishing, or promote, any other company, institution, society, association or club whose objects are similar, or in part similar, to the objects of the Club and which shall prohibit the distribution of its income or property among its members to an extent at least equivalent to that imposed upon the Club by virtue of this Constitution;
- C. To do all such other lawful things as are incidental or conducive to the attainment of the above objects or any of them, or which may be calculated to advance directly or indirectly, the interests of the Club, the Members and/or the game of Football;

#### 2.6 Governing Body

- A. The Club shall remain affiliated with the Governing Body and shall remain a body corporate or be an incorporated association with the following characteristics;
  - i. It organizes teams to participate in competitions sanctioned by the Governing Body;
  - ii. Members may vote in an election for officeholders;

- iii. It agrees to be bound by the Statute and Regulations, The Laws of the Game, and those Governing Body rules (including the respective constitutions) and by-laws expressed to apply to it; and
- iv. It will prevent infringement of the constitution and by-laws of the Governing Body and protect Football from abuse;

## 2.7 No Distribution to Members

- A. The income and property of the Club shall be applied solely towards the promotion of the objects of the Club as set forth in this Constitution and no part thereof shall be paid, distributed or transferred directly or indirectly by way of dividend, bonus or otherwise, to the members of the Club;
- B. Nothing herein contained shall prevent the payment in good faith of remuneration to any Officers or servants of the Club or to any Member of the Club in return for any services actually rendered to the Club or for goods supplied in the ordinary and usual way of business nor prevent the payment of interest at a rate not exceeding the rate (if any) for the time being fixed for the purpose of this paragraph by this Constitution on money borrowed from any Members of the Club or reasonable and proper rent for premises demised or let by any Member to the Club;
- C. For the purposes of clause 2.7B above, of this Constitution the rate of interest payable in respect of the money lent by Members to the Club shall not exceed the Australian Financial Markets Association Bank Bill Swap Reference Rate for six (6) months as published daily on the Reuters BBSW page, plus two percent (2%), or should that indicator cease to exist, ten percent (10%) per annum;

## 3. Amendment

### 3.1 The Club must

- A. amend
  - i. This Constitution; or
  - ii. The by-laws,  
  
to promptly adopt changes in the model constitution and by-laws of the Governing Body, including additional or replacement by-laws, where there is a conflict as a result of the changes.
- B. not otherwise amend or vary this Constitution or any of its By-Laws without the consent of the Governing Body where the amendment would conflict with matters the subject of the constitution or by-laws of the Governing Body, which are expressed to relate to the Club, whether adopted by the Governing Body before or after the date of adoption of this Constitution by

the Club.

- C. forward any proposed amendment to this Constitution, or any other By-Laws for the time being in force, to the relevant Governing Body for its consideration and consent. The Governing Body must consent to any amendments to this Constitution that are required by law;
- D. otherwise comply with the Act, or any other Commonwealth, State or local legislative instruments in relation to amendments to this Constitution, including providing Notice where required.

3.2 Subject to clause 3.1C above, this Constitution, or any other Rules for the time being in force, may be altered, rescinded or repealed and new Rules may be made by the Club in a general meeting, by a Special Resolution only, in the manner prescribed by the Act.

3.3 No Rule may be altered if it would have the effect of altering the objects for which the Club is established such that the Club no longer operates as a non-profit entity, nor to change the intent of clause 26.2.

3.4 Nothing whether contained in the Rules for the time being in force or otherwise howsoever shall be construed as implying or creating any privilege, priority or right in favour of any Member as to limit the power of the Club at any time to alter, rescind or repeal the same or to make new Rules in their place;

3.5 To the extent of any inconsistency between the replaceable rules referred to in the Act and this Constitution, such replaceable rules do not apply to the Club and are replaced by the provisions of this Constitution.

