

BASKETBALL HAWKES BAY
Incorporated Society No. 1801437

Constitution

Adopted at Annual General Meeting
on 27 March 2018

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Basketball Hawkes Bay Incorporated

Constitution

PART I – OBJECTS & POWERS

1. Name

1.1 The name of the Association shall be the “BASKETBALL HAWKES BAY INCORPORATED” which is abbreviated in this Constitution as the “Association”.

1.2 The Association shall be incorporated under the Incorporated Societies Act.

2. Registered Office

2.1 The registered office of the Association shall be at such place as determined by the Board from time to time.

3. Objects

3.1 The objects of the Association are to:

- (a) be the Association in the Basketball Hawkes Bay region responsible for the administration, promotion and development of the sport of basketball;
- (b) encourage participation in the sport of basketball in the Hawkes Bay region as an amateur game which provides health, recreation and other community benefits for all New Zealanders;
- (c) encourage and promote the sport of basketball as a sport to be played in a manner which upholds the principles of fair play and is free from doping;
- (d) develop and train players, officials, and other personnel involved in the sport of basketball to the standards set by the Association and BBNZ;
- (e) encourage international and national competition and participation of Members of the Association;
- (f) establish high performance programmes for Members of the Association who aspire to participate at the highest level;
- (g) manage the financial affairs of the Association consistent with best business practice;
- (h) where appropriate, give and seek recognition for Members who obtain awards or public recognition for their involvement in the sport of basketball, the Association, or for other services to the community;
- (i) be a member of BBNZ and, to the extent set out in the BBNZ Constitution, comply with and enforce the BBNZ Constitution and the BBNZ Regulations;
- (j) provide information, assistance, and resources to its Members;
- (k) do all that is reasonably necessary to enable the Objects and the objects of BBNZ to be achieved; and

- (l) at all times to act on behalf of, and in the interests of, the Members and the sport of basketball.

4. Powers

4.1 The powers of the Association are to:

- (a) purchase, lease, hire, or otherwise acquire and hold real and personal property, rights and privileges;
- (b) control and raise money, including to borrow, invest, loan or advance monies and to secure the payment of such by way of mortgage, or charge over all or part of any of its real and personal property **provided that** any interest paid on such funds borrowed or raised must not exceed the current market rate, and funds advanced or loaned must be at no lesser than the current market rate, unless the recipient of such funds loaned or advanced promotes the sport of basketball; all borrowing must receive unanimous approval of 75% of current Board members
- (c) sell, lease, mortgage, charge or otherwise dispose of any property of the Association and to grant such rights and privileges of such property as it considers appropriate;
- (d) construct, maintain and alter any buildings, premises or facilities and carry out works it considers necessary or desirable for the advancement or improvement of such buildings, premises or facilities;
- (e) determine, raise and receive money by subscriptions, donations, fees, levies, gate charges, sponsorship, government funding, local authority funding, or otherwise;
- (f) determine regulations, policies and procedures for the governance, management and operations of the sport of basketball in the Hawke's Bay Region;
- (g) determine, implement and enforce disciplinary procedures for its Members, including imposing sanctions;
- (h) to appoint, remove and replace from time to time the Manager as the Board sees fit;
- (i) employ, determine and terminate staff and engage people, organisations and advisers to work for and with the Association, provided always that the payment for such services shall not exceed the market rate;
- (j) contract, engage or otherwise make arrangements with any player, coach, sponsor, supplier or other person or organisation to fulfil the objects of the Association;
- (k) be a member of, and contribute to the administration and promotion of, BBNZ and the sport of basketball in New Zealand;
- (l) determine who are its Members in accordance with Rule 6 (Membership) of this Constitution;
- (m) establish and maintain a Board, committees and other groups, and delegate its powers and functions to such groups;
- (n) develop Association programmes and other programmes for competing, coaching and officiating the sport of basketball which align with any BBNZ or other association programme and initiative, including any nationally branded programmes developed by BBNZ;
- (o) establish, organise and control basketball competitions, tournaments and events in the Association Region, including determining the rules and conditions of entry for

such competitions, tournaments and events provided that such competitions, tournaments and events comply with the BBNZ Constitution and the BBNZ Regulations;

- (p) award, grant or otherwise honour achievement and services to the sport of basketball and the Association;
- (q) select Association representatives including basketball teams, squads and other players to represent the Association;
- (r) establish, maintain and have an interest in corporate or other entities to carry on and conduct any part of the affairs of the Association and for that purpose, to utilise any of the assets of or held on behalf of the Association;
- (s) produce, develop, create, licence and otherwise exploit, use and protect the Intellectual Property of the Association;
- (t) purchase or otherwise acquire all or any part of the property, assets and liabilities of any one or more companies, institutions, incorporated societies or organisations whose activities or objects are similar to those of the Association, or with which the Association is authorised to amalgamate or generally for any purpose designed to benefit the Association;
- (u) to settle any question which may arise and which is not provided for in these rules;
- (v) Appoint Delegates to represent the Association at National level at meetings of Basketball New Zealand; and
- (w) do any other acts or things which further the Objects of the Association.

4.2 The decision of the Board on all matters, questions and disputes shall be final and conclusive and shall not be appealed against in any Court of Law or otherwise except as provided for under the Rules and Procedures of Basketball New Zealand;

4.3 The powers specified in Rule 4 or 4.2 shall not limit the rights and powers of the Association as an incorporated society under the Incorporated Societies Act 1908.

5. Colours

5.1 The representative colours of the Association shall be determined by the Board, but shall, where possible, predominantly consist of black and white.

