
Manly Eagles Baseball Club Inc

Constitution

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1 Preliminary

1.1 Definitions

In this Constitution:

AGM means the Annual General Meeting of Members of the Club, to be held on a date in each calendar year that is no earlier than 1 May and no later than 31 July.

Board means the board of directors of the Club meeting as a board in accordance with the Constitution.

Board Member means an Office Bearer or an Ordinary Board Member.

Board Resolution means a resolution of the Board passed in accordance with this Constitution.

Boundaries means, subject to any change approved by the Board, the area defined by the Federal electorates of:

- (a) Warringah; and
- (b) Mackellar.

Constitution means this document, including any Schedule or Annexure to it.

Exercise a Function includes to perform a duty.

Financial Member means a Member whose Subscription is paid up to date in accordance with this Constitution.

Financial Year means the period 1 April to the following 31 March.

Function includes a power, authority or duty.

Member means an individual granted membership of the Club pursuant to sub-clause 4.5 of this Constitution.

Objects means the objects of the Club set out in clause 2 of this Constitution.

Office Bearer means the President, Secretary and Treasurer of the Club.

Ordinary Board Member means a Board Member who is not an Office Bearer.

Ordinary Resolution means a resolution of the Club passed at the AGM or a Special General Meeting by Members in attendance at the AGM or Special General Meeting who hold a simple majority (more than 50% of those in attendance).

Playing Fees means the fees payable by each Playing Member to be able to play baseball for the Club.

President of the Club means:

- (c) the person holding office under this Constitution as President; or
- (d) if no person holds that office, the public officer of the Club.

Region means the area defined by the Boundaries.

Register of Members of the Club means the register of Members maintained under sub-clause 4.6 of this Constitution.

Secretary of the Club means:

- (a) the person holding office under this Constitution as Secretary; or
 - (b) if no person holds that office, the public officer of the Club.
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Special General Meeting of the Club means a general meeting of the Club other than the AGM.

Special Resolution means a resolution of the Club passed at the AGM or a Special General Meeting by Members in attendance at the AGM or Special General Meeting who represent 75% or more of those in attendance.

Subcommittee means a subcommittee established under sub-clause 6.8 of this Constitution.

Subscription means the annual fees payable by each Member to be a Financial Member.

the Act means the *Associations Incorporation Act 2009*.

the Regulation means the *Associations Incorporation Regulation 2022*.

Treasurer of the Club means:

- (a) the person holding office under this Constitution as Treasurer; or
- (b) if no person holds that office, the public officer of the Club.

Note: the Act and the *Interpretation Act 1987* (the **Interpretation Act**) contain definitions and other provisions that affect the interpretation and application of this Constitution.

1.2 Interpretation

The Interpretation Act applies to this Constitution as if it were an instrument made under the Act.

Note: Part 4 of the Act deals with various matters relating to the management of associations.

1.3 Headings

Headings do not affect the interpretation of this document.

2 Objects of the Club

2.1 Objects of the Club

The Club is established solely for the Objects, which are to:

- (a) promote, arrange, manage and provide (either alone or in association or affiliation with any other person or body (whether corporate or unincorporated) facilities and opportunities for the playing of baseball for the Members both within the Boundaries or in such places and at such times as may be determined in accordance with this Constitution;
 - (b) organise and select teams to represent the Club in games of baseball against teams representing other clubs and associations including, but not limited to, teams representing other clubs and associations participating in competitions arranged and/or conducted by Baseball NSW Incorporated (**BNSW**) or any replacement body or any body affiliated with BNSW.
 - (c) organise and conduct coaching and training or practice sessions with the aim of improving the baseball skills of Members;
 - (d) promote and encourage social activities among Members;
 - (e) provide amenities, prizes and trophies for Members;
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- (f) hold, provide, conduct, manage and carry out any sport (whether baseball or otherwise), pastime, social function, fete, fair or game for any purpose associated with, or incidental to or for the benefit of, the Club;
- (g) acquire, exchange, dispose of, manage, conduct, lease, hire, lend, license, mortgage, borrow, improve, turn to account, or otherwise deal with any real or personal property and to construct, maintain or alter any buildings, fixtures, fittings or works for any purpose associated with, or incidental to, this Constitution;
- (h) enter into, carry out, vary or rescind any contract or arrangement with any person or body (whether corporate or unincorporated) for any purpose associated with or incidental to this Constitution;
- (i) draw, make, accept, discount, execute or issue promissory notes, bills of exchange or other negotiable or transferable instruments or any documents associated with or incidental to this Constitution;
- (j) make payments towards insurances entered into for and incidental to any purpose of this Constitution or the Club;
- (k) subscribe or guarantee money for any charitable or benevolent purpose; and
- (l) do all such things that are incidental or conducive to attaining these Objects.

