



New South Wales Netball Association Ltd  
ACN 001 685 007

## Constitution

VERSION	ADOPTED	EFFECTIVE DATE
V1.1.2012	5 November 2011	1 January 2012
V1.2.2012	3 November 2012	3 November 2012
V1.3.2013	2 November 2013	2 November 2013
V1.4.2014	1 November 2014	1 November 2014
V1.5.2015	21 March 2015	21 March 2015
V1.6.2015	14 November 2015	14 November 2015
V1.7.2016	5 November 2016	5 November 2016
V1.8.2017	4 November 2017	4 November 2017
V1.9.2018	3 November 2018	3 November 2018

## Table of contents

<b>1</b>	<b>Definitions and interpretation</b>	<b>1</b>
1.1	Definitions	1
1.2	Interpretation	2
<b>2</b>	<b>Company's name and nature</b>	<b>3</b>
2.1	Name of the Company	3
2.2	Nature of the Company	3
<b>3</b>	<b>Company's Objects and powers</b>	<b>3</b>
3.1	Objects of the Company	3
3.2	Powers of the Company	4
<b>4</b>	<b>Income and property</b>	<b>5</b>
4.1	Application	5
4.2	No distribution	5
4.3	Exception	5
<b>5</b>	<b>Liability of Members</b>	<b>5</b>
5.1	Liability of Members limited	5
<b>6</b>	<b>Guarantee by Members</b>	<b>5</b>
6.1	Member undertaking	5
<b>7</b>	<b>Winding up</b>	<b>6</b>
7.1	Winding up or dissolution	6
<b>8</b>	<b>Effect of, and altering, this Constitution</b>	<b>6</b>
8.1	Contract effect	6
8.2	Altering the Constitution	6
<b>9</b>	<b>Membership</b>	<b>7</b>
9.1	Deeming provisions	7
9.2	Number of Members	7
9.3	Members	7
9.4	Applications for Affiliation as an Association	7
9.5	Individual Membership renewal	8
9.6	Register	8
<b>10</b>	<b>Discontinuance of membership</b>	<b>8</b>
10.1	When membership ceases	8
10.2	Withdrawal of an Association	9
10.3	Consequences of cessation of membership	9
10.4	No claim against the Company	9
<b>11</b>	<b>Life Members</b>	<b>9</b>
<b>12</b>	<b>Council</b>	<b>9</b>
12.1	Membership	9
<b>13</b>	<b>Delegates to Council</b>	<b>10</b>
13.1	Appointment of Delegates	10
13.2	Alternate Delegate(s)	10
13.3	Proxy Delegates	11
<b>14</b>	<b>General Meetings</b>	<b>11</b>
14.1	Annual General Meeting	11
14.2	Notice of Annual General Meeting	12
14.3	Entitlement to attend the Annual General Meetings	12
14.4	Quorum	12

14.5	Chairperson .....	12
14.7	Voting at the Annual General Meeting .....	13
14.8	Nominations equal vacancies or insufficient nominations .....	13
14.9	Extraordinary General Meeting .....	13
14.10	Quorum .....	13
14.11	Chairperson .....	14
14.12	General Meetings .....	14
14.13	Notice of General Meeting .....	14
14.14	Proceedings at General Meetings .....	15
14.15	Voting at General Meetings .....	15
14.16	Quorum .....	16
14.17	Chairperson .....	17
14.18	Adjourned meetings .....	17
<b>15</b>	<b>Directors .....</b>	<b>17</b>
15.1	Responsibilities and duties of Directors .....	17
15.2	Director positions .....	18
15.3	Qualifications of Directors .....	18
15.4	Transitional arrangement for term of Elected Directors .....	19
15.5	Term of Directors .....	19
15.6	Membership of Associations .....	19
15.7	Procedure for election of Directors .....	19
15.8	Casual vacancy of Director .....	20
15.9	Remuneration of Directors .....	20
15.10	Board meetings .....	20
15.11	Quorum .....	20
15.12	Directors entitled to vote .....	21
15.13	Interested Directors .....	21
15.14	Number of Directors below necessary quorum .....	21
15.15	Acts done by disqualified Directors .....	22
15.16	Director deemed to have vacated office .....	22
15.17	Valid resolution .....	22
15.18	Appointment of Appointed Director .....	22
<b>16</b>	<b>Proceedings for and at meetings of the Directors .....</b>	<b>23</b>
16.1	Notice of meeting .....	23
16.2	Chairperson .....	23
16.3	Questions decided by majority .....	23
16.4	Special meeting .....	23
16.5	Authorities, responsibilities and discretions .....	24
16.6	Delegation .....	24
16.7	Acts stand despite defect in appointment .....	24
16.8	Resolution in writing .....	24
16.9	Minutes .....	24
<b>17</b>	<b>Company Secretary .....</b>	<b>24</b>
17.1	Statutory Responsibilities .....	24
17.2	Minutes .....	25
<b>18</b>	<b>Chief Executive Officer .....</b>	<b>25</b>
18.1	Delegation of authority .....	25
18.2	Chief Executive Officer not subject to retirement by rotation .....	25

<b>19</b>	<b>Panels and Tribunals .....</b>	<b>25</b>
	19.1 Appointment .....	25
	19.2 Delegation of responsibilities.....	25
	19.3 Quorum for meetings.....	25
<b>20</b>	<b>Seal .....</b>	<b>26</b>
	20.1 Common seal.....	26
	20.2 Authentication of deeds and documents.....	26
	20.3 Document with common Seal binding on the Company .....	26
<b>21</b>	<b>Accounts .....</b>	<b>26</b>
	21.1 Accounts to be kept .....	26
	21.2 Accounts .....	26
	21.3 Balance sheet and income and expenditure account.....	27
	21.4 Service of accounts.....	27
	21.5 Accounts and books open to inspection .....	27
	21.6 Audit of accounts .....	27
	21.7 Auditor.....	27
	21.8 Maintenance of records .....	27
<b>22</b>	<b>Notices.....</b>	<b>27</b>
	22.1 Service of Notice .....	27
	22.2 Address outside Australia.....	28
	22.3 Deemed day of service .....	28
	22.4 Omission of Notice .....	28
	22.5 Signature .....	28
	22.6 Day of service .....	28
<b>23</b>	<b>Indemnity .....</b>	<b>28</b>
	23.1 Indemnity .....	28
<b>24</b>	<b>Confidentiality.....</b>	<b>29</b>
	24.1 Maintain confidentiality .....	29
<b>25</b>	<b>Application of the Act .....</b>	<b>29</b>
	25.1 Special meanings in the Act apply.....	29
	25.2 Replaceable clauses displaced .....	30

Date

## 1 Definitions and interpretation

### 1.1 Definitions

In this Constitution:

**Act** means the *Corporations Act 2001* (Commonwealth).

**Annual General Meeting (or AGM)** means the meeting held in accordance with Clause 14.1.

**Appointed Director** means a Director appointed in accordance with Clause 15.18.

**Association** means any Affiliated Member Association deemed as an Association in accordance with Clause 9.1 and any association of Members who have applied for membership to the Board in accordance with Clause 9.4 and such application has been approved by the Council.

**Auditor** means the auditor of the Company.

**Board** means the Board of Directors of the Company.

**Business Day** means a day on which banks are open for general banking business in New South Wales, excluding Saturdays and Sundays.

