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NETBALL AUSTRALIA LIMITED

CONSTITUTION

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CORPORATIONS ACT (2001) (CTH)
CONSTITUTION
OF
NETBALL AUSTRALIA LIMITED ACN 003 142 818

PART I – OBJECTS, POWERS AND INTERPRETATION

1. NAME OF COMPANY

The name of the Company is Netball Australia Limited.

2. OBJECTS OF COMPANY

The Company is the peak body for the administration of Netball in Australia. The objects for which the Company is established and maintained are to:

- a) create a uniform entity through and by which Netball in Australia can be encouraged, conducted, promoted and administered and to be the governing body of netball in Australia;
- b) promote and encourage international Netball and the conduct of international competition as an affiliated member of the International Netball Federation Limited;
- c) adopt and accept the playing rules of the International Netball Federation Limited and abide by the interpretation of such rules as determined from time to time by the Company;
- d) act for its Members in all matters pertaining to Netball;
- e) control, manage and conduct Netball competitions at a national level;
- f) select and manage Netball teams to represent Australia in international matches inside and outside Australia;
- g) encourage, conduct, promote, and administer Netball throughout Australia, through and by the Member Organisations for the mutual and collective benefit of Members and Netball;
- h) act in good faith and loyalty to ensure the maintenance and enhancement of the Company and Netball, its standards, quality and reputation for the collective and mutual benefit of the Members and Netball;
- i) Create and promote mutual confidence and trust between the Company and the Members in pursuit of these objects;
- j) at all times to act on behalf of, and in the interests of, the Members and Netball;
- k) promote the economic and sporting success, strength and stability of the Company and each Member Organisation;
- l) affiliate and otherwise liaise with the International Netball Federation Limited and such other bodies as may be desirable, in the pursuit of these objects;
- m) apply the property and capacity of the Company towards the fulfilment and achievement of these objects;

- n) use and protect the Intellectual Property;
- o) strive for and maintain government, commercial and public recognition of the Company as the authority for Netball in Australia;
- p) where practical, promote and secure uniformity in such rules and standards as may be necessary for the management of Netball Nationally and Internationally, Netball competitions and related activities, including but not limited to the rules of the game and coaching standards;
- q) pursue through itself or others, such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the objects of the Company;
- r) promote the health and safety of athletes, officials and other individuals participating in Netball in any capacity;
- s) act as final arbiter on all matters pertaining to the conduct of Netball in Australia, including disciplinary matters;
- t) establish and conduct education and training programs for players, coaches, umpires and officials in the implementation and interpretation of Netball rules and standards;
- u) formulate and implement appropriate policies to better regulate for members and netball
- v) represent the interests of the Members and of Netball generally in any appropriate forum;
- w) promote performance-enhancing drug free competition;
- x) encourage appropriate recognition for those whose efforts in connection with Netball merit such recognition;
- y) undertake and/or do all things or activities which are necessary, incidental or conducive to the advancement of these objects.

3. POWERS OF COMPANY

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

4. DEFINITIONS AND INTERPRETATION

4.1 Definitions

In this Constitution unless the contrary intention appears, these words shall have the following meanings:

“Act” means the Corporations Act 2001 (Cth).

“Affiliate” means a region, district, association or club, howsoever described, whether incorporated, unincorporated or otherwise, which is a member of a Member Organisation.

“Appointed Director” means a person appointed under **Rule 26**.

“Board” means the body consisting of the Directors under **Rule 24**.

“By-Law” means any by-law, regulation or policy made by the Board under **Rule 35**.

“Casual Vacancy” means a vacancy arising in accordance with **Rule 27.2**.

“Chair” means the person elected to that position under **Rule 24.2**.

“Chief Executive Officer” means the person who is appointed under **Rule 30**.

“Company” means Netball Australia Limited.

“Constitution” means this constitution of the Company as amended from time to time.

“Delegate” means the persons elected or appointed from time to time by a Member Organisation to act for and on behalf of that Member Organisation and represent the Member Organisation at Meetings or otherwise.

“Director” means an Appointed Director or an Elected Director.

“Elected Director” means a Director elected under **Rule 25**.

“Financial Year” means the year commencing 1 January and ending 31 December in any year.

“Full Term” means a three year term in the case of an Elected Director or in the case of an Appointed Director, the term for which they were appointed at the relevant time (whether or not either such term is served in full).

“Individual Member” means a registered financial individual member of a Member Organisation or Affiliate (as the case may be).

“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 unregistered) relating to the Company or any event, competition or activity of or conducted, promoted or administered by the Company.

“Matter of Importance” means a matter which the Company or any Member Organisation considers would have an adverse or prejudicial impact upon the Company or a Member Organisation.

“Meeting” means the annual general meeting (Annual General Meeting) or any special general meeting (Special General Meeting) of the Company.

“Member” means a member for the time being of the Company under **Part III** of this Constitution.