3 Powers of the Club

3.1 Powers of the Club

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

4 Members of the Club

4.1 Membership Generally

An individual is taken to be a Member of the Club if:

- (a) the person applied to be a Member under sub-clause 4.5 and the application has been approved by the Board; or
- (b) the person was one (1) of the individuals on whose behalf an application for registration was made under section 6(1)(a) of the Act; or
- (c) the person was:
 - (i) where the Club is an unincorporated body, a member of that body immediately before the registration; or
 - (ii) where the Club is a registrable corporation, a member of that corporation immediately before the registration; or
 - (iii) where the Club was an association that was amalgamated to form the Club, a member of the existing association immediately before that amalgamation.

4.2 Categories of Members

Membership of the Club may be unlimited in number and consist of the following classifications:

- (a) Playing Members, being those Members who are selected by the Club to play baseball for the Club;
- (b) Non-Playing Members, being those Members who are active in their support of the Club but do not play baseball and who are current Financial Members;
- (c) Life Members, being those Members who are elected as such under this Constitution.

4.3 Life Members

The Board may recommend to the AGM that any natural person who has rendered distinguished service to the Club and/or baseball in the Region (where such service is deemed to have assisted the advancement of baseball in the Region) be appointed as a Life Member if the following conditions are satisfied:

- (a) a Special Resolution is passed at the AGM endorsing the Board's recommendation to confer Life Membership on that Member;
- (b) if that Special Resolution is passed, that Member accepts the Board's offer of Life Membership;

and, upon appointment as a Life Member, that Member will be entitled to all rights and privileges of the Club under this Constitution without payment of Subscription.

4.4 Membership Year

The Membership Year runs from:

- (a) for a Playing Member playing during the Summer Season only, 1 October to the following 30 September; or
- (b) for all other Members, 1 April to the following 31 March.

4.5 Membership Applications

A person may apply to become a Member of the Club as follows:

- (a) that person (the **Applicant**) must apply to the Board in writing (including, if approved by the Board, by email or other electronic means) to become a Member;
- (b) following receipt of that application:
 - (i) the Secretary must refer the application to the Board as soon as practicable;
 - (ii) the Board must approve or reject the application as soon as practicable, noting that this decision is solely that of the Board and the Board will not be required to provide the basis for any decision to reject an application;
 - (iii) as soon as practicable after the Board has made its decision, the Secretary must:
 - (A) give the Applicant written (including, if approved by the Board, by email or other electronic means) notice of the Board's decision;
 - (B) if the Applicant is approved, inform them that they are required to pay the entrance fee (if applicable) and the Subscription within 28

days of receiving the written notification referred to in sub-clause 4.5(b)(iii)(A) above;

- (C) as soon as practicable after payment in accordance with sub-clause 4.5(b)(iii)(B), enter the Applicant's name in the Register of Members;

and the Applicant becomes a Member upon their name being entered on the Register of Members.

4.6 Register of Members

The Secretary must establish and maintain a Register of Members of the Club that:

- (a) may, at the sole discretion of the Board, be written or electronic form;
- (b) must include for each Member:
 - (i) the Member's full name;
 - (ii) the Member's residential, postal or email address;
 - (iii) the date on which that Member became a Member; and
 - (iv) if that Member ceases to be a Member, the date on which they ceased to be a Member;
- (c) must be kept in New South Wales:
 - (i) at the Club's premises; or
 - (ii) if the Club has no premises, at the Club's official address or by the Secretary at their address;
- (d) must be available for inspection, free of charge, by Members at a reasonable and on reasonable notice;
- (e) if in electronic form:
 - (i) must be able to be converted to hard copy;
 - (ii) must be obtainable (in whole or part) by any Member for a fee of not more than \$1 per page;
- (f) if a Member requests that information other than their name not be made available to any other Member, must not make any information in relation to that Member other than their name available to any other Member;
- (g) where a Member obtains access to the Register of Members, such access must be conditional on that Member undertaking not to contact or send material to any other Member unless:
 - (i) the information is used to send a Member:
 - (A) a newsletter relating to the Club;
 - (B) a notice for a meeting or other event relating to the Club;
 - (C) other material relating to the Club;
 - (ii) it is necessary to comply with a requirement of the Act of the Regulation.

