



**Basketball New
Zealand Incorporated**
Incorporated Society No. 217386

Constitution

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Basketball New Zealand Incorporated

Constitution

1. Definitions

1.1 The capitalised words and phrases used in this Constitution shall mean as follows:

“Affiliated Association” has the meaning specified in Rule 8.1 (Affiliated Association).

“AGM” means the Annual General Meeting of BBNZ as described in Rule 17.1 (General Meetings).

“Appointed Board Member” means a person appointed as a Board Member in accordance with this Constitution.

“Appointed Personnel” means Officers and other individuals who are appointed to positions of responsibility by BBNZ including, but not limited to, officials, coaches and managers.

“Area” means a geographical area of New Zealand as defined by the Board, over which an Affiliated Association has jurisdiction in accordance with its constitution and this Constitution.

“Associate Member” has the meaning specified in Rule 9.1 (Associate Member).

“BAP” or, Board Appointments Panel, means the panel described in Rule 21.1 (Composition).

“BBNZ” means Basketball New Zealand Incorporated and where relevant includes its Officers, employees, contractors and agents.

“Board” means the BBNZ Board as described in this Constitution.

“Board Members” means the people elected and appointed to the Board in accordance with this Constitution or the Previous Constitution.

“Casual Vacancy” means a vacancy which arises:

- a. due to the office holder resigning prior to the expiry of their term of office;
- b. due to the death of the office holder;
- c. where the office holder has been removed from office in accordance with this Constitution;
- d. where the office holder is no longer eligible to remain in office as specified in this Constitution;
- e. where there are insufficient applications for the available positions of Elected Board Members and the position is left unfilled following an election; or
- f. for Board Members only, due to the Board Member being absent from more than 3 consecutive meetings without having their absence approved by the Chairperson, or without reasonable excuse.

“CEO” means the Chief Executive Officer of BBNZ appointed in accordance with Rule 25 (CEO).

“Chairperson” means the person described in Rule 20.3 (Chairperson) and for the purposes of General Meetings the person described in Rule 19.2.

“Club” means a club that is a member of, and within the Area of, an Affiliated Association.

“Constitution” means this constitution.

“Day” means any day of the week (including a Saturday, Sunday, and a public holiday). Where an action is required to be done within a specified time (such as 30 Days) this means clear days, so it is to be calculated by excluding the date of the notice (or other relevant action) and the date of the meeting (or other relevant activity).

“Deputy Chairperson” means the person described in Rule 20.4 (Deputy Chairperson).

“Delegate” means a person who represents an Affiliated Association as described in Rule 17.8 (Delegates).

“Elected Board Member” means a person elected as a Board Member in accordance with this Constitution.

“FIBA” means the Fédération Internationale de Basketball which is the international organisation governing basketball throughout the world and is recognised as such by the International Olympic Committee.

“General Meeting” means an AGM or a SGM of BBNZ.

“Individual Member” has the meaning specified in Rule 11 (Individual Members).

“Life Member” has the meaning specified in Rule 10.1 (Life Members).

“Members” has the meaning specified in Rule 7.1 (Members).

“Member Database” means the database controlled by BBNZ which contains information about Members.

“Minimum Membership Fee” means the minimum BBNZ membership fee payable by an Association to BBNZ regardless of the number of players registered by the Association, the amount of which shall be determined in accordance with Rule 16 (Membership Fees).

“Objects” means the objects of BBNZ as specified in Rule 5 (Objects).

“Officers” means the Patron and all Board Members.

“Patron” means the individual elected under Rule 24 (Patron).

“Postal and Electronic Voting” means the methods of voting for General Meetings as described in Rule 19.13 (Postal and Electronic Voting). For the avoidance of doubt, a Postal Vote means a vote made on the voting form prescribed by the Board and received by the CEO (or his or her nominee) by physical delivery. An Electronic Vote means a vote made on the voting form prescribed by the Board, in the manner prescribed by the Board and received by the CEO (or his or her nominee) by electronic means.

“Previous Constitution” means the constitution of BBNZ that was registered on the Register of Incorporated Societies & Trusts immediately prior to this Constitution coming into force.

“Proxy” means:

- a) a Delegate of an Affiliated Association who is authorised to act as the agent for another Affiliated Association; or
- b) a Life Member or Officer who is authorised to act as an agent for another Life Member or Officer.

“Regulations” means any regulations determined by BBNZ.

“Rule” means a rule of this Constitution.

“SGM” means a Special General Meeting of BBNZ as described in Rule 17.1 (General Meetings).

“Sport NZ” means Sport New Zealand, the government organisation responsible for sport and recreation (formerly SPARC).

“Special Resolution” means a resolution passed by two-thirds of the votes properly cast by those present and entitled to vote.

“Sports Tribunal” means the Sports Tribunal of New Zealand established by SPARC (now Sport NZ) and continued under the Sports Anti-Doping Act 2006 (previously known as the Sports Disputes Tribunal of New Zealand).

“Team” means a team that is, or whose players are, a member(s) of a Club or an Affiliated Association in the Affiliated Association’s Area.

“World Anti-Doping Agency” means the foundation constituted under the Swiss Civil Code in Lausanne on 10 November 1999.

“Voting Member” means every Affiliated Association (unless Rule 18.2 – Financially Current applies) and Life Member.

“Zone” means a geographical area of New Zealand in which a number of Affiliated Associations are located as determined by BBNZ.

1.2 **Interpretation:** In this Constitution:

- a. the singular includes the plural and vice-versa;
- b. 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;
- c. any agreement includes that agreement as modified, supplemented, novated or substituted from time to time;
- d. any obligation not to do something includes an obligation not to suffer, permit, or cause that thing to be done;
- e. a reference to persons includes bodies corporate;
- f. a reference to a person includes the legal and personal representatives, successors and permitted assignees of that person; and

- g. headings and the contents page are for reference only and are to be ignored in interpreting this Constitution.

2. Name

- 2.1 **Name:** The name of the organisation is "Basketball New Zealand Incorporated"; and may be variously referred to as "Basketball New Zealand" or "BBNZ".

3. Registered Office

- 3.1 **Registered Office:** The registered office of BBNZ shall be such location as may be determined by the Board from time to time; and as at the date of the adoption of this Constitution is Level 4, Credit Consultants House, Church Street, Wellington.

4. Status

- 4.1 **Legal:** BBNZ is an incorporated society established under the Incorporated Societies Act 1908. As at the date of the adoption of this Constitution BBNZ is also a registered charity in New Zealand under the Charities Act 2005.

- 4.2 **New Zealand:** BBNZ is the controlling body in New Zealand for basketball and is recognised as such by the FIBA and Sport NZ.

- 4.3 **FIBA Member Federation:** BBNZ is the national member federation of FIBA for New Zealand. As such BBNZ must observe the General Statutes, Internal Regulations, the Official Basketball Rules, and other rules, regulations and decisions of FIBA.

- 4.4 **FIBA Zone:** BBNZ is a member of the zone to which it is assigned by the FIBA Central Board, which is currently FIBA Oceania. BBNZ must enforce decisions of FIBA Oceania provided these do not conflict with the General Statutes, Internal Regulations, other rules and regulations, and decisions of FIBA.

- 4.5 **Order of Priority:** If:

- a. any matter is not provided for in this Constitution or the Regulations but is provided for in the FIBA General Statutes or the FIBA Internal Regulations then the requirements of FIBA shall apply; and
- b. there is any conflict between this Constitution or the Regulations and the FIBA General Statutes or the FIBA Internal Regulations, the requirements of FIBA shall prevail.