“Member Organisation” means an entity recognised under **Rule 5.1** to administer Netball in its particular State or Territory.

“Netball” means the sport and game of netball as determined by the International Netball Federation Limited with such variations as may be recognised by the Company from time to time.

“Objects” means the objects of the Company as set out in **Rule 2**.

“President” means the president of the Company, who is an Elected Director elected under **Rule 25**.

“Service Award Holder” means an individual upon whom service award membership of the Company has been conferred in accordance with the procedure set out in the By-Laws.

“Special Business” includes business of which a Notice of Motion has been submitted in accordance with **Rule 19**.

“Special Resolution” means the same meaning as in the Act.

“State” means a State of Australia and includes any Territory of Australia.

“State Acts” means the incorporation legislation (by whatever name called) governing the Member Organisations, including the Act (if applicable).

4.2 Interpretation

In this Constitution:

- a) a reference to a function includes a reference to a power, authority and duty;
- b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- c) words importing the singular include the plural and vice versa;
- d) words importing any gender include the other genders;
- e) words or expressions shall be interpreted in accordance with the provisions of the Act as they vary from time to time;
- f) references to persons include corporations and bodies politic;
- g) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- h) a reference to a statute or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction);
- i) references to notices in this Constitution include not only formal notices of meetings but also all documents and other communications from the Company to its Members; and
- j) a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

4.3 Severance

If any provision of this Constitution or any phrase contained in them is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, to the extent necessary, so as to be valid and enforceable. If the rule or phrase cannot be so read down it shall be severed to the extent of the invalidity or unenforceability. Such severance shall not affect the remaining provisions of this Constitution or affect the validity or enforceability of any provision in any other jurisdiction.

4.4 Replaceable Rules

The replaceable rules referred to in the Act are displaced by this Constitution and do not apply except insofar as they are repeated in this Constitution.

PART II – MEMBER ORGANISATIONS

5. MEMBER ORGANISATIONS

5.1 Recognition of Member Organisations

The entity which is the only official representative of, and controlling authority for, Netball in a State shall be recognised as a Member Organisation and shall administer Netball in that particular State in accordance with the Objects. The Member Organisations are:

Australian Capital Territory Netball Association Inc
 New South Wales Netball Association Limited
 Northern Territory Netball Association Inc
 Queensland Netball Association Inc
 South Australian Netball Association Inc
 Tasmanian Netball Association Inc
 Victorian Netball Association Inc
 WA Netball Inc

5.2 Responsibilities of Member Organisations

Each Member Organisation must:

- a) be incorporated in its particular State;
- b) elect or appoint two Delegates to represent it at Meetings and other relevant meetings in accordance with this Constitution;
- c) provide the Company with copies of its annual financial statements, annual report and associated documents as presented to its members within 30 days of its annual general meeting;
- d) apply its property and capacity solely in pursuit of the Objects, the Member Organisation and Netball;
- e) do all that is reasonably necessary to enable the Objects to be achieved by the Company;
- f) act in good faith and loyalty to ensure the maintenance and enhancement of the Company and Netball, its standards, quality and reputation for the collective and mutual benefit of the Members and Netball;
- g) at all times operate with, and promote, mutual trust and confidence between the Company and the Members in pursuit of the Objects; and
- h) at all times act on behalf of and in the interests of the Members and Netball.

5.3 Operation of Rules

The Company and the Member Organisations agree:

- a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the Objects and Netball are to be conducted, encouraged, promoted and administered in Australia;

- b) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of Netball, its standards, quality and reputation for the collective and mutual benefit of the Members and Netball;
- c) not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Netball, and its maintenance and enhancement;
- d) to make full and proper disclosure to each other of all Matters of Importance to the Company and Netball;
- e) to promote the economic and sporting success, strength and stability of each other and to act interdependently with each other in pursuit of the Objects; and
- f) to act for and on behalf of the interests of Netball, the Company and the Members.

6. MEMBER ORGANISATION CONSTITUTIONS

The constituent documents of each Member Organisation shall reflect the Objects, having regard to the State Act applicable to each Member Organisation.

PART III – MEMBERSHIP

7. MEMBERS

7.1 Category of Members

The Members of the Company shall consist of:

- a) the Member Organisations, which subject to this Constitution, shall be represented by their Delegates who shall have the right to attend, debate and vote at Meetings for and on behalf of the Member Organisations;
- b) the Affiliates, which subject to this Constitution, may be represented by a Delegate who shall have the right to attend but not debate or vote at Meetings for and on behalf of the Affiliate;
- c) Individual Members, who subject to this Constitution, have no right to attend, debate or vote at Meetings;
- d) Service Award Holders, who subject to this Constitution, may attend and debate, but not vote at, Meetings;
- e) such new categories of Members, created in accordance with **Rule 7.2**.