**Chairperson** means the elected President of the Association appointed as Chairperson of the Board.

**Company** means New South Wales Netball Association Limited.

**Company Information** means all communications, correspondence, reports, minutes, and other papers and documents relating to any of the affairs or business of the Company.

**Company Secretary** means the person appointed by the Board of Directors to perform the duties of Company Secretary in accordance with this Constitution and applicable Corporations Law.

**Constitution** means this constitution and any supplementary, substituted or amended Constitution in force from time to time.

**Council** means the council of the Company as described in Clause 12.

**Council Member** means a member of the Council.

**Delegate** means a delegate of any Affiliated Member Association entitled to attend and vote at the Annual General Meeting, any Extra Ordinary Meeting and General Meetings of the Company, appointed in accordance with Clause 13.

**Deputy Chairperson** means the Director appointed by the Board of Directors as Deputy Chairperson of the Board.

**Directors** mean the Company's directors.

**Elected Director** means a Director elected in accordance with Clause 15.7.

**General Meeting** means the Annual General Meeting, Extraordinary Meeting or General Meeting of the Council as convened in line with this constitution.

**Individual Members (Members)** means any individual financial member(s) of an Association.

**Intellectual Property** means all rights or goodwill subsisting in copyright, business names, names, trademarks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to the Company or any event, competition or activity of or conducted, promoted or administered by the Company.

**Life Member** means a person granted life membership of the Company in accordance with Clause 11.

**Netball** means the sport and game of netball as determined by the International Netball Federation Limited and Netball Australia.

**Netball Australia** means the organisation existing from time to time for the promotion, regulation and control of netball throughout Australia.

**Notice** includes all written communications to Members, including electronic communications.

**Objects** mean the objects of the Company set out in Clause 3.1.

**Observer** means an Individual Member who attends a General Meeting of the Company but is not an Association Delegate or other member of Council and has no rights to participate in the business of the meeting or vote at the meeting.

**Office** means the registered office of the Company.

**President** means the President of the Board of the Company, elected in accordance with Clause 15.7.

**Returning Officer** means the Returning Officer as appointed in accordance with Clause 14.6 of this constitution, or in accordance with any policy of Netball NSW.

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

## 1.2 Interpretation

In this Constitution, unless the context indicates a contrary intention:

- (a) **(headings)** headings and the table of contents are inserted for convenience only and do not affect interpretation of this Constitution.
- (b) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity.
- (c) **(person)** a reference to a person includes their personal representatives, successors and permitted assigns.
- (d) **(requirements)** a requirement to do anything includes a requirement to cause that thing to be done, and a requirement not to do anything includes a requirement to prevent that thing being done.

- (e) **(including) including** and **includes** are not words of limitation.
- (f) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning.
- (g) **(singular)** the singular includes the plural and vice-versa.
- (h) **(rules of construction)** neither this Constitution nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.
- (i) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.
- (j) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Sydney, Australia even if the obligation is to be performed elsewhere.
- (k) **(writing)** a reference to a Notice, consent, request, approval or other communication under this Constitution or an agreement between the parties means a written Notice, request, consent, approval or agreement.
- (l) **(replacement bodies)** a reference to a body (including an institute, association or authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions.
- (m) **(month)** a reference to a month is a reference to a calendar month.
- (n) **(year)** a reference to a year is a reference to twelve consecutive calendar months.

## **2 Company's name and nature**

### **2.1 Name of the Company**

The name of the Company is New South Wales Netball Association Limited trading as Netball NSW.

### **2.2 Nature of the Company**

The Company is a public company limited by guarantee. The Company is a not for profit company.

## **3 Company's Objects and powers**

### **3.1 Objects of the Company**

- (a) To support and promote the objectives of Netball Australia as set out in that organisation's constitution to the extent that such obligations relate to New South Wales and having regard to the Act.
- (b) To create a uniform entity through and by which Netball in New South Wales can be encouraged, conducted, promoted and administered and to be the governing body of netball in New South Wales.

- (c) To act for its Members in all matters pertaining to Netball.
- (d) To promote the economic and sporting success, strength and stability of the Company and each Member Association.
- (e) To use and protect its Intellectual Property.
- (f) To strive for and maintain government, commercial and public recognition of the Company as the authority for Netball in New South Wales.
- (g) To have regard to the public interest in its operation.
- (h) To encourage and promote performance-enhancing drug free competition.
- (i) To act for its members on all matters pertaining to the conduct of Netball in New South Wales, including all disciplinary, tribunal, appeal and grading matters, in accordance with the Member Protection Policy.
- (j) To pursue through itself or others, such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the Objects of the Company.
- (k) To foster, regulate, organise, conduct and manage Netball tournaments, competitions, events, displays and other activities within New South Wales in conjunction with Associations.
- (l) To select and manage netball teams to represent New South Wales in matches against teams representing other states and territories of Australia and countries outside Australia.
- (m) To establish and conduct education and training programs in the implementation and interpretation of Netball rules, standards, guidelines and procedures.
- (n) To implement appropriate policies, including policies in relation to member protection, social justice, drugs in sport, health, safety, junior and senior programs, infectious diseases, integrity in sport including match fixing and such other matters as arise from time to time as issues to be addressed in Netball.
- (o) To review and adopt rules pertaining to the conduct of championships and competitions organised and conducted by Netball NSW, including procedures relating to the grading of entries received by the closing date of such competitions as annually conducted.
- (p) To give, and where appropriate, seek recognition for athletes, officials and other individuals participating in Netball in any capacity to obtain awards or public recognition.
- (q) To apply the property and capacity of the Company towards the fulfilment and achievement of these Objects.
- (r) To do all such other things as are incidental or conducive to the attainment of the Objects of the Company.

### **3.2 Powers of the Company**

Solely for the purpose of furthering the Objects, the Company has the legal capacity and powers of a company as set out in Section 124 of the Act.



## **4 Income and property**

### **4.1 Application**

The Company's income and property must be applied solely towards promoting the Company's Objects and the Company's income and property must not be applied for the profit or gain of its individual members.

### **4.2 No distribution**

Subject to Clause 4.3, no part of the Company's income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, fee or otherwise, to any of the Members or Directors.

### **4.3 Exception**

Clause 4.2 does not prohibit making a payment approved by the Board:

- (a) Honorariums for Directors in accordance with Clause 15.9
- (b) for a service rendered to the Company by a Director in a professional or technical capacity, other than in the capacity as a Director of the Company, where:
  - (1) the provision of the service has the prior approval of the Board; and
  - (2) the amount payable is not more than an amount which commercially would be reasonable payment for the service;
- (c) in good faith to any Member for goods supplied in the ordinary and usual course of business;
- (d) for interest on money borrowed from a Member at a rate not exceeding the lowest rate then being paid by the Company's bank on 30 day term deposits;
- (e) of reasonable and proper rent for premises let by any Member to the Company;
- (f) of salary or wages to any Member who is also an employee of the Company; or
- (g) for the indemnification of, or payment of premiums on contracts of insurance for, any Director to the extent permitted by law and this Constitution.

## **5 Liability of Members**

### **5.1 Liability of Members limited**

The liability of the Members is limited.