5. Objects

- 5.1 The objects of BBNZ are as follows:

- a. To develop and maintain a governance structure for BBNZ capable of delivering to all Members services desirable or necessary to achieve all the Objects set out in these rules from time to time.
- b. To promote, foster and develop the game of basketball in New Zealand and the skill of participants in the game.

- c. To further the education of all persons by encouraging and enabling their participation and involvement in basketball in New Zealand.
- d. To ensure the game of basketball is a clean, modern and inclusive activity.
- e. To enhance the links the game has with its national and international stakeholders, its participants and the community.
- f. To promote the “Tall Blacks” and “Tall Ferns” and “Koru” brands.
- g. To field representative teams in FIBA, Olympic, Oceania and invitational competitions.
- h. To promote visits of overseas basketball teams to New Zealand and to organise, promote and exercise jurisdiction over all New Zealand representative teams including development teams playing within or outside New Zealand.
- i. To apply for and maintain membership of the International Basketball Federation (FIBA) or any other international basketball association or organisation.
- j. To develop and provide a national tournament and league programme, a player development programme, officials and administrators development programmes and a high performance programme suitable for its Members and achievement of the Objects.
- k. To do all such other things as BBNZ, in its absolute discretion, considers necessary or desirable to promote the interest of basketball and to attain the strategic objects and aims of BBNZ.
- l. To promote observance of the ethical principles contained in this Constitution in all aspects of the game.
- m. To protect the recognition by FIBA of BBNZ as the only national basketball administration in New Zealand.

6. Powers

- 6.1 **Powers:** BBNZ shall have all the powers of a natural person that are necessary to enable it to carry out its Objects, and such other powers it has as an incorporated society under the Incorporated Societies Act.

7. BBNZ's Members

- 7.1 **Members:** The Members of BBNZ shall comprise:

- a. Affiliated Associations as described by Rule 8 (Affiliated Associations);
- b. Associate Members as described by Rule 9 (Associate Members);
- c. Life Members as described by Rule 10 (Life Members);
- d. Individual Members as described in Rule 11 (Individual Members); and
- e. Appointed Personnel as described in Rule 12 (Appointed Personnel).

- 7.2 **Rights & Obligations:** The respective rights and obligations of each category of membership of BBNZ, as set out in Rule 7.1, shall be determined in accordance with the terms of this Constitution.
- 7.3 **Binding:** Each Member acknowledges and agrees that for the duration of their membership, this Constitution constitutes a contract between each of them and BBNZ and they are bound by this Constitution, the Regulations, and any policies, procedures or decisions of the Board. Each Affiliated Association shall include a rule identical to this rule in its constitution so that its members are bound by this rule.
- 7.4 **Non-Profit:** No Member or person associated with BBNZ or a Member of BBNZ shall derive any income, benefit or advantage from BBNZ where they can materially influence the payment of the income, benefit or advantage except where that income, benefit or advantage is derived from:
- a. professional services to BBNZ rendered in the course of business charged at no greater rate than current market rates; or
 - b. interest on money lent at no greater rate than current market rates.
- 7.5 **Perpetual:** The provisions and effect of Rule 7.4 (Non-Profit) shall not be removed from this Constitution and shall be included and implied into any document replacing this Constitution.

8. **Affiliated Associations**

- 8.1 **Affiliated Association:** An Affiliated Association is a basketball organisation that is recognised by the Board as having administrative competence; financial stability; and its admission as an Affiliated Association will contribute to the achievement of the Objects.
- 8.2 **No Other Affiliation:** Affiliated Associations may not be affiliated to, or a member of, any basketball organisation that is not a Member of BBNZ, unless otherwise agreed with the Board of BBNZ.
- 8.3 **No Playing with Non-Affiliated Associations:** Each Affiliated Association must ensure that no Team or player under its control or jurisdiction, plays any other team under the control or jurisdiction of an entity which is not a BBNZ Member, including without limitation any team or player under the control or jurisdiction of an overseas entity, without the prior written consent of the Board. Each Affiliated Association shall include a rule identical to this rule in its constitution so that its members are bound by this rule.
- 8.4 **Affiliated Association Obligations:** To be a Member, and to remain as an Affiliated Association, an Affiliated Association must:
- a. continue to meet the Board's criteria for a new Affiliated Association under Rule 13.2a (Affiliated Association);
 - b. administer, promote and develop basketball throughout its Area in accordance with the Objects of BBNZ;
 - c. promote, develop and hold regular basketball opportunities, activities, competitions and programmes throughout its Area;

- d. actively contribute to and promote BBNZ high performance pathways for all participants including players, coaches and officials;
- e. actively support and promote the growth of the game of basketball throughout its Area;
- f. work collaboratively with the other Affiliated Associations in its Zone to develop an annual basketball plan for the Zone in accordance with the Regulations;
- g. have as its members, Clubs, Teams, Individual Members and any other members it considers appropriate;
- h. appoint a Delegate(s) annually to represent it at General Meetings;
- i. have complied with its obligations under Rule 8.6 (Affiliated Association Information);
- j. have paid any membership fees in terms of Rule 16 (Membership Fees) by the due date(s);
- k. adopt as its annual financial date a date between 30 August and 31 December in each year;
- l. adopt a constitution which is consistent and in compliance with this Constitution and the Regulations;
- m. act in good faith and with loyalty to BBNZ to ensure the maintenance and enhancement of BBNZ and basketball, and its reputation, and to do so for the collective and mutual benefit of the Members and basketball in New Zealand;
- n. operate with, and promote mutual trust and confidence between BBNZ and the Members;
- o. at all times act in the interests of the Members and basketball; and
- p. do all that is reasonably necessary to enable the Objects of BBNZ and the objects of the Affiliated Association to be achieved.

8.5 **Certification:** Each Affiliated Associations must certify, and provide sufficient evidence that it is complying with all of the obligations in Rule 8.4 on an annual basis in the manner described in Rule 8.6, or as requested by the Board.

8.6 **Affiliated Association Information:** In respect of each financial year each Affiliated Association must forward to BBNZ the following information by 31 March immediately following its balance date:

- a. **Annual Report:** a copy of its annual report and statement of accounts, including balance sheet and income and expenditure account, relating to the preceding financial year;
- b. **Member Database:** a list, in the format determined by BBNZ, containing the names, contact details, gender, date of birth and any other information reasonably requested by BBNZ of all its members, which will be entered into the Member Database;
- c. **Up to date contact details:** up to date contact details, including, if available, an email address, for the Affiliated Association;

- d. **Certification:** certification of its obligations as described in Rule 8.4, and in the form prescribed by BBNZ; and
- e. **Other Information:** such other information on the Affiliated Association's affairs as may from time to time be required by the Board.

8.7 **Duration of Membership:** Subject to Rule 15 (Termination of Membership), the duration of membership of BBNZ for an Affiliated Association is from the date of approval as a Member until 31 December each year. An Affiliated Association's membership of BBNZ shall continue until 31 December of the next year, unless the Board decides, having received or not received the certification in Rule 8.5, that it is not complying with Rule 8.4, in which case the membership will expire as at 31 December of that year and a new application for membership is required.

9. Associate Membership

9.1 **Associate Member:** An Associate Member is an organisation that participates in the education or sporting sector, and is recognised by the Board as having administrative competence; financial stability; and its admission as an Associate Member will contribute to the achievement of the Objects of BBNZ being the enhancement of its links to the game that it has with its national and international stakeholders, its participants and its community.

9.2 **Membership Fee:** To be an Associate Member and remain eligible for membership of BBNZ an Associate Member must pay any membership fees, established by the Board in terms of Rule 16 (Membership Fees), by the due date.

