

Constitution

West Coast Fever Netball Club Limited

A Public Company Limited by Guarantee

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## Chapter 1 – Preliminary

### 1.1 Name of the Company

The name of the company is West Coast Fever Netball Club Limited (**Company**).

### 1.2 Definitions

In this Constitution, unless the context requires otherwise, the following words have the following meanings:

Accounting Period	means the period from the date of incorporation of the Company to the following 31 December and then each period of twelve months ending on 31 December in each year or any other period that the Board decides;
Advisory Committee	means a committee established and governed by Chapter 9;
Advisory Committee Rules	means the rules governing the proceedings and conduct of each Advisory Committee determined by the Board from time to time;
ASIC	means the Australian Securities and Investments Commission;
Auditor	means the auditor, if any, of the Company appointed under rule 12.1.2;
Bankrupt	means, in relation to a person, the state of being “insolvent under administration” as defined in the Corporations Act or having signed an authority under section 188 of the <i>Bankruptcy Act 1966</i> (Cth);
Board	means the board of directors of the Company from time to time;
Business Day	means a day on which the major trading banks are open for business in Perth, Western Australia, except a Saturday, Sunday or public holiday;
Company	means the company named in rule 1.1;
Company Objects	means the objects referred to in rule 2.1;
Conflict of Interest	means a material personal interest which arises when a personal interest, fiduciary or otherwise, conflicts with, has the potential to, or is perceived to, conflict with, a person’s duty as a member of either the Board or an Advisory Committee;
Constitution	means this constitution and any amendments or substitutions to it;
Corporations Act	means the <i>Corporations Act 2001</i> (Cth);

Director	means a person appointed as a director of the Company under Chapter 5;
Initial Chairperson	has the meaning given to it in rule 5.11.5(b);
Initial Directors	has the meaning given to it in rule 5.1(a);
Initial Secretary	has the meaning given to it in rule 6.1(c);
Insolvent	means, in relation to a corporation, the state of being “insolvent under Administration” as defined in the Corporations Act;
Member	means the entity admitted to membership of the Company under rule 4.1;
Member’s Register	means the list of Members of the Company maintained under rule 4.3;
Member Resolution	means a resolution passed by the Member;
Netball Australia	means Netball Australia Limited (ACN 003 142 818);
Netball WA	means Netball WA (Inc) (ABN 36 657 982 648);
Ordinary Resolution	means a resolution passed by greater than 50% of all persons present and entitled to vote, voting in favour of a resolution;
Proxy	includes an attorney, or in the case of a corporation, its corporate representative;
Schedule	means a schedule to the Constitution;
Secretary	means any person appointed as a secretary of the Company under Chapter 6;
Special Resolution	means a resolution passed by at least 75% of all persons present and entitled to vote, voting in favour of the resolution;
West Coast Fever	means the Western Australian netball team known as the “West Coast Fever”.

### 1.3 Interpretation

In this Constitution, unless the context requires otherwise:

- (a) references to notices include formal notices of meeting and all documents and other communications from the Company to its Members;
- (b) a reference to any legislation or provision, division or subdivision of any legislation includes any amendment to that legislation, provision, division or subdivision, any consolidation or replacement of that legislation, provision, division or subdivision and any subordinate legislation made under that legislation, provision, division or subdivision;
- (c) a reference to a person includes a reference to a company, trust, partnership,

- (d) incorporated association, organisation and entity;
- (d) a reference to a Member present at a general meeting is a reference to a Member present in person or by proxy, attorney or representative;
- (e) a reference to writing and written includes printing, lithography and other ways of representing or reproducing words in a visible form;
- (f) the singular (including defined terms) includes the plural and the plural includes the singular;
- (g) include and including are not words of limitation;
- (h) a word importing any gender includes every other gender;
- (i) if a word or phrase is defined, other grammatical forms of that word or phrase have a corresponding meaning; and
- (j) headings are used for convenience only and do not affect the interpretation of the Constitution.

#### **1.4 Application of the Corporations Act**

- (a) Subject to rules 1.2 and 1.3 a word or expression used in a rule that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision.
- (b) The provisions of this Constitution displace each provision of a section or subsection of the Corporations Act that applies (or would apply but for this rule) to the Company.
- (c) The replaceable rules do not apply to the Company except those which operate as mandatory rules for public companies limited by guarantee under the Corporations Act.