## **6 Guarantee by Members**

### **6.1 Member undertaking**

Every Member of the Company undertakes to contribute to the assets of the Company if it is wound up during the time the Member is a Member or within one year afterwards for:

- (a) payment of the debts and liabilities of the Company contracted before the time at which the Member ceases to be a Member;
  - (b) the costs, charges and expenses of winding up; and
  - (c) the adjustment of the rights of the contributories among themselves,
- such amount as may be required but not exceeding \$1 per Member.

## **7 Winding up**

### **7.1 Winding up or dissolution**

If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever the same must not be paid to or distributed among the Members but must be given or transferred to:

- (a) a fund, authority or institution:
  - (1) having objects similar to the Objects of the Company;
  - (2) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as outlined in Clause 4; and
  - (3) which operates in the same geographical region as the Company.

## **8 Effect of, and altering, this Constitution**

### **8.1 Contract effect**

This Constitution will have effect as a contract:

- (a) between the Company and each affiliated Association;
- (b) between the Company and each Member;
- (c) between the Company and each Director; and
- (d) between a Member and each other Member,

pursuant to which each Member agrees to accept the provisions of this Constitution, and comply with those provisions, so far as they apply to that Member.

### **8.2 Altering the Constitution**

Notwithstanding any provisions contained in the Act no amendment will be made to this Constitution unless such amendment is first approved by special resolution requiring the amendment to be approved by at least 75% of the votes cast at an Extraordinary General Meeting including any I votes submitted in accordance with the Election and Voting Policy.

## **9 Membership**

### **9.1 Deeming provisions**

- (a) All Associations who were Member Associations prior to the time of approval of this Constitution under the Act (**Previous Member Associations**), will be deemed Associations from the time of approval of this Constitution under the Act, and will be entitled to all benefits conferred on them by the Company, whether directly or indirectly.
- (b) All persons who were individual members of a Previous Member Association prior to the time of approval of this Constitution under the Act, will be deemed Individual Members of the Company from the time of approval of this Constitution under the Act, and will be entitled to a real benefit conferred on them by the Company, whether directly or indirectly.

### **9.2 Number of Members**

- (a) The Company may not have less than three Members at any time.
- (b) The maximum number of members is unlimited.

### **9.3 Members**

- (a) The Members are:
  - (1) the affiliated Associations, which, subject to this Constitution, will be represented by their Delegates, in accordance with Clause 13, who will have the right to attend and vote at the Annual General Meeting, any Extra Ordinary Meeting and General Meetings for and on behalf of their Association;
  - (2) the Individual Members, who subject to this Constitution, may attend the Annual General Meeting, any Extra Ordinary Meeting and General Meetings as an Observer only;
  - (3) Life Members who will have the right to attend and vote at the Annual General Meeting, any Extraordinary Meeting and General Meetings in their own right.
  - (4) Directors, as elected by the Council, who shall also be members of an Association and who will have the right to attend and vote at the Annual General Meeting, any Extra Ordinary Meeting and General Meetings in their own right as an elected Director of the Company.
  - (5) Directors, as appointed by the Board, who shall also become members of an Association within 30 days of their appointment, will have the right to attend and vote at the Annual General Meeting, any Extra Ordinary Meeting and General Meetings in their own right as an appointed Director of the Company.
  - (6) The Chief Executive Officer who shall be a non-voting member of Council.

### **9.4 Applications for Affiliation as an Association**

- (a) Every application for affiliation as an Association must be:
  - (1) made in writing on a form to be approved by the Board of Directors for that purpose and be accompanied by the required affiliation fee as recommended by

the Board of Directors and approved by Council at the November Council meeting each year;

- (2) lodged with the Company, by 1 April in each year;
  - (3) signed by the Association representative and set out the name and address of the Association.
- (b) It is a requirement of an Association's affiliation that the Association register each and every Individual Member of the Association. Failure to satisfy this requirement is a breach of Clause 10.1(b) of this Constitution.

## **9.5 Individual Membership renewal**

In order to remain Members and or become Members, Individual Members must:

- (a) Renew their membership and/or become a new member of their respective Associations' annually;
- (b) otherwise remain registered financial members of their Associations in accordance with the procedures applicable from time to time; and
- (c) pay the annual individual membership fees as set annually by the Council in November each year to the Company through their respective Associations.
- (d) The Board, in its absolute discretion, may admit or reject any application for membership. If the applicant is not admitted to membership in due course, all monies paid by that applicant to the Company must be returned in full.

## **9.6 Register**

- (a) The Company will maintain a register of Members as required by the Act.
- (b) Each Member must notify the Company of any change in their details within 28 days after the change.

## **10 Discontinuance of membership**

### **10.1 When membership ceases**

A Member will cease to be a Member if:

- (a) the Member dies;
- (b) the Member ceases to satisfy all requirements for their respective category of membership;
- (c) the Member is expelled by the Board in accordance with the Company's Member Protection Policy;
- (d) the member is suspended by an Association for a period of 12 months or more under the Company's Member Protection Policy.

## **10.2 Withdrawal of an Association**

Any Association may withdraw from Affiliation of the Company by giving duly executed written notice of at least three calendar months to the Company Secretary.

## **10.3 Consequences of cessation of membership**

If an Association ceases to be affiliated in accordance with this Constitution or the Act, the Individual Members of that Association may cease or remain Members to the extent (if any) and for such time (if any) as is determined by the Board in its sole discretion.

## **10.4 No claim against the Company**

A Member whose membership ceases does not have any claim against the Company or the Directors for damages or otherwise.

# **11 Life Members**

- (a) An Individual Member may be nominated to receive Life Membership of the Company in recognition of not less than ten (10) years outstanding service to the Company in accordance with this Clause 11 and any such policy relating to the awarding of Life Membership as may be in place from time to time.
- (b) A candidate for election as a Life Member must be nominated in writing by two (2) Individual Members of affiliated Associations who are at least 18 years of age with such nominations being received by the Chief Executive Officer by 31 October each year.
- (c) The Board of Directors shall review all nominations received to ensure nomination meets criteria as defined and, if appropriate, put forward such nomination for voting.
- (d) Once approval for voting to proceed has been given by the Board, a ballot for the award of Life Membership shall be conducted in accordance with the Election and Voting Policy. If an affirmative vote is returned, the award of Life Membership will be announced and presented at the Annual General Meeting.
- (e) The Board may at any time and from time to time fix the total number of persons who may be Life Members at any time and the maximum number of candidates who may be nominated in any year.
- (f) All Netball NSW Life Members will be registered directly with the Company.
- (g) A Life Member who nominates for election as a Director of the Company must comply with Clause 15.3 of this Constitution.

# **12 Council**

## **12.1 Membership**

The Council will consist of Life Members, the Board of Directors, the Chief Executive Officer as a non-voting member and two Delegates from each affiliated Association.

## **13 Delegates to Council**

### **13.1 Appointment of Delegates**

- (a) By 1 April each year, each affiliated Association is entitled to nominate two Delegates to attend and vote at the Annual General Meeting, any Extra Ordinary Meeting or General Meetings.
- (b) This notice of appointment is to accompany the Association affiliation form as referred to in Clause 9.4 of this Constitution.
- (c) Affiliated Associations must provide the name and contact details of each Delegate on the annual Affiliation form to the Company Secretary by 1 April each year to ensure such Delegates may attend and vote at the Annual General Meeting and any Extra Ordinary or General Meeting held in conjunction or on the same day as the Annual General Meeting.
- (d) Where such Affiliation is received after 1 April in any one year, such Delegates may attend and vote at the next scheduled meeting held after the date affiliation is received.
- (e) Term of office

Except as otherwise provided in this Constitution, persons appointed to Council in line with Clause 12.1 of this Constitution, will assume office as at 1 April each year and will hold office until 31 March the following year.