9.3 **Duration of Membership:** Subject to Rule 15 (Termination of Membership), the duration of membership for an Associate Member is annual expiring on 31 December in each year Membership of BBNZ shall be automatically renewed for the period to 31 December of the next year unless there are fees to BBNZ outstanding, in which case Rule 15.1 shall apply.

10. Life Members

10.1 **Life Members:** Life Members are persons appointed as Life Members in recognition of outstanding contribution to basketball or basketball administration within New Zealand.

10.2 **Nomination:** Any Affiliated Association or Board Member may nominate a person as a Life Member. Such nomination shall be in writing and shall be delivered to the CEO of BBNZ not later than the 28th day of February in any year. Such nominations shall include a citation of the services of the nominated person to the sport of basketball.

10.3 **Appointment:** A person may be elected as a life member of BBNZ:

- a. at an AGM with the prior approval of the Board;
- b. to be elected as a Life Member a majority of three quarters of the votes cast shall be required.

10.4 **Rights:** Life Members:

- a. may with or without notice attend any General Meeting of BBNZ, take part in any discussion at any such meeting and be entitled to one vote; and

- b. shall not be liable for the payment of any membership fees.

11. Individual Members

- 11.1 **Individual Members:** Every natural person who is, or agrees to be, a member of an Affiliated Association, and who completes the prescribed BBNZ membership form using the process prescribed by the Board and pays any membership fee or other fee due to the Affiliated Association, shall become an Individual Member of BBNZ.
- 11.2 **Duration of Membership:** The duration of membership of BBNZ for an Individual Member shall be as determined in accordance with the Constitution of the Member's Affiliated Association. If an Individual Member's membership of an Affiliated Association expires, ends or is terminated, the Individual Member shall automatically cease to be a Member of BBNZ.
- 11.3 **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 17.8 (Delegates).
- 11.4 **Representatives:** To be eligible for selection to, or to play for, a BBNZ representative team or an Affiliated Association representative team (which participates in a BBNZ controlled competition or event), a person must be an Individual Member of BBNZ. Each Affiliated Association shall include a rule identical to this rule in its constitution so that its members are bound by this rule.

12. Appointed Personnel

- 12.1 **Appointed Personnel:** Any individual who is an Officer or person appointed to a position by BBNZ must become a Member of BBNZ by completing the prescribed BBNZ membership form. Failure to do so will render them ineligible to be appointed to, or remain in, that position.
- 12.2 **Duration of Membership:** Subject to Rule 15 (Termination of Membership), the Appointed Personnel Member shall remain a Member until the expiry or termination of their appointment.
- 12.3 **No Right to Vote:** An Appointed Personnel Member has no right to vote at a General Meeting.

13. New Membership Applications

- 13.1 **Application for Membership:** Application for membership of BBNZ must be made as follows:
- a. **Affiliated Association:** any basketball organisation wishing to become an Affiliated Association and any existing Affiliated Association wishing to amalgamate with the other basketball organisation must submit an application complying with Rule 13.2a (Affiliated Association) to the CEO; and
 - b. **Associate Member:** any organisation wishing to become an Associate Member must submit an application complying with Rule 13.2b (Associate Members) to the CEO.
 - c. **Individual Member:** any person wishing to become a member of BBNZ must complete an application for membership of BBNZ on the form and/or using the

process prescribed by the Board. This application will be on the same form and/or process, and completed at the same time, as the person's application for membership of an Affiliated Association.

13.2 **Form of Application:** Applications for membership to BBNZ as an Affiliated Association or an Associate Member, or for the amalgamation of an Affiliated Association with another organisation must comply with the following requirements:

a. **Affiliated Association:** Applications for membership to BBNZ as an Affiliated Association or for amalgamation of an existing Affiliated Association with another organisation must:

- i. be made by the organisation seeking to become an Affiliated Association;
- ii. contain a list of the names, date of birth, gender and, contact details of at least 250 individuals who are Individual Members of the applicant at the time of applying to become an Affiliated Association, for entry into the Member Database;
- iii. demonstrate, to the satisfaction of the Board, that the applicant is able to satisfy the obligations of an Affiliated Association as set out in Rule 8.4 (Affiliated Association Obligations);
- iv. include details of the governance and membership structure of the applicant and a copy of the applicant's rules or constitution;
- v. include a copy of the financial statements of the applicant for the 12 months ending on the balance date of the applicant immediately preceding the date of the application including a statement of financial position and an income and expenditure statement or, if the applicant was formed less than 12 months before the application, a copy of the applicant's projected statement of financial position and projected income and expenditure statement for the 12 months commencing from the date of the application;
- vi. in the case of a basketball organisation that operates in close proximity to an existing Affiliated Association, include a suggested protocol for the co-operation and co-ordination between the proposed Affiliated Association and the existing Affiliated Association; together with confirmation that a copy of the application and the draft protocols has been sent to such neighbouring Affiliated Association with advice that that Affiliated Association should provide any comments that it has on the application for the admission of the applicant as an Affiliated Association to BBNZ within 28 Days; and
- vii. contact details for the proposed Affiliated Association which must include an e-mail address, if available,

provided that the Board can either waive any of the above requirements; or require further or additional information to be provided by the applicant or any existing Affiliated Association.

b. **Associate Members:** Applications for membership of BBNZ as an Associate Member must:

- i. be made by the organisation seeking to become an Associate Member; and

- ii. include all of the information referred to in Rules 13.2a.iv and 13.2a.vii (Affiliated Association) as if every reference to an “Affiliated Association” in those Rules is to an Associate Member, in respect of the application.

13.3 **Board Consideration:** The Board shall consider any application to be an Affiliated Association, or Associate Member in accordance with Rule 13.2; and may approve the application in its sole discretion.

14. Member Database

14.1 **BBNZ:** The Chief Executive Officer shall keep and maintain a Member Database in which shall be entered the names, contact details, gender, date of birth, class of membership, the date of entry of each Member, and any other detail about each Member reasonably required by the Board.

14.2 **Privacy Act:** BBNZ and the Affiliated Associations shall, in collecting personal information from individuals for the Member Database, seek the consent of the individual concerned and at all times comply with the Privacy Act 1993.

15. Termination of Membership

15.1 **Non Payment:** A Member shall have its membership of BBNZ terminated if any fees (including membership fees or levies) or other payments to BBNZ are due and outstanding. Before such termination can occur, BBNZ must give the Member written notice specifying the payment(s) due and demanding payment by a due date, being not less than seven (7) days from the date of the demand if payment has not been received by the due date.

15.2 **Suspension or End of Membership:** In addition to clause 15.1 (Non Payment), a Member which or who is an Affiliated Association, Associate Member, or a Life Member, may have its or their membership suspended or terminated by the Board in its discretion if:

- a. it or they resign by giving BBNZ notice in writing. 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 such Member shall cease to be a Member of BBNZ;
- b. the a judicial or disciplinary body or officer appointed by the Board in accordance with the Regulations recommends such action; or
- c. the Board, or any sub-committee of the Board, after reasonable enquiry, considers that the Member did not, or is unable to comply, with a reasonable Board decision, this Constitution, the Regulations, or any policies or reasonable directions of the Board.

15.3 **Natural Justice:** Before any decision is made under Rule 15.2 the Member concerned shall:

- a. be given seven (7) days written notice by the Board of the intended resolution; and
- b. have the right to be present, make submissions and be heard at the Board meeting in which the resolution is to be determined.

15.4 **Appeal:** Rights of appeal for any Member whose membership is terminated under Rules 15.1 and 15.2 may be made in accordance with the Regulations.