PART II – MEMBERSHIP

6. Membership

6.1 The expression "Members" means:

- a) The current Board members of the Association.
- b) The Manager of the Association.
- c) The Sub-Associations, Clubs and other organisations who have requested in writing to be members of the Association and have completed the affiliation requirement of the Association.
- d) Any other Sub-Associations, Clubs or organisations as may become affiliated Associations clubs or organisations in the future.
- e) All players and participants who are registered with Basketball Hawkes Bay.

f) Any individual member accepted by the Board.

g) Life Members

6.2 Sub-Associations, Clubs, other organisations and individuals may apply in writing to the Board to become affiliated members of the Association attaching such information in support of the application as the Board prescribes. The Board shall have the absolute discretion to decide whether to accept the application

6.3 Each Sub-Association, Club, organisation, or individual shall cease to be a member of the Association if it fails to pay by the due date any levy payable to the Association.

7. Individual Members

7.1 **Individual Members:** Every person who is, or agrees to be, a member of a Club, and who completes the prescribed BBNZ membership form using the process prescribed by the BBNZ Board and pays any membership fee or other fee due to the Affiliated Association and the Club, shall become an Individual Member of the Affiliated Association and BBNZ.

7.2 **Duration of Membership:** Subject to Rule 9 (Membership Fees) and Rule 12 (Resignation and Termination of Membership), the duration of membership of Individual Members is from the date of approval as an Individual Member by the Association until 31 December of the same year. Upon payment of any membership fee due to the Association in each year, membership of the Association by an Individual Member shall be renewed without further application.

7.3 **No right to vote:** An Individual Member has no right to vote at a General Meeting. An Individual Member may only vote at a General Meeting if appointed as, and voting in their capacity as, a Delegate in accordance with Rule 13.1010.

7.4 **Representatives:** To be eligible for selection to, or to play for, a BBNZ or Association representative team (which participates in a BBNZ controlled competition or event), a person must be an Individual Member of the Association and BBNZ.

8. Life Members

8.1 **Life Members:** The Association may grant life membership of the Association to any player, coach, official or administrator who has rendered exceptional service to the sport of basketball for the Association.

8.2 **Process:** Any Member may nominate a person for Life Membership of the Association by giving written notice to the Board no later than 31st January in any year. Such nomination shall include a citation of the services the nominated person has provided to the sport of basketball. If the nomination is approved by the Board, it shall recommend that life membership be accorded to the nominee by giving written notice of the nomination to the Members not less than 21 days before the AGM. Once recommended by the Board, a Life Member may be elected at the AGM by a Special Resolution.

8.3 **Rights:** A Life Member shall be entitled to:

- (a) receive a suitable plaque or badge;
- (b) complimentary admission to all matches and stadia under the jurisdiction of the Association;
- (c) receive notice of and attend General Meetings; and
- (d) such other privileges as may be granted by the Association to Life Members from time to time.

9. Membership Fees

- 9.1 **Membership Fees:** Each year, the Board shall determine the nature and amount of fees payable by Members for the financial year following the year in which the AGM is held ("Membership Fees").
- 9.2 **Levy:** For special purposes required by the Association, further levies may be imposed as determined by the members at a General Meeting from time to time ("Levy(s)").
- 9.3 **When Due:** The Membership Fee shall be payable by each Member to the Association as determined by the Association in the financial year to which the fee relates. Any Levy shall be payable by the date determined by the Board.
- 9.4 **Default:** Should any Member fail to pay its Membership Fee(s) or Levy(s) in full by the due date(s), it shall be subject to such penalty payment as the Board shall determine and shall in the meantime be suspended from membership of the Association with the consequential penalties set out in Rule 122.2 (Resignation, Suspension & Termination of Membership).

10. Rights & Obligations of Members

- 10.1 Members acknowledge and agree that:
- (a) this Constitution, and the BBNZ Constitution, constitutes a contract between each of them and the Association and BBNZ and they are bound by this Constitution and the Association Regulations, and the BBNZ Constitution and the BBNZ Regulations;
 - (b) they shall comply with and observe this Constitution and the Association Regulations, and the BBNZ Constitution and BBNZ Regulations, and any determination, resolution or policy which may be made or passed by the Board or the Board of BBNZ;
 - (c) they are subject to the jurisdiction of the Association and BBNZ;
 - (d) this Constitution and the Association Regulations, and the BBNZ Constitution and BBNZ Regulations, are necessary and reasonable for promoting the Objects of the Association and the objects of BBNZ;
 - (e) this Constitution and the Association Regulations, and the BBNZ Constitution and BBNZ Regulations, are made in the pursuit of a common object, namely the mutual and collective benefit of BBNZ, the Association, its Members and the sport of basketball; and
 - (f) they are entitled to all benefits, advantages, privileges and services of membership as conferred by this Constitution and the BBNZ Constitution; but that
 - (g) membership of the Association shall not confer on any Member thereof any privilege or any estate, proprietary right, interest or share in the funds and property of the Association or BBNZ nor shall any member be personally liable for any of the liabilities of the Association or BBNZ.

11. Register of Members

- 11.1 **Register:** The Association shall keep and maintain a Register of Members in accordance with the Incorporated Societies Act 1908 and for the purpose of:
- (a) complying with the Association's obligations to BBNZ including providing member information for the BBNZ member database;

- (b) determining the exact number of Members;
- (c) determining the Membership Fee(s) and any Levy(s) payable by each Member; and
- (d) enabling BBNZ and the Association to meet any contractual obligations they may have to sponsors, including the provision of membership lists containing the names and addresses of Members.

11.2 Requirements of Members and Clubs: Each Member shall provide such information to the Association and/or its Club (and in the case of each Club, information to the Association) as required in the prescribed BBNZ membership form and as otherwise required under the BBNZ Constitution, this Constitution, the BBNZ Regulations and the Association Regulations. Each Club must keep and maintain their own Register of Members in accordance with this Constitution, the requirements of BBNZ and the Incorporated Societies Act 1908. Should any Member (and in relation to Clubs, the information related to its Members) fail to forward its member information in the format and by the date determined by the Board, the Manager will notify the Member that its membership will be suspended of the Association pending the completion of the return.