## Chapter 2 – Objects of the Company

### 2.1 Company Objects

- (a) The Company is established with the following objects:
- (i) to hold and maintain its license from Netball Australia on behalf of Netball WA, entitling the company to operate a netball club and to field a netball team or teams in the Super Netball (“**SN**”) and any other national netball competition administered by Netball Australia;
  - (ii) to administer on behalf of Netball WA a netball team or teams competing in Netball Australia competitions as agreed with Netball WA;
  - (iii) to promote and advance the playing of netball in Australia and internationally in general and promote and advance that object by maintaining, providing, supporting and managing a team or teams of netballers bearing the name of the West Coast Fever based in Perth, Western Australia, on behalf of Netball WA;
  - (iv) to pursue innovation and high performance excellence through strategic partnerships;
  - (v) to deliver or otherwise participate in programs and services that promote the advancement of the West Coast Fever and its financial viability and sustainability;
  - (vi) to specifically support the player and coach development pathway of Western Australians and to support and grow the profile and reach of Netball WA’s community netball programs in line with Netball WA’s objects;
  - (vii) to support and advance the development of science and research in high performance elite sport and athletes; and
  - (viii) to do all things necessary for or incidental to the advancement of the objects set out in paragraphs (i), (ii), (iii), (iv), (v), (vi), (vii) of this clause.

**(Company Objects).**

### 2.2 Not for Profit

- (a) Subject to rule 2.2(b), the income and property of the Company must be applied solely towards the Company Objects and no part of that income or property may be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise, to any Director or the Member.
- (b) Rule 2.2(a) does not prohibit making a payment approved or ratified by the Board:
- (i) for out-of-pocket expenses incurred by a Director in performing a duty as Director of the Company;
  - (ii) in good faith for a good or service supplied to the Company by a Director (other than in the capacity as a Director of the Company) or the Member, where:
    - A. the supply has the prior approval of the Board; and
    - B. the amount payable is a commercially reasonable payment for the supply;
  - (iii) of reasonable and proper interest on money borrowed from the Member or Director by the Company;
  - (iv) of reasonable and proper rent for premises let by the Member or any Director to the Company;
  - (v) for indemnification of or payment of premiums on contracts of insurance for any Director to the extent permitted by law and the Constitution; or
  - (vi) made in accordance with rule 12.5.



### **2.3 Activities of the Company**

The Company must operate solely for the purpose of promoting and advancing the Company Objects. However, the Company is not required to promote all of the particular Company Objects at the same time or in any particular order and may, in its absolute discretion, determine the level and amount of promotion, funding or any other support which should be applied to any of the particular Company Objects at any given time.

## **Chapter 3 – Company Powers**

### **3.1 General Company Powers**

For the sole purpose of promoting, advancing and carrying out the Company Objects, the Company has the power and capacity to do all such acts, deeds and things as a company has capacity and power to do pursuant to the Corporations Act, including but without limiting the generality of the foregoing, the following:

- (a) To subscribe to, become a member of, and co-operate with, any other association or organisation, whether incorporated or not.
- (b) To establish and maintain any number of trusts, each for a specific purpose, consistent with the Company Objects.
- (c) To do all such other things as are incidental or conducive to the attainment of the Company Objects and the exercise of the powers of the Company.

### **3.2 Power to Amalgamate**

- (a) Where it furthers the Company Objects, the Company may amalgamate with any one or more other institutions, organisations or entities, provided that such other institutions, organisations or entities:
  - (i) have similar objects to the Company Objects;
  - (ii) prohibit distribution of its income and property among its members and directors to an extent at least as great as is imposed on the Company by rule 2.2(a) and 2.2(b).
- (b) The decision to amalgamate the Company pursuant to rule 3.2(a) must be made by a Member Resolution.

### **3.3 Power to Appoint Patrons and Friends of the Company**

- (a) Without limiting the generality of the powers set out under rule 3.1, the Company has the capacity and power to:
  - (i) appoint honorary patrons to the Company, who shall not be Directors nor have any executive powers nor be entitled to any remuneration except for reasonable out-of-pocket expenses in relation to services rendered in promoting the Company; and
  - (ii) appoint persons as a “friend of the West Coast Fever” and these friends shall have no voting powers.
- (b) Subject to rule 3.3(a), the Board may decide the privileges and rights (if any) attaching to

the appointment of honorary patrons and friends.

## Chapter 4 – Membership

### 4.1 Membership

- (a) The sole Member of the Company will be Netball WA.
- (b) The Member is entitled to:
  - (i) receive notices of, attend, be heard at and vote (one vote only on any given resolution) at any general meeting; and
  - (ii) receive a copy of the annual financial report (if any) of the Company.

### 4.2 Removal and Cessation of Membership

- (a) The Member immediately ceases to be a Member of the Company if the Member:
  - (i) being a corporation, trust or association, is wound up or is or becomes Insolvent; or
  - (ii) resigns as the Member by giving 30 days written notice to the Company.

### 4.3 Member's Register

Upon the appointment or removal of the Member, the Board must update the Members Register to reflect the appointment or removal of the Member, as soon as practicable after the appointment or removal occurs.