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

16. Membership Fees

- 16.1 **Fees and Levies established by Board:** Each year the Board shall determine the category and quantum of fees and/or levies payable by Members (including the Minimum Membership Fee) for the financial year following the year in which the AGM is held.
- 16.2 **AGM Approval:** The fees and/or levies proposed by the Board (including the Minimum Membership Fee) shall be recommended to the AGM by the Board and approved by the Members in accordance with Rule 17.3e.
- 16.3 **Payment of Fees:** Upon approval by the AGM the fee and/or levy shall be payable by each Member to BBNZ in the manner prescribed by BBNZ, and on the dates determined by BBNZ in the financial year to which the fee or levy relates.

17. Meetings of Members

- 17.1 **General Meetings:** BBNZ must hold an annual meeting of the Members once in each calendar year on a date to be fixed by the Board ("AGM"). Any other General Meeting of the Members shall be a Special General Meeting ("SGM").
- 17.2 **Method of General Meeting:** A General Meeting may be held either:
- a. by a number of Delegates who constitute a quorum as set out in Rule 19.1 (Quorum) being present in person at the place, date and time appointed for the meeting; or
 - b. subject to this Constitution, by means of audio, or audio and visual, communication by which all persons participating and constituting a quorum can simultaneously communicate with each other throughout the meeting. Participation by a Delegate at a General Meeting held in this manner shall constitute the presence of that person at that meeting.
- 17.3 **Business:** The AGM shall:
- a. **Roll Call:** commence with a roll call and an announcement to the meeting of the number of Members present; and the total votes able to be cast at the meeting;
 - b. **Board Report:** receive the Board's report and statement of accounts for the past year;
 - c. **Elect:** elect the Patron and any vacancies arising in positions of Elected Board Members;
 - d. **Auditor:** appoint an auditor in accordance with Rule 28.2 (Audit);
 - e. **Membership fees:** consider the recommendation of the Board for the type and quantum of membership fees and/or levies payable and the due dates for payment, for the financial year following the year in which the AGM is held; and approve the type and quantum and due date for such fees and/or levy(ies) whether as presented to the meeting or amended by resolution of the meeting;

- f. **Other Notified Business:** consider any other business of which at least 30 Days' notice has been given in writing to the CEO; and
 - g. **General Business:** consider any other business for discussion only.
- 17.4 **Convening SGM:** A SGM may be called at any time by the Board or shall be called by the CEO on receipt of a requisition stating the objects of such meeting signed on behalf of not less than one-fourth of the Affiliated Associations. In the event there are insufficient Board Members to achieve a quorum the Board may still call a SGM.
- 17.5 **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 CEO, as the case may be.
- 17.6 **Notices of Meeting:** The CEO shall give not less than 20 Days' notice to all Affiliated Associations, Associate Members, Officers and Life Members of all business which is to be considered at any General Meeting, and of the time, date and place of the General Meeting.
- 17.7 **Attendance at General Meetings:** The following persons may attend General Meetings:
- a. **Delegates:** up to 2 Delegates representing each Affiliated Association may attend, speak at and vote at General Meetings;
 - b. **Life Members:** Life Members may attend, speak at and vote at General Meetings;
 - c. **Officers:** Officers may attend and speak at General Meetings; and
 - d. **Observers:** Any Member is entitled to and may, at their cost, attend a General Meeting. Such Members are entitled to speak at General Meetings with the prior agreement of the Chairperson but shall not be entitled to vote provided that Life Members are entitled to speak without such prior approval. In addition, any other person including employees, contractors and advisors to BBNZ may upon invitation by the Board attend and speak at General Meeting with the permission of the Chairperson.
- 17.8 **Delegates:** If an Affiliated Association is to be represented at a General Meeting by one or more delegates ("Delegates"), the following will apply:
- a. **Notice:** Notice of the appointment of a Delegate, signed by an authorised representative of the Affiliated Association whom the Delegate represents, must be received by the CEO not less than 3 Days' before the date of the General Meeting at which the Delegate is to act. In exceptional circumstances an Affiliated Association may replace their nominated Delegate(s) by written notice to the CEO signed by an authorised representative of that Affiliated Association. If a Delegate is replaced by an Affiliated Association less than 3 Days' before the date of the General Meeting at which the Delegate is to act, the Chairperson will inform the meeting;
 - b. **Votes:** Any one or more Delegate may exercise all of the votes to which the Affiliated Association that the Delegate represents is entitled to exercise;
 - c. **Votes need not be Cast in Same Way:** An Affiliated Association need not cast all of its votes in the same way; and

- d. **Delegates' Powers:** Delegates have the right to consider and, if entitled to vote, amend, pass or reject motions relating to any matters in respect of which proper notice in accordance with this Constitution has been given.
- 17.9 **Notice Irregularity:** Any irregularity in the notice of a General Meeting or conduct or procedure is waived if there is no protest from any of the entitled persons attending the Meeting as to the irregularity; or if all entitled persons attending the Meeting agree to the waiver.
- 17.10 **Powers Exercisable by Ordinary Resolution:** Unless otherwise specified in this Constitution, a power or right reserved to Voting Members at a General Meeting may be exercised by simple majority vote of votes cast by Voting Members (with more than 50% of required votes cast in favour).

18. Votes of Members

- 18.1 **Voting Entitlements of Affiliated Associations:** At General Meetings, Affiliated Associations which have at least one Delegate present (in person or by appointing a Proxy) shall be entitled to the number of votes determined in accordance with the following formula:
- a. Affiliated Associations who have paid the Minimum Membership Fee in the preceding year = 2 votes;
 - b. Affiliated Associations who have paid a BBNZ membership fee in the preceding year for an amount between the amount of the Minimum Membership Fee and double the amount of the Minimum Membership Fee = 4 votes;
 - c. Affiliated Associations who have paid a BBNZ membership fee in the preceding year for an amount between double the amount of the Minimum Membership Fee and an amount being three times the Minimum Membership Fee in the preceding year = 6 votes;
 - d. Affiliated Associations who have paid a BBNZ membership fee in the preceding year for an amount between three times the amount of the Minimum Membership Fee and an amount being four times the Minimum Membership Fee = 8 votes;
 - e. Affiliated Associations who have paid a BBNZ membership fee in the preceding year for an amount greater than four times the Minimum Membership Fee = 10 votes.
- 18.2 **Voting Entitlements of Life Members:** At General Meetings, every Life Member is entitled to 1 vote.
- 18.3 **Financially Current:** Notwithstanding anything else contained in this Constitution an Affiliated Association which has not paid the BBNZ membership fees or levies applicable to it; by the due date(s) occurring before the General Meeting, shall not be entitled to any votes at a General Meeting.

19. Proceedings at Meetings of Members

- 19.1 **Quorum:** No business may be transacted at any General Meeting if a quorum is not present. A quorum for a General Meeting is present if Delegates from one half of the Affiliated Associations that are not disqualified from voting in terms of Rule 18.2 (Financially Current) are present.