- (f) All Delegates to Council must be at least 18 years of age.
- (g) No substitution of delegates may occur during the course of the meeting.

### **13.2 Alternate Delegate(s)**

- (a) Appointment of Alternate Delegate(s)
  - (1) Each Association may appoint an Alternate Delegate for each Delegate mentioned at Clause 13.1 (a)
- (b) Procedure for Appointment of Alternate Delegate(s)
  - (1) Document appointing an Alternate Delegate:
    - (a) must be in writing signed by an Association Executive Member.
    - (c) must be received by the Company Secretary at least 48 hours prior to the published commencement time of all meetings of Council to which the Alternate Delegate will attend.
    - (d) must be in the form approved by the Board of Directors.
  - (2) A document appointing an alternate delegate must not be treated as valid unless Clauses 13.2 (b) above has been complied with.
  - (3) All Alternate Delegates appointed by an Association must be a member of the Company.

- (4) No substitution of alternate delegates may occur during the course of a meeting.

### **13.3 Proxy Delegates**

- (a) Appointment of proxies
  - (1) Each Association may appoint one Proxy Delegate for each Delegate mentioned at Clause 13.1 (a).
- (b) Procedure for Appointment of a Proxy Delegate
  - (1) Document appointing a Proxy Delegate:
    - (a) must be in writing signed by an Association Executive Member.
    - (b) must also be signed by the Association's Secretary of which the Proxy Delegate is an individual member of and from where such details and monies are submitted to the Company on behalf of the registered individual member.
    - (c) must be received by the Company Secretary at least 48 hours prior to the published commencement time of all meetings of Council to which the proxy will attend.
    - (d) must be in the form approved by the Board of Directors.
  - (2) A document appointing a proxy delegate must not be treated as valid unless Clauses 13.3 (b) above has been complied with.
  - (3) All Proxy Delegates appointed by an Association must be a member of the Company.
  - (4) No more than two members of any one Association shall represent as a Proxy Delegate to Council.
  - (5) No substitution of Proxy Delegates may occur during the course of a meeting.

## **14 General Meetings**

### **14.1 Annual General Meeting**

An Annual General Meeting must be held once in every calendar year at such time (not being more than eighteen months after the holding of the last preceding Annual General Meeting) and place as may be prescribed by the Company, or, in default, at such time in the third month following that in which the anniversary of the Company's incorporation occurs, and at such place as the Directors appoint. In default of an Annual General Meeting being so held, a General Meeting must be held in the month next following, and may be convened by any two Members in the same manner as nearly as possible as that in which meetings are to be convened by the Directors.

## **14.2 Notice of Annual General Meeting**

- (a) Subject to the provisions of the Act relating to special resolutions, at least 21 days' Notice (exclusive of the day on which the Notice is served or deemed to be served, but inclusive of the day for which Notice is given) must be given of any General Meeting.
- (b) Any Notice under Clause 14.2 (a) must specify:
  - (1) the place, the day and the hour of meeting; and
  - (2) in case of special business, the general nature of that business,to such persons as are, under this Constitution, entitled to receive such Notices from the Company.
- (c) Any Notice under Clause 14.2 must be given to:
  - (1) the Secretary of affiliated Associations;
  - (2) every nominated Council Delegate entitled to vote;
  - (3) each Life Member;
  - (4) each Director; and
  - (5) the Auditor.
- (d) The Members entitled to receive Notice of some particular meeting may agree to a shorter Notice period.

## **14.3 Entitlement to attend the Annual General Meetings**

No Association may be represented at, or take part in the Annual General Meeting unless all monies then due and payable to the Company in accordance with this Constitution are paid.

## **14.4 Quorum**

- (a) No business may be transacted at the Annual General Meeting, except the adjournment of a meeting, unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) The quorum for the Annual General Meeting shall be Delegates representing one quarter of the affiliated Associations and a majority of the Directors who have been appointed as voting Members under Clause 9.3 of this Constitution. If within thirty minutes from the time appointed for the meeting a quorum is not present, the meeting must stand adjourned to a date fixed by the Board; the adjourned meeting will be convened by the Company Secretary as directed by the Board. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Members present will be a quorum.

## **14.5 Chairperson**

The Chairperson, or in their absence, the Deputy Chairperson of the Board, must preside as Chairperson at the Annual General Meeting of the Company and if at any meeting neither the



Chairperson or the Deputy Chairperson is present within thirty minutes after the time appointed for holding the meeting, the Board members present will choose a Director to be Chairperson of the meeting.

#### **14.6 Business of the Annual General Meeting**

The business to be transacted at an Annual General Meeting, shall include:

- (a) consideration of the accounts, balance-sheets, and the report of the Directors and Auditor prescribed by the Act;
- (b) the appointment of the Auditor and Returning Officer;
- (c) consideration of annual reports from all appointed subcommittees, tribunals and panels;
- (d) such other business as deemed appropriate;
- (e) the election of Directors as appropriate.

#### **14.7 Voting at the Annual General Meeting**

- (a) Each Council Member, being affiliated Association Delegates, Life Members and Directors will have one vote to be taken in such manner as the President directs.
- (b) A vote may be submitted by any Council Member in regards to any item listed on the Notice of the Annual General Meeting, on request.
- (c) The Election of Directors shall be conducted by the Returning Officer in accordance with the Election and Voting Policy.
- (d) Excluding items listed on the Notice of the Annual General Meeting for which a vote may be cast, questions arising from the floor of an Annual General Meeting must be decided by a majority of votes cast by the Delegates of Associations, Life Members and Directors, present at that meeting.

#### **14.8 Nominations equal vacancies or insufficient nominations**

If the number of nominations received for the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall only be elected if they are elected by a majority of votes cast by the Delegates in a vote in accordance with Clause 14.7 (c).

#### **14.9 Extraordinary General Meeting**

The Directors may whenever they may think fit, convene an Extraordinary General Meeting, which must also be convened on such requisition, or in default may be convened by such requisitionists, as provided by the Act.

#### **14.10 Quorum**

- (a) No business may be transacted at any Extra Ordinary Meeting, except the adjournment of a meeting, unless a quorum of Members is present at the time when the meeting proceeds to business.

(b) Unless otherwise provided in this Constitution, a quorum for an Extra Ordinary Meeting shall be Delegates representing one-quarter of the affiliated Associations and a majority of the Directors who have been appointed as voting Members under Clause 9.3 of this Constitution. If within thirty minutes from the time appointed for the meeting a quorum is not present, the meeting:

- (1) if convened upon the requisition of Members, must be dissolved; and
- (2) in any other case it must stand adjourned to be held within 14 days at the same time and place,

and if at the adjourned meeting a quorum is not present within thirty minutes from the time appointed for the meeting, the Members present will be a quorum.

