



# Constitution of Basketball Queensland Limited

Revised May 2019

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## Part A Introduction

### Name

- 1 This is the constitution of Basketball Queensland Limited.

### Dictionary and interpretation

- 2 The dictionary in Schedule 1 defines terms used in this constitution. Those definitions apply unless it would lead to a result that is absurd, meaningless or obviously unintended.

*Explanatory note: Rules for interpretation are in clauses 209 to 214.*

### How this constitution interacts with replaceable rules

- 3 The replaceable rules under the Corporations Act, except those which operate as mandatory rules for public companies under the Corporations Act:
- (a) do not apply to BQ; and
  - (b) are displaced by this constitution.

### BQ's objects

- 4 BQ's objects are to:
- (a) manage, control and foster the sport of basketball in Queensland; and
  - (b) be and remain affiliated with BA as the peak body for the sport of basketball in Queensland; and
  - (c) encourage, develop, organise and promote the sport of basketball in Queensland, bringing order, credibility and consistency; and
  - (d) ensure that basketball in Queensland is played according to the Official Basketball Rules as set down by FIBA; and
  - (e) ensure that the sport of basketball is valuable to society and promotes ethical principles in all aspects of the sport; and
  - (f) defend the moral and material interests of basketball in Queensland in an appropriate manner while respecting FIBA's Code of Ethics and its Code of Conduct and Fair Play; and
  - (g) promote, conduct, control or arrange basketball matches and championships between representatives of affiliated associations or between teams comprised of registered participants; and

- (h) promote, conduct, control or arrange international and interstate basketball matches, championships and competitions; and
- (i) arrange for the selection, coaching and management of representative basketball teams for Queensland; and
- (j) help affiliated associations, and others involved in the sport of basketball, achieve their objects; and
- (k) promote, preserve, foster and encourage good fellowship, health and safety for registered participants and others involved in the sport of basketball; and
- (l) implement and change codes of conduct and other policies for the sport of basketball and to ensure compliance with and enforce those codes and policies; and
- (m) provide systems for basketball participants in Queensland to be registered with BQ; and
- (n) develop, promote or assist with coaching and talent identification programs for basketball participants; and
- (o) strive for and maintain government, commercial and public recognition of BQ as the peak body for basketball in Queensland; and
- (p) represent or promote the interests of the sport of basketball, affiliated associations and registered participants; and
- (q) encourage and implement, enforce and amend measures designed to enhance competition in the sport of basketball free of performance enhancing substances; and
- (r) seek access to facilities for the sport of basketball; and
- (s) promote or establish, or assist in the promotion or establishment, of basketball associations to service areas or people in which BQ considers there to be a need; and
- (t) co-operate with, and procure the co-operation of, other individuals and groups to try to achieve another of BQ's objects; and
- (u) do anything incidental or helpful to try to achieve another of BQ's objects.

5 The objects in clause 4 (other than those in paragraphs 4(t) and 4(u)) are separate and independent objects for which BQ is established.

### **BQ's powers**

6 BQ has all the powers given by the Corporations Act.

### **Classes of members**

7 BQ's membership classes are:

- (a) affiliated associations; and
- (b) associate members; and

- (c) life members; and
- (d) individual members.

8 A person or entity cannot become a member in more than one class at the same time, except that a person can be both a life member and an individual member at the same time. Unless they are covered by that exception, the person or entity's existing membership must be terminated before they can become a member in another class.

## Members' guarantee

- 9 The liability of the members is limited.
- 10 Every contributor undertakes to contribute the guaranteed amount (in addition to any other amount owed by the contributor to BQ) to the property of BQ if it is wound up, for:
- (a) payment of BQ's debts and liabilities contracted before the commencement of the winding up; and
  - (b) the costs, charges and expenses of winding up; and
  - (c) the adjustment of the rights of the contributors among themselves.
- 11 A **contributor** is an entity that:
- (a) is a member of BQ when the winding up commences; or
  - (b) was a member of BQ during the period of one year before the winding up commences.

*Interpretation note: A winding up is taken to commence at the time provided by the Corporations Act.*

*Explanatory note: Part 5.6, Division 1A of the Corporations Act provides when a winding up commences.*

## Part B Affiliated associations

### Applications for membership

- 12 An entity may apply to become an affiliated association for a calendar year if:
- (a) it is a basketball association; and
  - (b) it is an incorporated entity; and
  - (c) it has a written governing document; and
  - (d) it satisfies any prescribed requirements.
- 13 To apply, the entity must complete a written application and give it to the company secretary.
- 14 The application must be in any form prescribed.

## Dealing with applications

- 15 If an entity complies with clauses 13 and 14, the company secretary must refer the application to a board meeting.
- 16 The board is to consider the application and decide whether to:
- (a) accept the application; or
  - (b) accept the application conditionally; or
  - (c) adjourn the consideration of the application to a later board meeting; or
  - (d) reject the application.

*Interpretation note: Under paragraph (b), the board can accept an application on the condition that the entity enters into an affiliation agreement with BQ,*

- 17 The board must reject the application if the board decides that:
- (a) the entity's governing document is inconsistent with this constitution or the by-laws; or
  - (b) the entity was not eligible to apply to become an affiliated association under clause 12.
- 18 If the board accepts an application by an entity to become an affiliated association, the entity becomes an affiliated association on the later of:
- (a) the date of the board's decision to accept the application; or
  - (b) the date when any conditions on which the board accepted the application are satisfied.
- 19 The company secretary must notify an entity applying to become an affiliated association of the outcome of the application within 14 days after the board accepts or rejects the application under clause 16.

## Lapsing of membership

- 20 If an entity is an affiliated association on 31 December in a calendar year, it continues to be an affiliated association until the reaffiliation cutoff date in the next calendar year unless the affiliated association:
- (a) has notified BQ, on or 30 November in the first-mentioned calendar year, that the affiliated association does not want to continue to be an affiliated association in the next calendar year; or
  - (b) has applied for membership of BQ for the next calendar year under clause 13 and the board has rejected the application under clause 16.
- 21 The **reaffiliation cutoff date** for an affiliated association in a calendar year is the latest of the following dates:
- (a) 31 March in that year; or
  - (b) the date determined by the board as the reaffiliation cutoff date for all affiliated associations for that year; or



- (c) the date determined by the board as the reaffiliation cutoff date for that particular affiliated association for that year.

## Termination of membership

22 An affiliated association's membership of BQ ends if:

- (a) an affiliation agreement between it and BQ is terminated or expires and:
  - (1) on its termination or expiry, the affiliation agreement is not replaced by a new affiliation agreement; and
  - (2) the board has decided to terminate the affiliated association's membership of BQ; and
  - (3) the company secretary notifies the affiliated association of the board's decision; or
- (b) any insolvency action occurs with respect to the affiliated association and:
  - (1) the board decides to terminate the affiliated association's membership of BQ; and
  - (2) the company secretary notifies the affiliated association of the board's decision; or
- (c) the affiliated association is not carried on for profit or gain for its members and the board:
  - (1) forms the opinion that there may be unreasonable barriers to member participation opportunities in the affiliated association; and
  - (2) gives the affiliated association notice of the board's opinion and invites the affiliated association to make submissions on the matter or remove the barriers; and
  - (3) waits at least 6 weeks; and
  - (4) considers any submissions or response from the affiliated association; and
  - (5) decides that there are unreasonable barriers to member participation opportunities in the affiliated association and that the affiliated association's membership of BQ should be terminated,and the company secretary notifies the affiliated association of the board's decision; or
- (d) BQ and the affiliated association agree in writing that the affiliated association's membership of BQ is terminated.