- 19.2 **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.
- 19.3 **Casting Vote:** The Chairperson shall not have a casting vote. The Chairperson may exercise a deliberative vote(s) if the Chairperson has the right to vote.
- 19.4 **Regulation of Procedure:** The Chairperson of a General Meeting shall regulate the proceedings at that General Meeting.
- 19.5 **Powers to Adjourn Meetings:** The Chairperson:
- a. **Discretion to Adjourn:** may adjourn the meeting from time to time and from place to place; and
 - b. **Direction from the Meeting:** shall adjourn the meeting if so directed by the meeting.
- No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When 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, but otherwise it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 19.6 **Scrutineers:** For each General Meeting at least two witness scrutineers shall be appointed by the meeting to keep a record of and count votes cast at the General Meeting.
- 19.7 **Voting:** Voting at General Meetings may be by voice, a show of hands, or secret ballot if requested by a Voting Member present at the General Meeting. For the avoidance of doubt, voting at a General Meeting conducted by audio in accordance with Rule 17.2b, shall be by voice.
- 19.8 **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.
- 19.9 **Pecuniary Interest:** The Chairperson may in their sole discretion disallow any vote of a person who has a pecuniary interest in the subject matter of a resolution that has been put to the vote.
- 19.10 **Method of Voting for Affiliated Associations:** Each Affiliated Association may exercise its vote in any one of the following ways:
- i. by its Delegate (Rule 17.8);
 - ii. by its Proxy (Rule 19.12); or
 - iii. by Postal or Electronic Voting (Rule 19.13).
- 19.11 **Method of Voting for Life Members:** Each Life Member may exercise their vote in any one of the following ways:
- i. by being present at the General Meeting;
 - ii. by their Proxy (Rule 19.12); or
 - iii. by Postal or Electronic Voting (Rule 19.13).

- 19.12 **Proxy Votes:** Where a Voting 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 Voting Member;
 - b. the proxy form must specify how the Voting 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 CEO (or his or her nominee) not less than one hour before the time scheduled for the commencement of the General Meeting.
- 19.13 **Postal or Electronic Voting:** Where a Voting 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 Voting 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 CEO (or his or her nominee) for that meeting; and
 - b. the voting form must reach the CEO (or his or her nominee) not less than 24 hours before the time schedule to commence the General Meeting.
- 19.14 **Election of Board Members:** For the election of Elected Board Members, only candidates on the shortlist prepared by the BAP under Rule 21.4g (Responsibilities of the BAP) shall be considered, and the following process shall apply:
- a. **Secret Ballot:** Except where the circumstances in Rule 19.14c and Rule 19.14d arise, the election shall be decided by secret ballot or if the General Meeting is held by audio in accordance with Rule 17.2b, then the election shall be by Postal or Electronic Voting;
 - b. **Highest Polling:** those candidate(s) for the vacant 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 Board Member position(s) the candidate(s) shall be declared elected;
 - d. **Insufficient Candidates:** if there are insufficient candidate(s) for the vacant 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 Board Members to be voted for, then all candidates shall be put to the vote at the same time.

- 19.15 **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.

20. **BBNZ Board**

- 20.1 **Composition:** Except where a Casual Vacancy arises during an incumbent Board Member's term of office, the Board shall consist of:
- a. 4 Appointed Board Members; and
 - b. 4 Elected Board Members.
- 20.2 **Role of the Board:** The Board is responsible for governing BBNZ. Subject to this Constitution, the Board may exercise all the powers of BBNZ and do all things that are not expressly required to be undertaken at a General Meeting.
- 20.3 **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 BBNZ. 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.
- 20.4 **Deputy Chairperson:** At the first Board meeting following each AGM the Board shall appoint a deputy chairperson of the Board from amongst the Board Members ("Deputy Chairperson"). The Deputy Chairperson may exercise all of the functions and powers of the Chairperson in relation to a matter if:
- a. the Chairperson is unavailable; or
 - b. the Chairperson has a conflict of interest in the matter.
- 20.5 **Resignation:** The Chairperson or Deputy Chairperson may, without resigning as a Board Member, resign from being the Chairperson or Deputy Chairperson (as applicable) by written notice to the Board. The notice of resignation must state the date on which the resignation takes effect.
- 20.6 **Relegation:** The Board may agree that the Chairperson shall be relegated to be a Board Member but not the Chairperson provided that at least two-thirds of all Board Members agree and provided that:
- a. the Chairperson is notified that a Board meeting is to be held to discuss their relegation from office as the Chairperson; and
 - b. the Chairperson is given an opportunity to make submissions about the proposed motion to the Board in writing prior to the Board meeting and/or by submission in person at the Board meeting.
- 20.7 **Temporary Chair:** The Board may, by resolution, appoint a temporary chairperson from amongst their number, who may exercise all the functions and powers of the Chairperson in relation to a matter if:
- a. there is no Deputy Chairperson; or

- b. the Deputy Chairperson is unavailable; or
- c. the Deputy Chairperson has a conflict of interest in the matter.

20.8 **Term of Office of Board Members:** The term of office of each Board Member is 4 years. The term of office of each Elected Board Member shall commence at the conclusion of the General Meeting at which they are elected and the term of office of each Appointed Board Member shall commence on a date determined by the BAP, which shall usually be at the conclusion of a General Meeting. This Rule is subject to: Rule 20.9 (Maximum Duration in Office), Rule 20.18 (Casual Vacancies), Rule 20.20 (Removal of Board Member(s) at a SGM), Rule 20.21 (Removal of a Board Member by the Board), and any schedule of rotation made under Rule 20.18 (Schedule of Rotation) which may reduce the term of office of Board Members.

20.9 **Maximum Duration in Office:** An individual may serve on the Board for 2 successive terms of office for a maximum of 8 consecutive years, unless:

- a. the individual was elected or appointed to the Board at the 2011 SGM; and
- b. that individual was required under the schedule of rotation determined at that time to vacate office within 12 months of commencing as a Board Member;

in which case they may be elected or appointed for a maximum of 2 further consecutive terms after their initial term.

20.10 **Appointment of Board Members:** The BAP shall appoint Appointed Board Members as described in Rule 21.4 (Responsibilities of the BAP).

20.11 **Election of Board Members:** Elected Board Members are elected at a General Meeting as described in this Constitution.

20.12 **Application to be a Board Member:** Every person seeking appointment or election to the Board must complete the application form prescribed by the BAP and indicate whether they are seeking appointment, election, or either (provided that they are eligible to do so – see Rule 20.13 (Ineligibility of Appointed Board Members), Rule 20.14 (Ineligibility of Elected Board Members) and Rule 20.16 (Ineligibility of Board Members)).

20.13 **Ineligibility of Appointed Board Members:**
*20.13 (a) amended via member vote at the 2022 Annual General Meeting

- a. Subject to Rule 20.13c, a person shall **not** be eligible to be appointed as an Appointed Board Member if that person currently has any material interest or material involvement in basketball.
- b. An Appointed Board Member shall become ineligible to continue in office as a Board Member if during their term of office they obtain a material interest or material involvement in basketball, other than as an Appointed Board Member or as described in Rule 20.13c.
- c. An Appointed Board Member who is appointed by the Board as a BBNZ appointee to a position which would otherwise put them in breach of Rule 20.13a shall continue to be **eligible** to be a Board Member.

20.14 **Ineligibility of Elected Board Members:**

- a. Subject to Rule 20.14b and Rule 20.14c, a person shall **not** be eligible to be elected as an Elected Board Member if the person is, an employee, contractor or officer of:
 - i. BBNZ;
 - ii. an Affiliated Association;
 - iii. an Associate Member;
 - iv. any other organisation in which BBNZ holds a controlling interest, including but not limited to holding shares or having the power of appointment of directors or other controlling interest; or
 - v. any other organisation which the BAP considers may give rise to a significant conflict of interest for that person.
- b. A person **is eligible** to be an Elected Board Member if they cease (by resignation or otherwise) to be an employee, contractor or officer of any organisation listed in Rule 20.14a, from the date they commence their term of office as an Elected Board Member.
- c. An Elected Board Member who is appointed by the Board as a BBNZ appointee to a position which would otherwise put them in breach of Rule 20.14a shall continue to be **eligible** as a Board Member.

20.15 **BAP Determination:** The BAP has the power to determine whether a person is eligible under Rule 20.13 (Ineligibility of Appointed Board Members) or 20.14 (Ineligibility of Elected Board Members) and the BAP's decision will be final.