#### **4. Membership**

4.1 Unless otherwise determined by the Board, there shall be no limit on the number of persons who may be admitted as Members of the Club;

4.2 The Board may from time to time admit persons as members of the Club and determine the terms and conditions on which any such persons shall be admitted to membership of the Club, PROVIDED THAT no person (the Primary Person), alone or together with:

- A. any trustee, nominee or representative of the Primary Person;
- B. any person who is or (in the case of a body corporate) the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the Primary Person;
- C. any body corporate in which the Primary Person has a controlling interest (as defined by the Act);

Shall be entitled to hold more than one (1) vote at any one time.

4.3 Each applicant for membership of the Club shall:

- A. Complete, sign and deliver to the office of the Club a Membership Application; and
- B. Pay the Club the membership fee fixed by the Board from time to time; and
- C. Be approved as a Member at a meeting of the Board or other committee established by the Board;

4.4 The Board may refuse any application for membership, or for renewal of membership, and need not give reasons for its refusal.

4.5 The Club must ensure that each member admitted to membership agrees to be bound by and observe:

- A. This Constitution;
- B. The Laws of the Game;
- C. The Statutes and Regulation and the constitution and By-Laws of the Governing Body and enforced from time to time;
- D. Any Code of Conduct, Code of Behaviour or Competition Rules (or similar document) issued by the Governing Body and in force from time to time;

4.6. This Constitution has the effect of a binding contract:

- A. between the Club and each Member;
- B. between the Club and each Director and Secretary; and
- C. between each Member and each other Member;

4.7 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 Club;

4.8 A Member shall not be entitled to vote at any meeting of the Club while any membership fee due and owing by that Member to the Club in accordance with this Constitution remain in arrears in excess of two (2) calendar months;

4.9 No Member shall be liable to suspension or termination of the Member's membership or expulsion from the Club for reason only that the membership fees owed by that member to the Club are overdue, except where the membership fees owed by that Member to the Club are overdue by a period in excess of two (2) calendar months;

4.10 Subject to clause 4.14, the privileges and obligations of any member of the Club shall not be transferrable and shall cease on death, retirement, resignation or termination of membership;

4.11 Subject to clause 4.9, any Member who fails to observe any of the terms of the Constitution or regulations of the Club may be suspended or excluded from the Club by resolution of the Board. Such Member shall have seven (7) clear days' notice sent to the Member of such a special meeting of the Board, and the Member may attend the meeting and state the Member's case, but shall not be present at the voting or take part in the proceedings other than as the Board allows;

4.12 A Member so excluded shall cease to be a Member of the Club;

4.13 A Member may at any time by giving notice in writing to the Club Secretary, resign the Member's membership of the Club;

4.14 A Member who resigns their membership in accordance with clause 4.13 or is excluded from the Club in accordance with clause 4.11 shall continue to be liable to the Club for:

- A. Any and all membership fees and any other debt or liability owed to the Club as at the date the notice of resignation is received by the Club Secretary or the date of the resolution of the Board excluding that Member from the Club, as the case may be; and
- B. Any amount not exceeding the ten dollars (\$10.00) for which the member is liable as a member of the Club under clause 26.1 of this Constitution.

## **5. First Members**

5.1 The First Members on the date of the incorporation of the Club were:

- A. **Allan Sothman;**
- B. **Anthony John Bigby;**
- C. **Andrew Allpass;**
- D. **Jason Mark Hall;**
- E. **Christopher John Watt;** and
- F. **Chris McLeod;**
- G. **Nigel Fanning;**
- H. **Janelle Sothman;**



## **I. Richard Mitchell.**

5.2 The First Members became Interim Members on the date of the adoption of this Constitution;

5.3 An Interim Member ceases to be an Interim Member on:

- A. their admission as a Member under clause 4.3; or
- B. at the conclusion of the General Meeting next held following the adoption of this Constitution;

whichever comes first.