11.3 Privacy Act 1993: The collection of any personal information for the Register of Members shall comply with the Privacy Act 1993. Any entry on the Register of Members shall be available for inspection by Members upon reasonable request and in compliance with the Privacy Act 1993. All Members shall provide written notice of any change of their name, address and other contact details to the Association within fourteen (14) days of such change.

12. Resignation & Termination of Membership

12.1 End of Membership: A Member may have their membership ended by reason of:

- (a) resignation in accordance with Rule 12.2 (Resignation);
- (b) termination for a default in fees under Rule 9.4 (Default);
- (c) termination, by reason of a decision of the Board or a Disciplinary Committee under Rule 1717 (Discipline); or
- (d) termination by reason of a decision of the BBNZ Board in accordance with the BBNZ Constitution.

12.2 Resignation of Membership: A Member may have their membership of the Association end by resignation by giving to the Manager notice in writing. Every such resignation shall take effect as from the date of the meeting of the Board at which such resignation is accepted and at such time the Member shall cease to be a Member of the Association.

12.3 Consequences of Termination: A Member who ceases to be a Member of the Association (whether by resignation, or termination, of membership or otherwise) shall forfeit all rights and claims upon the Association and BBNZ and the property (including Intellectual Property) of the Association and BBNZ and shall not use any property (including Intellectual Property) of the Association or BBNZ.

PART III – MEETINGS OF MEMBERS

13. General Meetings

- 13.1 **AGM:** An AGM of the Association shall be held once in each calendar year at such time, date and place as determined by the Board, no later than 30th April each year. Any other General Meeting of the Members shall be a SGM.
- 13.2 **Notice of AGM:** The Manager shall give at least 30 Days written notice of the date, time, and venue of the AGM.
- 13.3 **AGM Business:** The business to be transacted at every AGM shall include:
- (a) confirmation of the minutes of the previous AGM and any SGM held since the previous AGM;
 - (b) receiving the Board's report for the financial year ending 31st December;
 - (c) election of any vacancies arising in positions of Elected Board Members;
 - (d) appointment of auditor, who cannot be an Board member. His or her function shall be to examine and certify the Annual Statement of receipts and payments submitted to him by the Association;
 - (e) considering and making recommendations to the Board as a result of any notices of motions of which due and proper notice has been given in accordance with Rule 13.4 (Notices of Motion); and
 - (f) considering other such business as the AGM deems appropriate.
- 13.4 **Notices of Motion:** Any notice of motion from the Board or from a Member must be received by the Manager **21 Days** prior to an AGM in order to be considered at that meeting, unless otherwise agreed by the Board. Every notice of motion from a Member must be signed by an authorised representative of that Member.
- 13.5 **AGM Agenda:** An agenda containing the business to be discussed at the AGM (as set out in Rule 13.3 (AGM Business)) shall be sent to all Board Members and notified to other Members no later than **14 days** before the date of the AGM. Any additional items of general business may be raised from the floor with the consent of the chairperson of the AGM.
- 13.6 **Special General Meeting:** The Manager shall convene a SGM of the Association by giving the requisite notice required under Rule 13.7 (Notice of SGM):
- (a) when directed to do so by the Board, which direction must include full details of the business to be dealt with at the meeting; or
 - (b) on requisition in writing signed by not less than one quarter of voting members which requisition must provide full details of the business that is proposed to be dealt with at the meeting.
- 13.7 **Notice of SGM:** If the Manager is required to convene a SGM, the Manager shall give at least **14 Days'** notice to the Members of the date, time, and venue of such meeting. The notice of SGM must clearly state the reasons why the SGM is being convened and provide as full details as possible of the nature of the business to be transacted at the meeting. Only the business stated in the notice of SGM may be dealt with at such SGM.
- 13.8 **Time of SGM:** SGMs shall be held not more than 30 days after the day on which the Board calls for a SGM or on which the requisition was received by the Manager, as the case may be.
- 13.9 **General Meetings Using Technology:** In any case where the Board deems it appropriate, a General Meeting may be held by the contemporaneous linking together of participants in the General Meeting by telephone or other such means of communication.
- 13.10 **Delegate:** Each Club may elect or appoint one Delegate (in accordance with its constitution) to represent the Club at General Meetings of the Association and to vote on behalf of the Club

at General Meetings of the Association in accordance with Rule 13.12 (Voting). Notice of the appointment of the Delegate, signed by an authorised representative of the Club must be given to the Manager prior to the commencement of the General Meeting. Delegates may exercise all of the votes to which the Club is entitled. Delegates need not cast all votes in the same way.

- 13.11 **Observers:** All Members are entitled to attend General Meetings as observers. However, all Members who attend shall not be entitled to speak or vote.
- 13.12 **Voting:** At General Meetings, the voting power will be:
- (a) One vote for each of the Board members
 - (b) One vote for each affiliated Sub-Association, Club or Other Organisation
- 13.13 **Non-Compliance:** Notwithstanding anything else contained in this Constitution, a Member shall not be entitled to vote, where the Member:
- (a) has not paid the Membership Fees or any Levy applicable by the due date occurring before the General Meeting;
 - (b) has been suspended in accordance with Rule 17 (Discipline); or
 - (c) has not supplied their Members' details in accordance with Rule 11.2 (Member and Club Requirements).
- 13.14 **Meeting Procedure:** At General Meetings:
- (a) **Quorum:** No business may be transacted at any General Meeting if a quorum is not present. A quorum for a General Meeting shall be 5 Members. The General Meeting will be reconvened 14 days later if a quorum is not present within 15 minutes of the scheduled starting time. A quorum of three is necessary for the second meeting.
 - (b) **Chairperson:** The chairperson of all General Meetings will be the Chairperson or, if absent, the Deputy Chairperson or, in the absence of both, a person decided by the Board.
 - (c) **Casting Vote:** The Chairperson shall have a casting vote. The Chairperson may exercise a deliberative vote(s) if the Chairperson has the right to vote.
 - (d) **Regulation of Procedure:** The Chairperson of a General Meeting shall regulate the proceedings at that General Meeting.
 - (e) **Powers to Adjourn Meetings:** The Chairperson may adjourn the meeting from time to time and from place to place and shall adjourn the meeting if so directed by the meeting.
 - (f) **Voting:** Voting at General Meetings may be by voice, a show of hands, or secret ballot if requested by a Member eligible to vote and present at a General Meeting.
 - (g) **Scrutineers:** For each meeting at least two scrutineers shall be appointed to keep a record of and count votes cast at a General Meeting.
 - (h) **Minutes:** Minutes shall be kept of all General Meetings and made available upon request by a Member.
 - (i) **Chairperson's Declaration:** The Chairperson shall declare the result of the vote once voting is complete. The Chairperson's declaration of the result will be conclusive.