20.16 **Ineligibility of Board Members:** In addition to Rule 20.13 (Ineligibility of Appointed Board Members) and Rule 20.14 (Ineligibility of Elected Board Members), a person shall **not** be eligible to be appointed, elected, or to remain in office as a Board Member if they are, or become:

- a. **Bankrupt:** a person who is a bankrupt who has not obtained a final order of discharge or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled, or to any order under section 299 of the Insolvency Act 2006;
- b. **Offence:** a person who has been convicted of an offence and has been sentenced to a term of imprisonment of 3 months or more, unless that person has obtained a pardon or has served the sentence;
- c. **Disqualified Director:** a person who is prohibited from being a director 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;
- d. **Property Order:** a person who is subject to a property order made under sections 30 or 31 of the Protection of Personal and Property Rights Act 1988; or

- e. **Incapacity:** a person who becomes mentally incapable as defined in the Protection of Personal and Property Rights Act 1988.

20.17 **Cessation of Office:** If any of the circumstances listed in Rule 20.13 (Ineligibility of Appointed Board Members), Rule 20.14 (Ineligibility of Elected Board Members) or Rule 20.16 (Ineligibility of Board Members) apply to a Board Member, that Board Member shall be deemed to have vacated his or her office as soon as the circumstance applies. This Rule does not limit the right to suspend a Board Member under Rule 20.22 (Suspension of Board Member).

20.18 **Schedule of Rotation:** If 4 or more Board Members vacate office at the conclusion of the same AGM, the Board shall decide, at the first Board meeting following the AGM a schedule of rotation to ensure that at least one Elected Board Member and one Appointed Board Member vacate their office at successive AGMs. The Board shall advise the CEO of the schedule of rotation who shall in turn advise the Voting Members of the vacancies that will arise in Board Member positions prior to the AGM.

20.19 **Casual Vacancies:** If a Casual Vacancy arises on the Board, then the Board shall undertake one of the following:

- a. call a SGM and request the BAP to seek applications to fill the Casual Vacancy if it is a vacancy of a position held by an Elected Board Member; or
- b. direct the BAP to fill the vacancy if it is a vacancy of a position held by an Appointed Board Member; or
- c. leave the Casual Vacancy unfilled until the next AGM, provided that there are sufficient remaining Board Members to enable Rule 22.5 (Quorum) to be complied with.

In the event a position is filled under this Rule then the term of office for the person filling the vacancy shall be the balance of the term of office of the vacating Board Member (unless specified otherwise in this Constitution).

20.20 **Removal of Board Member(s) at a SGM:** Voting Members at a SGM called for this purpose may, by Special Resolution, remove any Board Member(s) or the Board as a whole, before the expiry of their term of office. The following procedure shall apply:

- a. upon the CEO receiving a request (provided it has been made in accordance with Rule 17.4 – Convening SGM) to call a SGM to remove any Board Member(s), or the Board as a whole, the CEO shall send the notice of the SGM to the Board Member(s) concerned or the Board (as the case may be), and the persons specified in Rule 17.6 (Notices of Meeting); and
- b. following notification under Rule 20.20a and before voting on the motion to remove any Board Member(s), or the Board as a whole, the Board Member(s) or the Board (as the case may be) affected by the proposed motion shall be given the opportunity prior to the SGM to make submissions in writing to the Members about the proposed motion.

- 20.21 **Removal of a Board Member by the Board:** 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 the Board considers the Board Member concerned has seriously breached their duties as specified in Rule 23.2 (Duties of Board Members) such that immediate removal is considered appropriate. Before considering such a motion the following procedure shall apply:
- a. the Board Member concerned shall be notified that a Board meeting is to be held to discuss the proposal to remove the Board Member from office; and
 - b. the Board Member concerned shall be given an opportunity to make submissions about the proposed motion to the Board in writing prior to the Board meeting and/or by submission in person at the Board meeting.
- 20.22 **Suspension of Board Member:** If any Board Member is alleged to have, or is charged with, or is given notice by the relevant authority of a proposal to make an order or finding against that Board Member of any of the circumstances described in 20.13 (Ineligibility of Appointed Board Members), Rule 20.14 (Ineligibility of Elected Board Members) or Rule 20.16 (Ineligibility of Board Members), the remaining Board Members may, after reasonable enquiry and giving the Board Member concerned the right to be heard, suspend the Board Member from the Board pending the determination of such allegation, notice or charge.

21. Board Appointments Panel

- 21.1 **Composition:** The Board Appointments Panel (“BAP”) shall consist of at least 3 of the following people provided that the person specified in clause 21.1a must be on the BAP:
- a. a person with expertise in sports governance proposed by the Board and approved by Sport NZ who shall Chair the BAP (“BAP Chair”);
 - b. a person not currently on the Board with expertise in sports governance nominated by the Board and approved by Sport NZ;
 - c. an incumbent Elected Board Member chosen by the Board who is not seeking re-election or appointment to the Board. If all Elected Board Members are seeking re-election then a person shall be chosen by the Board from amongst those Board Members who are not seeking re-election or re-appointment; and
 - d. a person, chosen by the Board with experience in basketball and an understanding of governance who is not currently on the Board.
- 21.2 **Independence from Board:** Except as permitted under Rule 21.1c, the BAP shall at all times be independent from the Board and shall operate free from any Board interference.
- 21.3 **BAP Appointment Period:** The BAP shall be convened by BBNZ for such a period as required to carry out its functions in accordance with this Constitution. A person may be re-appointed to the BAP for further periods without limitation.
- 21.4 **Responsibilities of the BAP:** The BAP shall be responsible for:
- a. consulting with the Chairperson and the CEO regarding the composition of the Board and identifying any potential needs or skill gaps on the Board;

- b. determining whether a person is eligible in accordance with Rule 20.15 (BAP Determination);
- c. determining the information to be provided by candidates seeking a position on the Board;
- d. advertising any vacancies on the Board and encouraging any persons the BAP considers may be suitable to apply for positions on the Board;
- e. receiving and assessing applications from candidates seeking a position on the Board, including holding interviews, having meetings, and undertaking such enquiries as the BAP Chair considers appropriate;
- f. deciding the candidates to be appointed as Appointed Board Members and confirming the date upon which they shall commence their term of office, which shall usually be at the conclusion of the next AGM (unless the appointment has been made to fill a Casual Vacancy);
- g. preparing a shortlist of the candidates the BAP considers are suitable to stand for election to the Board, which should generally consist of up to 3 candidates for each vacancy; and
- h. such other matters as set out in any applicable Regulations.

21.5 **Ineligibility:** No person will be eligible to be a member of the BAP, or to remain on the BAP, if any of the circumstances listed in Rules 20.16 (Ineligibility of Board Members) have occurred, or occur to that person, as if every reference to a “Board Member” in those Rules is to a person seeking to be a member of the BAP. In addition, no person who is seeking appointment or election to the Board may serve on the BAP.

21.6 **Vacancies:** Any Casual Vacancy that arises on the BAP shall be filled with a replacement member to be appointed by the organisation that appointed the vacated position.

21.7 **Board Unable to Appoint:** If the Board as a whole has been removed, resigns en masse or does not have a quorum and is therefore unable to make appointments to the BAP those appointments shall be made by an independent professional experienced in governance appointed by Sport NZ.