*Interpretation note: Examples of affiliated associations covered by paragraph (c) are those that are incorporated associations under the Associations Incorporation Act 1981 of Queensland and companies limited by guarantee under the Corporations Act.*

*Interpretation note: An affiliated association may also be expelled or suspended as a member of BQ under Part F.*

23 An affiliated association cannot resign its membership of BQ.

## Governance accountability requirements

24 An affiliated association must give BQ a copy of:

- (a) any notice of any proposed special resolution to amend its governing document at the same time as it is required to give the notice to the affiliated association's own members under its governing document or any law; and
  - (b) any amendment to its governing document within 30 days after the amendment is made.
- 25 An affiliated association must notify BQ within 14 days after any change to its governing body occurs. The notice must say:
  - (a) who has ceased to be on or has joined the governing body; and
  - (b) what position was or is occupied by that person; and
  - (c) the date when the change occurred.

### **Participation accountability requirements**

- 26 An affiliated association must ensure that no unregistered participant participates in any basketball game or competition conducted or managed by or under the auspices of, or endorsed or supported by, the affiliated association.
- 27 An affiliated association must comply with all prescribed requirements relating to the participants registration system.

### **Financial accountability requirements**

- 28 An affiliated association that is required by law to prepare a financial statement for a financial year of the affiliated association must give BQ a copy of that financial statement by the earlier of:
  - (a) 1 month after the financial statement is tabled at a general meeting of the members of the affiliated association; or
  - (b) 6 months after the end of the financial year.
- 29 BQ may, at any time if authorised by a resolution of the board to do so, have the books of:
  - (a) an affiliated association; or
  - (b) an entity that used to be an affiliated association if the audit only covers the period of the entity's membership of the association as an affiliated association,audited by an approved auditor.
- 30 An **approved auditor** is one of the following persons selected by the board or by a person authorised by the board:
  - (a) a registered company auditor under the Corporations Act; or
  - (b) a member of CPA Australia who is entitled to use the letters 'CPA' or 'FCPA'; or

- (c) a member of The Institute of Chartered Accountants in Australia who is entitled to use the letters 'CA' or 'FCA'; or
  - (d) a member of the National Institute of Accountants who is entitled to use the letters 'MNIA', 'FNIA', 'PNA' or 'FPNA'.
- 31 The affiliated association or entity must pay or reimburse all costs and expenses paid or incurred by BQ in conducting an audit under clause 29, together with any shortfall in amounts payable by the affiliated association or entity to BQ, if the audit reveals that the affiliated association or entity:
- (a) has withheld funds from BQ; or
  - (b) has not paid the correct membership fees or other amounts to BQ; or
  - (c) has given BQ an inaccurate or incomplete financial statement.

## Part C Associate members

### Becoming an associate member

- 32 A person or entity becomes an associate member if:
- (a) the board decides to admit the person or entity as an associate member; and
  - (b) any conditions on which the board made that decision are satisfied.

*Interpretation note: The conditions may, for example, include that the person or entity must enter into an associate member agreement with BQ.*

### Lapsing and termination of membership

- 33 A person or entity ceases to be an associate member if:
- (a) the board decides to revoke the person's or entity's membership of BQ and:
    - (1) the board revocation of the membership is not in contravention of an associate member agreement between the associate member and BQ; and
    - (2) the company secretary notifies the associate member of the board's decision; or
  - (b) they resign under clause 34.

*Interpretation note: An associate member may also be expelled or suspended as a member of BQ under Part F.*

- 34 An associate member may resign their membership of BQ by giving written notice to the company secretary. The resignation takes effect when the notice is given to the company secretary unless a later date is specified in the notice, in which case that is when it takes effect.
- 35 However:

- (a) an associate member cannot resign under clause 33 if that would contravene an associate member agreement between the associate member and BQ; and
- (b) if an associate member does resign, they are not entitled to any refund of any membership fees paid, unless an agreement between the associate member and BQ provides differently.

### **Associate members have no voting rights**

36 An associate member has no rights to:

- (a) call, or participate in the calling of, a general meeting; or
- (b) be given notice of a general meeting; or
- (c) attend a general meeting; or
- (d) vote at a general meeting or in a postal vote; or
- (e) nominate, or participate in nominating, a person to serve as a director.

## **Part D Life members**

### **Becoming a life member**

37 A person becomes a life member if:

- (a) the board decides that the person has given long or exceptional service to BQ or to the sport of basketball; and
- (b) the board invites the person to become a life member; and
- (c) the person accepts the invitation and agrees to become a life member.

38 If a person becomes a life member, the conferral of life membership is to be announced at the next AGM.

### **Lapsing and termination of membership**

39 A life member may resign their membership of BQ by giving written notice to the company secretary. The resignation takes effect when the notice is given to the company secretary unless a later date is specified in the notice, in which case that is when it takes effect.

*Interpretation note: A life member may also be expelled or suspended as a member of BQ under Part F.*

### **Life members have no voting rights**

40 A life member has no rights to:

- (a) call, or participate in the calling of, a general meeting; or
- (b) be given notice of a general meeting; or

- (c) attend a general meeting; or
- (d) vote at a general meeting or in a postal vote; or
- (e) nominate, or participate in nominating, a person to serve as a director.

## Part E Individual members

### How someone becomes and ceases to be an individual member

- 41 A person becomes an individual member if:
- (a) they are a basketball participant; and
  - (b) they apply or agree to become an individual member of BQ; and
  - (c) the board resolves to admit the person as an individual member of BQ.
- 42 A person who became an individual member under clause 41 ceases to be an individual member if:
- (a) when resolving to admit the person as an individual member, the board:
    - (1) specified a date on which the membership would lapse, and that date arrives; or
    - (2) specified an event on the occurrence of which the membership would end, and that event occurs; or
    - (3) specified a condition for the continuation of the membership, and that condition is not satisfied or ceases to be satisfied; or
  - (b) they resign under clause 43.

*Interpretation note: An individual member may also be expelled or suspended as a member of BQ under Part F.*

- 43 An individual member may resign their membership of BQ by giving written notice to the company secretary. The resignation takes effect when the notice is given to the company secretary unless a later date is specified in the notice, in which case that is when it takes effect.

### Individual members have no voting rights

- 44 An individual member has no rights to:
- (a) call, or participate in the calling of, a general meeting; or
  - (b) be given notice of a general meeting; or
  - (c) attend a general meeting; or
  - (d) vote at a general meeting or in a postal vote; or
  - (e) nominate, or participate in nominating, a person to serve as a director.

### When the board may consider whether to discipline a member

- 45 The board may consider whether to discipline a member if:
- (a) a person makes a complaint to the board or BQ to the effect that a disciplinary ground exists for the member; or
  - (b) the board considers, on its own initiative, that there is an arguable case that a disciplinary ground exists for the member.

### Process

- 46 If the board proposes to consider whether to discipline a member, the board must ensure that the company secretary gives the member at least 14 days' notice of the date, time and venue for the board meeting at which the matter is to be considered.
- 47 A member given a notice under clause 46 may do either or both of:
- (a) give the board written submissions; and
  - (b) attend the board meeting stated in the notice and make submissions (but may not be represented by a lawyer or other representative other than a member of the governing body of the member if the member is an affiliated association or associate member).
- 48 The board may, before or at the board meeting (or after the board meeting if the board resolves to adjourn consideration of the matter to a subsequent board meeting), conduct any investigations and inform itself in the way the board sees fit on the questions of:
- (a) whether a disciplinary ground exists for the member concerned; and
  - (b) what sanction is appropriate for the member if a disciplinary ground is subsequently found to exist.
- 49 At the board meeting (or at a subsequent board meeting if the board resolves to adjourn consideration of the matter), the board:
- (a) must consider any submissions made under clause 47; and
  - (b) must consider any investigations or information gathered under clause 48; and
  - (c) is not bound by the rules of evidence; and
  - (d) must decide whether to discipline the member.