## **6. Classes of Members**

6.1 There shall be five (5) classes of membership: Life Members, Ordinary Members, Junior Members, Foundation Members, and Social Members;

6.2 The Board, in its absolute discretion, has the right to establish other classes of Membership from time to time;

6.3 The Board may, from time to time, prescribe the membership fees, rights and benefits that are applicable to each class of membership and such Membership Fees, rights and benefits may be greater or lesser than those applicable to Ordinary Members;

6.4 Any member who is also an employee of the Club shall not vote at any general meeting of the Club notwithstanding that the member would have otherwise had an entitlement under this Constitution to be present, debate and vote at a general meeting of the Club.

## **7. Life Member**

7.1 A life member is an outstanding Member who is a natural person, who has been elected as a Life Member by the Board in its absolute discretion in acknowledgement of the Member's contribution to the Club;

7.2 A Life Member is entitled to all the privileges of Ordinary Membership without payment of further Membership Fees.

## **8. Ordinary Member**

8.1 An Ordinary Member is any natural person, eighteen (18) years of age or above, or corporation (incorporated or otherwise) who will have duly applied to be a Member of the Club and will have paid the appropriate Membership Fee;

8.2 An Ordinary Member is required to pay the appropriate Membership Fees and

such other levies as the Club or the Board may determine and, subject to the provisions of this Constitution, is entitled to:

- A. Attend and vote at all general meetings of the Club;
- B. Propose and/or second persons who wish to apply for Ordinary Membership of the Club; and
- C. Be elected as a Director of the Club;

8.3 Except for Junior Members, no person under the age of eighteen (18) years of age may be admitted as a Member.

## **9. Junior Member**

9.1 A Junior Member is a person who is under the age of eighteen (18) years of age as at the first day of January in the year to which the Membership relates, and who will have duly applied to be a Member of the Club and will have paid the appropriate membership fee;

9.2 A Junior Member is not entitled to attend and/or vote at any meeting of the Club or stand for election to the Board.

## **10. Foundation Member**

10.1 A Foundation Member is any natural person, eighteen (18) years of age or above, or corporation (incorporated or otherwise) who will have duly applied to be a Foundation Member of the Club and who will have paid the appropriate foundation membership fee;

10.2 This class of membership shall not be available for application after 31 March 2013.

10.3 A Foundation Member is entitled to all the privileges of Ordinary Membership.

## **11. Social Member**

11.1 Social Members shall be entitled to the social privileges of social clubs and to participate in such recreation and pastimes as determined by the Board from time to time;

11.2 A Social Member is not entitled to attend and/or vote at any meeting of the Club or stand for election to the Board;

11.3 Honorary Social Membership may be granted by the Board or Club Secretary without payment of a fee to the social club (unless a fee for entry to a social club has been determined by the Board). Honorary Social Membership may be granted provided the applicant has one (1) of the

following qualifications:

- A. A guest of an Ordinary, Foundation or Life Member, and in that Member's company;
- B. A member of a reciprocal club whose member's reciprocal rights are secured by formal reciprocal arrangements, or a guest of a member of such a reciprocal club in the member's company;
- C. An applicant for membership of social clubs for a period of thirty (30) days after receipt by the Club of the applicant's application for any class of Social Membership;
- D. A visitor to the social club whose ordinary place of residence is in another State or Territory, or in a foreign country;
- E. A visitor to the social club whose ordinary place of residence is in the State but at least fifteen (15) kilometers from the club's premises; or
- F. A person attending a function or social club activity other than for the purpose of merely attending the social club on the premises.

The Board shall have the power to cancel the honorary social membership of any person at any time and without assigning any reason. Honorary social members shall not be entitled to attend or vote at any meeting of the Club or stand for election to the Board.