21.8 **Suitability Criteria for Appointed Board Members:** In making decisions about Appointed Board Members, the BAP shall appoint based on merit and in doing so, at a minimum, take into account the following factors about the candidate and the Board as a whole:

- a. prior governance experience with a proven record of achievement;
- b. an interest in, and understanding of, the sport of basketball in New Zealand;
- c. knowledge of, or experience working with, community-based programmes, central and local government agencies, funding bodies, and/or commercial sponsors;
- d. relevant skills, abilities and experiences;
- e. the need for conflicts of interest to be minimised; and

- f. the desire to have a Board that represents the diverse interests of BBNZ and its Members including but not limited to gender, geographical spread of Board Members, community interests, age diversity and interests in various formats of the game of basketball.

21.9 **Suitability Criteria for candidates for Elected Board Members:** In making decisions about candidates to be shortlisted for consideration for election, the BAP shall refer candidates based on merit and in doing so, at a minimum, take into account the following factors about the candidate and the Board as a whole:

- a. experience relevant to a governance role;
- b. recent knowledge of, and experience in, basketball;
- c. knowledge of, or experience working with, community-based programmes, central and local government agencies, funding bodies, and/or commercial sponsors;
- d. relevant skills, abilities and experiences;
- e. the need for conflicts of interest to be minimised; and
- f. the desire to have a Board that represents the diverse interests of BBNZ and its Members including but not limited to gender, geographical spread of Board Members, community interests, age diversity, interests in various formats of the game of basketball.

21.10 **Quorum:** The quorum for a meeting of the BAP is 3 members.

21.11 **Decisions:** Any decision of the BAP regarding the appointment of Appointed Board Members or the shortlisting of candidates for election to the Board must be agreed by a majority of the members of the BAP.

22. Proceedings of the Board

22.1 **Notices:** Not less than 5 Days' notice of a Board meeting must be given to Board Members.

22.2 **Irregularity in Notice:** An irregularity in the notice of a meeting is waived if all Board Members entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all the Board Members entitled to receive notice of the meeting agree to the waiver.

22.3 **Adjournment:** A meeting of the Board may be adjourned to such date and place as the meeting shall decide.

22.4 **Method of Meeting:** A meeting of the Board may be held as follows:

- a. **Actual Meeting:** by a number of the members of the Board who constitute a quorum being assembled together at the place, date and time appointed for the meeting; or
- b. **Contemporaneous Linking:** by the contemporaneous linking together by means of audio, or audio and visual, communication by which all members of the Board participating and contributing to a quorum can simultaneously hear each other throughout the meeting.

- 22.5 **Quorum:** The quorum for a Board meeting shall be 4 Board Members. No business may be transacted at a Board meeting if a quorum is not present.
- 22.6 **Number of Votes:** All Board Members have one vote. The Chairperson shall have a deliberative and a casting vote, and if the Chairperson exercises their deliberative vote they must do so at the same time as other Board Members. If the Chairperson does not vote on the motion no casting vote may be exercised.
- 22.7 **Majority:** All matters for decision at Board meetings will be decided by a majority of votes of Board Members present.
- 22.8 **Counting of Votes:** Voting at Board meetings may be by voice or show of hands but if it is desired by any Board Member present, it will be by ballot. Votes cast will be counted and the result declared by the Board Members who shall have been appointed by the Chairperson to act as scrutineers.
- 22.9 **Minutes:** The Board must ensure that minutes are kept of all proceedings at meetings of the Board.
- 22.10 **Resolution in Writing:** A resolution in writing signed by 75% of Board Members is as valid and effectual as if it had been passed at a meeting of the Board duly convened and held provided that the members of the Board signing the resolution would have power to pass such resolution at a meeting of the Board. Any such resolution may consist of several documents in identical form each signed by one or more Board Members. Any such document sent by a Board Member by facsimile transmission or other electronic means approved by the Board is deemed to have been signed by such Board Member.
- 22.11 **Conflicts of Interest:** The Board shall have a conflicts of interest policy for managing any actual or potential conflicts of interest of Board Members.

23. Powers & Duties of the Board

- 23.1 **Powers:** Subject to this Constitution, BBNZ delegates to the Board the governance, stewardship of, and overall policy formulation for, basketball and the management of the affairs of BBNZ; and in particular the Board's following powers as well as those expressly provided elsewhere in this Constitution:
- a. **Powers of BBNZ:** to exercise any and/or all of the powers of BBNZ other than those required to be exercised by the Voting Members at a General Meeting;
 - b. **Delegate:** to delegate any of its powers to such person or persons as the Board may determine from time to time and on such terms as the Board determines;
 - c. **Sub-Committees:** to appoint sub-committees of the Board, and to delegate any of the Board's powers to any such sub-committee of the Board. The membership, terms of reference and powers of any such sub-committee shall be set out by the Board when the sub-committee or committee is established. A member of a sub-committee need not be a Board Member provided that a person must not be appointed as a member of a committee unless, before appointment, he or she discloses to the Board the details of any interest the person may have if he or she were a member of that committee;

- d. **Regulations:** to make, repeal, and amend Regulations in accordance with Rule 29 (Regulations), and any policies and procedures as it sees fit, provided that such Regulations, policies and procedures are not inconsistent with this Constitution;
- e. **Disciplinary Matters:** to discipline Members of BBNZ in accordance with this Constitution and any Regulations, or to delegate such power to committees, officers or other individuals, including judicial or disciplinary committees and officers, the composition, powers, functions, and procedures of which shall be determined by the Board as it considers appropriate and as set out in the Regulations;
- f. **Appoint Selectors and Coaches:** to appoint or approve the appointment of selectors, managers or coaches of New Zealand basketball teams (whether representative teams or otherwise) as the Board may decide;
- g. **Affiliated Associations:** to consider and approve or not, and on any terms resolved by the Board, applications from organisations to become an Affiliated Association or an Associate Member;
- h. **Rulings:** to furnish rulings upon the Laws of the Game when requested to do so by an Affiliated Association, provided this is permitted by FIBA;
- i. **Settle Disputes:** to settle disputes between Affiliated Associations when one of the Affiliated Associations which is a party to the dispute requests BBNZ to do so;
- j. **Fees:** to make recommendations of the affiliation fees or Member levies for presentation at the AGM held in that year; and
- k. **Other:** to do all such other things that are necessary to give effect to the Objects of BBNZ.

23.2 **Duties of Board Members:** The duties of each Board Member are to:

- a. at all times, act in good faith and in the best interests of BBNZ;
- b. exercise the powers of the Board for proper purposes;
- c. act, and ensure BBNZ acts, in accordance with this Constitution and the Regulations;
- d. exercise the care, diligence and skill that a reasonable Board Member would exercise in the same circumstances;
- e. disclose to the Board the nature and extent of any interest in a transaction or proposed transaction as soon as the Board Member becomes aware of the fact that he or she has such interest. For the purposes of this Rule, an interest in a transaction or proposed transaction shall have the same meaning as defined in section 139(1) of the Companies Act 1993 (or any equivalent provision under any replacement legislation). Such interest shall also be recorded on the Board's interests register;
- f. take such other steps as determined by the Board in respect of any interest specified in Rule 23.2e, which may include, without limitation, abstaining from deliberations and/or any vote regarding such interest;