### Decisions the board may make

- 50 If the board decides to discipline a member, the board may resolve to:

- (a) suspend the member for a specified period, with or without also imposing a monetary fine on the member; or
- (b) expel the member, with or without also imposing a monetary fine on the member; or
- (c) impose a monetary fine on the member.

### **Notification of board's decision**

- 51 The company secretary must give the applicant notice of the board's decision and resolution within 14 days after it is made.

### **Effect of suspension**

- 52 If the board resolves under clause 50 to suspend a member for a specified period:
- (a) the suspension starts when the notice under clause 51 is given; and
  - (b) the suspension ends when the specified period resolved by the board under clause 50 lapses after the start of the suspension; and
  - (c) during the period of the suspension, the member is not entitled to exercise any rights that the member would otherwise have been entitled to exercise, under this constitution or otherwise, because of being a member of BQ.

### **Effect of expulsion**

- 53 If the board resolves under clause 50 to expel a member, they:
- (a) cease to be a member of BQ when the notice under clause 51 is given; and
  - (b) cannot reapply for membership of BQ, and cannot be readmitted as a member of BQ, for a period of 3 years from when they ceased to be a member, unless approved by an ordinary resolution.

### **Effect of monetary fine**

- 54 If the board resolves under clause 50 to impose a monetary fine, the member must pay the fine within 28 days after the notice under clause 51 is given.

<i>Interpretation note: The obligation to pay the fine continues even if the member ceases to be a member of BQ during or after the period of 28 days.</i>
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## Part G Financial obligations

### Affiliation and associate member agreements may specify fees payable

- 55 An affiliation agreement between BQ and a member that is an affiliated association for a financial year may specify:
- (a) an affiliation fee payable by the affiliated association for that financial year; and
  - (b) the membership fee payable by the affiliated association for that financial year; and
  - (c) when and how those fees are payable.
- 56 An associate member agreement between BQ and an associate member for a financial year may specify:
- (a) the membership fee payable by the associate member for that financial year; and
  - (b) when and how the membership fee is payable.

### Board may determine fees

- 57 The board may, before the start of a financial year or within 3 months after it starts, resolve to set:
- (a) for affiliated associations:
    - (1) an affiliation fee for that financial year; and
    - (2) a formula or methodology for calculating a membership fee for that financial year, which may:
      - (i) distinguish between different categories of affiliated associations according to particular characteristics or circumstances specified or described in the board's resolution; or
      - (ii) provide for credits or discounts to be applied if a particular condition specified or described in the board's resolution is satisfied; or
      - (iii) do more than one of those things; and
    - (3) when and how those fees are payable; and
  - (b) for associate members:
    - (1) a formula or methodology for calculating a membership fee for that financial year, which may:
      - (i) be a fixed amount, a variable amount calculated by applying the formula or methodology, or a combination of the two; or
      - (ii) distinguish between different categories of associate members according to particular characteristics or circumstances specified or described in the board's resolution; or



- (iii) provide for credits or discounts to be applied if a particular condition specified or described in the board's resolution is satisfied; or
  - (iv) do more than one of those things; and
- (2) when and how those fees are payable.

### **Obligations of affiliated associations and associate members to pay fees**

58 The following table describes the fees that an affiliated association must pay to BQ for a financial year, depending on which of the circumstances in the table applies to it for that financial year.

<b><i>Circumstances</i></b>	<b><i>Fees payable</i></b>
There is an affiliation agreement between the affiliated association and BQ for the financial year in question, which specifies the things listed in clause 55	As specified under the affiliation agreement
(a) There isn't an affiliation agreement between the affiliated association and BQ for the financial year in question, or there is one but it doesn't specify the things listed in clause 55  (b) The board has made a determination under paragraph 57(a) for the financial year in question  (c) BQ has notified the determination to the affiliated association by no later than 2 months before the start of that financial year	As specified under the board's determination
(a) There isn't an affiliation agreement between the affiliated association and BQ for the financial year in question, or there is one but it doesn't specify the things listed in clause 55  (b) The board has made a determination under paragraph 57(a) for the financial year in question  (c) BQ has notified the determination to the affiliated association, but the notification was later than 2 months before the start of that financial year	For the part of the financial year in question until the date that is 2 months after the notification was given – a proportion of the equivalent fees payable by the affiliated association for the preceding financial year, calculated on a pro-rata basis  For the part of the financial year in question from the date that is 2 months after the notification was given – a proportion of the fees specified under the board's determination, calculated on a pro-rata basis

- 59 The following table describes the fees that an associate member must pay to BQ for a financial year, depending on which of the circumstances in the table applies to it for that financial year.

<b><i>Circumstances</i></b>	<b><i>Fees payable</i></b>
There is an associate member agreement between the associate member and BQ for the financial year in question, which specifies the things listed in clause 56	As specified under the associate member agreement
<p>(a) There isn't an associate member agreement between the associate member and BQ for the financial year in question, or there is one but it doesn't specify the things listed in clause 56</p> <p>(b) The board has made a determination under paragraph 57(b) for the financial year in question</p> <p>(c) BQ has notified the determination to the associate member by no later than 2 months before the start of that financial year</p>	As specified under the board's determination
<p>(a) There isn't an associate member agreement between the associate member and BQ for the financial year in question, or there is one but it doesn't specify the things listed in clause 56</p> <p>(b) The board has made a determination under paragraph 57(b) for the financial year in question</p> <p>(c) BQ has notified the determination to the associate member, but the notification was later than 2 months before the start of that financial year</p>	<p>For the part of the financial year in question until the date that is 2 months after the notification was given – a proportion of the equivalent fees payable by the associate member for the preceding financial year, calculated on a pro-rata basis</p> <p>For the part of the financial year in question from the date that is 2 months after the notification was given – a proportion of the fees specified under the board's determination, calculated on a pro-rata basis</p>

## **Membership fees for individual members**

- 60 The board may, before the start of a financial year or within 3 months after it starts, resolve to set:
- (a) a formula or methodology for calculating a membership fee payable for that financial year by each individual member, which may:
    - (1) be a fixed amount, a variable amount calculated by applying the formula or methodology, or a combination of the two; or

- (2) distinguish between different categories of those individual members according to particular characteristics or circumstances specified or described in the board's resolution; or
- (3) provide for credits or discounts to be applied if a particular condition specified or described in the board's resolution is satisfied; or
- (4) do more than one of those things; and
- (b) when and how those fees are payable.

61 An individual member must pay the membership fee calculated under a resolution of the board under clause 60 for a financial year.

### **Provisions applying to affiliation and membership fees generally**

62 In specifying when and how affiliation fees or membership fees are payable for a financial year, an affiliation agreement, an agreement between BQ and an association member and a resolution of the board may:

- (a) require a fee to be paid in one instalment or in multiple instalments; and
- (b) if the fee is required to be paid in multiple instalments – specify:
  - (1) the amount of each instalment or how it is calculated; and
  - (2) the date on which each instalment is to be paid or how that date is to be worked out; and
- (c) require some or all of the fee, or an instalment of the fee, to be paid before the start or after the end of the financial year concerned.