### 4.4 Liability of the Member

- (a) The Company is a public company limited by guarantee and accordingly, the liability of the Member is limited.
- (b) The Member undertakes to contribute an amount not more than \$1.00 to the property of the Company if it is wound up while they are a Member or within one year after they cease to be a Member for:
  - (i) payment of the Company's debts and liabilities contracted before the time they ceased to be a Member; and
  - (ii) the costs, charges and expenses of winding up.

## Chapter 5 – Directors

### 5.1 Number and Composition of Directors

- (a) The Initial Directors of the Company are the persons specified in the application to ASIC to register the Company under the Corporations Act.
- (b) There must be no less than 3 and no more than 7 Directors of the Company.

### 5.2 Qualifications of Directors

- (a) Subject to rule 5.2(b) and rule 5.2(d), the Board may determine the particular qualifications and experience (if any) a person must hold in order to be appointed as a member of the Board.
- (b) The Board must at all times comprise at least:
  - (i) one Director who is a Director of Netball WA or a person appointed by the Directors of Netball WA to represent the interests of Netball WA; and
  - (ii) the current Chief Executive Officer of Netball WA, provided that person is otherwise eligible to be a Director.
- (c) In assessing whether a person satisfies the criteria determined by the Board under rule 5.2(a) (if any), regard may be had to any information supplied by that person and any information obtained from other sources.
- (d) A person is prohibited from being a Director if that person is disqualified from being a director under the Corporations Act.

### 5.3 Rotation and Term of Directors

- (a) Subject to rule 5.3(b), rule 5.3(e) and the other provisions of this Constitution, a Director shall hold office for a term of 3 years.
- (b) In order to implement a system of rotation, the Board must, at its first Board Meeting, determine the term of each of the Initial Directors, noting that:
  - (i) 1 Initial Director who will be the Initial Chairperson, will hold office for a term of 3 years.
- (c) Subject to rule 5.1(b), the Board may by Special Resolution determine the rules which govern the election of Directors.
- (d) A Director is deemed, upon the passing of the service period determined under this rule 5.3, to have retired from their office of Director and is eligible to be re-elected to the Board.
- (e) A Director must not hold office for a continuous period of more than 9 years other than the Chief Executive Officer of Netball WA under rule 5.2(b)(ii)

### 5.4 Appointment and Removal of Directors

- (a) The Board may subject to ensuring that the qualifications, experience and criteria determined by the Board under rule 5.2(a) (if any) is satisfied, appoint a new Director to replace a Director who has been removed from office under this rule or whose office has been vacated pursuant to rule 5.5, and that new Director shall hold office only until the next annual general meeting.
- (b) The Member may by Member Resolution:

- (i) remove any Director from office for any reason, subject to compliance with section 203D of the Corporations Act; and
- (ii) subject to ensuring that the qualifications, experience and criteria determined by the Board under rule 5.2(a) (if any) is satisfied:
  - a. appoint an additional Director, provided that an additional Director may not be appointed where to do so would exceed the maximum number of Directors permitted under rule 5.1(b); and
  - b. appoint Directors to the Board in accordance with section 201E of the Corporations Act.

## **5.5 Vacation of Office**

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act or rule 5.4(b), the office of Director becomes vacant if a Director:

- (a) resigns or retires from office by written notice to the Company;
- (b) is Bankrupt;
- (c) becomes of unsound mind or a person whose property is liable to be dealt with in any way under a law relating to mental health;
- (d) is absent without the consent of the Directors from the meetings of the Directors held during a continuous period of 3 months and the Member resolves that the office of that Director be vacated;
- (e) is convicted on indictment of an offence and the Member does not, within one month after that conviction, resolve to confirm the Director's appointment or election (as applicable) to the office of Director; or
- (f) becomes prohibited from being a Director by reason of an order made under the Corporations Act.

## **5.6 Duties of Officers of the Company**

- (a) The Directors, Secretary and any other officers of the Company must comply with the duties imposed on them by the Corporations Act and the general law including the following duties:
  - a. care and diligence;
  - b. good faith;
  - c. disclosure of Conflicts of Interest;
  - d. not to improperly use position or information; and
  - e. to prevent insolvent trading.
- (b) If, and while, the Company is a wholly-owned subsidiary of another body corporate, the Directors are authorised to act in the best interests of that body corporate in the circumstances contemplated by section 187 of the Corporations Act and will be taken to have acted in good faith and in the best interests of the Company if the Directors:
  - a. act in the best interests of Netball WA, being the parent entity; and
  - b. ensure that the Company is not insolvent at the time Board decisions are made and that the Company does not become insolvent because of an act of a Director or the Board.

## **5.7 Powers of the Board**

- (a) The business of the Company shall be managed by the Board who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Corporations Act or by the provisions of the Constitution, required to be exercised by the Company in general meeting.