7.2 Creation of New Categories

Subject to the Act, the Company in Meeting has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined applicable (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership may be granted voting rights.

7.3 Service Award Holders

Conditions, obligations and privileges of Service Award Holders shall be as prescribed in the Awards Policy.

8. AFFILIATES AND INDIVIDUAL MEMBERS

8.1 Deeming Provisions

- a) All regions, districts, affiliated associations and affiliated clubs (howsoever described) of Member Organisations prior to the time of approval of this Constitution under the Act, shall be deemed Affiliates from the time of approval of this Constitution under the Act, and will be entitled to such benefits as are conferred on them by the Company, whether directly or indirectly.
- b) All persons who were individual members (howsoever described) of a Member Organisation or Affiliate prior to the time of approval of this Constitution under the Act, shall be deemed Individual Members from the time of approval of this Constitution under the Act, and will be entitled to such benefits as are conferred on them by the Company, whether directly or indirectly.

8.2 Membership Renewal

In order to remain Members, Affiliates and Individual Members each must:

- a) renew their membership with their respective Member Organisation annually;
- b) otherwise remain registered financial members of their Member Organisation in accordance with the procedures applicable from time to time; and
- c) must pay the annual fees prescribed by the Company from time to time (if any) to the Company through their respective Member Organisation.

9. SUBSCRIPTIONS AND FEES

9.1 Determination of Subscription and Fees

The annual membership subscription (if any), fees and any levies payable by Members (or any category of members) to the Company, the basis of, the time for and manner of payment shall be as approved by the Company in Meeting.

9.2 Consequences of Non Payment

Any Member which or who has not paid all monies due and payable by that Member to the Company shall (subject to the Board's discretion) have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Any suspension shall continue until the Member is reinstated by the Board.

10. REGISTER OF MEMBERS

10.1 Chief Executive Officer to Keep Register

The Chief Executive Officer shall ensure that a national register of Members is kept and maintained, in which shall be entered such information as is required under the Act from time to time.

10.2 Member Organisation Registers

Each Member Organisation shall maintain, in a form and with such details as are acceptable to the Company, a State register of all Affiliates and Individual Members in its State. Each Member Organisation shall provide a copy of the register at a time and in a form acceptable to the Company, and shall provide prompt and regular updates of that register to the Company when requested. The use of Registers shall be governed by separate contracts between Netball Australia and the Member Organisations.

10.3 Inspection of National Register

Having regard to confidentiality considerations, an extract of the national register, excluding the address of any Delegate, Service Award Holder, Individual Member or Director shall be available for inspection (but not copying) by Member Organisations, upon reasonable request.

11. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

- a) this Constitution constitutes a contract between each of them and the Company and that they are bound by this Constitution and the By-Laws;
- b) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board;
- c) this Constitution and By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of Netball ;

12. DISCONTINUANCE OF MEMBERSHIP

12.1 Notice of Resignation

- a) Subject to this Constitution any Member which/who has paid all monies due and payable to the Company and has no other liability (contingent or otherwise) to the Company may resign from the Company by giving three months' notice in writing to the Company of such intention to withdraw or resign and upon the expiration of that period of notice, the Member shall cease to be a Member.
- b) A Service Award Holder who has paid all monies due and payable to the Company may resign by notice in writing with immediate effect.
- c) Any Member ceasing to be a Member:
 - (i) will not be entitled to any refund (or part refund) of a subscription or any other monies due and payable to the Company; and
 - (ii) other than a member who or which has resigned under **Rule 12.1(a)** will remain liable for and will pay to the Company all subscriptions and moneys which were due at the date of ceasing to be a Member.

12.2 Expiration of Notice Period

Subject to **Rule 12.6** upon the expiration of any notice period applicable under **Rule 12.1** an entry, recording the date on which the Member who or which gave notice ceased to be a Member shall be recorded in the register.

12.3 Other reasons for cessation of membership

- (a) In addition to **Rule 12.1**, a Member will cease to be a Member:
- (i) if their subscription lapses;
 - (ii) if that Member's status or conduct in the Board's opinion renders it undesirable that that Member continue to be a Member in accordance with **Rule 13** (and the Board has the right to expel that Member in accordance with the By-Laws);
 - (iii) where the Member is an individual, if the Member:
 - (A) dies;
 - (B) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
 - (C) is an undischarged bankrupt, or has executed a deed of arrangement under Part X of the *Bankruptcy Act 1966* (or a similar law of another country) and the terms of the deed have not been fully complied with, or the person's creditors have accepted a composition under Part X of the *Bankruptcy Act 1966* (or a similar law of another country) and final payment has not been made under the composition; or
 - (D) is convicted of an indictable offence;
 - (iv) where the Member is an organisation, if:
 - (A) a liquidator, administrator or receiver is appointed in connection with the winding up of the Member;
 - (B) the Member suffers any form of insolvency event; or
 - (C) an order is made by a Court for the winding up or deregistration of the Member.