## **12. Register of Members**

- 12.1 The Club will cause to be kept a register of members which will contain the full names and addresses of Members, together with their respective membership number. Upon application for, or renewal of, membership the Club Secretary will cause the required details to be entered into the register of members. All such entries will be made within one month after such application for membership, or renewal, being accepted;
- 12.2 The Board may require details in addition to those details that are required in accordance with the immediately preceding clause, to be recorded in the register of members;
- 12.3 The register of members may be kept using such technological means as the Board may determine from time to time;
- 12.4 A Member changing their name, address or other details determined by the Board, must immediately notify the Club in writing of such change.

## **13. General Meetings**

- 13.1 The annual general meeting of the Club will be held in December each

year, or at such other time as the Board may, subject to the Act, determine from time to time;

13.2 The annual general meeting of the club will be held for the purposes of:

- A. Electing Directors in accordance with this Constitution;
- B. Considering the financial accounts of the Club made up to the end of the previous financial year;
- C. Considering the reports of the Directors;
- D. Considering the report of the auditor, appointing the auditor for the following year and fixing the auditor's remuneration;
- E. Considering the general concerns of the Club; and
- F. Transacting such other business which under this Constitution or the Act is or may be required to be transacted at a general meeting;

13.3 At least twenty-one (21) days' notice in writing of each and every general meeting will be given by the Club to each Eligible Member. Such notice will specify the place, date and time of such meeting and in the event of the Board proposing to introduce any special business, such notice will specify the nature of the special business. The Board may include in such notice any other information in relation to the Club as the Board deems fit. Notice of the annual general meeting will be accompanied by the annual reports, and such financial reports of the Club as are to be considered at the annual general meeting unless the Eligible Member has requested that the Club not send them such reports. Alternatively, the club may notify an Eligible Member that the notice of meeting and any accompanying documents are available and how they may be accessed;

13.4 If an election of Directors is necessary in accordance with this Constitution, then such an election will be held in accordance with the provisions hereof. The Club Secretary, in sending out notices will comply with the procedures specified herein, and such other procedures as may be determined by the Returning Officer, and will notify Eligible Members of the date of the ballot (if any is to be held) at the same time as notice is given of the annual general meeting. Fourteen (14) days' notice of the ballot will be sufficient. At the annual general meeting following the taking of the ballot, the result of the ballot for elections will be announced by the chairman of the annual general meeting, who will then declare such persons elected to offices as are certified by the Returning Officer.

13.5 The Board may whenever it thinks fit, convene a general meeting for any specific purpose(s). The Board will give not less than twenty-one (21) days' notice to all Eligible Members specifying the place, date and time of the

general meeting, and in the case of special business, the nature of all such business that the meeting has been called to discuss. Where it is intended to move a Special Resolution, the notice will set out the terms of that resolution and the intention to propose it as a Special Resolution.

13.6 Powers of Eligible Members to call for a general meeting:

- A. The Board must call and arrange to hold a general meeting at the request of Eligible Members in accordance with the Act;
- B. The request must be in writing, state any resolution to be proposed at the general meeting, be signed by the Eligible Members making the request and deposited at the Club's office along with such sum as the Board shall prescribe to reimburse the Club for the cost of such meeting;
- C. The Board must call the general meeting within 21 days after the request is given to the Club and the general meeting must be held not later than two (2) months after the request is given to the Club;
- D. If the Board does not call a general meeting within twenty-one (21) days after the request is given to the Club, Eligible Members with more than fifty percent (50%) of the votes of all Eligible Members who make a request under clause 13.6A may call and arrange to hold the general meeting but any general meeting must be held not later than three (3) months after the request is given to the Club.

13.7 In the event that the Board calls a general meeting other than an annual general meeting, then the Board may specify a date not more than twenty-one (21) days and not less than fourteen (14) days prior to such general meeting, for the purposes of "closing the rolls". Any persons who become Members of the club after the date specified, will not be entitled to attend or vote at such general meeting.