- (b) Subject to the Constitution, the provisions of the Corporations Act and such regulations as may be prescribed by the Company in general meeting, no regulation made by the Company in general meeting may or does invalidate any prior act of the Board that would have been valid if that regulation had not been made.
- (c) The Board may exercise all the powers of the Company to borrow money and to mortgage or charge its property, or any part thereof and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the Company.
- (d) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 members of the Board or in such other manner as the Board from time to time determines.
- (e) The Board may by power of attorney appoint any person, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes, with such powers, authorities, and discretions (not exceeding those vested in or exercisable by the Board under the Constitution) for such period and subject to such conditions as the Board think fit.
- (f) Any power of attorney may contain provisions for the protection and convenience of persons dealing with any such attorney as the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities, and discretions vested in the attorney.

#### **5.8 Disclosure of Conflicts of Interest and other Interests**

- (a) A Director who has a Conflict of Interest in a contract or arrangement, or proposed contract or arrangement, in a matter being considered or about to be considered by the Board must disclose the nature of that interest at a meeting of the Board as soon as possible after the relevant facts have come to his or her knowledge and record of such disclosure must be made in the minutes of that meeting.
- (b) A Director who has disclosed a Conflict of Interest must not:
  - (i) be present during any deliberation about that matter; and/or
  - (ii) receive the relevant board papers in relation to that matter; and/or
  - (iii) cast any vote in relation to that matter, without the prior approval of the Board.
- (c) The Board may make regulations requiring the disclosure of Conflicts of Interest that a Director, and any person considered by the Board to be related to or associated with a Director, may have in any matter concerning the Company or a related corporation. Any regulations made under this rule bind all Directors.

#### **5.9 Director's Fees**

The Directors are not entitled and must not be paid any fees or remuneration for their services as a Director.

#### **5.10 Directors' access to documents**

- (a) A Director may access the financial records of the Company at all reasonable times.
- (b) A Director may inspect the books of the Company (other than its financial records) at all reasonable times for the purposes of a legal proceeding:
  - (i) to which the person is a party; or
  - (ii) that the person proposes in good faith to bring; or

- (iii) that the person has reason to believe will be brought against them.
- (c) A person who has ceased to be a director of the Company may inspect the books of the Company (including its financial records) at all reasonable times for the purposes of a legal proceeding:
  - (i) to which the person is a party; or
  - (ii) that the person proposes in good faith to bring; or
  - (iii) that the person has reason to believe will be brought against them.
- (d) The right in rule 5.10(b) continues for 7 years after the person ceases to be a Director of the Company.

## **5.11 Board Meetings**

### **5.11.1 Convening Board Meetings**

- (a) The Chairperson may convene a meeting of the Board whenever he or she thinks fit.
- (b) A Secretary must, on the request of the Chairperson, convene a meeting of the Board.
- (c) Any 3 or more Directors may convene a meeting of the Board and the Secretary must, on the request made by those Directors, convene a meeting of the Board.

### **5.11.2 Notice of Board Meetings**

- (a) Subject to the Constitution, notice of meeting of the Board must be given to each person who is, at the time of giving the notice, a Director, except a Director on a leave of absence approved by the Board.
- (b) A notice of a Board meeting:
  - (i) must specify the date, time and place of the meeting;
  - (ii) need not state the nature of the business to be transacted at the meeting; and
  - (iii) may be given in person or by post, telephone, fax or other electronic means.
- (c) A Director may waive notice of a meeting of the Board by notifying the Board to that effect in person or by post, telephone, fax or other electronic means.
- (d) The date, time or place of a Board meeting must not unreasonably prevent a Director from attending a Board meeting.
- (e) 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:
  - (i) the non-receipt or failure occurred by accident or error;
  - (ii) before or after the meeting, the Director:
    - A. has waived or waives notice of that meeting; 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
  - (iii) the Director attended the meeting.

### **5.11.3 Quorum at Board Meetings**

- (a) No business may be transacted at a meeting of the Board unless a quorum of Directors is

- present at the time the business is dealt with.
- (b) The Board may fix, from time to time, the quorum necessary for a meeting of the Board, provided that the minimum number of Directors necessary to constitute a quorum is:
    - (i) if there is only 3 Directors, not less than 3; or
    - (ii) if there is 4 or more Directors, not less than one half of the total number of Directors (rounded down to the nearest whole number) plus one.
  - (c) If a quorum is not present within 1 hour after the time appointed for the meeting of the Board, the meeting stands adjourned to the date, time and place as the Board decides.
  - (d) 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 the Constitution, the remaining Directors (if any) may only act to the extent that there is an emergency requiring them to act or to appoint an additional Director to the Board under rule 5.4(a).