63 A resolution of the board may apply to provide that no membership fee is payable by a particular member of a class or category of a class to which the resolution applies.

### **Effect of termination of membership on obligations to pay affiliation and membership fees**

64 If an affiliated association ceases to be a member of BQ during a financial year, it must (even after ceasing to be an affiliated association) pay to BQ the affiliation fees and membership fees as required by:

- (a) any affiliation agreement in existence (or which was in existence) between BQ and the affiliated association for that financial year which specifies (or specified) the things listed in clause 55; or
- (b) otherwise, a resolution of the board under paragraph 57(a) for that financial year.

65 If an associate member ceases to be a member of BQ during a financial year, it must (even after ceasing to be an associate member) pay to BQ the membership fees as required by:

- (a) any associate member agreement in existence (or which was in existence) between BQ and the associate member for that financial year which specifies (or specified) the things listed in clause 56;
- or

(b) otherwise, a resolution of the board under paragraph 57(b) for that financial year.

66 If an individual member to whom a resolution of the board under clause 60 applies for a financial year ceases to be a member of BQ during that financial year, the individual member is not entitled to any refund of any membership fee (or instalment of a membership fee) paid for that financial year.

### **Members owing debts to BQ**

67 If a member owes a debt to BQ which becomes more than 30 days overdue for payment BQ may recover interest on the debt from the date when it became due for payment until it is paid.. However, it does not apply if:

- (a) a written agreement between BQ and the member:
  - (1) provides for interest to be payable on or in respect of the debt; or
  - (2) specifically provides that the debt is interest free; or
- (b) the board resolves that the debt will not carry interest.

## **Part H The board**

### **Minimum number of directors**

68 BQ must have at all times have:

- (a) the minimum number of directors required by the Corporations Act; and
- (b) the minimum number of directors ordinarily residing in Australia required by the Corporations Act.

*Explanatory note: Under section 201A of the Corporations Act, the minimum number of directors is 3. The minimum number ordinarily residing in Australia is 2. However, clause 71 superimposes the requirement that all directors of BQ must ordinarily reside in Australia, and clause 75 says that the board consists of five elected board positions.*

### **Eligibility for election or appointment as a director**

69 A person is eligible to be elected or appointed as a director only if they:

- (a) are eligible under section 201B of the Corporations Act; and
- (b) are not a member of the governing body of an affiliated association or of an associate member; and
- (c) are not an employee of BQ, of an affiliated association or of an associate member; and
- (d) are not subject to any insolvency action; and
- (e) are not a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (f) ordinarily reside in Australia.

- 70 In addition, a person is eligible to be elected or appointed as a director only if, as at the date of election or appointment, the person:
- (a) has not served as a director of BQ during the last three complete board years; or
  - (b) has served as a director of BQ for no longer than the last eight complete board years.

- 71 A **board year** is the period starting on the date of an AGM and ending on the date of the next AGM.

*Interpretation note: In this clause, a reference to an AGM includes a reference to an annual general meeting of BQ held while it was an incorporated association under the Associations Incorporation Act 1981. A period that starts or ends on a date other than the date of an AGM is not a board year. For example, if a director is appointed to fill a casual vacancy 6 months before the date of an AGM, that period of 6 months until the date of the AGM is not a board year.*

- 72 A person does not have to be a member of BQ in order to be eligible to be elected or appointed as a director.

### Elected board positions

- 73 The board will include five **elected board positions**. The elected board positions are designated as Director 1, Director 2, Director 3, Director 4 and Director 5.
- 74 The elected board positions become vacant by rotation according to the following cycle:

<b><i>Elected board position</i></b>	<b><i>When it becomes vacant</i></b>
Director 1 Director 2	at BQ's first AGM after the adoption date and at every third AGM thereafter
Director 3	at BQ's second AGM after the adoption date and at every third AGM thereafter
Director 4 Director 5	at BQ's third AGM after the adoption date and at every third AGM thereafter

### How directors are elected to elected board positions

- 75 At least 42 days before each AGM, the company secretary must give notice to the affiliated associations:
- (a) setting out the number of vacant positions for the AGM; and
  - (b) calling for nominations for the vacant positions.

*Explanatory note: This notice may be combined with a notice under clause 158.*

- 76 The **vacant positions** for an AGM are the elected board positions which:
- (a) when the notice is given under clause 77, are occupied by directors appointed under clause 95; or
  - (b) when the notice is given under clause 77, are vacant; or
  - (c) are to become vacant at the AGM under clause 76.

- 77 Before the AGM, BQ may:
- (a) call for nominations for the vacant positions in other ways; and
  - (b) advertise, invite or solicit nominations for the vacant positions.
- 78 A person (the **candidate**) who is eligible for election as a director under clause 71 may be nominated to fill a vacant position. A candidate is only taken to have been nominated if a written nomination form:
- (a) is in any form prescribed and has been properly completed; and
  - (b) is signed by the candidate; and
  - (c) is signed by a representative of an affiliated association nominating the candidate; and
  - (d) is lodged with the company secretary at least 28 days before the AGM.
- 79 If no candidate is nominated for a vacant position under clause 80:
- (a) nominations may not be taken from the floor at the AGM; and
  - (b) that vacant position remains vacant.

*Interpretation note: If a vacant position remains vacant under paragraph (b), a casual vacancy arises. See paragraph 98(b).*

- 80 If:
- (a) there is one vacant position for an AGM, and only one candidate is nominated:
    - (1) that candidate is to be declared elected to the vacant position at the AGM if an ordinary resolution is passed at the AGM to approve the appointment of the candidate to that vacant position; and
    - (2) otherwise, that vacant position remains vacant; or
  - (b) there are two or more vacant positions for an AGM, and the number of candidates nominated is equal to the number of vacant positions:
    - (1) a candidate is to be declared elected to a vacant position at the AGM if an ordinary resolution is passed at the AGM to approve the appointment of the candidate to that vacant position; and
    - (2) if subparagraph (1) does not apply to a vacant position, that vacant position remains vacant; or
  - (c) there are two or more vacant positions for an AGM, and the number of candidates nominated is less than the number of vacant positions:
    - (1) a candidate is to be declared elected to a vacant position at the AGM if an ordinary resolution is passed at the AGM to approve the appointment of the candidate to that vacant position; and
    - (2) if subparagraph (1) does not apply to a vacant position, that vacant position remains vacant.

*Interpretation note: If a vacant position remains vacant under this clause, a casual vacancy arises. See paragraph 98(b).*

- 81 At the AGM, an election is to be held for each vacant position, other than one to which paragraph 81(b) or clause 82 applies.
- 82 If the number of candidates for vacant positions at an AGM exceeds the number of vacant positions, a ballot is to be conducted at the AGM to elect directors to that vacant position or those vacant positions.
- 83 For the purposes of the ballot:
- (a) a balloting list is to be prepared, containing the names of the candidates in alphabetical order by surname; and
  - (b) each delegate who is entitled to vote at the AGM may complete one balloting list by marking the names of a number of candidates not more than the number of vacant positions for which the election is being conducted; and
  - (c) each candidate whose name is marked in a correctly completed balloting list is taken to have received one vote; and
  - (d) the candidates receiving the highest number of votes are to be declared elected to the vacant positions for which the election is being conducted until they are all filled; and
  - (e) if there is a deadlock because two or more candidates receive the same number of votes but they cannot all be declared elected to a vacant position because there aren't enough vacant positions:
    - (1) a second ballot round is to be conducted; and
    - (2) the second round is to only be between the candidates who received the same number of votes in the first round; and
    - (3) if there is still a deadlock after the second round, the person chairing the AGM will have a casting vote to resolve the deadlock; and
  - (f) the way that the ballot is otherwise conducted is to be decided by the person chairing the AGM.
- 84 A candidate who is elected to a vacant position assumes that office at the end of the AGM.