#### **14. Quorum at General meetings**

- 14.1 Five (5) Eligible Members personally present and entitled to vote will constitute a quorum at any general meeting and no business will be transacted at any meetings unless a quorum is present at the commencement of and throughout the transaction of business;
- 14.2 Notwithstanding that a quorum may be present at any general meeting, no motion nor resolution will be passed on a poll unless not less than five (5) votes are recorded as having been cast personally in respect of such poll;
- 14.3 Every Eligible Member will have one vote only, except in the case of an equality of votes, where the chairman at any meeting will have a casting vote in addition to his or her vote as an Eligible Member.
- 14.4 If within half an hour from the time appointed for a general meeting,

quorum is not present, then the meeting:

- A. If convened upon a requisition in accordance with clause 13.6, will be dissolved; or
- B. In any other case, will stand adjourned to such day and time within the next week at such place as the chairman will determine and if at such adjourned meeting a quorum is not present, those Eligible Members who are present will constitute a quorum and notwithstanding clause 14.2, may transact the business for which the meeting was called.

## **15. Proceedings at General Meetings**

15.1 The Chairman of the Board shall preside as Chairman at every general meeting of the Club;

15.2 If the Chairman is unable or unwilling to act as Chairman of the meeting, then those Directors that are present shall choose one (1) of their number to be Chairman for the purposes of the meeting;

15.3 Every resolution submitted to a general meeting shall be decided in the first instance by a show of hands. In the case of an equality of votes, the Chairman of the meeting shall have a casting vote in addition to the vote as an Eligible Member;

15.4 Notwithstanding clause 15.3, any resolution considered to be a special resolution, including but not limited to changes or amendments to this Constitution, shall require the support of seventy-five percent (75%) of the votes cast by Eligible Members at the meeting on the resolution;

15.5 At any general meeting unless a poll is demanded:

- A. by at least 5 Eligible Members, or
- B. by at least five percent (5%) of the Eligible Members who may cast a vote on a resolution (whichever is greater); or
- C. by the Chairman of the meeting;

a declaration by the Chairman that a resolution has been carried or lost, or carried or not carried by a particular majority, and an entry to that effect in the book of proceedings of the Club shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against such resolution.

15.6 If a poll is demand pursuant to clause 15.5, it shall be taken in such a manner, and at such time and place as the Chairman of the meeting directs, and wither at once, or after an interval or adjournment; EXCEPT if the poll is on a question of adjournment, in which case it shall be taken forthwith;

- 15.7 The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded;
- 15.8 The demand for a poll may be withdrawn;
- 15.9 The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any such adjourned meeting other than that left unfinished at the meeting from which the adjournment took place;

## **16. Voting at General Meetings**

- 16.1 An Eligible Member may attend and vote at a general meeting either in person or by proxy or attorney;
- 16.2 Only another Eligible Member may be appointed as Proxy to attend and vote at meetings;
- 16.3 The appointment of a proxy must be in writing, in the form prescribed by the Board from time to time, or in another form which the Board may accept;
- 16.4 Any appointment of a proxy, attorney or representative is effective in respect of a particular general meeting if, and only if, the following instruments are actually received (which includes receipt of a legible facsimile copy) by the Club at its registered office (or other nominated place) at least forty-eight (48) hours, or such shorter time as the Board may determine, before the time notified for that meeting:
- A. in the case of a proxy, the instrument of proxy and, if it is executed by an attorney, the relevant power of attorney or a certified copy of it;
  - B. in the case of a Power of Attorney, a copy of the power of attorney together with a declaration of non-revocation of the power of attorney; and
  - C. in the case of a representative, the certificate under subsection 250D of the Act, or other evidence satisfactory to the Club.