- 13.15 **Method of Voting:** A Member may exercise its vote in any one of the following ways:
- (a) by its Delegate being present;
 - (b) by its proxy, (Rule 13.16); or
 - (c) by postal or electronic voting (Rule 13.17).
- 13.16 **Proxy Votes:** Where a Member chooses to exercise its vote by appointing a proxy to attend a General Meeting, the following general principles shall apply together with any specific requirements as determined by the Board:
- (a) the proxy must be appointed by notice in writing on the proxy form, as prescribed by the Board, and signed by the Member;
 - (b) the proxy form must specify how the Member directs the proxy to vote, including a specific vote and/or authority to allow the proxy to decide how it will vote; and
 - (c) the completed proxy form must be returned to the Manager (or his or her nominee) not less than one hour before the time scheduled for the commencement of the General Meeting.
- 13.17 **Postal or Electronic Voting:** Where a Member chooses to exercise their vote by casting a postal or electronic vote, the following general principles shall apply together with any specific requirements as determined by the Board:
- (a) the Member may cast a postal or electronic vote on all or any of the motions to be voted on at the General Meeting by returning the voting form, as prescribed by the Board, to the Manager (or his or her nominee) for that meeting; and
 - (b) the voting form must reach the Manager (or his or her nominee) not less than 24 hours before the time scheduled to commence the General Meeting.
- 13.18 **Election of Board Members:** For the election of Elected Board Members, the following process shall apply:
- (a) **Secret Ballot:** the election shall be decided by secret ballot;
 - (b) **Highest Polling:** those candidate(s) for the vacant Elected Board Member position(s) which have the highest number of votes in their favour shall be declared elected;
 - (c) **Equal Number:** if there is an equal number of candidate(s) to the number of vacant Elected Board Member position(s) the candidate(s) shall be declared elected;
 - (d) **Insufficient Candidates:** if there are insufficient candidate(s) for the vacant Elected Board Member position(s), the available candidate(s) shall be declared elected and the remaining position(s) shall remain vacant and shall be treated as a Casual Vacancy;
 - (e) **Tied Vote:** If there is a tied vote and a position is still required to be filled, then there shall be a second vote for the vacant position in which the only candidates to be voted on shall be the candidates with the tied vote in the first round vote; and
 - (f) **Multiple Vacancies:** if there is more than one vacancy in the number of Elected Board Members to be voted for, then all candidates shall be put to the vote at the same time.

- 13.19 **Validity of Votes:** In the case of any dispute as to the admission or rejection of a vote at a General Meeting, the Chairperson will determine the same and such determination will be conclusive.

PART IV – GOVERNANCE

14. Board

- 14.1 **Role of the Board:** The Board is responsible for governing the Association. The Board may exercise all the powers of the Association and do all things that are not expressly required to be undertaken at a General Meeting.
- 14.2 **Composition of the Board:** The Board shall comprise of a minimum of 4 members total being:
- (a) up to 3 elected by the AGM under Rule 14.5 (Elected Board Members); and
 - (b) up to 4 appointed under Rule 14.9 (Appointed Board Members).
- 14.3 **Term of Office of Board Members:** The term of office for each Board Member shall be 3 years commencing at the conclusion of the AGM at which their appointment is made and expiring at the conclusion of the third AGM after their appointment, subject to Rule 14.10.
- 14.4 **Maximum Duration of Office:** All Board Members may serve on the Board for 3 successive terms for a maximum of 9 consecutive years.
- 14.5 **Elected Board Members:** Applications for elected positions on the Board shall be made as follows:
- (a) in each year the Manager shall, not later than [30 Days] prior to the AGM, call for applications for the required number of Elected Board Member positions (based on any vacancies due to arise at the AGM);
 - (b) applications by candidates seeking appointment as an Elected Board Member shall be made in writing and must be received by the Manager no later than [21 Days] prior to the AGM; and
 - (c) Elected Board Members will be elected at an AGM in accordance with Rule 13.188 (Election of Board Members).
- 14.6 **Selection Panel:** There shall be a Selection Panel established whose function shall be to consider, and decide the candidates to be appointed to the Board. The Selection Panel shall consist of three persons comprising:
- (a) the Chairperson for the time being of the Association (or her/his nominee), unless the Chairperson is the candidate being considered for selection and in such case, his/or her nominee;
 - (b) one Board Member, who shall be appointed by the Board; and
 - (c) one independent person who shall be appointed by the Board.
- 14.7 **Process:** The Selection Panel shall be convened by the Board for such period as required to carry out its function in accordance with this Constitution. A person may be reappointed to the Selection Panel for further periods without limitation.
- 14.8 **Relevant Factors:** In considering appointments to the Board, the Selection Panel shall take into account the following factors about the applicant and the Board as a whole:

- (a) their prior experience as a director, trustee, or experience in any other governance role;
- (b) their knowledge of, and experience in, the sport of basketball generally, at international, national, and/or local level;
- (c) their occupational skills, abilities, and experience;
- (d) their knowledge of, and experience in, community, sports and/or not for profit organisations generally;
- (e) the need for conflicts of interest on the Board to be minimised;
- (f) the need for a wide range of skills and experience on the Board including skills in commerce, finance, marketing, law or business generally;
- (g) the need for diversity on the Board; and
- (h) the need for the Board as a whole to have sufficient knowledge of or experience in the sport of basketball.