#### **14.11 Chairperson**

The Chairperson, or in their absence, the Deputy Chairperson of the Board, must preside as Chairperson at any Extra Ordinary Meeting of the Company and if at any meeting neither the Chairperson or the Deputy Chairperson is present within thirty minutes after the time appointed for holding the meeting, the Delegates present must choose someone of their number to be Chairperson of the meeting.

#### **14.12 General Meetings**

(a) The Directors shall convene and cause to be held, at least two General Meetings of the Council in each calendar year the final meeting of each calendar year to be held no later than November each year.

#### **14.13 Notice of General Meeting**

(a) Subject to the provisions of the Act relating to special resolutions, at least 21 days' Notice (exclusive of the day on which the Notice is served or deemed to be served, but inclusive of the day for which Notice is given) will be given of any General Meeting.

(b) Any Notice under Clause 14.12(a) will specify:

- (1) the place, the day and the hour of meeting; and
- (2) in case of special business, the general nature of that business,

to such persons as are, under this Constitution, entitled to receive such Notices from the Company.

(c) Any Notice under Clause 14.12 (b) must be given to:

- (1) the Secretary of affiliated Associations;
- (2) every nominated Council Delegate entitled to vote;
- (3) each Life Member;
- (4) each Director; and
- (5) the Auditor.

- (d) The Chief Executive Officer will also be given at least 21 days written notice of each Council Meeting
- (e) The Members entitled to receive Notice of some particular meeting may agree to a shorter Notice period.

#### **14.14 Proceedings at General Meetings**

- (a) The accidental omission to give Notice of a meeting to, or the non-receipt of Notice of a meeting by, any Member will not invalidate the proceedings at any meeting.
- (b) A person's attendance at a General Meeting waives any objection that the person may have to:
  - (1) a failure to give Notice, or the giving of a defective Notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
  - (2) the consideration of a particular matter at the meeting which is not within the business referred to in the Notice of the meeting, unless the person objects to considering the matter when it is presented.
- (c) The following business will be deemed special:
  - (1) all business that is transacted at an Extraordinary General Meeting.
- (d) The Council shall, at the November meeting each year, conduct the following business as part of the business of the meeting:
  - (1) Set the annual affiliation fees payable by each Association in accordance with Clause 9.4; and
  - (2) Set the annual individual membership fees payable by each individual member in accordance with Clause 9.5. Reference is also made to Clause 15.1 (b) and the Affiliation and Membership Policy in regard to remote and isolated Associations.
- (e) In addition to General Meetings held in accordance with Clause 14.11(a), the Company Secretary will call General Meetings:
  - (1) at the direction of the President; or
  - (2) on written request by at least one-quarter of the Council Members.
- (f) All documents and reports to come before Council at a General Meeting must arrive at the Office at least 28 days prior to the relevant General Meeting.

#### **14.15 Voting at General Meetings**

- (a) Each Council Member, being affiliated Association Delegates, Life Members and Directors will have one vote to be taken in such manner as the President directs.
- (b) A vote may be submitted by any Council member in regards to any item listed on the Notice of the General Meeting, on request.

- (c) Excluding items listed on the Notice of the General Meeting for which a postal vote may be cast, questions arising from the floor of a General Meeting must be decided by a majority of votes cast by the Delegates of Associations, Life Members and Directors, present at that meeting.
- (d) At any General Meeting a resolution put to the vote of the meeting will be decided on a show of hands, unless a secret ballot is demanded by at least two Members present in person to vote. Where votes have been received by the Returning Officer, these shall be included as part of the vote taken either by show of hands or secret ballot.
- (e) Unless a secret ballot is demanded, the Chairperson will declare that a resolution has, on a show of hands and including such postal votes as received, been:
  - carried, or
  - carried unanimously, or
  - by a particular majority,
  - or lost,

and an entry to that effect shall be recorded in the minutes of the meeting and will be conclusive evidence of the fact of the outcome of the vote taken, without recording the specific numbers of a vote.

- (f) If a secret ballot is duly demanded it must be taken in such manner as the Chairperson directs, and unless the meeting is adjourned the result of the secret ballot will be deemed to be the resolution of the meeting at which the secret ballot was demanded.
- (g) A secret ballot demanded on a question of adjournment, must be taken forthwith. A secret ballot demanded at a meeting on any other question will be taken at such time at that meeting as the Chairperson of the meeting directs.

#### **14.16 Quorum**

- (a) No business may be transacted at any General Meeting, except the adjournment of a meeting, unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) Unless otherwise provided in this Constitution, a quorum for all General Meetings shall be Delegates representing one-quarter of the affiliated Associations and a majority of the Directors who have been appointed as voting Members under Clause 9.3 of this Constitution. If within thirty minutes from the time appointed for the meeting a quorum is not present, the meeting:
  - (1) If convened upon the requisition of Members, must be dissolved; and
  - (2) in any other case it must stand adjourned to the same day in the next week, at the same time and place,

and if at the adjourned meeting a quorum is not present within thirty minutes from the time appointed for the meeting, the Members present will be a quorum.

#### **14.17 Chairperson**

The Chairperson, or in their absence, the Deputy Chairperson of the Board, must preside as Chairperson at every General Meeting of the Company and if at any meeting neither the Chairperson or the Deputy Chairperson is present within thirty minutes after the time appointed for holding the meeting, the Delegates present must choose someone of their number to be Chairperson of the meeting.

#### **14.18 Adjourned meetings**

- (a) The Chairperson may, with the consent of any meeting at which a quorum is present (and must if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) When a meeting is adjourned for ten days or more, Notice of the adjourned meeting must be given as in the case of an original meeting. Except as otherwise required, it is not necessary to give any Notice of an adjournment or of the business to be transacted at an adjourned meeting.

### **15 Directors**

#### **15.1 Responsibilities and duties of Directors**

- (a) The Directors are responsible for managing the Company's business and affairs and may exercise to the exclusion of the Council in a General Meeting all the Company's powers which are not required, by the Act or by this Constitution, to be exercised by the Council in a General Meeting.
- (b) The Board has the discretion to provide special consideration in relation to remote and isolated Associations as stated in the Netball NSW Affiliation and Membership Policy.
- (c) The Board shall have the authority to institute, conduct, defend, compound or abandon any legal proceedings by or against the Company or its officers or otherwise concerning the affairs of the Company and also to compound or allow reasonable time for payment and satisfaction of any debts due to and any claims or demands by or against the Company and to refer any claims or demands by or against the Company to arbitration and to observe and perform the award.
- (d) To appoint Patrons and cancel any such appointment.
- (e) To delegate any of its responsibilities to committees consisting of such Council Members as it thinks fit and may from time to time revoke such delegation.
- (f) The Board shall appoint the Chief Executive Officer.
- (g) The Board shall appoint the Company Secretary.
- (h) The Board can exercise any authority given to the Company under Clause 3.2 of this Constitution.
- (i) Without limiting Clause 15.1(a), the Directors may exercise all the Company's authority to:

- (1) borrow or otherwise raise money;
  - (2) charge any property or business of the Company; and
  - (3) Issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (j) The Directors may decide how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the Company.
- (k) The Directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.
- (l) The Directors may:
- (1) appoint or employ a person to be an officer, agent or attorney of the Company for the purposes, with the responsibilities, discretions and duties (including authority, responsibilities, discretions and duties vested in or exercisable by the Directors), for the period and on the conditions they think fit;
  - (2) Authorise an officer, agent or attorney to delegate all or any of the authorities, responsibilities, discretions and duties vested in the officer, agent or attorney; and
  - (3) Subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.
- (m) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the Directors think fit.