## **17. The Board**

- 17.1 The business and affairs of the Club shall be managed by, or under the direction of the Board, which, subject to the provisions of the Act and this Constitution, shall be:
- A. Constituted by no less than six (6) and no greater than nine (9) Directors elected by the Eligible Members of the Club, at a general meeting by ordinary resolution, or if the Board resolves to conduct a postal ballot, in accordance with that ballot; and

B. Up to three (3) Appointed Directors as determined by the Board from time to time.

17.2 The Board may exercise all the powers of the Club except any powers that the Act or this Constitution requires the Club to exercise in general meeting;

17.3 The Board shall from time to time as occasion requires, elect one (1) of its number to each of the offices of Chairman, Deputy Chairman and Finance Director and those Directors shall hold that office until such time as they retire, resign, or are otherwise replaced by the Board;

17.4 A Director may not be paid for services as a Director but, with approval of the Board, may be:

A. Paid by the Club for services rendered to it; and

B. Reimbursed by the Club for their reasonable travelling, accommodation and other expenses when travelling to or from meetings of the Directors, a committee of the Club, or otherwise engaged on the affairs of the Club.

## **18. The First Directors**

18.1 On incorporation of the Club, the First Directors were:

A. **Allan Sothman;**

B. **Anthony John Bigby;**

C. **Nigel Fanning;**

D. **Christopher John Watt;**

E. **Jason Mark Hall;** and

F. **Chris McLeod;**

18.2 Subject to the Act, and to clause 21, three (3) of the First Directors (to be decided by lots unless the Directors otherwise agree among themselves) will retire at the end of the first Extraordinary General Meeting and are eligible for re-election;

18.3 The remaining First Directors who do not retire under clause 18.2 will hold office until the annual general meeting in 2013 and are eligible for re-election. Service as a Director from the first Extraordinary General Meeting until the end of the annual general meeting in 2013 (or part of that period) is one term of office for the purposes of clause 20.

18.4 The Members must elect three (3) Directors at the first Extraordinary



General Meeting.

## **19. Term of Office**

- 19.1 Elected Directors hold office for a term which continues until the end of the second annual general meeting held after the meeting at which they were elected;
- 19.2 A Director appointed by the Board under clause 17.1 holds office for a term of two years but is eligible for re-appointment. Clause 20 does not apply to an Appointed Director. An Appointed Director may be removed from office by the Elected Directors at their absolute discretion;
- 19.3 A retiring Director holds office until the end of the meeting at which the Director retires.

## **20. Maximum Term of Office**

- 20.1 A Director may not serve more than four (4) consecutive terms as a Director, whether as an Elected Director or as an Appointed Director;
- 20.2 If a Director has served four (4) consecutive terms, they may not be elected as a Director again until the second annual general meeting after the end of their fourth term of office;
- 20.3 Service as a First Director prior to the 2012 Extraordinary General Meeting does not count as a term of office for the purposes of this clause.

## **21. Vacation of Office**

- 21.1 The office of a Director becomes vacant when the Act says it does and also if the Director:
- A. Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
  - B. Resigns office by notice in writing to the Club;
  - C. Becomes disqualified from standing for election under any provision of this Constitution or the Act;
  - D. Is not approved by any relevant governmental or semi-governmental authority;
  - E. Is not personally present at three consecutive Director's meetings without leave of absence from the Board;
- 21.2 In the event of any casual vacancy of Directors, such casual vacancy may be filled by the Board in such a manner as the Board may determine

from time to time, PROVIDED THAT such casual vacancy must be filled within three months of such casual vacancy occurring;

21.3 Any Director who has been elected or appointed to fill a casual vacancy will hold office for the balance of the term for which the vacating Director was elected or appointed.

## **22. Proceedings and Powers of the Board of Directors**

22.1 The Board will meet:

- A. within fourteen (14) days of the annual general meeting each year;
- B. at least once each calendar month at a time and on a date to be appointed;  
and
- C. at such other times as the Board or the Chairman may decide.

22.2 The Board may appoint a General Manager of the Club (who, unless otherwise determined by the Board, will also hold the position of company secretary) and engage all such officers and employees as they may consider necessary;

22.3 A Board meeting may be called or held using technology consented to by all of the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting;

22.4 The Directors may pass a resolution without a Board meeting being held if the document containing the resolution is distributed to all Directors and 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 the case of an equality of votes, the Chairman will have a casting vote in addition to any vote that the Chairman may have as a Director. Separate copies of a document may be used for signing by Directors if the wording of the resolution is passed when a majority is achieved. The document may be distributed, signed and/or returned using technology consented to by all of the Directors.