4.7 Membership Subscriptions and Fees

Members must pay an annual Subscription (as determined by the Board at its sole discretion) and other fees (Fees) determined appropriate by the Board (at its sole discretion) as follows:

- (a) Subscriptions fall due on 1 April in each calendar year and will be payable in such manner as determined by the Board;
- (b) failure to pay any Subscription on or before 30 June of any calendar year will render that Member unfinancial (ie: no longer a Financial Member) and will entitle the Board (at its sole discretion) to terminate the Membership of that Member;
- (c) if a Member who is not a Financial Member ceases (for any reason) to be a Member, that Member will remain liable for any Subscription that was unpaid on the date on which they ceased to be a Member;
- (d) Playing Fees fall due on the date determined by the Board for each playing season that a Playing Member participates in and, for the purposes of this sub-clause 4.7(d), the seasons are as follows:
 - (i) Summer running from 1 October of each calendar year to 31 March of the following calendar year (the **Summer Season**); and
 - (ii) Winter running from 1 April to 30 September of each calendar year (the **Winter Season**);
- (e) if a Playing Member fails to pay the Playing Fees within one (1) month of them falling due, the Board may (at its sole discretion) determine that the relevant Playing Member is ineligible to play baseball for the Club until the appropriate Playing Fee is paid in full;
- (f) the Board will have the power (at its sole discretion) to change, waive, refund or remit the whole or any part of any Subscription or Playing Fee paid or payable under this sub-clause 4.7.

4.8 Membership Rights Not Transferable

A right, privilege or obligation that a person has because they are a Member of the Club:

- (a) cannot be transferred to another person; and
- (b) terminates immediately upon that person ceasing to be a Member of the Club.

4.9 Member Resignation

A Member:

- (a) may resign as a Member at any time by giving the Secretary at least one (1) month's notice in writing that they intend to resign as a Member; and
- (b) ceases to be a Member immediately upon the expiration of the one (1) month's notice period specified in sub-clause 4.9(a) above.

4.10 Cessation of Membership

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

- (a) resigns as a Member pursuant to sub-clause 4.9 above; or
 - (b) dies; or
 - (c) is expelled from the Club by the Board for any reason;
 - (d) fails to pay a Subscription in accordance with the terms specified in sub-clause 4.7 above.
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4.11 Members' Liabilities

A Member will have no obligation or liability to contribute towards the payment of:

- (a) any debts and liabilities of the Club; or
 - (b) the costs, charges and expenses of the winding up of the Club;
- other than to pay the amount of any outstanding Subscriptions and/or Playing Fees.

5 Meetings of Members

5.1 Annual General Meetings

Subject to this Constitution:

- (a) the Annual General Meeting of the Club must:
 - (i) be held not earlier than 1 June and not later than 31 July in each calendar year;
 - (ii) subject to the Act and to sub-clause 5.1(a)(i), be held at the place and at a time and date determined by the Board;
- (b) the business that may be transacted at an AGM includes but is not limited to:
 - (i) confirming the minutes of the previous AGM and any Special General Meetings held since the previous AGM;
 - (ii) receiving reports from the Board on the Club's activities during the previous Financial Year;
 - (iii) electing Office Bearers and Ordinary Board Members;
 - (iv) receiving and considering financial statements or reports required to be submitted to Members under the Act.

Note: Section 37(1) and (2) of the Act provides for when annual general meetings must be held.

5.2 Special General Meetings

Subject to this Constitution:

- (a) the Board may call a Special General Meeting whenever it thinks fit;
 - (b) the Board must call a Special General Meeting if it receives a request (the **Request**) from at least 25% of the total number of Members of the Club;
 - (c) the Request:
 - (i) must be in writing; and
 - (ii) must state the purpose of calling for a Special General Meeting; and
 - (iii) must be signed by all Members making the Request; and
 - (iv) may consist of more than one (1) document in a similar form signed by one (1) or more Members; and
 - (v) must be lodged with the Secretary; and
 - (vi) may be in electronic form and lodged by electronic means;
 - (d) if the Board fails to call a Special General Meeting within one (1) month of receiving the Request, one (1) or more of the Members who made the Request may call for a Special General Meeting to be held within three (3) months of the date of the Request;
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- (e) a Special General Meeting called pursuant to sub-clauses 5.2(b) or (d) must be conducted, as far as practicable, in the same way as an AGM.

5.3 Notice of AGM and Special General Meetings

Subject to this Constitution:

- (a) the Secretary must give each Member notice (the **Meeting Notice**) of an AGM or Special General Meeting:
 - (i) at least 21 days before that Meeting if any matter to be determined at that Meeting requires a Special Resolution; or
 - (ii) otherwise, at least 14 days before that Meeting;
- (b) the Meeting Notice must specify:
 - (i) the date, time and location of the Meeting; and
 - (ii) the nature of the business to be transacted at the Meeting; and
 - (iii) if a matter to be determined at the Meeting requires a Special Resolution – that a Special Resolution will be proposed; and
 - (iv) for an AGM – that the Meeting is to be held as an AGM;
- (c) the only business that may be transacted at the Meeting is:
 - (i) the business specified in the Meeting Notice;
 - (ii) for an AGM – business referred to in sub-clause 5.1(b);
- (d) a Member may give written notice to the Secretary of any business that Member wishes to raise at the Meeting and, if the Secretary receives such a notice, they must specify that business in the next Meeting Notice calling an AGM or Special General Meeting.