- g. not disclose information that the Board Member would not otherwise have available other than in his or her capacity as a Board Member, to any person, or make use of or act on the information except:
 - i. as agreed by the Board for the purposes BBNZ;
 - ii. as required by law; or
 - iii. to persons, or for reasons identical to those specified in sections 145(2) and 145(3) of the Companies Act 1993; and
 - h. make reasonable efforts to attend all Board Meetings and General Meetings of BBNZ.
- 23.3 **Board to Interpret:** If any difference of opinion arises as to the meaning of any Rule in this Constitution it shall be determined by the Board or, if it occurs at a General Meeting, by the Chairperson of that meeting, in each case:
- a. acting in a manner which would best achieve the Objects; and
 - b. in such a manner as it deems expedient.
- 23.4 **Saving:** Subject to Rule 4.5 (Order of Priority), if any matter arises which, in the opinion of the Board, is not provided for in this Constitution, it shall be determined by the Board in the manner it sees fit.
- 23.5 **Ratification:** The purported exercise by a Board Member, the CEO or a sub-committee of the Board of a power vested in the Board may be ratified or approved by the Board. The purported exercise of a power ratified under this Rule is deemed to be, and to always have been, a proper and valid exercise of that power.
- 23.6 **Funds and Investment:** The funds and property of BBNZ shall be controlled, invested and disposed of by the Board subject to this Constitution. The funds shall be devoted solely to the furtherance of the Objects of BBNZ.
- 23.7 **Indemnity of Officers:** Each Board Member, the CEO, the Patron and any other employee or servant of BBNZ (each "Indemnified Party"):
- a. is indemnified by BBNZ from and against all losses and expenses incurred by that Indemnified Party or in or about the discharge of that Indemnified Party's duties; and
 - b. is not liable for the acts or omission of any other person being a Board Member, the CEO, the Patron or any other employee or servant of BBNZ or for joining in any act or receipt or for any act of conformity or for any loss happening to BBNZ;
- unless due to the Indemnified Party's own wilful default.

24. Patron

- 24.1 **Appointment of Patron:** At each AGM the Voting Members shall elect a Patron who should hold that position until the expiry of the following AGM.

25. CEO

- 25.1 **Appointment:** The Board may appoint a Chief Executive Officer of BBNZ for such period and on such terms as it thinks fit (“CEO”).
- 25.2 **Role:** The CEO shall be under the direction of the Board and shall be responsible for the day-to-day management of BBNZ in accordance with the Regulations, policies, and procedures of BBNZ, and with such delegated authority as may be authorised by the Board.
- 25.3 **Board Meetings:** The CEO may attend and speak at all Board meetings, unless otherwise determined by the Board, but shall have no vote.

26. Disputes and Discipline

- 26.1 The Board shall appoint judicial and disciplinary bodies, committees, officers, commissioners and such other individuals as it considers appropriate, to carry out judicial, and disciplinary functions. The composition, powers, functions, jurisdiction, penalties and any appeal mechanism for any judicial or disciplinary body or officer shall be set out in the Regulations. The jurisdiction of any judicial or disciplinary body or officer shall be set out in the Regulations and may include but is not limited to the following matters:
- a. Misconduct at, or in connection with, basketball tournaments;
 - b. Breaches of this Constitution, the Regulations or any policies, procedures or decisions of the Board or any committee of it;
 - c. Conduct which is unbecoming of a Member or prejudicial to the Objects and interests of BBNZ and/or basketball or has brought BBNZ or basketball into disrepute; or
 - d. Appeals by an Individual Member, Club or Team from a decision of an Affiliated Association, Associate Member, Club or Team if permitted by the Regulations.

All Members will be subject to the jurisdiction, procedures, penalties and appeal mechanisms of BBNZ as set out in this Constitution and the Regulations.

- 26.2 **Delegation of responsibility:** Subject to this Constitution, BBNZ delegates all responsibility for disputes and disciplinary matters concerning Individual Members, Clubs and Teams to the Affiliated Association of which the Individual Member, Club or Team is a member. Each Affiliated Association must adopt regulations which comply and are in accordance with this Constitution and the BBNZ Regulations.
- 26.3 **Board Intervention:** If the Board considers that there is a dispute or disciplinary matter that requires action by an Affiliated Association, the Board may at any time, require an Affiliated Association to investigate and undertake a disciplinary or dispute resolution process involving a Club, Team or Individual Member of the Affiliated Association. The Affiliated Association must report to the Board on the investigation and action taken in relation to the disciplinary matter or dispute.

- 26.4 **Sports Tribunal:** BBNZ recognises the Sports Tribunal may be the appropriate forum to resolve certain sports-related disputes as set out in the rules of the Sports Tribunal. Unless Rule 26.5 (FIBA) or 26.6 (CAS) applies, any Member who or which wishes to appeal a decision of BBNZ regarding any sports-related matter where she/he/it has exhausted their rights of appeal within this Constitution and/or the Regulations of BBNZ, may appeal to the Sports Tribunal. The rules of the Sports Tribunal shall apply to any such appeal.
- 26.5 **FIBA:** BBNZ recognises that the FIBA Basketball Arbitral Tribunal and the FIBA Appeals' Panel has jurisdiction to hear certain matters or appeals in accordance with the FIBA General Statutes or FIBA Internal Regulations.
- 26.6 **CAS:** BBNZ recognises that the Court of Arbitration for Sport ("CAS") has jurisdiction to hear certain matters in accordance with the CAS Statutes, either directly or by way of appeal from a local decision.
- 26.7 **Decisions Binding on BBNZ:** Decisions and awards of the Sports Tribunal, FIBA Basketball Arbitral Tribunal and CAS are binding on BBNZ and its Members.

27. Common Seal

- 27.1 **Common Seal:** BBNZ shall have a common seal. The Board shall determine when and by whom the common seal may be used and shall make provision for its safe custody, subject to the Incorporated Societies Act 1908.

28. Finance

- 28.1 **Financial Year:** The financial year of BBNZ will commence on 1 January and end on 31 December next following, unless otherwise determined by the Board.
- 28.2 **Audit:** The accounts of BBNZ shall be audited by an auditor appointed at the AGM. The auditor shall not hold any other office in BBNZ.

29. Regulations

- 29.1 **Status of Regulations:** All Regulations shall be binding on BBNZ and the Members.
- 29.2 **Priority:** To the extent of any inconsistency between any BBNZ Regulations and this Constitution, this Constitution shall prevail.

30. Liquidation

- 30.1 **Voluntary Liquidation:** BBNZ may be voluntarily put into liquidation if:
- a. a Special Resolution is passed at a General Meeting appointing a liquidator; and
 - b. such resolution is confirmed by Special Resolution at a subsequent General Meeting, called for that purpose, and held not earlier than 30 Days after the date on which the resolution was passed.
- 30.2 **By Law:** BBNZ may also be put into liquidation in accordance with the Incorporated Societies Act 1908.

- 30.3 **Process:** Upon the appointment of a liquidator the relevant provisions of the Incorporated Societies Act 1908 shall apply to the liquidation of BBNZ.
- 30.4 **Consequences:** Upon liquidation, any property or assets remaining after the satisfaction of all BBNZ's debts, liabilities and obligations shall be given or transferred to the New Zealand Basketball Foundation Incorporated, or some other charitable body or bodies having objects similar to the Objects, or to such other charitable purposes determined by the Voting Members at a General Meeting at or before the time of liquidation; if the Voting Members are unable to reach this decision then the body or bodies shall be determined by the liquidator.
- 30.5 **Limitation:** The body or bodies described in Rule 30.4 (Consequences) shall prohibit the distribution of its (or their) income and property among its (or their) members to at least the same or a greater extent than that imposed on BBNZ in this Constitution.

31. Alterations to this Constitution

- 31.1 **Process:** No part of this Constitution may be rescinded or altered nor a new Rule added except by Special Resolution at a General Meeting of BBNZ. Notice of any proposed rescission, alteration or addition must be given in writing to the CEO at least 30 Days' before the meeting at which it is to be considered.
- 31.2 **The aims, personal benefit clause or the winding up clause cannot be added to, altered or amended if those additions, alterations or amendments affect the tax-exempt status of BBNZ. This clause nor the effects of this clause cannot be removed from this constitution and must be included in any subsequent constitution.**