## **15.2 Director positions**

The Board will consist of:

- (a) A President (an Elected Director) elected in accordance with Clause 15.7
- (a) Six Elected Directors, elected in accordance with Clause 15.7
- (b) Up to two appointed Directors in accordance with Clause 15.18;
- (c) The Chief Executive Officer, as a non-voting member.

## **15.3 Qualifications of Directors**

Subject to the provisions of Clause 15.15:

- (a) All Directors, other than the Chief Executive Officer, must be Members of an affiliated Association;
- (b) All Directors must be at least 18 years of age;
- (c) All Directors (other than the Chief Executive Officer) must not be a direct employee of the Company;

- (d) All Directors cannot hold an executive or officer position in any Association.

#### **15.4 Transitional arrangement for term of Elected Directors**

- (a) At the 2018 AGM, there will be an election for four Elected Directors, two whom will serve terms of three years and two of whom will serve terms of two years.
- (b) At the 2019 AGM, there will be an election for three Elected Directors, two of whom will serve terms of three years and one of whom will serve a term of two years.

#### **15.5 Term of Directors**

- (a) Elected Directors are elected, subject to Clauses 15.4 and 15.5(c) for a three year term.
- (b) No Elected Director can hold office for a period longer than nine consecutive years, inclusive of any period served as a casual vacancy. For the purpose of this Clause, any period prior to 25 March 2012 during which a Director has held office will not be taken into consideration.
- (c) A Director will be required to resign at the end of the nine year period referred to in Clause 15.5(b), notwithstanding that this may occur during a term referred to in Clauses 15.4 or 15.5(a). The casual vacancy arising from such resignation will be filled in accordance with Clause 15.8.
- (d) Despite Clause 15.5 (b), an Elected Director who has held office for nine consecutive years may seek re-election, provided they have stood down from the Board for a period of at least twelve months, following that period during which they held office.

#### **15.6 Membership of Associations**

No more than two Directors may be a member of the same Association at any one time, whether that registration relates to a primary or secondary registration.

#### **15.7 Procedure for election of Directors**

- (a) The Returning Officer must, by 21 days written Notice, advise Members of an election of Directors to be held with such elections to be held in accordance with the Election and Voting Policy.
- (b) Election of Directors shall be by vote conducted by the Returning Officer as per the Election and Voting Policy with the results announced by the Returning Officer at the Annual General Meeting each year.
- (c) Elected Directors will be elected on an alternating basis.
- (d) Four Elected Directors will be elected one year and three Elected Directors will be elected the next year.
- (e) Subject to Clause 15.5(b), an Elected Director is eligible for re-election on expiration of that Director's term of office. To achieve the transitional arrangement described in Clause 15.4 the terms of service of the Elected Directors will be determined as follows:

- (1) At the 2018 AGM, the President and three Elected Directors will be elected; the President and the Elected Director with the highest vote will serve a three year term and the Elected Directors receiving the third and fourth highest vote will serve a two year term;
- (2) At the 2019 AGM, three Elected Directors will be elected; the two Elected Directors with the highest vote will serve a three year term and the Elected Director receiving the third highest vote will serve a two year term;

### **15.8 Casual vacancy of Director**

Any casual vacancy occurring in the office of Director during a Director's term of office will be filled by an appointment of a Director made by the Board. The term of office in this instance will be up until the next Annual General Meeting when an election will take place either to fill the remaining term of office or for a new term of office.

### **15.9 Remuneration of Directors**

- (a) Clause 4.2 does not prohibit an honorarium for Directors in their capacity as Directors. However, such honorarium must be approved by the Council in the first instance, and then annually.

### **15.10 Board meetings**

- (a) Board meetings may be held at such time and place as the Directors may from time to time determine.
- (b) Despite Clause 15.11(b), Directors resident in excess of 100 kilometres from the venue designated for meetings, must attend in person a minimum of half of all scheduled meetings.

### **15.11 Quorum**

- (a) The Directors may meet together for the dispatch of business, adjourn or otherwise regulate their meetings and proceedings as they think fit. The quorum necessary for the transaction of business will not be less than five Directors eligible to vote.
- (b) The effective and instantaneous linking together by telephone, video conference facility or other electronic means of a sufficient number of the Directors to constitute a quorum constitutes a meeting of the Board.
- (c) Other than for the purposes of Clause 15.12, a Director who takes part in a meeting by any of the means specified in Clause 15.11(b) is taken to be present in person at the meeting.
- (d) If a failure in communications prevents Clause 15.11(b) from being satisfied by that number of Directors which constitutes a quorum, then the meeting must be suspended until Clause 15.11(b) is satisfied again. If clause 15.11(b) is not satisfied within 20 minutes from the time the meeting was interrupted, the meeting will be deemed to be terminated.
- (e) If the number of Directors in office at any time is not sufficient to constitute a quorum at a meeting of the Board, or is less than the minimum number of Directors fixed under this Constitution, the remaining Directors must act as soon as possible to:



- (1) increase the number of Directors to a number sufficient to constitute a quorum and to satisfy the minimum number of Directors required under this Constitution; and
- (2) convene a General Meeting of the Company for that purpose;

and until that has happened, may only act if, and to the extent that, there is an emergency requiring them to act.

#### **15.12 Directors entitled to vote**

Subject to Clause 15.11, all Directors are entitled to vote at the meetings of the Board, with the exception of the Chief Executive Officer.

#### **15.13 Interested Directors**

(a) A Director who has a material personal interest in a matter that is being considered at a Director's meeting must not:

- (1) be counted in the quorum of Directors while the matter is being considered at the meeting;
- (2) be present while the matter is being considered at the meeting; or
- (3) vote on the matter,

unless the Directors voting on the matter are satisfied that the interest should not so disqualify the Director.

(b) If a Director gains a personal interest in a contract or arrangement which the Company has already entered into, the Director must declare that interest in accordance with Clause 15.13 (c).

(c) A Director who is in any matter, whether directly or indirectly, interested in a matter in which the Company has an interest, or a proposed interest, must declare that interest at the first meeting of the Board after he or she becomes aware of the interest, by providing written notice which accurately states the nature and extent of the Director's interest, whether that interest is a relationship or association with a specified person, the holding of any office, or being a member, shareholder or partner of a specified firm, corporation or other entity, or the holding of any property or investment, whether directly or indirectly, which may create duties or interests in conflict with the duties or interests of that person as a Director of the Company.

(d) A Director may not execute any document as a Director of the Company if that document relates to a contract or arrangement in which the Director has an interest and which required disclosure in accordance with this Clause 15.13.

#### **15.14 Number of Directors below necessary quorum**

The continuing Directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by this Constitution as the necessary quorum of Directors, the continuing Directors will act for the purpose of increasing the number of Directors to that number, by summoning a General Meeting of the Company, but for no other purpose.