14.9 Appointed Board Members: The Selection Panel will appoint Appointed Board Members as follows:

- (a) in each year the Manager shall, not later than 30 Days prior to the AGM, call for applications for the required number of Appointed Board Members positions (based on any vacancies due to arise at the AGM);
- (b) applications by candidates seeking appointment as an appointed Board Member shall be made in writing and must be received by the Manager no later than 21 Days prior to the AGM; and
- (c) the Manager shall then forward all applications together with a copy of any curriculum vitae supplied by a candidate to the Selection Panel;
- (d) the Selection Panel shall select candidates to serve on the Board, having regard to the factors specified in Rule 14.6. If there are insufficient applications, the Selection Panel may on its own initiative contact additional persons who it considers meet the required criteria to see if they would be interested in serving on the Board. The number of candidates to be appointed by the Selection Panel shall be the total of the number of Appointed Board Members retiring (by rotation or otherwise) or a lesser number if there are insufficient suitable candidates; and
- (e) the Selection Panel shall provide a report for the AGM outlining the reasons for its decisions which shall include a synopsis summarising the attributes it considers each candidate has for the position. The Selection Panel's decisions shall be conveyed to the Manager in time to enable the Manager to include details of the candidates appointed by the Selection Panel in the AGM Agenda.

14.10 Eligibility: No person may serve on the Board if any of the following apply:

- (a) the person is an employee of the Association;
- (b) the person is an undischarged bankrupt, or is subject to a condition not yet fulfilled or any order under the Insolvency Act 1967;
- (c) the person has been convicted of a crime involving dishonesty (within the meaning section 2(1) of the Crimes Act 1961) and has been sentenced for that crime within the last seven years;

- (d) the person has been prohibited from being a director or promoter of, or being concerned or taking part in, the management of an incorporated or unincorporated body under the Companies Act 1993, Securities Act 1978, the Securities Markets Act 1988, the Takeovers Act 1993, or from being an officer of a charitable entity under the Charities Act 2005; or
 - (e) the person is subject to a property order made that the person is lacking in competence to manage their own affairs under the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of the Protection of Personal and Property Rights Act 1988.
- 14.11 **Schedule of Rotation:** To ensure rotation on the Board, there must be at least two vacancies (whether by expiry of term of office, retirement or otherwise) on the Board at every AGM. If there are insufficient vacancies to give effect to this requirement the Board shall, prior to the AGM, determine by lot which of its number shall retire and notify the Members of this decision prior to the AGM.
- 14.12 **Chairperson:** At the first Board meeting following each AGM, the Board shall appoint a Chairperson of the Board from amongst the Board Members (“Chairperson”). The role of the Chairperson is to chair meetings of the Board and to publicly represent the Board and the Association. If the Chairperson vacates office as the Chairperson (whether or not they remain on the Board), the Board shall appoint a new Chairperson from amongst the Board Members.
- 14.13 **Suspension of a Board Member:** The Board may, after reasonable enquiry and after giving the person concerned the right to be heard, suspend a person from their position on the Board in the following circumstances:
- (a) if the person is charged with committing a criminal offence punishable by a term of imprisonment and the Board consider the circumstances justify immediate suspension; or
 - (b) if any of the circumstances described in Rule 14.10 (Eligibility) occur to that person during their term of office; or
 - (c) if the Board consider any member of the Board has acted in a manner that has caused, or may cause, significant harm to the Association.
- 14.14 **Removal From Office:** In addition to the power of suspension in Rule 14.13 (Suspension of an Board Member), the Board may, with the approval of a motion by no less than two-thirds of the Board, remove any Board Member from the Board before the expiry of their term of office if any of the circumstances set out in Rule 14.13(a) to 14.13(c) apply, provided that:
- (a) the person concerned has been notified that a Board meeting is to be held to discuss that person’s removal from office; and
 - (b) the person concerned has been given an opportunity to make submissions about the proposed removal prior to the Board meeting or by submission in person at the Board meeting.
- 14.15 **Vacancies:** The office of a Board Member shall become vacant if a Board Member:
- (a) resigns from his or her position on the Board;
 - (b) is removed from office in accordance with this Constitution;
 - (c) is absent from three (or more) consecutive meetings of the Board without the approval of the Board; or
 - (d) dies.

- 14.16 **Co-Option if a Vacancy Arises:** If any vacancy arises on the Board after an AGM, the Board has the power to fill that vacancy by co-option until the next AGM, or the Board may choose to leave the position vacant until the next AGM. If a person is appointed to fill a vacancy, that person shall hold office until the next AGM (unless removed prior to that date in accordance with this Constitution).
- 14.17 **Vacancy of Chairperson's Position:** If the position of Chairperson becomes vacant then the Board shall appoint one of its members to that position.
- 14.18 **Ability to Co-opt:** The Board may from time to time co-opt up to a maximum of 2 other persons as Board Members for specified purposes on terms, (including but not limited to, term of office) determined by the Board at the time of appointment.