5.4 Quorum

An AGM or Special General Meeting must:

- (a) not proceed and not conduct any business unless a quorum is present, with a quorum being at least ten (10) Members entitled to vote under this Constitution;
 - (b) if a quorum is not present within 30 minutes of the scheduled time for the commencement of that Meeting, then that Meeting must:
 - (i) if called pursuant to sub-clause 5.2(b) – be dissolved;
 - (ii) otherwise, be adjourned to (the **Compulsory Adjourned General Meeting**):
 - (A) the same place unless the Presiding Member specifies another place either at the time of the adjournment or by written notice to all Members at least one (1) day before the Adjourned General Meeting; and
 - (B) the same time on the same day of the following week;
 - (c) if a quorum is not present at a Compulsory Adjourned General Meeting within 30 minutes of the scheduled time for the commencement of that Meeting, but there are at least five Members entitled to vote under this Constitution present, those Members present constitute a quorum.
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5.5 Voluntary Adjourned General Meeting

Subject to this Constitution, the Presiding Member at an AGM or Special General Meeting may, with the consent of the majority of Members present at the Meeting, adjourn that Meeting to another time and place, and:

- (a) the only business that may be transacted at that adjourned Meeting (the **Voluntary Adjourned General Meeting**) is the business remaining from the Meeting that was adjourned;
- (b) if that Meeting is adjourned for at least 14 days, the Secretary must give each Member oral or written notice at least one (1) day before the Voluntary Adjourned General Meeting of:
 - (i) the date, time and place at which the Voluntary Adjourned General Meeting will be held; and
 - (ii) the nature of the business to be transacted at the Voluntary Adjourned General Meeting.

5.6 Presiding Member

The following Board Members (in order) will be the Member presiding at an AGM or Special General Meeting (the **Presiding Member**):

- (a) the President, and if the President is not in attendance, then:
- (b) the Secretary, and if the Secretary is not in attendance, then:
- (c) the Treasurer.

5.7 Voting at AGMs and Special General Meetings

A decision of the Club at an AGM or Special General Meeting is determined as follows:

- (a) a Member is eligible to vote provided they have attained the age of 15 years and 9 months;
- (b) each Member present at the Meeting has one (1) vote;
- (c) there are no proxy votes;
- (d) each matter to be decided at the Meeting is decided as follows:
 - (i) by a show of hands; or
 - (ii) if the Presiding Member decides that a matter should be decided by written ballot, and at least five (5) Members present agree that the matter should be decided by written ballot, then by written ballot;
- (e) if a matter is decided pursuant to sub-clause 5.7(d), then the following is sufficient evidence that a resolution (either Ordinary or Special as applicable) has been passed or not passed (as applicable):
 - (i) a declaration by the Presiding Member; or
 - (ii) an entry in the Club's minute book;
- (f) where a vote conducted pursuant to sub-clause 5.7(d) above is deadlocked, the Presiding Member will have the casting vote.

5.8 Postal or Electronic Ballots

Subject to this Constitution:

- (a) the Board may determine that the Club may hold a postal or electronic ballot to decide any matter other than an appeal under sub-clause 8.2; and
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- (b) any such ballot must be conducted in accordance with sub-clauses 5.7(e) and (f) and Schedule 2 of the Regulation.

5.9 Transaction of Business Outside Meetings, by Telephone or Other Means

Subject to this Constitution:

- (a) the Club may transact its business by the circulation of papers, including by electronic means, among all Members;
- (b) if the Club transacts any business by the circulation of papers, a written resolution approved in writing by a majority of Members:
 - (i) is taken to be a decision of the Club made at an AGM or Special General Meeting; and
 - (ii) must be recorded as a decision of the Club in the minutes of AGM or Special General Meetings;
- (c) the Club may transact its business at a meeting at which five (5) or more Members participate (provided at least one (1) of those Members is an Office Bearer) by telephone or other electronic means, provided all participating Members are able to hear, and be heard by, every other participating Board Member;
- (d) the Presiding Member and each other Member have the same voting rights at an AGM or Special General Meeting convened pursuant to sub-clauses 5.9(b) and (c) as they would at an AGM or Special General Meeting convened pursuant to sub-clauses 5.3 and 5.4 for the purposes of:
 - (i) the approval of a resolution under sub-clause 5.9(b); and
 - (ii) an AGM or Special General Meeting held in accordance with sub-clause 5.9(c);
- (e) a resolution approved under sub-clause 5.9(c) must be recorded as a decision of the Club in the minutes of AGM or Special General Meetings.

6 The Board

6.1 Functions of the Board

Subject to the Act, the Regulation, this Constitution and any resolution passed by the Club at the AGM or Special General Meeting, the Board:

- (a) is to control and manage the affairs of the Club;
- (b) may exercise all the functions that may be exercised by the Club other than a function that is required to be exercised by the Club in AGM or Special General Meeting;
- (c) has the power to do all things that are necessary or convenient to be done for the proper management of the affairs of the Club.