12.4 Forfeiture of Rights

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon the Company and its property including Intellectual Property. Any Company documents, records or other property in the possession, custody or control of that Member shall be returned to the Company immediately.

12.5 Membership may be Reinstated

Membership may be reinstated at the discretion of the Board, on application by the relevant member in accordance with this Constitution and otherwise on such conditions as it sees fit.

12.6 Cessation of Membership

Where a Member Organisation ceases to be a Member in accordance with this Constitution or the Act, the continuing membership of Affiliates and Individual Members of that Member Organisation shall be determined at the sole discretion of the Board.

13. DISCIPLINE OF MEMBERS

13.1 Disciplinary Action

Where the Board is advised or considers if a Member has allegedly:

- a) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any resolution or determination of the Board;
- b) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Company and/or Netball; or
- c) brought the Company or Netball into disrepute,

the Board may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms (if any) of the Company set out in the By-Laws.

13.2 Member Organisation Disciplinary Rules

This **Rule 13** does not affect or displace a Member Organisation's disciplinary rules. For the avoidance of doubt, any disciplinary matter should first be dealt with at Member Organisation level under the relevant Member Organisation rules. The Company may choose to not accept an appeal or other matter under this rule where it considers it has been properly addressed by a Member Organisation.

13.3 Non Application of Rule 13

This **Rule 13** does not apply to any incident or matter to which the member protection regulation of the Company applies. Any member protection related matter should be dealt with in accordance with the member protection regulation of the Company

PART IV - MEETINGS

14. DELEGATES

- a) Each Member Organisation shall appoint two Delegates (by written notice to the Secretary of the Company), each of whom shall be a voting Delegate. A Delegate must:
 - (i) be appropriately empowered by the appointing Member Organisation to consider, make decisions and vote at Meetings; and
 - (ii) not be a Director.
- b) A Delegate is entitled to:
 - (i) exercise at a Meeting all the powers which the corporation or organisation which appointed them could exercise if it were a natural person; and
 - (ii) be counted towards a quorum on the basis that the Member Organisation is to be considered personally present at a Meeting by its Delegates.

15. MEETINGS

15.1 Annual General Meeting

- a) An Annual General Meeting of the Company shall be held in accordance with the provisions of the Act and this Constitution and on a date and at a venue to be determined by the Board.
- b) Where, but for this Rule, more than 15 months would elapse between Annual General Meetings, the Board shall convene an Annual General Meeting before the expiration of that period.

15.2 Special General Meetings

- a) The Board may, whenever it thinks fit, convene a Special General Meeting of the Company. Any Special General Meeting shall be held in accordance with this Constitution.
- b) The Board shall, on the requisition in writing from at least three of the Member Organisations, convene a Special General Meeting.
- c) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Member Organisations making the requisition and be sent to the Company. The requisition may consist of several documents in a like form, each signed by one or more of the Member Organisations making the requisition.
- d) If the Board does not cause a Special General Meeting to be held within sixty days after the date on which the requisition is sent to the Company, the Member Organisations making the requisition, or any of them, may convene a Special General Meeting to be held not later than three months after that date.
- e) A Special General Meeting convened by Member Organisations under this Constitution shall be convened in the same manner, or as nearly as possible, as that in which meetings are convened by the Board.

16. NOTICE OF MEETING

16.1 Notice of Meetings

- a) Notice of every Meeting shall be given to Member Organisations (being the only voting Members of the Company) at the address appearing in the register kept by the Company. No other person shall be entitled as of right to receive notices of Meetings.
- b) Notice of Meetings shall be given at least 60 days prior to the Meeting and shall specify the place and day and hour of the Meeting.
- c) The agenda for the Meeting stating the business to be transacted at the Meeting shall be given at least 30 days prior to the Meeting, together with any Notice of Motion received from Member Organisations in accordance with **Rule 18**.
- d) Subject to the terms of **Rule 17**, observers are permitted to attend any Meeting as approved by the Board.

17. ENTITLEMENT TO ATTEND MEETING

No Member shall be represented at, or take part in a Meeting, unless all monies (set in accordance with **Rule 9**) then due and payable to the Company are paid. This rule does not apply where the monies alleged due and payable are the subject of a legitimate dispute or investigation.

18. BUSINESS

18.1 Business of Meetings

- a) The business to be transacted at the Annual General Meeting includes:
 - (i) consideration of financial reports;
 - (ii) consideration of the annual report of the Board, ;
 - (iii) confirmation or appointment of auditors; and
 - (iv) determine the remuneration of Directors in accordance with **Rule 31**; and
 - (v) election of Directors in accordance with **Rule 25**.
- b) All business that is transacted at a Special General Meeting, and also all that is transacted at the Annual General Meeting, with the exception of those matters set out in **Rule 18.1a**) shall be considered Special Business.