#### **5.11.4 Meeting Proceedings**

- (a) The Board may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The linking together by telephone or other electronic means of a sufficient number of the Directors to constitute a quorum constitutes a Board meeting. All the provisions in the Constitution relating to Board meetings apply, so far as they can and with any necessary changes, to Board meetings by telephone or other electronic means.
- (c) A Director who takes part in a Board meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A Board meeting by telephone or other electronic means is taken to be held at the place decided by the Chairperson of the meeting, as long as at least one of the Directors involved was at that place for the duration of the meeting.
- (e) The Board may extend an invitation to any person or representative of a corporation it deems appropriate to sit with the Board, provided that any such invitee is not entitled to vote on matters.

#### **5.11.5 Chairperson of Directors**

- (a) The Board may elect one of the Directors as Chairperson of Directors and may decide the period for which that Director is to be the Chairperson.
- (b) The Director named in Schedule 1 shall be the Initial Chairperson of the Company.
- (c) The Chairperson must (if present within 10 minutes after the time appointed for the meeting and is willing to act) preside as Chairperson at each meeting of the Board.
- (d) The Directors present at the meeting must elect one of them as Chairperson of the meeting if:
  - (i) there is no Chairperson;
  - (ii) the Chairperson is not present within 10 minutes after the time appointed for the meeting; or
  - (iii) the Chairperson is present within that time but is not willing to act as Chairperson of the meeting.

#### **5.11.6 Decisions of Directors**

- (a) A meeting of the Board at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Board under the Constitution.
- (b) Subject to the Constitution and in particular rule 5.12, and the Corporations Act,



questions arising at a Board meeting must be decided by an Ordinary Resolution of the Directors present, and an Ordinary Resolution passed by the Directors is for all purposes deemed a decision of the Board.

- (c) Where the votes on a proposed resolution are equal, the Chairperson of the meeting has a casting vote.

#### **5.12 Reserved Matters**

Notwithstanding rule 5.7, the Board must not undertake any of the matters listed in Schedule 2 without the consent of the Member.

#### **5.12 Alternate Directors**

- (a) A Director may, with the written approval of the other Directors and the Member, appoint a person to be an alternate or substitute Director in his or her place during such period as he or she thinks fit.
- (b) An alternate Director is entitled to notice of Board meetings and if the appointer is not present, is entitled to attend and vote in his or her place.
- (c) An alternate Director may exercise any powers that the appointer may exercise and the exercise of any such power by the alternate Director is deemed to be the exercise of the power by the appointer.
- (d) The appointment of an alternate Director can be terminated at any time by the appointer notwithstanding that the period of the appointment of the alternate Director has not expired, and terminates in any event if the appointer's office as a Director is vacated.
- (e) An appointment or the termination of an appointment of an alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment and served on the Company.

#### **5.13 Minutes**

- (a) The Board must cause minutes of all proceedings of general meetings, of meetings of the Board and of Advisory Committees formed by the Board to be entered, within one month after the relevant meeting is held, in books kept for that purpose.
- (b) The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting.
- (c) The Member has the right to inspect confirmed minutes of meetings of the Board.

#### **5.14 Resolutions in Writing**

- (a) A resolution in writing signed by all of the Directors entitled to vote, excluding Directors who have been given a leave of absence, and containing a statement that they are in favour of a resolution shall be valid as if it had been passed at a duly convened meeting of the Board.
- (b) A resolution in writing may consist of several documents in like form, each signed by one or more Directors and if so signed, it takes effect on the latest date on which a Director signs one of the documents.
- (c) A document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing.
- (d) A document bearing a facsimile of a signature is to be treated as signed.

#### **5.15 Validity of Acts**

An act done by a person acting as a Director or a meeting of the Board attended by a person

acting as a Director, is not invalidated merely because of:

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified to be a Director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the Board (as applicable) when the act was done.

## Chapter 6 – Secretary

### 6.1 Secretary

- (a) The Company must, at all times, have a Secretary.
- (b) The Board must appoint the Secretary and may terminate the appointment of the Secretary on reasonable grounds.
- (c) The person named in Schedule 1 shall be the Initial Secretary.
- (d) The Board may determine the terms and conditions of appointment and removal of a Secretary, including remuneration.
- (e) The Secretary may carry out any act or deed required by the Constitution, the Corporations Act or by any other statute to be carried out by the Secretary of the Company.

## Chapter 7 – Annual General Meetings

### 7.1 Holding an Annual General Meeting

- (a) The Company must hold an annual general meeting each year within 5 months after the end of its financial year.
- (b) The Company may apply to ASIC to extend the period of time within which it must hold its annual general meeting under clause 7.1(a), provided that the application is made before the period mentioned in clause 7.1(a).
- (c) If ASIC grants an extension, the Company must hold its annual general meeting within the extended period granted by ASIC.