6.2 Composition of the Board

The Board must have at least five (5) and no more than nine (9) members elected in accordance with sub-clause 6.3 consisting of the following Office Bearers:

- (a) the President;
 - (b) the Secretary; and
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- (c) the Treasurer;
- and an Office Bearer may hold no more than two (2) offices.

Note: Section 28 of the Act contains requirements relating to membership eligibility and composition of the Board.

6.3 Election of Board Members

Subject to this Constitution:

- (a) any Member may be nominated as a candidate for election as an Office Bearer or Ordinary Board Member;
- (b) the nomination for an Office Bearer or Board Member must be:
 - (i) made in writing; and
 - (ii) signed by at least one (1) Member who is not the Member being nominated;
 - (iii) accompanied by the written consent of the Member being nominated;
 - (iv) given to the Secretary at least seven (7) days before the date set for the AGM or Special General Meeting at which the election is to take place;
- (c) if insufficient nominations are received to fill all the vacancies for Office Bearer and/or Ordinary Board Member then:
 - (i) the candidates nominated are taken to be elected; and
 - (ii) a call for further nominations must be made at the AGM or Special General Meeting (as applicable) and the following applies:
 - (A) a nomination at the AGM or Special General Meeting in response to a call for nominations pursuant to this sub-clause must be made in a manner directed by the Member presiding at that Meeting;
 - (B) vacancies that remain after the call for nominations pursuant to sub-clause 6.3(c)(ii)(A) above are taken to be casual vacancies;
 - (C) if the number of nominations received pursuant to this sub-clause is equal to the number of remaining vacancies, the Members so nominated are taken to be elected; and
 - (D) if the number of nominations received pursuant to this sub-clause is greater than the number of remaining vacancies, a ballot must be held at the AGM or Special General Meeting (as applicable) in the manner directed by the Board.

6.4 Terms of Office

Subject to this Constitution:

- (a) a Board Member holds office from the day on which they are elected until immediately before the next AGM;
 - (b) a Board Member is eligible, if otherwise qualified, for re-election as a Board Member; and
 - (c) there is no limit on the number of consecutive terms for which a Board Member may hold office.
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6.5 Vacancies in Office

Subject to this Constitution:

- (a) a casual vacancy in the office of a Board Member arises if the Member:
 - (i) dies; or
 - (ii) ceases to be a Member of the Club; or
 - (iii) resigns from office by written notice to the Secretary; or
 - (iv) is removed from office by the Club pursuant to this sub-clause 6.5; or
 - (v) is absent from three (3) consecutive Board Meetings without the consent of the Board; or
 - (vi) becomes an insolvent under administration within the meaning of the Corporations Act; or
 - (vii) is prohibited from being a director of a company under Part 2D.6 of the Corporations Act; or
 - (viii) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least three (3) months; or
 - (ix) becomes a mentally incapacitated person;
- (b) the Club may in AGM or Special General Meeting by Special Resolution:
 - (i) remove a Board Member from office at any time; and
 - (ii) appoint another Member of the Club to hold office for the balance of the removed Board Member's term of office;
- (c) a Board Member to whom a proposed Special Resolution pursuant to sub-clause 6.5(b) above relates may:
 - (i) give a written statement (the **Board Member Statement**) of reasonable length setting out their position in relation to their proposed removal to the President or the Secretary; and
 - (ii) request that the Board send a copy of the Board Member Statement to each Member of the Club at least seven (7) days before the AGM or Special General Meeting at which the proposed Special Resolution is to be considered; and
 - (iii) if the Board fails to send a copy of the Board Member Statement to each Member in accordance with a request made pursuant to sub-clause 6.5(c)(ii) above, the Board Member Statement must be read aloud by the Member presiding at the AGM or Special General Meeting at which the proposed Special Resolution is to be considered;
- (d) in the event of a vacancy on the Board occurring (however arising) between AGMs, the Board may appoint a Member of the Club to fill that vacancy until the next AGM.

6.6 Secretary

The Secretary must:

- (a) as soon as practicable after being elected as Secretary, lodge a notice with the Club specifying the Secretary's address;
 - (b) keep minutes of:
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- (i) all elections of Board Members;
- (ii) the names of all Board Members present at any Board Meeting, AGM or Special General Meeting;
- (iii) all proceedings at all Board Members present at any Board Meeting, AGM or Special General Meeting, and those minutes must be:
 - (A) kept in written or electronic form;
 - (B) signed in writing or by electronic means by:
 - (1) the Member who presided at the Board Meeting, AGM or Special General Meeting; or
 - (2) the Member who presided at the subsequent Board Meeting, AGM or Special General Meeting.