22.5 At all Board meetings, when questions of order or procedure arise, the ruling of the Chairman of the meeting will be accepted as the final determination of such questions;

22.6 Resolutions of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. In the case of an equality of votes, the Chairman will have a casting vote in addition to any vote that the Chairman may have as a Director;

22.7 Any Director who has a material personal interest in any matter that is being considered at a Board meeting must not vote on that matter, and must

not be present whilst that matter is being considered at that meeting;

22.8 A number not less than one half the number of Directors on the Board at any time will form a quorum at any Board meeting. If, after a lapse of thirty (30) minutes such a quorum is not present, then that Board meeting will stand adjourned to a date to be fixed by the Chairman and those present at the adjourned meeting will constitute a quorum;

22.9 If due to any vacancy in the Board, the number of Directors falls below six (6), then the continuing Directors may act to increase the number of Directors in accordance with clause 21.2 of this Constitution, or call a general meeting of the Club, but for no other purpose;

22.10 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 or elected, notwithstanding the subsequent discovery of some defect in the appointment of such person;

22.11 If the General Manager is not an Appointed Director, he or she has the right to attend all meetings of the Board, but will not have the right to vote at any such meetings. The rights of the General Manager to speak at meetings of the Board will be determined from time to time by the Chairman in his or her ultimate discretion, PROVIDED THAT the Chairman may not unreasonably prevent the Directors from asking questions of the General Manager at any such meetings. In the event that the General Manager has a material personal interest in any matter that is being considered at a Board meeting, the General Manager must not be present whilst that matter is being considered at the meeting;

22.12 The Directors may delegate any of their powers to any person or committee appointed by the Board. Any such committee must exercise the powers delegated to it in accordance with any directions of the Board. The effect of the committee exercising a power in this way will be the same as if the Board exercised it;

22.13 The Chairman will (unless the Chairman declines to act) be the chairman of all meetings at which he or she is in attendance;

22.14 The Board will cause to be maintained all books of minutes, books of account and other records as may be required by the Act or as determined by the Board from time to time. The Board will ensure that all documents that are required to be made available for inspection in accordance with the Act will be so available;

22.15 The Board may make By-Laws concerning:

A. membership application and qualification for membership of the Club;

B. the engagement and appointment of players, team captains, coaching and

training staff;

- C. the use by or supply to Members of any of the property of the Club;
- D. the operating hours of any premises owned or occupied by the Club;
- E. the conduct of Members in relation to one another, the servants, agents or employees of the Club;
- F. the duties, obligations, responsibilities and functions of any Officer, executive, employee or agent of the Club, or delegate of the Board;
- G. the establishment and operation of any administrative committees of the Board; and
- H. any other matter which the Board believes suitable for including in such By-Laws

The Board shall not make or amend any By-Laws so that it is inconsistent with any provisions of this Constitution, and shall ensure that copies of all By-Laws are available for the perusal of Members at the premises of the Club.;

22.16 Without limiting the generality of clause 17.1 and this clause 22, the Directors and/or the Board may:

- A. Borrow, charge any assets of the Club, issue debentures or give any security for a debt, liability or obligation of the Club or of any other person;
- B. Sign, draw accept, make or endorse, as the case may be, all receipts, cheques, bills of exchange, promissory notes or other negotiable instruments for and on behalf of the Club as the Board may from time to time determine (including the use of facsimile signatures if it so determines).
- C. Appoint a power of attorney (by name or by reference to a position or office held) to be the attorney or attorneys of the Club for such purposes, and with such powers, as may be vested in or exercisable by the Directors, for such period and subject to such conditions as they think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit, and may authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

## **23. Auditors**

23.1 An auditor shall be appointed in accordance with, and their duties shall be regulated by, the Act;

23.2 Any person who is:

- A. a Director;
- B. an Officer of the Club;
- C. a partner, employer or employee of a Director or Officer of the Club;
- D. not a registered company auditor; or
- E. indebted in any amount exceeding FIVE THOUSAND DOLLARS (\$5,000.00) to the Club or to a related corporation;

shall not be capable of being appointed or of acting as Auditor of the Club.