### 7.2 Business of Annual General Meeting

The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:

- (a) confirmation of the minutes of the previous general meeting, except at the first annual general meeting;
- (b) the consideration of the reports that are required under the Corporations Act;
- (c) the appointment and remuneration of the Auditor ; and
- (d) asking questions about the management of the Company and asking questions of the Auditor.

## Chapter 8– General Meetings

### 8.1 Convening of General Meetings by Directors

Any Director may convene a general meeting of the Member at any time and must convene a general meeting if required to do so under section 249D of the Corporations Act.

### 8.2 Convening of Meetings by Member

The Member of the Company may convene a general meeting of the Member provided that the requirements in sections 249E or 249F of the Corporations Act are satisfied.

### 8.3 Notice of General Meeting

- (a) 21 days' notice of every general meeting convened under rules 8.1 or 8.2 must be given to:
  - (i) the Member;
  - (ii) each Director; and
  - (iii) the Auditor.
- (b) A notice of general meeting must specify:
  - (i) the date, time and place of the meeting;
  - (ii) if the meeting is to be held in 2 or more places, the technology that will be used to facilitate the meeting;
  - (iii) the general nature of the business to be transacted at the meeting; and
  - (iv) any other matters as are required by the Corporations Act.
- (c) The Board may extend an invitation to any person, corporation or other entity to sit at a general meeting, provided that any such invitee is not entitled to vote on matters.
- (d) A corporation invited to attend a general meeting under rule 8.3(c), may appoint more than one representative to attend, but only one representative may exercise the corporation's powers at any one time.

### 8.4 Waiving Notice

- (a) A person or entity may waive notice of a general meeting by written notice to the Company or by attendance at the general meeting.
- (b) The non-receipt of notice of a general meeting, or a failure to give notice of a general meeting to any person or entity entitled to receive notice of a general meeting does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
  - (i) the non-receipt or failure occurred by accident or error;
  - (ii) before or after the meeting, the person or entity has waived or waives notice of that meeting; or
  - (iii) before or after the meeting, the person has notified or notifies the Company of the person's or entity's agreement to that act, matter, thing or resolution by written notice to the Company.

### 8.5 Postponing or Cancelling a Meeting

- (a) The Board may change the venue for, postpone or cancel a general meeting at its own discretion other than a general meeting which they are required to convene and hold

under the Corporations Act.

- (b) If a general meeting is called and arranged to be held under section 249D of the Corporations Act, the Board may not postpone the meeting beyond the date by which section 249D of the Corporations Act requires the meeting to be held or cancel the meeting without the consent of the Member.

## **8.6 Quorum at General Meetings**

- (a) No business may be transacted at a general meeting, except the election of a Chairperson and the adjournment of the meeting, unless the Member is present when the meeting proceeds to consider business.
- (b) The presence of the Member shall constitute a quorum for any general meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
  - (i) where the meeting was convened by the Board on the request of the Member, the meeting must be dissolved; or
  - (ii) in any other case:
    - A. the meeting stands adjourned to the day, and at the time and place, that the Board decides or, if the Board does not make a decision, to the same day in the next week at the same time and place; and
    - B. if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

## **8.7 Decisions at General Meetings**

### **8.7.1 Resolutions put to the Vote**

- (a) A resolution put to the vote at any general meeting must be decided by the Member.
- (b) Any decision made by the Member must be made by the Board of the Member in accordance with the rules and voting requirements under the Member's Constitution.

## **8.8 Chairperson of General Meetings**

- (a) If the Board have elected one of their Directors as Chairperson of their meetings, that person must (if present within 15 minutes after the time appointed for the meeting and is willing to act) preside as Chairperson at each general meeting and if that person is not in attendance at or is unwilling to act as Chairperson of any general meeting, the Directors present at the general meeting must elect one of their number as Chairperson of that general meeting.
- (b) Subject to the terms of the Constitution dealing with the adjournment of meetings, the ruling of the Chairperson on all matters relating to the order of business, procedure and conduct of the general meeting is final.
- (c) The Chairperson may expel the Member or any Director from a general meeting if the Chairperson reasonably considers that the Member or Director's conduct is inappropriate behaviour, including:
  - (i) the use of offensive or abusive language which is directed to any person, object or thing; and
  - (ii) attendance at the meeting while under the influence of any kind of drug including but not limited to any alcoholic substance.

### **8.9 Resolutions in Writing**

- (a) A resolution in writing signed by the Member and containing a statement that it is in favour of the resolution shall be valid as if it had been passed at a duly convened meeting of the Member.
- (b) A document generated by electronic means which purports to be a facsimile of a Member Resolution is to be treated as a resolution in writing.
- (c) A document bearing a facsimile of a signature is to be treated as signed.

### **8.10 Auditor's Right to be Heard**

The Auditor is entitled to attend and be heard at a general meeting on any part of the business of that meeting that concerns the Auditor in their professional capacity.