6.7 Treasurer

The Treasurer must:

- (a) use their best endeavours to ensure all moneys owed to the Club are collected;
- (b) all payments owed by the Club and authorised to be paid by the Board are paid in full;
- (c) ensure that correct books and accounts are kept that show the true financial affairs of the Club including, but not limited to, full details of receipts and invoices relating to the Club's activities.

6.8 Delegation to Subcommittees

The Board may:

- (a) establish one (1) or more Subcommittees to assist the Board to exercise its functions;
- (b) appoint one (1) or more Members of the Club to be the members of the Subcommittee;
- (c) delegate to any Subcommittee any functions that the Board may exercise under this Constitution other than:
 - (i) the power of delegation under this sub-clause 6.8;
 - (ii) a duty imposed on the Board by the Act or any other law.

Note: Section 49 of the Interpretation Act deals with various matters relating to delegations.

7 Meetings of the Board

7.1 Number of Meetings

Subject to this Constitution:

- (a) the Board must meet at least four (4) times in each 12-month period and at least once in each quarter of each 12-month period;
- (b) any Board Member may call additional meetings of the Board; and
- (c) the procedure for calling and conducting business at a meeting of a Subcommittee is to be determined by that Subcommittee.

Note: Section 30(1) of the Act provides that Board meetings may be held as and when the Club's Constitution requires.

7.2 Notice of Board Meetings

The Secretary must give notice of each Board meeting (**Board Meeting**) as follows:

- (a) at least 48 hours prior to any Board Meeting, the Secretary must give each Board Member oral or written notice that a Board Meeting is to be held;
- (b) the notice provided pursuant to sub-clause 7.2(a) must include:
 - (i) the date, time and location of the Board Meeting; and
 - (ii) a description of the business to be considered and transacted at the Board Meeting, noting that the only business that may be considered and transacted at a Board Meeting is:
 - (A) the business described in the notice of the Board Meeting; and
 - (B) business that Board Members present at the Board Meeting unanimously agree is urgent business.

7.3 Quorum at Board Meetings

A Board Meeting must:

- (a) not proceed and not conduct any business unless a quorum is present, with a quorum being at least three (3) Board Members of whom at least one (1) is an Office Bearer;
- (b) if a quorum is not present within 30 minutes of the scheduled time for the commencement of that Board Meeting, be adjourned to (the **Adjourned Board Meeting**):
 - (i) the same place; and
 - (ii) the same time on the same day of the following week;
- (c) be dissolved if a quorum is not present within 30 minutes of the scheduled time for the commencement of the Adjourned Board Meeting.

7.4 Presiding Board Member

The following Board Members (in order) will be the Board Member presiding at a Board Meeting (the **Presiding Board Member**):

- (a) the President, and if the President is not in attendance, then:
- (b) the Secretary, and if the Secretary is not in attendance, then:
- (c) the Treasurer.

7.5 Voting at Board Meetings

A decision of the Board at a Board Meeting is determined as follows:

- (a) by a majority of votes of those Board Members present at the Board Meeting; and
- (b) where a vote conducted pursuant to sub-clause 7.4(a) above is deadlocked, the Presiding Board Member will have the casting vote.

7.6 Acts of the Board Valid Despite Vacancies or Defects

Subject to this Constitution:

- (a) the Board may act despite there being a vacancy (for any reason) on the Board;
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- (b) an act done by the Board or by a Subcommittee is not invalidated because of a defect relating to the qualifications or appointment of a Board Member or a Member of a Subcommittee.

7.7 Transaction of Business Outside Meetings, by Telephone or Other Means

Subject to this Constitution:

- (a) the Board may transact its business by the circulation of papers, including by electronic means, among all Board Members;
- (b) if the Board transacts any business by the circulation of papers, a written resolution approved in writing by a majority of Board Members:
 - (i) is taken to be a decision of the Board made at a Board Meeting; and
 - (ii) must be recorded as a decision of the Board in the minutes of Board Meetings;
- (c) the Board may transact its business at a meeting at which three (3) or more Board Members participate (provided at least one (1) of those Board Members is an Office Bearer) by telephone or other electronic means, provided all participating Board Members are able to hear, and be heard by, every other participating Board Member;
- (d) the Presiding Board Member and each other Board Member have the same voting rights at a Board Meeting convened pursuant to sub-clauses 7.7(b) and (c) as they would at a Board Meeting convened pursuant to sub-clauses 7.2 and 7.3 for the purposes of:
 - (i) the approval of a resolution under sub-clause 7.7(b); and
 - (ii) a Board Meeting held in accordance with sub-clause 7.7(c).