15. Powers & Duties of the Board

- 15.1 **Powers and Duties:** The Board shall have the following general powers and duties:
- (a) to develop and implement strategies, policies and procedures for the administration, promotion and development of the sport of basketball in the Association's region;
 - (b) to develop and implement prudent policies to protect and enhance the Association's finances and property;
 - (c) to establish such committees and groups as it considers appropriate to assist it to carry out its responsibilities;
 - (d) to establish such corporate and other entities to carry on and conduct any part of the affairs of the Association;
 - (e) to co-opt, engage, contract or otherwise agree to obtain the assistance or advice of any person or organisation for the Board;
 - (f) to delegate such powers as it considers appropriate to employees, committees or other groups appointed by it;
 - (g) to enforce the laws of basketball when requested to do so by BBNZ;
 - (h) to employ, engage or otherwise appoint coaches, managers, umpires and other support personnel for Association representative Basketball teams and competitions, determine the terms and conditions of such appointments and, if necessary, terminate such appointments;
 - (i) to appoint such persons as it considers appropriate to committees, positions and roles within the Association, (except as otherwise specified in this Constitution or the Association Regulations), to determine the terms and conditions of such appointment and, if necessary, to terminate such appointments;
 - (j) to select Association representative basketball teams and squads;
 - (k) subject to this Constitution, to fill vacancies of the Board, and of any committees and other groups which are established by it;
 - (l) to determine the conditions and rules of Association tournaments, events and competitions, held by or under its auspices;
 - (m) to appoint and administer any Disciplinary Committee;
 - (n) to participate in Regional Association forums in accordance with the constitution and regulations of the Regional Association;
 - (o) to discipline Members as specified in this Constitution;

- (p) to develop Association programmes for playing, coaching, umpiring and officiating the sport of basketball and implement them as agreed by BBNZ together with national programmes in the Hawkes Bay;
- (q) to resolve and determine any disputes or matters not provided for in this Constitution; and
- (r) to do all other acts and things which are within the powers and objects of the Association and which the Board considers appropriate.

16. Proceedings of the Board

- 16.1 Number of Meetings:** The Board shall meet on a regular basis through the year as determined by the Board but sufficient to ensure proper control and efficient handling of the affairs of the Association.
- 16.2 Quorum:** The quorum for meetings of the Board shall be at least 50% of the number of Board Members. No business shall be transacted at any Board meeting unless a quorum is present (but the abstention of a member from voting under Rule 16.3 (Disclosure of Interests) shall not affect the quorum), except that those present may fix a date, time, and venue for the reconvening of the meeting. Notice of such date, time, and venue of any reconvened meeting shall be given forthwith to each Board Member.
- 16.3 Disclosure of Interests:** Any Board Member who may derive some personal or financial benefit on a matter before the Board shall disclose the nature and extent of their interest to the Board and shall take no part whatsoever in the matter before the Board where they hold such interest.
- 16.4 Voting:** Subject to Rule 16.3 (Disclosure of Interests), each Board Member present at any Board meeting shall be entitled to exercise one vote whenever voting is required. The Chairperson of the Board will not have the casting vote as well as a deliberate vote.
- 16.5 Resolutions:** The Board may make a decision by signed resolution or consent in lieu of a meeting. Any such resolution shall be valid as if it had been passed at a meeting of the Board as long as:
- (a) a copy of the proposed resolution is sent to every Board Member; and
 - (b) at least half of the Board Members sign or consent to the resolution and return evidence of this consent to the Chairperson (or such other person as agreed by the Board) by mail, electronic mail, facsimile, or another form of visible or electronic communication, by the date and time specified by the Chairperson.
- 16.6 Minutes:** The Manager shall ensure the proceedings of each Board meeting are properly recorded as soon as possible after the conclusion of each meeting of the Board. A copy of such minutes shall then be forwarded to each Board Member. The original of each set of minutes shall be permanently affixed in the minute book and confirmed at the next meeting of the Board.
- 16.7 Expenses:** Subject to Rule 1919 (Application of Income), the reasonable expenses of all Board Members attending meetings of the Board shall be paid by the Association.
- 16.8 Meetings Using Technology:** A meeting of the Board may be held by the contemporaneous linking together by telephone or other means of communication of the Board Members provided that prior notice of the meeting is given to all Board Members and provided that all persons participating in the meeting are able to hear each other effectively and simultaneously.

PART V – DISCIPLINE

17. Discipline

17.1 **Discipline:** If the Board considers that any Member has or may have:

- (a) breached, failed, refused, or neglected to comply with a provision of this Constitution, the BBNZ Constitution, the BBNZ Regulations, the Association Regulations, or any other resolution or determination of the Board, or under any policies or rules of the Association (including any code of conduct but excluding an alleged anti-doping violation); or
- (b) acted in a manner unbecoming of a Member or prejudicial to the objects or the interests of the Association, BBNZ or the sport of basketball; or
- (c) brought the Association, BBNZ or any other Member or basketball into disrepute;

the Board may refer the matter to a disciplinary committee or body for investigation or determination as specified in the Association's Regulations and/or the BBNZ Regulations. If the matter is not specified in the Association Regulations or the BBNZ Regulations, the Board may:

- i. refer the matter to a Disciplinary Committee (consisting of three (3) persons with experience in disciplinary matters) for investigation or determination in accordance with the principles of natural justice and any applicable rules relating to the Disciplinary Committee's procedure. The Disciplinary Committee may impose any sanction on the Member as it sees fit (including but not limited to termination or suspension of membership); or
- ii. make its own enquiries (including appointing a person independent of the Board to undertake such enquiries and provide a recommendation to the Board), and impose any sanction that it has authority to impose on the Member (including but not limited to termination or suspension of membership), provided it has complied with the principles of natural justice.

17.2 **Procedure:** Before any decision under Rules 17.1(c)i and 17.1(c)ii are made, the Member concerned:

- (a) shall be given fourteen (14) Days written notice by the Board of the proposed resolution to impose a sanction; and
- (b) have the right to be present, make submissions, and be heard at the Disciplinary Committee meeting in which the proposed resolution is to be determined.

17.3 **Suspension:** If the Disciplinary Committee considers a Member has or may have engaged in one or more of the circumstances in Rules 17.1(a) to 17.1(c), and it believes it is in the best interests of the Association to do so, it may suspend the Member pending determination of the matter in accordance with this Rule 17. Before invoking any such suspension, the Member shall be given notice of the proposed suspension and the right to be heard.