## Candidate statements

- 85 A candidate for a vacant position at an AGM may, at least 28 days before the AGM, give the company secretary a candidate statement and ask the company secretary to distribute the candidate statement to affiliated associations.
- 86 A **candidate statement** is a written document which:
- (a) contains only text; and
  - (b) sets out biographical information about the candidate or a statement of the views of the candidate on matters relevant to the candidate's possible role as a director of BQ or both; and
  - (c) is no longer than 200 words.

- 87 The company secretary must give each director a copy of any candidate statement that the company receives from a candidate under clause 87, as soon as practicable after receiving it and in any event at least 2 days before giving the notice of the AGM under clause 161.
- 88 The board may, before notice of the AGM is given under clause 161, decide that a candidate statement should not be distributed to affiliated associations because it contains any content which the board decides is:
- (a) false or misleading; or
  - (b) defamatory of any person (whether or not the defamation would be actionable); or
  - (c) liable to bring BQ, the sport of basketball or the process of the election to fill the vacant position for which the candidate has been nominated into disrepute.

### **Chair and Deputy Chair**

- 89 At the first board meeting after an AGM, the elected board members:
- (a) must elect or appoint one of their number to be the Chair; and
  - (b) may elect or appoint a director to be the Deputy Chair.
- 90 If there is a vacancy:
- (a) in the position of Chair, the elected board members must elect or appoint one of their number to be the Chair; or
  - (b) in the position of Deputy Chair, the elected board members may elect or appoint a director to be the Deputy Chair.
- 91 A Chair or Deputy Chair elected or appointed under clause 91 or 92 holds that position until:
- (a) he or she ceases to be a director occupying an elected board position; or
  - (b) he or she resigns the position by written notice to the board or to the company; or
  - (c) he or she is removed from the position by a written document signed by a majority of the directors; or
  - (d) the start of the first board meeting following the next AGM after he or she was elected or appointed to that position.
- 92 If there is a vacancy in the position of Chair, the Deputy Chair (if there is one) must act as Chair until a new Chair is elected or appointed under clause 91 or 92.

### **Casual vacancies**

- 93 The board may appoint a director to fill a casual vacancy.
- 94 As long as the board consists of the minimum number of directors required by this constitution, the board may continue to act despite a casual vacancy and without filling it.

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Constitution of Basketball Queensland Limited

*For definitions of terms used in this constitution, see Schedule 1.*

*For an explanation of the status of Interpretation notes and Explanatory notes, see clauses 211 and 212 of this constitution.*



*Interpretation note: See clause 70 for the minimum number of directors.*

95 If the board consists of fewer than the minimum number of directors required by this constitution, the remaining director or directors may act despite a casual vacancy only to:

- (a) call a general meeting; or
- (b) fill the casual vacancy.

*Interpretation note: The general meeting that may be called under this clause includes an SGM, for the purposes of which clauses 77 to 86 apply with appropriate modifications.*

96 A **casual vacancy** can only exist in relation to an elected board position. It exists if:

- (a) the director occupying that elected board position ceases to be a director of BQ, other than under clause 75; or
- (b) the elected board position remains vacant after an AGM under paragraph 81(b) or clause 82.

### **Appointed board positions**

97 The board may appoint up to two additional directors.

98 A director appointed under clause 99 cannot occupy an elected board position.

99 A director appointed under clause 99 may be appointed on terms decided by the board. The terms and conditions may include terms specifying the director's tenure.

### **How and when directors vacate office**

100 A director vacates office:

- (a) at the end of an AGM if they occupy an elected board position which becomes a vacant position at the AGM; or
- (b) if they become ineligible to be elected or appointed as a director under clause 71; or
- (c) if they are removed under section 203D of the Corporations Act; or
- (d) if they were appointed under clause 99 under terms specifying the director's tenure and under those terms, the tenure ends; or
- (e) if they resign as a director under clause 103; or
- (f) if they are absent for more than 3 board meetings in succession without the board's leave; or
- (g) if they are convicted on indictment of an offence; or
- (h) if they have been a director of BQ for nine complete board years in succession.

*Explanatory note: Section 203D sets out a procedure whereby a director of a public company may be removed from office by resolution at a general meeting.*

101 A director may resign only by written notice to the company secretary or Chair. The resignation takes effect at the date specified in it or, if no date is specified, when the notice is given.

## Part I Operations of the board

### Management of BQ

- 102 The business of BQ is to be managed by or under the direction of the board. The board may exercise all the powers of BQ except any powers that the Corporations Act or this constitution requires BQ to exercise in general meeting.

### Company secretary

- 103 The board may appoint a company secretary in accordance with the Corporations Act on the conditions decided by the board. The board may remove a company secretary from office. Unless the board decides otherwise, the company secretary is also the company's public officer.

### Powers of directors

- 104 The board has the power and duty to manage and control the business and affairs of BQ. The board may exercise all BQ's powers, except those that are required to be exercised by BQ in general meeting or by ordinary resolution or special resolution. The following are among the specific powers they have:
- (a) to borrow or raise money; and
  - (b) to secure the payment of any money in any way, including by mortgage, debenture or charge on all of BQ's assets and undertakings, present and future.

### Board may confer powers on a person

- 105 The board may confer on a person (including a director) the power to do specified things on behalf of BQ, whether by power of attorney or not. The board may confer on that person a power of sub-delegation.
- 106 The entrusting of a power to a person does not exclude its exercise by the board.

### Fees and honoraria

- 107 The board may resolve that fees or honoraria be paid to:
- (a) the directors; or
  - (b) one or more of the directors identified by the board.

*Explanatory note: Under section 211 of the Corporations Act, the board should only make such a resolution if the payment of the fees or honoraria would be reasonable given BQ's circumstances and those of the director or directors to receive the fees or honoraria (including the responsibilities involved in their office), or if member approval has been obtained under Chapter 2E of the Corporations Act.*

- 108 Unless the resolution under clause 109 specifies otherwise, any fees or honoraria under such a resolution accrue daily.
- 109 BQ must not pay any fees or honoraria by way of remuneration to a director unless the payment is in accordance with a resolution under clause 109.

## Expenses

- 110 In addition to any fees or honoraria, directors are entitled to be paid or reimbursed for all travelling and other expenses they properly incur in performing their duties in relation to:
- (a) a board meeting; or
  - (b) a meeting of a committee of the board; or
  - (c) a general meeting of BQ; or
  - (d) the business or affairs of BQ,
- if the board has approved or subsequently approves the payment of the expenses.

*Explanatory note: Under section 211(2) of the Corporations Act, the board should only approve the payment of expenses if that would be reasonable in BQ's circumstances, or if member approval has been obtained under Chapter 2E of the Corporations Act.*

## Conflict of interests

- 111 A director is entitled to hold another office with BQ, or to be remunerated by BQ for other work (including professional work), despite being a director. This does not apply in relation to the office or work of auditor.

*Explanatory note: Under section 210 of the Corporations Act, the director can only be remunerated on arm's length terms or terms more favourable to BQ than arm's length terms, or if member approval has been obtained under Chapter 2E of the Corporations Act.*

- 112 A director is not disqualified from office by reason of entering into a contract or arrangement with BQ or having an interest in a contract or arrangement with the company, nor is any such contract or arrangement void or liable to be voided.
- 113 A director does not have to account to BQ for any profit arising from a contract or arrangement with BQ merely because of being a director and having a fiduciary duty to BQ.