### **15.15 Acts done by disqualified Directors**

All acts done by any meeting of the Directors or of a committee of Directors, or by any person acting as a Director, will, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

### **15.16 Director deemed to have vacated office**

A Director will be deemed to have vacated the office of Director if the Director:

- (a) dies;
- (b) resigns office by notice in writing addressed to the Board;
- (c) becomes bankrupt or insolvent or makes any arrangements or composition with his or her creditors;
- (d) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
- (e) is absent from three consecutive meeting of the Board without leave of the Board;
- (f) becomes prohibited from being a director of a company by reason of any provision of the Act;
- (g) ceases to be a Member of the Company;
- (h) is directly or indirectly interested within the meaning of the Act in any contract with the Company or participated in any profits of any contract with the Company provided that a Director will not be deemed to have vacated office if the Director has declared the nature of the interest in the manner required by Clause 15.13(c) and sections 192 and 193 of the Act and the Board is satisfied that the interest should not disqualify the Director; or
- (i) is removed by resolution of the Company in a General Meeting.

### **15.17 Valid resolution**

No act or resolution of the Board will be invalidated by reason of the existence of any vacancy or vacancies among the Board.

### **15.18 Appointment of Appointed Director**

- (a) The Elected Directors may appoint up to two Appointed Directors.
- (b) An Appointed Director shall have specific skills in any of commerce, finance, marketing, law or business generally or such other skills which complement the Board composition, but need not have experience in or exposure to Netball.
- (c) An Appointed Director may be appointed by the Elected Directors in accordance with this Constitution for a term of up to two years, which shall commence and conclude at the discretion of the Board.

## **16 Proceedings for and at meetings of the Directors**

### **16.1 Notice of meeting**

- (a) Notice of a meeting of the Board must be given to each Director other than a Director who is on a leave of absence approved by the Board.
- (b) A notice of Board meeting:
  - (1) will specify the time and place of the meeting;
  - (2) will state the nature of the business to be transacted at the meeting;
  - (3) will be given at least 48 hours before the meeting where possible; and
  - (4) may be given in person or by post, telephone, fax or other electronic means.
- (c) The non-receipt of notice of a meeting of the Board by, or a failure to give notice of a meeting of the Board to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
  - (1) the non-receipt or failure occurred by accident or error;
  - (2) before or after the meeting, the Director:
    - (A) waived or waives notice of that meeting under Clause 16.1 (a); or
    - (B) has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, telephone, fax or other electronic means; or
  - (3) the Director attended the meeting.
- (d) Attendance by a Director at a meeting of the Board waives any objection which that Director may have had arising from a failure to give notice to him or her of the meeting.

### **16.2 Chairperson**

The Chairperson, or in their absence, the Deputy Chairperson must take the chair at all meetings of the Board and if at any meeting no one of such officers be present within thirty minutes after the time appointed for holding the same the Directors present must choose one of their number to be Chairperson of the meeting.

### **16.3 Questions decided by majority**

Questions arising at any meeting duly convened at which a quorum is present, will be decided by a majority of the votes of the Directors present. The Chair has a casting vote.

### **16.4 Special meeting**

Upon the written requisition of any four Directors, the Chairperson, or Deputy Chairperson, or in their absence, the Company Secretary must convene a special meeting of the Board to be held within fourteen days after the receipt of the requisition. The written requisition must set forth the objects for which the meeting is required.

## **16.5 Authorities, responsibilities and discretions**

A meeting of the Board for the time being at which a quorum is present will be competent to exercise all or any of the authorities, responsibilities and discretions by or under the rules of the Company for the time being vested in or exercisable by the Board generally.

## **16.6 Delegation**

The Board may delegate any of its responsibilities to committees consisting of such Directors as they think fit and may from time to time revoke such delegation. Any committee so formed must in the exercise of the responsibilities so delegated conform to any rules that may from time to time be imposed upon it by the Board. The meetings and proceedings of any such committee consisting of two or more Directors will be governed by this Constitution regarding regulation of the meetings and proceedings of the Board so far as those are applicable and are not superseded by any rule made by the Board under this clause.

## **16.7 Acts stand despite defect in appointment**

All acts done by any meeting of the Board or by a committee of the Board or by any person acting as a Director will, notwithstanding if it is afterwards discovered that there was some defect in the appointment of such Board or persons acting or that any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

## **16.8 Resolution in writing**

- (a) A resolution in writing signed by all the Directors will be as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted.
- (b) Two or more separate documents in identical terms, each of which is assented to by one or more Directors, are taken as constituting one document.

## **16.9 Minutes**

The Board will cause Minutes to be duly entered in books provided for the purpose of all resolutions and proceedings of the Company and of meetings of the Board and of committees and of all appointments of officers made by the Directors and such Minutes must be signed by the Chairperson of the meeting at the next ensuing meeting and upon same being signed will be receivable as prima facie evidence of the matters stated in such minutes.

# **17 Company Secretary**

## **17.1 Statutory Responsibilities**

The Company Secretary shall:

- (a) ensure that the Company complies with its statutory obligations under any relevant laws and regulation;
- (b) ensure that the Company maintains the required statutory records including membership registers, the requisite retention of documents and records and completion and lodgement of statutory forms/returns and reporting under relevant legislation and requirements;
- (c) ensure adherence with the Company's Constitution;

- (d) record and advise ASIC where necessary, declarations/conflicts of interest of Directors and have custody of the Common Seal and record usage; and
- (e) assist the Chairperson and Directors in the conduct of meetings and their directorial and governance obligations and responsibilities.

## **17.2 Minutes**

- (a) The Company Secretary must cause minutes of all meetings specified in Clause 14 to be promptly circulated to all or, where appropriate, relevant Directors for their information.
- (b) In complying with Clause 17.2(a) the Company Secretary may, with the consent of the Directors, delegate the role of drafting minutes of meetings to another person.

## **18 Chief Executive Officer**

### **18.1 Delegation of authority**

The Directors may, at their discretion, delegate to the Chief Executive Officer such of their authority as they are not expressly prohibited from delegating for such time and subject to such conditions, and restrictions as they may think expedient, and either collaterally with or to the exclusion of the authority of the Directors in that behalf, and may at any time revoke or vary any of such delegated powers.

### **18.2 Chief Executive Officer not subject to retirement by rotation**

The Chief Executive Officer will not be subject to retirement from the Board of Directors by rotation, nor will he or she be taken into account in determining the number of Directors to retire.

## **19 Panels and Tribunals**

### **19.1 Appointment**

- (a) The Board may from time to time appoint panels and tribunals to carry out such duties and functions and to exercise such responsibilities as the Board determines.
- (b) Such panels and tribunals may consist of Members and/or Directors of the Company and others who may be co-opted for the purpose to give advice.
- (c) The Board may disband a panel or tribunal as it sees fit.

### **19.2 Delegation of responsibilities**

The Board may at their discretion delegate to any panel or tribunal such of their responsibilities as they are not expressly prohibited from delegating for such time and subject to such conditions, and restrictions as they may think expedient, and either collaterally with or to the exclusion of the responsibilities of the Directors in that behalf, and may at any time revoke or vary any of such delegated powers.

### **19.3 Quorum for meetings**

The quorum for panel and tribunal meetings will be determined by the panel / tribunal, but will be no less than the majority of the total number of panel / tribunal members.

## **20 Seal**

### **20.1 Common seal**

- (a) The Board may procure a common Seal for the Company and if adopted, must provide for the safe custody of any Seal which must not be used except by the authority of the Board or and in the presence of one Director and the Company Secretary who must sign every instrument to which the Seal is affixed and every such instrument must be countersigned by one other Director or some other person appointed by the Board.
- (b) Nothing in this Clause 20 in any way limits the ability of the Company to execute documents in accordance with the Act.