17.4 **Consequences of Suspension:** If a Member is suspended from membership of the Association, then until such time as the suspension is revoked, the Member concerned shall:

- (a) not be entitled to attend, speak, or vote at a General Meeting;
- (b) not be entitled to continue to hold office in any position within the Association or his or her Club;

- (c) not be entitled to any other privileges or benefits to which he or she would otherwise be entitled including participation in any competition, activity, event, function, or meeting of the Association or his or her Club; and
- (d) have their membership of the Club, the Association and BBNZ suspended.

PART VI – FINANCIAL

18. Finances

- 18.1 **Financial Year:** The financial year of the Association shall end on 31st December, or such other date as determined by the Board.
- 18.2 **Control & Investment of Funds:** Funds and property of the Association shall be under the control of the Board who may invest, and deal with the same only in furtherance of Rule 19.1 of this constitution. The funds of the Association shall be deposited with such a registered Bank as the Board shall determine. All cheques or orders in the Association bank accounts shall be signed by two members of the Board or a member of the Board and a Board approved staff member or contractor. All bank account(s) of the Association must be operated in accordance with any policies determined by the Board
- 18.3 **Accounting Records:** The Board shall ensure true and complete accounts are kept. The accounting records of the Association must be kept at the office of the Association or at such other place as the Board may determine. The accounting records must be open to inspection by Members at such reasonable times agreed by the Board.
- 18.4 **Auditor:** The Board shall appoint an External Auditor to examine and audit the books and accounts of the Association and report on these at the AGM (and as otherwise required by the Board).

19. Application of Income & No Pecuniary Profit

- 19.1 **Application of Income:** The income and property of the Association shall be applied solely towards the promotion of the Objects of the Association.
- 19.2 **No Pecuniary Profit:** No Member of the Association or any person associated with a Member shall participate in or materially influence any decision made by the Association in respect of the payment to or on behalf of that Member or associated person of any income, benefit, or advantage whatsoever. Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value). The provisions and effect of this Rule shall not be removed from this Constitution and shall be included and implied into any document replacing this Constitution.

PART VII - ADMINISTRATION

20. Manager

- 20.1 **Appointment:** The Board shall appoint a person (not being a Delegate) to be the Manager of the Association at such remuneration, with such duties, and on such conditions as it shall determine. Such person shall hold office as the Manager for the term of that person's appointment by the Board. The Manager shall be entitled with the permission of the Chairperson to address and advise the Members and the Board on any matter under consideration.

- 20.2 **Administration:** The Manager shall attend all General Meetings and meetings of the Board (subject to any decision to the contrary by any meeting of either body), but shall have no right to vote.
- 20.3 **Correspondence:** All correspondence to the Association must be addressed to and come through the office of the Manager in order to receive due and proper consideration.

21. Alterations to Constitution

- 21.1 **Process:** This Constitution may only be altered, added to, or repealed by a Special Resolution at a General Meeting in accordance with this Constitution.
- 21.2 **Timing:** Notice of an intention to alter this Constitution must be given by the Board or any Member:
- (a) at least 21 Days prior to an AGM to be considered at that AGM; or
 - (b) as part of the request to hold an SGM made in accordance with Rule 13.6 (Special General Meeting).

22. Association Regulations

- 22.1 **Board to Determine:** The Board may determine regulations (to be known as “Association Regulations”) covering any matters as the Board in its discretion deems appropriate, provided they are not inconsistent with this Constitution, the BBNZ Constitution, or the BBNZ Regulations.
- 22.2 **Application:** Regulations shall be binding on all Members.
- 22.3 **Alterations:** Regulations may be rescinded, amended, or added to from time to time but only by resolution of the Board. No resolution or resolutions proposing such alterations shall be deemed to be carried unless supported by the vote of not less than two thirds of the members of the Board. No such alteration shall conflict with the Rules of Basketball New Zealand. At least 21 days’ notice of such proposed alterations having been given to all associations and clubs shall then take effect.

23. Laws of Basketball

- 23.1 **FIBA:** The laws of basketball shall be as set down and interpreted from time to time by the Federation Internationale de Basketball Amateur (“FIBA”) and BBNZ and must be observed by the Association and all Members. All competitions held by, or on behalf of, the Association shall be carried out with the BBNZ Regulations and other policies, rules and procedures issued by BBNZ in mind;
- 23.2 The playing rules of FIBA, BBNZ and bylaws of the Association shall govern all play by teams of associations, clubs and teams affiliated to and/or representing the Association;
- 23.3 No basketball participant who is not a current financial member of the Association can participate in any representative team of Basketball Hawkes Bay;

24. Dissolution & Liquidation

- 24.1 **Dissolution & Liquidation:** The Association may be either:
- (a) dissolved by the Registrar of Incorporated Societies in accordance with the Incorporated Societies Act 1908; or

(b) placed into voluntary liquidation in accordance with Rule 24.2

24.2 **Voluntary Liquidation:** The Association may be placed into voluntarily liquidation if:

- (a) a Special Resolution is passed at a General Meeting to appoint a liquidator; and
- (b) such resolution is confirmed by Special Resolution at a subsequent Special General Meeting, called for that purpose, and held not earlier than 28 Days after the date on which the resolution was passed.

Upon appointment of a liquidator the relevant provisions of the Incorporated Societies Act 1908 shall apply to the liquidation of the Association.

24.3 **Surplus Assets:** Any surplus assets of the Association either on liquidation or dissolution, after payment of all costs, debts, and liabilities, shall subject to any trust effecting the same, be disposed of by distributing, giving or transferring them to another body corporate with objects similar to the Objects of the Association.

24.4 **Distribution of Income:** The body or bodies in Rule 24.3 must prohibit the distribution of its or their income and property among its or their members to at least the same or greater an extent as is imposed on the Association under this Constitution.