## Disclosure of interests

- 114 A director must disclose an interest in any contract or arrangement with BQ as required by the Corporations Act.

## General notice of an interest

- 115 A director may give a general notice to BQ at its registered office that he or she is an officer or member of a specified corporation or firm, or has an interest in it in some other way. The notice must set out the nature and extent of the director's interest.

- 116 The notice is effective on all subsequent occasions as a disclosure of the director's interest in a matter involving BQ and that corporation or firm, but only if the director's interest at the time of first consideration of the matter is no greater than as stated in the general notice.

### **Effect of disclosure by a director**

- 117 If a director complies with the law and this constitution in relation to disclosing an interest:
- (a) the director may vote on whether BQ enters into the contract or arrangement; and the contract or arrangement may be entered into; and
  - (b) the director may participate in the execution of the contract; and
  - (c) the director may vote on matters involving the contract.

## **Part J Board meetings**

### **Board may regulate meetings**

- 118 Subject to this constitution and the Corporations Act, the board may regulate board meetings however the board decides.

### **Convening board meetings**

- 119 A board meeting must be held at least eight times in each financial year.
- 120 The board may approve meeting schedules which set out the dates, times and venues (or, for a board meeting to be conducted under clause 130, the date, time and technology to be used) for board meetings over a forthcoming period. The board may vary, revoke or substitute the schedules from time to time. Each of the board meetings listed in a schedule which has been approved by the board and is current is a **scheduled board meeting**.
- 121 In addition, the Chair or the company secretary may convene a board meeting at any time.
- 122 The company secretary must convene a board meeting if:
- (a) two or more of the elected directors; or
  - (b) at least one-third of the directors,
- give the company secretary a request to convene a board meeting.
- 123 A request under clause 124 must be in writing (including email). It must set out the business to be conducted at the requested board meeting. The directors making the request do not need to all sign the same piece of paper or send the same email as long as they are all to the same effect in substance.

- 124 If the company secretary is given a request under clause 124, the company secretary must within 7 days convene the requested board meeting (to be held within 14 days after the request was made). If the company secretary does not do so, any one or more of the directors who made the request may do so instead.

### **Notice of board meetings**

- 125 No further notice is required to be given of a scheduled board meeting.
- 126 The convenor of a board meeting, other than a scheduled board meeting, must give written, email or oral notice of the board meeting to the directors. The convenor does not have to give notice of a meeting to a director whom the convenor reasonably believes to be outside Australia.
- 127 The resolutions passed at a board meeting for which notice was not given to all directors, and actions taken to implement those resolutions, are nonetheless valid if each director who was not given notice later agrees to waive the receipt of that notice.

### **Board meetings using technology**

- 128 A board meeting may be convened:
- (a) at different venues, as long as the technology used gives the directors attending at each venue a reasonable opportunity to participate in the board meeting; or
  - (b) by teleconferencing.
- 129 The notice of a board meeting convened under clause 130 must specify, as applicable:
- (a) the venues and the technology to be used; or
  - (b) the teleconferencing technology and arrangements to be used.

*Interpretation note: If the board meeting is a scheduled board meeting, no notice of it may be required because of clause 127.*

- 130 If a board meeting is convened by teleconferencing, each director who wants to attend the board meeting must, at least 4 hours before the time at which the board meeting is to start, give the company secretary a contact point (for example, a telephone number) at which the director may be contacted when the board meeting is to start.
- 131 If there is a failure in technology which deprives any director of a reasonable opportunity to participate in a board meeting convened under clause 130, the chair must adjourn the board meeting until the failure is rectified. If the failure is not rectified within one hour, the chair must adjourn the board meeting.
- 132 At the start of a board meeting convened under clause 130, each director who is present must signify his or her presence to the other directors who are present.

- 133 A director who wishes to leave a board meeting convened under clause 130 must obtain the express consent of the chair. A director who fails to do so is conclusively presumed present throughout the board meeting for the purposes of the quorum for that board meeting.

## **Quorum**

- 134 A quorum for a board meeting consists of at least half of the directors then in office.

*Interpretation note: Any fraction is to be rounded up to the nearest whole number.*

- 135 No business may be transacted at any time during a board meeting unless a quorum is present. The quorum must be present throughout a board meeting.

## **Chair**

- 136 The Chair is to chair all board meetings at which he or she is present.
- 137 If the Chair is not present at a board meeting or does not or cannot chair the board meeting:
- (a) the Deputy Chair will chair the board meeting; or
  - (b) if the Deputy Chair is not present or cannot chair the board meeting, the directors present must elect a director to chair that board meeting.

## **Voting and resolutions at a board meeting**

- 138 At a board meeting:
- (a) each director who is present has one vote; and
  - (b) the chair does not have a casting vote.
- 139 A resolution is passed at a board meeting if a majority of the votes cast is in favour of it.

## **Resolutions by circular**

- 140 The directors may pass a resolution by circular without holding a board meeting. To pass a resolution by circular, all the directors who would be entitled to vote on the resolution if it was put at a board meeting must sign a document stating that they are in favour of the resolution and stating the terms of the resolution. Different directors may sign different documents as long as they are the same in substance. The resolution is taken to have been passed from the time when the last director signs the document. The resolution must be noted in the minutes of the board.

## Resolutions by email

- 141 A director or the company secretary may propose that the board pass a resolution by email. To do so, the proponent must send an email to the email address for each director who would be entitled to vote on the proposed resolution if it was put at a board meeting. The email must state the terms of the proposed resolution and may include other information. The email sent to each director must be the same. The email must be worded to clearly indicate to the other directors that a formal resolution of the board is being proposed.
- 142 If it is proposed under clause 143 that the board pass a resolution by email:
- (a) a director who would be entitled to vote on the proposed resolution if it was put at a board meeting may send an email to the email addresses of the proponent of the resolution, and of each director who would be entitled to vote on the proposed resolution if it was put at a board meeting, that the director supports the proposed resolution; and
  - (b) if all of those directors do so, the resolution is taken to have been passed when the last director sends such an email and the resolution must be noted in the minutes of the board; and
  - (c) a director who would be entitled to vote on the proposed resolution if it was put at a board meeting may ask the company secretary to convene a board meeting to discuss the matter of the proposed resolution and if so:
    - (1) the company secretary must do that; and
    - (2) the only business to be transacted at that board meeting is the matter of the proposed resolution.
- 143 For the purposes of clauses 143 and 144:
- (a) the email address to be used by a proponent to send an email to a director is the email address that the director has notified the other directors, the company secretary or BQ to use for sending emails about business of the board to that director; and
  - (b) an email appearing to have been sent from such an email address will be taken to have been sent by that director; and
  - (c) a director may at any time notify the other directors, the company secretary or BQ that an email address previously notified by that director to use for sending emails about business of the board is no longer current and:
    - (1) unless the notification was to the other directors, the company secretary must promptly advise the other directors of that notification; and
    - (2) the director giving the notification must also notify of a new email address to be used for sending emails about the business of the board to that director.