8 Disciplinary Action and Dispute Resolution

8.1 Disciplinary Action Against Members

Subject to this Constitution:

- (a) a person may make a complaint (the **Complaint**) to the Board that a Member of the Club has:
 - (i) failed to comply with a provision of this Constitution; or
 - (ii) wilfully acted in a manner that is prejudicial to the interests of the Club;
 - (b) upon receiving the Complaint, the Board may:
 - (i) refuse to deal with the Complaint if it considers the Complaint to be trivial or vexatious; or
 - (ii) deal with the Complaint, in which case the provisions of sub-clauses 8.1(c) to (f) (inclusive) apply;
 - (c) if the Board decides to deal with the Complaint, it must:
 - (i) serve notice of the Complaint (the **Complaint Notice**) on the relevant Member;
 - (ii) give that Member at least 14 days from the date the Complaint Notice is served on the Member to make submissions to the Board (the **Complaint Submissions**) about the Complaint; and
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- (iii) if the Member provides the Board with Complaint Submissions, consider the Complaint Submissions;
- (d) the Board may, by resolution (the **Disciplinary Resolution**) and at its discretion, expel the relevant Member from the Club or suspend the membership of the relevant Member if it is satisfied that:
 - (i) the facts in the Complaint have been proved; and
 - (ii) the expulsion or suspension is warranted;
- (e) if the Board expels or suspends the relevant Member, the Secretary must, within seven (7) days of the resolution of the Board, give the Member written notice of:
 - (i) the Disciplinary Resolution;
 - (ii) the reasons given by the Board for the Disciplinary Resolution; and
 - (iii) the Member's right of appeal under sub-clause 8.2;
- (f) any expulsion or suspension pursuant to a Disciplinary Resolution does not take effect until the latter of:
 - (i) the day after the period in which the relevant Member may appeal the Disciplinary Resolution; or
 - (ii) if, pursuant to their right under sub-clause 8.2, the Member appeals the Disciplinary Resolution, the day after the Club confirms the Disciplinary Resolution.

8.2 Member's Right of Appeal Against Disciplinary Action

Subject to this Constitution:

- (a) a Member may appeal against a Disciplinary Resolution by lodging a notice of appeal (the **Appeal**) with the Secretary within seven (7) days of being served with the Disciplinary Resolution;
 - (b) the Member may include with the Appeal a statement of the grounds on which the Member intends to rely for the purposes of the Appeal (the **Member Statement**);
 - (c) within:
 - (i) seven (7) days of receiving the Appeal, the Secretary must notify the Board that they have received the Appeal;
 - (ii) 28 days of receiving notice from the Secretary pursuant to sub-clause 8.2(c)(i), the Board must hold a Special General Meeting at which:
 - (A) no business other than the Appeal is to be considered;
 - (B) the relevant Member must be given the opportunity to state their case either orally or in writing, or both;
 - (C) the Board must be given the opportunity to state its basis for the Disciplinary Resolution;
 - (D) the Members present must vote by secret ballot on the question of whether the Disciplinary Resolution is confirmed or revoked;
 - (d) the Appeal is to be determined by a simple majority of votes cast by the Members and, subject to sub-clause 8.3, the determination of the Members is final.
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8.3 Dispute Resolution

Where there is a dispute between a Member and the Club (including a dispute arising from a Disciplinary Resolution and/or the decision of Members in relation to an Appeal) or two (2) or more Members (the **Dispute**), the Dispute must be resolved as follows:

- (a) the parties to the Dispute (the Disputants) must seek to resolve the Dispute between themselves or, with the agreement of all Disputants, via mediation, within three (3) months of the date on which any of the Disputants gives written notice to all other Disputants that there is a Dispute (the **Initial Period**); and
- (b) if the Disputants are unable to resolve the Dispute within the Initial Period, each Disputant agrees that the Dispute must be referred to Baseball New South Wales for determination; and
- (c) if any of the Disputants disagree with the determination, they may seek to refer the Dispute to Baseball Australia for final determination, and all Disputants agree that any determination of Baseball Australia will be final and binding on all Disputants; and
- (d) any information or documents disclosed by a Disputant under this clause:
 - (i) must be kept confidential; and
 - (ii) may not be used for any purpose except to attempt to resolve the Dispute; and
- (e) each Disputant must bear its own costs of complying with this clause and the Disputants must bear equally the costs of any mediator appointed pursuant to sub-clause 8.3(a).

9 Indemnity

9.1 Indemnity

The Club will indemnify to the extent provided under its Directors and Officers Insurance Policy (if any) every Director, employee, auditor or agent of the Club against:

- (a) any liability incurred by them in their capacity as Director, employee, auditor or agent of the Club in defending any civil or criminal proceedings (the **Proceedings**) in:
 - (i) which judgment is given in their favour; or
 - (ii) which they are acquitted; or
 - (iii) connection with any application in the Proceedings in which relief is granted to them by the court;
 - (b) all damages and costs (including legal costs) for which any Director, employee, auditor or agent of the Club may be or become liable to any third party in consequence of any act or omission (except wilful misconduct):
 - (i) in the case of a Director, performed or made when acting on behalf, and with the express or implied authority, of the Club; and
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- (ii) in the case of an employee, auditor or agent of the Club, performed or made in the course, and within the scope, of their employment or engagement by the Club.