24.5 **Determination:** The body or bodies in Rules 24.3 shall be determined by the Members in a General Meeting at or before the time of dissolution or liquidation. If the Members are unable to decide, the body or bodies shall be determined by the liquidator or the Registrar of Incorporated Societies (in the case of dissolution).

25. Notices

25.1 **From the Association:** Any notice required to be given by or on behalf of the Association under this Constitution shall be in writing and may be served either personally, by electronic mail, or by posting it in a letter addressed to the Member at the address of the Member as held by the Association. If given by post the notice shall be deemed to have been given at the time when the letter containing the same would be delivered in the ordinary course of post.

25.2 **To the Association:** Any notice required to be given to the Association under this Constitution shall be in writing and may be given to the Manager or sent to the Association's registered office by post or any electronic mail address specified by the Association.

26. Indemnity & Insurance

26.1 **Indemnity:** Each Member and each Board Member shall, except in the case of wilful default or fraudulent acts or omissions, be indemnified by and out of the funds of the Association against any loss, damage, expenses or liability incurred by reason of or in connection with any legal proceedings instituted against them or any of them for any act done, omitted or suffered in relation to the performance of any of their duties in respect of the Association.

26.2 **Insurance:** The Board may take out any appropriate insurance cover in respect of the indemnity provision in this Rule at the expense of the Association.

27. Matters Not Provided For

If any matter shall arise which in the opinion of the Board is not provided for in this Constitution then the same may be determined by the Board in such manner as it deems fit. Every such determination shall be binding upon Members unless and until set aside by Ordinary Resolution at General Meeting.

28. Interpretation

28.1 In this Constitution, unless the context otherwise requires:

- (a) “**AGM**” means an Annual General Meeting the Association convened pursuant to Rule 130.
- (b) “**Association**” and “**the Association**” means Basketball Hawkes Bay Incorporated.
- (c) “**BBNZ**” means Basketball New Zealand Incorporated.
- (d) “**BBNZ Board**” means the Board of BBNZ.
- (e) “**BBNZ Constitution**” means the constitution of BBNZ.
- (f) “**BBNZ Regulations**” means the regulations of BBNZ made in accordance with the BBNZ Constitution.
- (g) “**Board**” means the management committee, board, or other committee however described of the Association that is responsible for the governance of the Association.
- (h) “**Board Member**” means a person appointed or elected to the Board pursuant to Rule 14.2.
- (i) “**Club**” means a club that is a Member of the Association situated in the Association’s region.
- (j) “**Constitution**” when used in relation to the Association means this Constitution together with any amendments thereto.
- (k) “**Day**” means any day of the week (including Saturday, Sunday, and public holidays). Where an action is required to be done within a specified time (such as 30 Days) this means clear days, so it should be calculated by excluding the date of notice (or other relevant action) and the date of the meeting (or other relevant activity).
- (l) “**Delegate**” means a person appointed or elected by a Club to represent it at General Meetings of the Association.
- (m) “**Disciplinary Committee**” means the Association’s Disciplinary Committee constituted under Rule 17.
- (n) “**Manager**” means the person appointed by the Board to carry out the directions of the Board as an employee or volunteer of the Association, including the general manager, chief Manager, executive director or any other equivalent position.
- (o) “**External Auditor**” means a qualified auditor as defined in the Financial Reporting Act 2013.
- (p) “**General Meeting**” means either an AGM or an SGM of the Association convened in accordance with Rule 133.3.
- (q) “**Intellectual Property**” means all rights and goodwill in any copyright works, business names, names, trade marks (or signs), logos, designs, patents or service marks relating to the Association or any event, or any competition or Basketball activity or programme of or conducted, promoted or administered by the Association provided that such property is not the intellectual property of BBNZ as defined in the BBNZ Constitution.

- (r) **“Levy”** means the special purpose fee payable by Members as specified in Rule 9.2.
- (s) **“Member”** means a member of the Association as specified in Rule 6.
- (t) **“Membership Fee”** means a fee payable by Members to the Association as specified in Rule 9.1.
- (u) **“Objects”** means the objects specified in Rule 3.
- (v) **“Ordinary Resolution”** means a resolution passed by a majority of the votes properly cast by those present and entitled to vote at a General Meeting.
- (w) **“Privacy Officer”** means the person appointed by the Board from time to time to carry out the representations set out in section 23 of the Privacy Act 1993 and any other functions delegated by the Board.
- (x) **“Regulations”** means the regulations promulgated by the Board from time to time pursuant to Rule 22.
- (y) **“Rules”** means the rules of this Constitution.
- (z) **“Selection Panel”** means the panel constituted to appoint Board Members pursuant to Rule 14.5.
- (aa) **“SGM”** means a Special General Meeting of the Association convened pursuant to Rule 13.6.
- (bb) **“Special Resolution”** means a resolution passed by two-thirds of the votes properly cast by those present and entitled to vote.
- (cc) **“Sub Association”** means a Sub-Association that is a Member of the Association situated in the Association’s region

28.2 Construction: In this Constitution:

- (a) a gender includes all other genders;
- (b) the singular includes the plural and vice-versa;
- (c) any reference to legislation includes a modification or re-enactment of, legislation enacted in substitution of, or a regulation, order-in-council or other instrument from time to time issued or made under, that legislation;
- (d) any agreement includes that agreement as modified, supplemented, innovated or substituted from time to time;
- (e) a reference to persons includes bodies corporate;
- (f) a reference to a person includes the legal personal representatives, successors and permitted assigns of that person;
- (g) headings and the contents page are for reference only and are to be ignored in construing this Constitution; and
- (h) if there is any inconsistency between any Rule in this Constitution and any rule in the BBNZ Constitution then, to the extent of that inconsistency, the BBNZ Constitution shall prevail unless the BBNZ Board determines otherwise.