### **20.2 Authentication of deeds and documents**

- (a) All deeds executed on behalf of the Company may so far as they are within the powers and authorities of the Board be in such form and contain such powers, provisos, conditions, covenants, clauses and agreements as the Board thinks fit.
- (b) All bills of exchange, promissory notes or other negotiable instruments will be accepted, made, drawn or endorsed for and on behalf of the Company and all cheques or orders for payment must be signed on behalf of the Company by such persons as may be appointed by the Board.
- (c) Cheques or other negotiable instruments paid to the Company's bankers for collection and requiring the endorsement of the Company may be endorsed on its behalf in such manner as the Board may from time to time direct. All moneys belonging to the company will be paid to such bankers or others as the Board will from time to time in writing or by resolution of the Board appoint and all receipts for money paid to the Company will be signed by such officers as the Board may appoint for that purpose and such receipt will be an effectual discharge for the money therein stated to be received.
- (d) All guarantees given at any time by the Company must be executed under the Seal of the Company or as otherwise permitted by the Act.

### **20.3 Document with common Seal binding on the Company**

Any instrument issued for valuable consideration and executed in accordance with the Act will be binding on the Company notwithstanding any irregularity touching the authority of the Board to issue it.

## **21 Accounts**

### **21.1 Accounts to be kept**

The Board must cause true accounts to be kept of the sums of money received and expended by the Company and the matters in respect of which such receipts and expenditure take place and of the assets, credits and liabilities of the Company, and of all sales and purchases of goods and services by the Company.

### **21.2 Accounts**

The accounts will be kept at the Office or at such other place or places as the Board thinks fit.

### **21.3 Balance sheet and income and expenditure account**

A balance-sheet and an income and expenditure account must be made out once at least in every calendar year at intervals of not more than fifteen months or since the preceding account and tabled at an Annual General Meeting, made up to a date not earlier than the date of the meeting at which they are tabled by more than six months. The balance-sheet must be accompanied by a report to the Members upon the general state of the Company's affairs and such other reports as may be required by the Act.

### **21.4 Service of accounts**

A copy of the accounts, balance-sheet and report must, twenty-one clear days previously to the meeting at which they are tabled, be served on every Director entitled to receive notices of General Meetings in the manner in which notices are directed to be served.

### **21.5 Accounts and books open to inspection**

The accounts of the Company must be open to the inspection of the members of the Board and Members upon request to the extent required by the Act.

### **21.6 Audit of accounts**

- (a) Once at least in every year the accounts of the Company must be examined and the correctness of the balance-sheet ascertained by a registered company Auditor.
- (b) The Company is only obliged to comply with the minimum requirements (if any) imposed on the Company by the Act in relation to the preparation of financial reports and the reporting of the financial affairs of the Company.

### **21.7 Auditor**

- (a) Auditors shall be appointed by Council at the Annual General Meeting each year and their duties regulated in accordance with the provision of the Act.

### **21.8 Maintenance of records**

The Company must retain its records for the period required by law.

## **22 Notices**

### **22.1 Service of Notice**

A Notice will be served by the Company upon any Member by:

- (a) delivering it to the Member personally;
- (b) sending it to the Member's fax or electronic address, if the Member has nominated one to the Company for receipt of Notices; or
- (c) posting by pre-paid post to the Member's registered place of address.

## **22.2 Address outside Australia**

Each such person whose registered place of address is not in the Commonwealth of Australia may from time to time notify in writing to the Company an address in the Commonwealth of Australia which will be deemed to be his or her registered place of address within the meaning of Clause 22.1.

## **22.3 Deemed day of service**

Any Notice will be deemed to have been served:

- (a) if personally delivered, at the time of delivery;
- (b) if faxed, when the Company receives a confirmation report that all pages of the fax have been transmitted to the Member's fax number, but if transmission or receipt is after 5.00pm, it is taken as received on the next Business Day;
- (c) if sent by electronic means, on the next Business Day; and
- (d) if posted, on the first Business Day following that on which the letter is sent and in providing such service it will be sufficient to prove that the letter was properly addressed and put into the post office. A certificate in writing signed by the Secretary or other officer of the Company that the letter, containing the Notice was so addressed and posted will be conclusive evidence.

## **22.4 Omission of Notice**

The accidental omission to give Notice of a meeting to, or the non-receipt of Notice of a meeting by, any Member will not invalidate the proceedings at any time.

## **22.5 Signature**

The signature to any Notice to be given by the Company may be written or printed.

## **22.6 Day of service**

Where a given number of days' Notice or Notice extending over any other period is required to be given the day of service will unless it is otherwise provided be counted in such number of days or other period.

# **23 Indemnity**

## **23.1 Indemnity**

- (a) This Clause 23 applies to any person who is, or has been, a Director, Secretary or other officer of the Company.
- (b) The Company must indemnify to the fullest extent permitted by law the persons referred to in Clause 23.1(a) (**Indemnified Persons**) against, and it will be the duty of the Directors out of the funds of the Company to pay all costs, losses and expenses including travelling expenses which any Indemnified Person may incur or become liable to by reason of any contract entered into or act or thing done by him or her in their capacity as an officer of the Company or in any way in the discharge of his or her duties and all such persons will also be



indemnified out of the funds of the Company against all liability incurred by him or her in defending any proceedings whether civil or criminal in which judgment is given in his or her favour or in which he or she is acquitted.

- (c) The indemnity granted is a continuing obligation and is enforceable by an Indemnified Person even though that person has ceased to be connected with, or hold a position in, the Company, but only operates to the extent that the cost, loss or liability is not covered by insurance.
- (d) The Company may, to the extent permitted by law:
  - (1) purchase and maintain insurance; or
  - (2) pay or agree to pay a premium for insurance,  
  
for any Indemnified Person against any liability insured by the Indemnified Person as an officer of the Company including a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.
- (e) Nothing in this Clause 23:
  - (1) affects any other right or remedy that an Indemnified Person may have in respect of any cost, loss or liability referred to in this Clause 23; or
  - (2) limits the capacity of the Company to indemnify or provide insurance for any Indemnified Person.

## **24 Confidentiality**

### **24.1 Maintain confidentiality**

All Directors and Members must maintain the confidentiality of Company Information and must not disclose any Company Information to any person except:

- (a) with the prior written consent of the Board;
- (b) to the Board, the Company's employees and the professional advisors of the Company;
- (c) if applicable, as required by law, after first consulting the Board about the form and content of the disclosure; and
- (d) to Netball Australia but only to the extent those disclosures are required by policies agreed between the Company and Netball Australia from time to time.

## **25 Application of the Act**

### **25.1 Special meanings in the Act apply**

An expression used in a particular part or division of the Act that is given by that part or division a special meaning for the purposes of that part or division has, in any of part this Constitution that deals with a matter dealt with by that part or division, the same meaning as in that part or division, unless the contrary intention appears in this Constitution.

## **25.2 Replaceable clauses displaced**

- (a) The provisions of this Constitution displace each provision of a section of the Act that applies (or would apply but for this Clause 25.2) to the Company.
- (b) The replaceable clauses do not apply to the Company except those which operate as mandatory rules for companies of the same type as the Company under the Act.