18.2 Business Transacted

No business other than that stated on the notice shall be transacted at that meeting.

19. NOTICES OF MOTION

A Member Organisation may submit a Notice of Motion in accordance with the Act. All Notices of Motion for inclusion as special business at a Meeting must be submitted in writing to the Chief Executive Officer not less than 45 days (excluding receiving date and meeting date) prior to the Meeting.

20. PROCEEDINGS AT MEETINGS

20.1 Quorum

No business shall be transacted at any Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for Meetings of the Company shall be a simple majority of the Member Organisations (where for the purposes of determining if a quorum is present, only one Delegate from each Member Organisation is to be counted).

20.2 President to Preside

The President shall, subject to this Constitution, preside as the Chair at every Meeting of the Company. If the President is not present, or is unwilling or unable to preside, the Directors shall choose one of their number present who shall, subject to this Constitution, preside as the chair (and have the rights of the Chair) for that meeting only.

20.3 Adjournment of Meeting

- a) If within half an hour from the time appointed for the Meeting a quorum is not present the meeting shall be adjourned to such other day and at such other time and place as the Chair may determine. If at the adjourned Meeting a quorum is not present within half an hour from the time appointed for the Meeting, the Meeting will lapse.

- b) The Chair may, with the consent of Delegates, at any Meeting at which a quorum is present, and shall, if so directed by the Meeting, adjourn the Meeting from time to time and from place to place but no business shall be transacted at any adjourned Meeting other than the business left unfinished at the Meeting from which the adjournment took place.
- c) When a Meeting is adjourned for 30 days or more, notice of the adjourned Meeting shall be given as in the case of an original Meeting.
- d) Except as provided in **Rule 20.3c**) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned Meeting.

20.4 Voting Procedure

Subject to **Rule 25.2**, at any Meeting a resolution put to the vote of the Meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- a) by the Chair; or
- b) by any Delegate.

20.5 Recording of Determinations

Unless a poll is demanded under **Rule 20.4**, a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

20.6 Where Poll Demanded

If a poll is duly demanded under **Rule 20.4**, it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the result of the poll shall be the resolution of the Meeting at which the poll was demanded.

20.7 Resolutions at Meetings

Except where a Special Resolution is required, all questions at Meetings shall be determined by the majority of votes (as set out in **Rule 21**). Except as otherwise provided in this Constitution, in the case of an equality of votes on a question at a Meeting, the Chair is not entitled to a casting vote and the motion will be deemed lost.

20.8 Minutes

The Chief Executive Officer shall ensure that minutes of the resolutions and proceedings of each Meeting are kept in books provided for that purpose, together with a record of the names of persons present at all meetings.

21. VOTING AT MEETINGS

- a) Each Member Organisation shall, subject to this Constitution, be entitled to two votes at Meetings. No other Member shall be entitled to vote, but shall subject to this Constitution have, and be entitled to exercise, those rights set out in **Rule 7.1**.

- (b) An objection to a person's right to vote at a Meeting:
 - (i) may only be raised at a Meeting or adjourned Meeting at which the vote objected to is given or tendered; and
 - (ii) must be determined by the Chair of the Meeting, whose decision is final.
- (c) A vote not disallowed under an objection referred to in **Rule 21(b)** is valid for all purposes.
- (d) If any vote is counted which ought not to have been counted or might have been rejected, the error will not invalidate the resolution unless the error is:
 - (i) detected at the same meeting; and
 - (ii) of sufficient magnitude, in the opinion of the Chair as to invalidate the resolution.

22. PROXY AND POSTAL VOTING

22.1 Proxy Voting

Proxy voting may be permitted at Meetings in such circumstances as are defined in the By-Laws.

22.2 Postal Ballot

Should an issue arise between Meetings which requires a decision or ratification by Member Organisations the Board may call a postal vote in such manner as it considers necessary.

22A. CIRCULAR RESOLUTIONS

- (a) A resolution may be passed without a Meeting being held if all the Member Organisations entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. A Delegate may sign such a circular resolution.
- (b) Identical copies of the document may be distributed for signing by different Member Organisations and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Delegate signs the document, and satisfies any requirement in this Constitution or the Act that the resolution be passed at a Meeting.

22B. USE OF TECHNOLOGY

The Company may hold a meeting at two or more venues using any technology that gives Member Organisations a reasonable opportunity to participate.

PART V - THE BOARD

23. POWERS OF THE BOARD

Subject to the Act and this Constitution, the business of the Company shall be managed, and the powers of the Company shall be exercised, by the Board.

24. COMPOSITION OF THE BOARD

24.1 Board Composition

The Board shall comprise:

- a) the President (a Director) elected by the Member Organisations in accordance with **Rule 25**;
- b) Five other Elected Directors elected by the Member Organisations in accordance with **Rule 25**;
- c) Up to two appointed Directors who may be appointed in accordance with **Rule 26**.