10 Administration

10.1 Change of Name, Objects or Constitution

The Club may only change the name of the Club (the **Name**) and/or this Constitution (including the Objects) as follows:

- (a) at least 28 days prior to the AGM, a Notice of Motion (the **Change Motion**) containing the terms of any proposed change to the Name and/or this Constitution (the **Change**) and signed by at least two (2) Members is provided to the Secretary;
- (b) if a Change Motion is received by the Secretary pursuant to sub-clause 9.1(a), the Secretary must include the Change Motion in the Meeting Notice for the AGM;
- (c) any proposed Change must be passed by Special Resolution of the Club at the AGM and, following any such Special Resolution, the Secretary must as soon as practicable:
 - (i) do all things necessary to effect the Change(s) passed by that Special Resolution; and
 - (ii) in relation to any Change to this Constitution, make the amended Constitution available for inspection by any Member.

10.2 Funds

Subject to a Change passed by Special Resolution pursuant to sub-clause 9.1:

- (a) the Club's funds (the **Funds**) may only be derived from the following sources:
 - (i) the Playing Fees and Subscriptions paid by Members;
 - (ii) sponsorship of the Club or Members;
 - (iii) income derived from the operation of the Club's canteen; and
 - (iv) other sources reasonably determined by the Board;
- (b) the Funds must be used to pursue the Objects in the manner that the Board determines;
- (c) as soon as practicable after receiving any moneys, the Club must:
 - (i) deposit those moneys, without deduction, to the credit of the Club's authorised deposit-taking financial institution account;
 - (ii) issue a receipt for those moneys to the person or entity from whom they were received;
- (d) a cheque or other negotiable instrument must be signed by two (2) authorised signatories determined by the Board.

Note: Section 36 of the Act provides for the appointment of authorised signatories.

10.3 Audit

Where required by the Act or the Regulations, the Club will have its accounts audited by an independent auditor.

10.4 Insurance

The Club may take out insurance as appropriate for the protection of its assets and liabilities.

10.5 Non-Profit Status

Subject to the Act and the Regulation, the Club must not conduct its affairs in a manner that provides pecuniary gain for a Member other than for services rendered, or goods sold or provided, to the Club by that Member or an entity controlled by that Member.

10.6 Service of Notices

For the purposes of this Constitution:

- (a) a notice (the Notice) may be given to or served on a person:
 - (i) by delivering the Notice to the person personally; or
 - (ii) by sending the Notice to the person by pre-paid post to the address of the person; or
 - (iii) by sending the Notice by electronic transmission to an address specified for giving or serving the Notice; and
- (b) unless the contrary is proved, a Notice is deemed to have been given or served on a person:
 - (i) for a Notice given or served personally, on the date on which the Notice is received in person; or
 - (ii) for a notice sent by pre-paid post, on the date on which the Notice would have been delivered in the ordinary course of post; or
 - (iii) for a Notice sent by electronic transmission:
 - (A) on the date the Notice was sent; or
 - (B) if the machine from which the machine the Notice was sent produces a report indicating the Notice was sent and received on a later date, on that later date.

10.7 Custody of Records and Books

Except as otherwise provided by this Constitution, all records, books and other documents relating to the Club must be kept in New South Wales:

- (a) at the Club's premises in the custody of either the Secretary or the Treasurer as determined by the Board; or
- (b) if the Club has no premises, at the Club's official address or by the Secretary at their address.

10.8 Inspection of Records and Books

Except as otherwise provided by this Constitution:

- (a) the following documents (the **Documents**) must be available for inspection, free of charge, by Members at a reasonable time:
 - (i) this Constitution;
 - (ii) minutes of Board Meetings and AGMs and Special General Meetings;
 - (iii) records, books and other documents relating to the Club;
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- (b) the Documents must be available for inspection, free of charge, by Members at a reasonable and on reasonable notice;
- (c) if in electronic form, the Documents:
 - (i) must be able to be converted to hard copy;
 - (ii) must be obtainable (in whole or part) by any Member for a fee of not more than \$1 per page;
- (d) the Board may refuse to allow a Member to inspect or obtain a copy of any of the Documents under this sub-clause:
 - (i) that relates to confidential, personal, commercial, employment or legal matters; or
 - (ii) if the Board reasonably considers it would be prejudicial to the interests of the Club.

10.9 Distribution of Property on Winding Up

Subject to the Act and the Regulation:

- (a) in a winding up of the Club, the surplus property of the Club (the **Surplus Property**) must be transferred to another organisation that:
 - (i) has similar objects to the Objects; and
 - (ii) is not carried out for the profits or gain of that organisation's members; and
 - (b) for the purposes of this sub-clause, Surplus Property has the same meaning as in section 65 of the Act.
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