### **8.11 Use of Technology at General Meeting**

- (a) With the consent of the Member, the Company may hold a general meeting at 2 or more venues using any technology that gives the Member entitled to be heard at a general meeting, a reasonable opportunity to participate.
- (b) The Member may only withdraw their consent by a resolution of the Company at a general meeting.

### **8.12 Adjourning General Meetings**

- (a) The Chairperson of a general meeting may, 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 except the business left unfinished at the meeting from which the adjournment took place.
- (b) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (c) Where a meeting is adjourned, the Directors may change the venue for, postpone or cancel the adjourned meeting, unless the meeting was called and arranged to be held under the Corporations Act.

### **8.13 Minutes of meetings**

- (a) The Secretary must cause proper minutes of all proceedings of all General Meetings and Committee Meetings to be taken and then to be entered within 30 days after the holding of each General Meeting or Committee Meeting, as the case requires, in a minute book kept for that purpose.
- (b) The Chairperson must ensure that the minutes taken of a General Meeting or Committee Meeting under rule 8.13(a) are checked and signed as correct by the Chairperson of the General Meeting or Committee Meeting to which those minutes relate or by the Chairperson of the next succeeding General Meeting or Committee Meeting, as the case requires.
- (c) When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that:
  - (i) the General Meeting or Committee Meeting to which they relate (in this rule called "the meeting") was duly convened and held;
  - (ii) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
  - (iii) all appointments or elections purporting to have been made at the meeting have been validly made.

## Chapter 9 - Advisory Committees

### 9.1 Establishment of Advisory Committees

The Board may establish Advisory Committees to advise the Company on any matter relating to the Company.

### 9.2 Constitution of Advisory Committees

Unless inconsistent with the Constitution, the Board may:

- (a) appoint and remove Advisory Committee members, or make provision for the appointment and removal of Advisory Committee members;
- (b) specify that the Advisory Committee consists of a single individual or a number of individuals;
- (c) determine the functions of any Advisory Committee; and
- (d) determine the remuneration (if any) of any Advisory Committee members.

### 9.3 Advisory Committee Decisions

- (a) If the Board establishes an Advisory Committee for a particular matter then the Board must obtain the opinion of that Advisory Committee before the Board makes any decision on that matter.
- (b) The opinion or decisions of an Advisory Committee are recommendations only and do not bind the Board in any way.

### 9.4 Advisory Committee Rules

The Board may make and amend Advisory Committee Rules for each Advisory Committee.



## Chapter 10– Directors’ Indemnity and Insurance

### 10.1 Indemnity

- (a) This rule applies to:
  - (i) each person who is or has been a Director, or Secretary of the Company; and
  - (ii) any other officers or former officers of the Company or of its related corporations that the Board decides in each case.
  
- (b) Subject to the Corporations Act, the Company must indemnify and if requested by a person to whom this rule applies enter into a deed indemnifying, on a full indemnity basis and to the full extent permitted by law, each person to whom this rule applies for all losses or liabilities incurred by the person as an officer of the Company or of a related corporation including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
  - (ii) in connection with an application, in relation to those proceedings, in which the court grants relief to the person under the Corporations Act.
  
- (c) The indemnity in this rule 10.1:
  - (i) is a continuing obligation and is enforceable by a person to whom rule 10.1 applies even though that person has ceased to be an officer of the Company or of a related corporation; and
  - (ii) operates only to the extent that the loss or liability is not covered by insurance.

### 10.2 Insurance

Subject to the Corporations Act, the Company may, to the extent permitted by law, purchase and maintain insurance, or pay or agree to pay a premium for insurance, for any person to whom this rule applies, against any liability incurred by the person as an officer of the Company or of a related corporation including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

### 10.3 No limits

Nothing in Chapter 10:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or
- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those rules do not apply.

## Chapter 11 – Dispute Resolution and disciplinary procedures

### 11.1 Dispute resolution

- (a) The dispute resolution procedure in this rule applies to disputes (disagreements) under this constitution between the Member or Director and:
  - (i) one or more Directors,
  - (ii) the Company.
- (b) Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- (c) If those involved in the dispute do not resolve it under rule 11.1(b), they must within 10 days:
  - (i) notify the Directors of the dispute in writing;
  - (ii) agree or request that a mediator be appointed, and
  - (iii) attempt in good faith to settle the dispute by mediation.
- (d) The mediator must:
  - (i) be chosen by agreement of those involved, or
  - (ii) where those involved do not agree a person chosen by the president of the law institute or society in the state or territory in which the Company has its registered office.
- (e) A mediator chosen by the Directors under rule 11.1(d)(i):
  - (i) must not have a personal interest in the dispute; and
  - (ii) must not be biased towards or against anyone involved in the dispute.
- (f) When conducting the mediation, the mediator must:
  - (i) allow those involved a reasonable chance to be heard;
  - (ii) allow those involved a reasonable chance to review any written statements;
  - (iii) ensure that those involved are given natural justice, and
  - (iv) not make a decision on the dispute.