24.2 Chair of Board

- a) The position of Chair of the Board shall be appointed by the Board from amongst the Directors as soon as practicable after each Annual General Meeting.
- b) The appointee will hold the position until the conclusion of the next Annual General Meeting following their appointment. A Director may be re-appointed as Chair.
- c) If no Director is appointed as chair under this Rule, the President shall be deemed to be the chair of the Board.

25. ELECTED DIRECTORS

25.1 Qualifications for Elected Directors

- a) Nominees for Elected Director positions on the Board must meet the qualifications as prescribed from time to time by the Board and set out in the By-Laws.
- b) An employee of a Member Organisation and/or of the Company cannot also be a Director.
- c) An Elected Director, who is a member of a Member Organisations Board, and/or executive, must resign that position immediately should they be elected to the Board.
- d) Nominees for an Elected Director position must be an Individual Member of the Company at the time of nomination.

25.2 Elections of Elected Directors

- a) The Chief Executive Officer shall call for nominations 60 days before the date of the Annual General Meeting. All Member Organisations shall be notified of the call for nominations.
- b) Nominations for Elected Directors must be:
 - (i) in writing addressing the criteria as outlined on the prescribed form provided for that purpose; and
 - (ii) accompanied by a duly signed "consent to act as Director" form.
- c) Nominations must be received by the Chief Executive Officer at least 45 days prior to the Annual General Meeting.
- d) 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 the majority of the Member Organisations by secret ballot. If the nominees are not elected or if there are vacancies to be

filled, the position will be deemed to be a Casual Vacancy and filled by the Board in accordance with **Rule 27.2**.

- e) If the number of nominations exceeds the number of vacancies to be filled, a secret ballot shall be taken. The voting shall be conducted by the preferential method as set out in the By-Laws.

25.3 Term of Appointment

Elected Directors shall be elected in accordance with this Constitution for a term of three years, which shall commence from the conclusion of the Annual General Meeting at which the election occurred and end at the conclusion of the Annual General Meeting in the third year of such term.

25.4 Ineligibility for Election or Appointment

No person who has been elected as an Elected Director or appointed as an Appointed Director for three consecutive Full Terms shall be eligible for election or appointment as a Director until the next Annual General Meeting following the date of conclusion of their most recent term as a Director.

26. APPOINTED DIRECTOR

26.1 Appointment of Appointed Directors

The Elected Directors may appoint up to two Appointed Directors.

26.2 Qualifications for Appointed Director

The Appointed Directors shall have specific skills as determined by the Board to complement the Board composition. An Appointed Director does not need to be a Member of the Company.

26.3 Term of Appointment

Any Appointed Director may be appointed for a term of up to three years subject to an annual review, which shall commence and conclude at the discretion of the Board.

27. VACANCIES OF DIRECTORS

27.1 Termination of Director

In addition to the circumstances (if any) in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:

- a) dies;
- b) becomes bankrupt or makes any arrangement or composition with her or his creditors generally;
- c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- d) resigns her or his office in writing to the Company;
- e) is disqualified in accordance with **Rule 29.1**;
- f) holds any office of employment of the Company;
- g) without the prior consent or later ratification of the Members in General Meeting holds any office of profit under the Company; or

- h) has a direct or indirect material interest in any contract or proposed contract with the Company and fails to declare the nature of her or his interest.

27.2 Casual Vacancies

- a) Any Elected Director Casual Vacancy shall be filled by the Directors until the next Annual General Meeting of the Company. If the term of the Elected Director has not expired at that Annual General Meeting, the Member Organisations shall fill the vacancy by election for the remainder of the Directors' term.
- b) Any Appointed Director Casual Vacancy may be filled by the remaining Directors from among appropriately qualified persons, for the remainder of the Directors' term.

27.3 Remaining Directors May Act

In the event of a Casual Vacancy or vacancies in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

28. MEETINGS OF THE BOARD

28.1 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business and may adjourn and, subject to this Constitution otherwise regulate, its meetings as it thinks fit. The Chief Executive Officer shall, on the requisition of two Directors, convene a meeting of the Board within 30 days of receiving the requisition.

28.2 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and all questions so decided shall for all purposes be deemed a determination of the Board. All Directors shall have one vote on any question. The Chair shall also have a casting vote where voting is equal.

28.3 Resolutions not in Meeting

- a) Subject to all Directors receiving notice of the proposed resolution, a resolution in writing, signed or assented to by facsimile, electronic mail or other form of visible or other electronic communication by the majority of the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Directors.
- b) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of the Board may be held where any Director, although not physically present at the meeting, is deemed to be present for all relevant purposes, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or determined from time to time by the Board ;
 - (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are

present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held, then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated whereupon the provisions in respect of a quorum for Meetings shall apply to the extent applicable to meetings of the Board;

- (iv) any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the Chair is located.