## **24. Notices**

24.1 A notice may be given by the Club to any Member either:

- A. By serving them personally;
- B. By posting it to the address as shown in the register of Members or another address supplied by the Member for the giving of notices;
- C. By sending it to the facsimile number or electronic address supplied by the Member to the club for that purpose;
- D. By exhibiting the notice at the Club's registered office and at the club's premises if different from the registered office, on the Club's website, or by publication in the public notices section of a daily newspaper published in the area where the Club's premises is located;

24.2 Where a notice is sent by post, service of the notice shall be deemed to be effective by properly addressing, pre-paying and posting the letter containing the notice AND is deemed to have been effected on the second business day after the date of its posting;

24.3 Where a notice is sent by facsimile transmission or electronic means, service shall be deemed to be effected on the day after the date it is sent;

24.4 Where a notice is exhibited, service shall be deemed to be effected on the day the notice is exhibited;

24.5 A notice may be given by the Club to joint members by giving the notice to the joint member first named in the register of members.

## **25. Indemnity**

25.1 To the extent permitted by law, every Officer (and former Officer) of the Club shall be indemnified out of the funds of the Club against all costs, expenses and liabilities incurred as such an Officer (or former Officer). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Club under this clause unless:

A. It is in respect of a liability to another person (other than the Club or a related body corporate) where the liability to the other person does not arise out of conduct involving a lack of good faith; or

B. It is in respect of a liability for costs and expenses incurred:

i. in defending proceedings, whether civil or criminal, in which judgement is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or

ii. in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Act.

25.2 To the extent permitted by law, the Club may at the discretion of the Board, enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Club against any liability incurred by such a person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:

A. A liability arising out of conduct involving a willful breach of duty in relation to the Club; or

B. A contravention of sections 182, 183 or 184 of the Act;

The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.

25.3 Where an officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of the Officer's actions or omissions, then the Club shall not be required to indemnify the Officer under this clause 25 except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability;

25.4 The indemnity granted by the Club contained in this clause 25 shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts or omissions occurring prior to the date of the deletion or modification.

## **26. Winding Up**

26.1 Contributions of Members on winding up.

- A. Each Member must contribute to the Company's property if the Company is wound up while they are a Member, or within one year after their membership ceases;
- B. This contribution:
  - i. Is for payment of the Club's debts and liabilities contracted before their membership ceased;
  - ii. Is for the costs of winding up;
  - iii. Is for adjustment of rights of the contributories among themselves; and
  - iv. Is not to exceed \$10.00.

#### 26.2 Excess property on winding up

- A. If on winding up or dissolution of the Club, and after satisfaction of all its debts and liabilities, any property remains, that property must be given or transferred to another body or bodies:
  - i. Having objects similar to those of the Club; and
  - ii. Whose constitution prohibits (or each of whose constitutions prohibit) the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Club under this Constitution.
- B. That body is, or those bodies are, to be determined but the Members at or before the time of dissolution, or failing that, a determination by a judge who has or acquires jurisdiction in the matter.

### **27. Financial Year**

- 27.1 The financial year of the Club shall end on 31 December in each year.

**A Company Limited by Guarantee**

**Corporations Act**

**THE CONSTITUTION**

**OF**

**SOUTH WEST QUEENSLAND THUNDER  
FOOTBALL CLUB LIMITED**

**ACN 160 855 470**

**Drawn By:**



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