## Chapter 12 - General Legal Provisions

### 12.1 Accounts Audit and Records

#### 12.1.1 Accounts

- (a) The Board must cause proper accounting and other records to be kept under the Corporations Act.
- (b) The Company must prepare a financial report for each Accounting Period and have it audited (if required) in accordance with the Corporations Act.

#### 12.1.2 Auditor

- (a) The Company must appoint a registered company Auditor whose duties will be regulated under the Corporations Act.
- (b) The remuneration of the Auditor must be fixed.

#### 12.1.3 Records and rights of inspection by Member

Unless otherwise determined by the Board, the Member shall be entitled to inspect only those documents of the Company required to be available for inspection under the Corporations Act.

### 12.2 Notices

#### 12.2.1 Persons authorised to give notices generally

- (a) A notice by the Company in connection with the Constitution may be given on behalf of the Company by a solicitor, Director or Secretary of the Company.
- (b) The signature of a person on a notice given by the Company may be written, printed or stamped.

#### 12.2.2 Method of giving notices

In addition to the method for giving notices permitted by statute, a notice may be given by the Company to the Member by:

- (a) delivering it to the Member personally or to their street address stated in the Member's Register;
- (b) posting it by prepaid post to the Member's street or postal address stated in the Member's Register; or
- (c) if the Member has nominated a fax or e-mail address to the Company, fax or e-mail.

#### 12.2.3 Address for giving notices to the Company

- (a) The street and postal address of the Company is its registered office.
- (b) The fax number or e-mail address of the Company is the number which the Company may specify by written notice to the Member as the fax number or e-mail address to which notices may be sent to the Company.

#### 12.2.4 Time notice is given

A notice is taken as given by the Company and received by the Member:

- (a) if delivered, at the time of delivery;
- (b) if faxed, when the sender of the fax receives a confirmation report that all pages of the fax have been transmitted to the recipient's fax number, but if transmission or receipt is after 5.00 pm WST, it is taken as received on the next Business Day;
- (c) if sent electronically, on the next Business Day; and
- (d) if posted, on the third Business Day after it was posted.

### **12.3 The Constitution**

#### **12.3.1 Amending the Constitution**

The Constitution may be amended at any time by Member Resolution.

### **12.4 By-Laws**

- (a) The Directors may pass a resolution to make by-laws to give effect to this Constitution.
- (b) The Member and Directors must comply with by-laws as if they were part of this Constitution.

### **12.5 Winding Up**

- (a) If, upon the winding up of the Company, there remains, after satisfaction of all its debts and liabilities, any assets whatsoever, the same must be distributed in furtherance of the Company's objects to the Member provided that the Member prohibits the distribution of income and property among its members and directors to an extent at least as great as imposed on the Company by rule 2.2, or, if the Member no longer exists or does not prohibit the distribution of income and property to its members and directors, then to one or more institutions, funds or authorities which:
  - (i) have objects similar to the Company Objects; and
  - (ii) prohibit distribution of its income and property among its members and directors (if any) to an extent at least as great as is imposed on the Company by rule 2.2.

Schedule 1– Initial Chairperson and Initial Secretary

Initial Chairperson: Deane Pieters

Initial Secretary: Stuart Gilsenan

## Schedule 2 – Reserved Matters

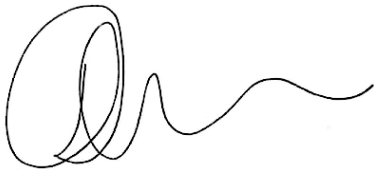
1. The following are Reserved Matters for the purposes of rule 5.12, which the Board must not undertake without the consent of the Member:

- (a) approve or revise the Company's annual budget;
- (b) acquire or dispose of any interest in any real property;
- (d) charge any assets or business of the Company or give any other security for a debt, liability or obligation of the Company;
- (e) borrow money;
- (f) enter into any material contract or arrangement outside the ordinary course of its business or by which any Director would or might receive remuneration calculated by reference to its income or profits;
- (g) undertake any material financial or capital restructuring of the Company; and
- (h) conduct any ongoing business activities outside of Western Australia.
- (i) The decision to amalgamate the Company pursuant to rule 3.2(a) must be made by a Member Resolution

2. The Board must consult with the Member in regard to any material commercial conflicts of interest between the Company and the Member.

We, the undersigned, hereby agree to the foregoing Constitution of the Company.

Signed by  
**Netball WA (Inc)**  
in accordance with its Constitution:



.....  
President

DEANE PIETERS

.....  
Print Name



.....  
Board Member

DARREN SHILLINGTON

.....  
Print Name