28.4 Quorum

At meetings of the Board the number of Directors whose presence (or participation under **Rule 28.3**) is required to constitute a quorum is a simple majority of the Directors.

28.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than seven days' oral or written notice of the meeting of the Board shall be given to each Director by the Chief Executive Officer. The agenda shall be forwarded to each Director not less than three days prior to such meeting.

28.6 Validity of Board Decisions

A procedural defect in decisions taken by the Board shall not result in such decision being invalidated.

28.7 Chair of Board meeting

The Chair appointed under **Rule 24.2** shall preside as Chair at every meeting of the Board. If the Chair is not present, or is unwilling or unable to preside, the Directors shall choose one of their number to preside as Chair for that meeting only.

29. CONFLICTS

29.1 Directors' Interests

A Director may not:

- a) In any circumstance hold any place of profit or position of employment in the Company, any Member Organisation or in any company or incorporated association in which the Company is a shareholder or otherwise interested; or
- b) Without the express approval by resolution of the Board, contract with the Company in any capacity. Any such contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested will be voided for such reason.

If a Director acts contrary to this **Rule 29.1** she or he will be disqualified from office and cease being a Director.

29.2 Conflict of Interest

A Director shall declare her or his interest in any:

- a) contractual matter;

- b) selection matter;
- c) disciplinary matter;
- d) other financial matter; or
- e) representative interests

in which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent herself or himself from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Director votes, the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a Director to absent herself or himself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

29.3 Disclosure of Interests

The nature of the interest of such Director must be declared by the Director at the meeting of the Board at which the contract or other matter is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a contract or other matter after it is made or entered into, the declaration of the interest must be made at the first meeting of the Board held after the Director becomes so interested.

29.4 General Disclosure

A general notice (**General Notice**) that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **Rule 29.3** as regards such Director and the said transactions. After such General Notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

Any notice shall be made in person at a meeting or in writing.

29.5 Recording Disclosures

The Chief Executive Officer shall ensure that the minutes record any declaration made or any General Notice given by a Director in accordance with **Rule 29.3** and **Rule 29.4**.

30. CHIEF EXECUTIVE OFFICER

30.1 Appointment of Chief Executive Officer

The Chief Executive Officer shall be appointed by the Board for such term and on such conditions as it thinks fit. The Chief Executive Officer shall not be a Director but shall be entitled to attend and participate in debate at all meetings of the Board.

30.2 Broad Power to Manage

Subject to the Act, this Constitution, the By-Laws and any directive of the Board, the Chief Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of the Company.

31. REMUNERATION OF DIRECTORS

No payment will be made to any Director of the Company other than payment:

- a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company (including travel expenses incurred in attending Board Meetings, Meetings and other business of the Company) and where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;
- c) relating to an indemnity in favour of the Director and permitted by the relevant section of the Act or a contract of insurance permitted by the relevant section of the Act; or
- d) otherwise as approved by the Company in Meeting.

32. SECRETARY**32.1 Appointment, Removal & Powers**

One or more secretaries shall be appointed by the Board for such term, at such remuneration, and upon such conditions as it thinks fit. Any secretary so appointed may be removed by the Board.

PART VI - MISCELLANEOUS**33. STRATEGIC FORUM OF ASSOCIATION****33.1 Strategic Forums**

The Company shall hold a strategic forum of the Company at least twice per year which is to meet to:

- a) inform the Board of significant membership issues;
- b) assist the Board to design or review the organisation's strategic direction;
- c) discuss nationwide issues;
- d) provide feedback to the Board on the results of its governance decisions in practice at the member level.

33.2 Attendees at Strategic Forums

The following persons shall be invited to attend the strategic forums of the Company:

- a) two representatives from each Member Organisation;
- b) the Directors; and
- c) such other persons the Board considers should be invited.

34. DELEGATIONS

34.1 Delegation of Functions to Committees

The Board may by instrument in writing create or establish or appoint from among its own members, the Members, or otherwise, committees to carry out such duties and functions, and with such powers, as the Board determines.

34.2 Delegation by Instrument

The Board may in the establishing instrument delegate such functions as are specified in the instrument, other than:

- a) this power of delegation; and
- b) a function imposed on the Board by the Act or any other law, or this Constitution.

34.3 Delegated Function Exercised in Accordance With Terms

A function, the exercise of which has been delegated under this Rule, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

34.4 Procedure of Delegated Entity

- a) The procedures for any committee established shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **Rule 28**. The quorum shall be determined by the committee, but shall be no less than the majority of the total number of committee members.
- b) Within 14 days after any meeting of any committee, the committee shall send a copy of the minutes and any supporting documents to the Chief Executive Officer.

34.5 Delegation may be Conditional

A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

34.6 Revocation of Delegation

The Board may by instrument in writing, revoke wholly or in part any delegation and may amend, repeal or veto any decision made by such committee where such decision is contrary to the Act, this Constitution, the By-Laws, or the terms of the committee's delegation.