## Minutes of board meetings

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Constitution of Basketball Queensland Limited

*For definitions of terms used in this constitution, see Schedule 1.*

*For an explanation of the status of Interpretation notes and Explanatory notes, see clauses 211 and 212 of this constitution.*

- 144 The directors must keep minutes of board meetings in accordance with the Corporations Act. They must record each of the following:
- (a) the names of directors present at each board meeting; and
  - (b) all orders, resolutions and proceedings of board meetings; and
  - (c) any matter that the Corporations Act requires to be recorded in the books of BQ, including declarations and notices of interest made and given by a director.
- 145 The chair of that or the next board meeting must sign the minutes as a true and correct record of the board meeting. That person's signing of the minutes is sufficient evidence of anything recorded and of the regularity of what was done at the board meeting.

### **Committees of directors**

- 146 The board may delegate any of their powers to a committee of the directors they specify. The board may revoke a delegation. A committee must comply with any conditions on the exercise of its powers that the board sets. A power properly exercised by a committee is exercised by the board. The clauses that apply in relation to the proceedings of a board meeting apply in relation to meetings of a committee of directors (except a committee of one).
- 147 The clauses applying to the minutes of board meetings and their signing apply, with any necessary changes, to the minutes of meetings of a committee. If a committee consists of only one director, a minute signed by that director recording a decision by him or her as that committee is a minute of that committee.

### **Validation of acts of directors**

- 148 Any act done at a board meeting or a meeting of a committee of directors, or by any person acting as director, or by a person claiming to act under a power of attorney executed by BQ, is valid even if it is later discovered that there was a defect in the person's appointment or continuance in office, or that the person was disqualified from voting or not entitled to vote.

### **Execution of documents**

- 149 In addition to any other way in which BQ may execute a document, it may do so by two directors signing it, or by one director and a company secretary of BQ signing it. Execution under a seal is not required.

### **Company seal**

- 150 The board may adopt a company seal. The board must provide for its safe-keeping.

## **Part K General meetings**



## AGMs

151 BQ must hold:

- (a) its first AGM under the Corporations Act in the calendar year of its registration as a company under the Corporations Act; and
- (b) an AGM at least once in each calendar year and within 5 months after the end of its financial year.

152 The board is to decide when and where BQ's AGMs are to be held.

*Explanatory note: To allow the procedures under Part H to be followed, the date for an AGM should be set more than 45 days in advance. See in particular clause 77.*

## SGMs

153 The company secretary must convene a SGM on the request of:

- (a) the Chair; or
- (b) the board.

*Explanatory note: In addition, members may request a SGM under section 249D of the Corporations Act. In BQ's case, this generally requires members with at least 5% of the votes that may be cast at the SGM, or at least 100 members entitled to vote at the SGM, to make the request.*

154 A request under clause 155 must state the reasons why the SGM is being convened and the nature of the business to be transacted at it. Separate copies of a document setting out a request under paragraph 155(b) may be used for signing by directors if the wording of the request in each copy is identical in substance.

155 If the company secretary does not give notice of a SGM within 1 month after being given a request under clause 155, the person or people who made the request may give the notice instead.

## Preliminary notice of an AGM

156 The company secretary must give a preliminary notice of an AGM to affiliated associations and directors at least 42 days before the date when it is to be held. The notice:

- (a) must set out the place, date and time for the AGM; and
- (b) must invite affiliated associations to request the inclusion on the agenda for the AGM of any motion that they want to propose for an ordinary resolution or a special resolution at the AGM; and
- (c) may be combined with the notice under clause 77 relating to that AGM.

*Explanatory note: Clause 77 is about the notice to be given before an AGM calling for nominations for the vacant positions at that AGM.*

157 A financial affiliated association may, either alone or jointly with another financial affiliated association (or more than one), request the inclusion on the agenda for the AGM of any motion that they want to propose

for an ordinary resolution or a special resolution at the AGM by giving written notice to the company secretary on or before the date that is 10 clear business days before the date of the AGM. The notice is valid only if:

- (a) it specifies the wording of the motion; and
- (b) is signed by at least the financial affiliated association's president and another member of the financial affiliated association's governing body (unless there is no other member of the financial affiliated association's governing body).

158 The company secretary must include the requested motion on the agenda for the AGM if:

- (a) a financial affiliated association has, or two or more financial affiliated associations have, made the request by giving a valid notice under clause 159; and
- (b) either:
  - (1) the request was made by one financial affiliated association that would, or a number of financial affiliated associations that would in aggregate, hold at least 5% of the votes that could be cast at a general meeting as at the date that is 10 clear business days before the date of the AGM; or
  - (2) the request was made by at least 100 financial affiliated associations; and
- (c) the motion is for an ordinary resolution or a special resolution which, if passed, would be a lawful resolution of a general meeting.

*Interpretation note: For the purposes of paragraph (a), treat two financial affiliated associations as having made the same request if the wording of a motion separately requested by each of them is identical.*

*Explanatory note: A motion will satisfy paragraph (c) if it relates to a matter on which, under this constitution or the Corporations Act, a general meeting can pass a resolution. A motion may not satisfy paragraph (c) if it relates to a matter which is within the authority of the board under this constitution or the Corporations Act.*

## Notice of a general meeting

159 The company secretary must give notice of a general meeting to affiliated associations and directors at least 21 days before the date when it is to be held.

*Explanatory note 1: Under clause 157, the notice of a SGM may be given by people requesting it in certain circumstances. Explanatory note 2: Section 249H(2) of the Corporations Act specifies when a general meeting can be called on shorter notice.*

*Explanatory note 3: Under section 249K of the Corporations Act, the company's auditor also needs to be given notice of a general meeting.*

160 The notice of a general meeting:

- (a) must set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this); and
- (b) must state the general nature of the meeting's business; and
- (c) if a special resolution is to be proposed at the meeting – must set out an intention to propose the

special resolution and state the resolution; and

(d) if the general meeting is an AGM:

- (1) must include a list of the names of any candidates for election to any vacant positions at the AGM; and
- (2) may include, or be accompanied by, a candidate statement for each candidate who has given one to the company secretary under clause 87, unless the board has decided under clause 90 that the candidate statement should not be distributed; and
- (3) must:
  - (A) state that the meeting's business will include any motion that the company secretary must include on the agenda under clause 160; and
  - (B) set out the wording of the agenda; and
  - (C) name the affiliated association or affiliated associations that made the request to include the motion on the agenda for the meeting.

161 However, it is not necessary for the notice of a general meeting to comply with clause 162 to the extent that:

- (a) clause 162 requires particular content to be included in the notice that the Corporations Act also requires to be included; and
- (b) because conditions specified in regulations made under section 249LA of the Corporations Act are satisfied, the Corporations Act does not require the notice to include that content.

### **General meetings using technology**

162 A general meeting may be convened:

- (a) at different venues, as long as the technology used gives the delegates and directors attending at each venue a reasonable opportunity to participate in the general meeting; or
- (b) by teleconferencing.

163 The notice of a general meeting convened under clause 164 must specify, as applicable:

- (a) the venues and the technology to be used; or
- (b) the teleconferencing technology and arrangements to be used.

164 If a general meeting is convened by teleconferencing, each delegate and director who wants to attend the general meeting must, at least 4 hours before the time at which the general meeting is to start, give the company secretary a contact point (for example, a telephone number) at which the delegate or director may be contacted when the general meeting is to start.

165 If there is a failure in technology which deprives any delegate or director of a reasonable opportunity to

participate in a general meeting convened under clause 164, the chair must adjourn the general meeting until the failure is rectified. If the failure is not rectified within one hour, the chair must adjourn the general meeting.

- 166 At the start of a general meeting convened under clause 164, each delegate and director who is present must signify his or her presence to the chair.
- 167 A delegate or director who wishes to leave a general meeting convened under clause 164 must obtain the express consent of the chair. A delegate or director who fails to do so is conclusively presumed present throughout the general meeting for the purposes of the quorum for that general meeting.