35. BY-LAWS

35.1 Board to Formulate By-Laws

The Board may formulate, approve, issue, adopt, interpret and amend such By-Laws, regulations and policies for the proper advancement, management and administration of the Company, the advancement of the Objects and Netball as it thinks necessary or desirable. Such By-Laws must be consistent with this Constitution and may be amended or repealed by the Company in Meeting.

35.2 By-Laws Binding

All By-Laws made under this Rule shall be binding on the Company and Members unless amended or repealed by Special Resolution of the Members in Meeting.

35.3 Notices Binding on Members

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Member Organisations by means of notices approved by the Board and prepared and issued by the Chief Executive Officer. Member Organisations shall be obliged to draw such notices to the attention of their respective Members.

36. APPLICATION OF INCOME**36.1 Income and Property Applied to Objects**

- a) The income and property of the Company shall be applied solely towards the promotion of the Objects.
- b) No portion of the income or property of the Company shall be paid or transferred, directly or indirectly by way of dividend, bonus, gift, bequest, donation or otherwise to any Member, but this shall not preclude payment to a Member in good faith for expenses incurred or services rendered.

37. RECORDS AND ACCOUNTS**37.1 Chief Executive Officer**

The Chief Executive Officer shall ensure that proper records and minutes concerning all transactions, business, meetings and dealings of the Company and the Board are established and maintained and shall produce these as appropriate at each Board meeting or Meeting.

37.2 Records Kept in Accordance with Act

Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct. The books of account shall be kept in the care and control of the Chief Executive Officer.

37.3 Company to Retain Records

The Company shall retain such records for seven years after the completion of the transactions or operations to which they relate.

37.4 Board to Present Financial Reports

The Board shall present to the Annual General Meeting the financial reports of the Company in accordance with the Act.

37.5 Negotiable Instruments

All cheques and other negotiable instruments, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by two persons appointed in writing by the Board.

38. AUDITOR

A properly qualified auditor or auditors shall be appointed at the Annual General Meeting. The auditor's duties shall be regulated in accordance with the Act.

39. NOTICE**39.1 Manner of Notice**

- a) Notices may be given by the Company to any Member by sending the notice by post or facsimile transmission or where available, by electronic mail, to the Member's registered address, facsimile number or electronic mail address.
- b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected two days after posting.
- c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

40. COMMON SEAL**40.1 Safe Custody of Common Seal**

The Chief Executive Officer shall provide for safe custody of the common seal.

40.2 Affixing Common Seal

The common seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by two Directors.

40.3 Director's Interest

A Director may not sign a document to which the seal of the Company is affixed where the Director is interested in the contract or arrangement to which the document relates.

41. ALTERATION OF CONSTITUTION

This Constitution can only be altered by Special Resolution of the Members in General Meeting.

42. INDEMNITY**42.1 Directors to be Indemnified**

Every Director and employee of the Company shall, to the extent permitted by the Act, be indemnified to the extent permitted under the Act and to the extent provided under the directors and officers insurance policy of the Company (if any) against any liability incurred by her or him in her or his capacity as Director or employee in defending any proceedings, whether civil or criminal, in which judgement is given in her or his favour or in which she or he is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to her or him by the Court.

42.2 Company to Indemnify

The Company shall indemnify its Directors and employees to the extent permitted under the Act and to the extent provided under the directors and officers insurance policy of the Company (if any)

against all damages and costs (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- a) in the case of a Director performed or made whilst acting on behalf of and with the authority, express or implied of the Company; and
- b) in the case of an employee, performed or made in the course of, and within the scope of her or his employment by the Company.

42.3 Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Act, and to the extent permitted by the Act, the Company may pay the premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

43. WINDING UP

43.1 Winding Up of the Company

Subject to this **Rule 43**, the Company may be wound up in accordance with the provisions of the Act.

43.2 Liability of Members

The liability of the Members of the Company is limited to the extent specified in **Rule 43.3**.

43.3 Members' Contributions

Every Member Organisation undertakes to contribute to the assets of the Company in the event of it being wound up while a Member, or within one year after ceasing to be a Member for payment of the debts and liabilities of the Company contracted before the time at which it ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding \$1.00.

43.4 Distribution of Property on Winding Up

If upon winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members of the Company but shall be given or transferred to somebody or bodies having objects similar to the Objects and which prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Company by this Constitution and which is also not carried on for profit and which is similarly exempt (or entitled to be exempt) from income tax. Such body or bodies to be determined by the Members of the Company at or before the time of dissolution, and in default thereof by any Court having competent jurisdiction. Notwithstanding anything to the contrary contained in this Constitution, if a Member Organisation falls within the category of bodies described in this Rule as having objects similar to the Objects, the fact of it being a Member shall not, of itself, disqualify it from any such distribution.