### Who can attend a general meeting

- 168 A delegate and a director may attend a general meeting.
- 169 A life member, and any other person permitted by the chair, may attend a general meeting but may not speak or address the general meeting except with the leave of the chair.

*Explanatory note: Under section 249V of the Corporations Act, the company's auditor is also entitled to attend a general meeting and to address the general meeting on certain matters.*

### Delegates

- 170 A person is a **delegate** for an affiliated association for a general meeting if the affiliated association is a financial affiliated association at the date of the general meeting and:
- (a) the person is an appointed delegate for the affiliated association for the general meeting; or
  - (b) the person is the affiliated association's president and there is no appointed delegate for the affiliated association for the general meeting.

*Explanatory note: This means that a financial affiliated association's president is automatically its delegate, unless there is an appointed delegate. If there is an appointed delegate, they are the delegate for the general meeting. Clause 173 explains when someone is an appointed delegate.*

- 171 A person is an **appointed delegate** for an affiliated association for a general meeting if:
- (a) they have been appointed by an affiliated association as its delegate for the general meeting; and
  - (b) the appointment:
    - (1) is in writing; and
    - (2) is in any form prescribed; and
    - (3) has been signed by at least the affiliated association's president and another member of the affiliated association's governing body (unless there is no other member of the affiliated association's governing body); and
    - (4) is given to the company secretary at least 2 clear business days before the start of the

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*For definitions of terms used in this constitution, see Schedule 1.*

*For an explanation of the status of Interpretation notes and Explanatory notes, see clauses 211 and 212 of this constitution.*

general meeting; and

- (c) the person appointed is:
- (1) a member of the governing body for the affiliated association; or
  - (2) an employee of the affiliated association; or
  - (3) a director.

*Interpretation note: Unless and until a different form is prescribed, the form in Schedule 2 may be used.*

172 A person who is not a director may not be a delegate for more than two financial affiliated associations.

173 If a person is a delegate of a financial affiliated association because of paragraph 172(a):

- (a) the person may act as the appointed delegate for only one other financial affiliated association appointing the person under clause 173; and
- (b) if two or more financial affiliated associations have otherwise validly appointed the person under clause 173 as their appointed delegate, the person must declare to the person chairing the general meeting for which of those financial affiliated associations the person will act as the appointed delegate.

174 If a person is not a delegate of a financial affiliated association because of paragraph 172(a):

- (a) the person may act as the appointed delegate for only two financial affiliated associations appointing the person under clause 173; and
- (b) if three or more financial affiliated associations have otherwise validly appointed the person under clause 173 as their appointed delegate, the person must declare to the person chairing the general meeting for which two of those financial affiliated associations the person will act as the appointed delegate.

175 A person who is a director may be an appointed delegate for any financial affiliated associations that appoint the director as their appointed delegate under clause 173.

176 The appointment of a person as an affiliated association's delegate may provide that it takes effect only if a condition is satisfied.

*Interpretation note: This allows for successive appointments whereby person A is appointed as the delegate and person B is appointed as the delegate only if person A is absent from the general meeting, or if person A can't be the delegate because of clause 174, 175 or 176.*

177 The appointment may provide that the delegate must vote in a particular way, or abstain from voting, on a motion to be put to the general meeting. If it does, the delegate cannot vote on the motion in any other way and cannot abstain from voting on it (unless that is what the appointment says they must do).

178 The appointment is taken, unless it says otherwise, to give the delegate authority to:

- (a) act at any adjournment of the general meeting; and
- (b) demand or join in demanding a poll.

## Proxies and attorneys not permitted

179 A person entitled to attend a general meeting cannot do so by proxy or attorney.

## Quorum

180 The quorum for a general meeting consists of delegates representing at least 40% of the votes exercisable for affiliated associations that are financial affiliated associations at the date of the general meeting.

*Interpretation note: Any fraction is to be rounded up to the nearest whole number.*

*Explanatory note: See clause 187 for the number of votes exercisable for a financial affiliated association.*

181 No business may be transacted at any time during a general meeting unless a quorum is present. The quorum must be present throughout a general meeting.

## Chair

182 The Chair is to chair all general meetings at which he or she is present.

183 If the Chair is not present at a general meeting or does not or cannot chair the general meeting:

- (a) the Deputy Chair will chair the general meeting; or
- (b) if the Deputy Chair is not present or cannot chair the general meeting, the directors present must elect a director who is present at the general meeting to chair that general meeting; or
- (c) if there is no director present at the general meeting, the delegates present at the general meeting are to elect one of their number to chair it.

*Interpretation note: If there is no unanimous or majority decision of the delegates present, they are to elect the person to chair the general meeting using the first-past-the-post system.*

## Voting and resolutions at a general meeting

184 At a general meeting:

- (a) each delegate representing an affiliated association which is a financial affiliated association at the date of the general meeting the number of vote specified in clause 187 for each of those affiliated associations for which they are a delegate; and
- (b) the chair does not have a casting vote.

185 The number of votes exercisable for a financial affiliated association at a general meeting is specified in the following table.

<b><i>If the number of basketball participants registered by the affiliated association under the participants registration system at the end of the financial year preceding the financial year in which the general meeting is held was ...</i></b>	<b><i>... the number of votes exercisable for the affiliated association at the general meeting is ...</i></b>
less than 1000	1
1000 or more, but less than 2000	2
2000 or more	3

- 186 A resolution is passed at a general meeting if the majority of votes cast is in favour of it.

*Explanatory note: This does not apply to a special resolution. Under the Corporations Act, a 75% majority of the votes cast is needed to pass a special resolution.*

- 187 Voting at a general meeting is to be by verbal declaration or show of hands.
- 188 The declaration by the chair of the outcome of a vote at a general meeting is conclusive evidence of the outcome unless a ballot is demanded immediately after the declaration by a delegate or delegates holding at least 20% of the votes that could be cast by delegates.
- 189 The chair must appoint two people present at a general meeting to conduct a ballot in the way decided by the chair, if:
- (a) the chair decides that a ballot should be conducted; or
  - (b) a ballot is demanded under clause 191.
- 190 The declaration by the chair of the outcome of a ballot at a general meeting is conclusive evidence of the outcome.

## **Part L Postal votes instead of general meetings**

### **How and when a proposed resolution may be submitted to a postal vote**

- 191 The board may, by resolution, direct that a proposed resolution be submitted to a postal vote if it is:
- (a) a resolution that could be put to a general meeting; and
  - (b) not a resolution that:
    - (1) under this constitution or the Corporations Act, could not be dealt with at an SGM; or
    - (2) under the Corporations Act, could not be passed without a general meeting being held; or
    - (3) has been included in the agenda or business for a general meeting of which notice has already been given under this constitution or the Corporations Act.

- 192 A resolution of the board directing that a proposed resolution be submitted to a postal vote is of no effect unless the board also resolves:
- (a) to endorse or not endorse the proposed resolution; and
  - (b) that a summary, which has been presented to the board, of arguments for and against the proposed resolution is to accompany the notice of the postal vote.
- 193 If the board passes a resolution under clause 193 directing that a proposed resolution be submitted to a postal vote, then any provision of this constitution which would otherwise require the proposed resolution to be put at a general meeting does not apply.

### **Submitting the proposed resolution to a postal vote**

- 194 If the board directs that a proposed resolution be submitted to a postal vote, the company secretary must give all financial affiliated associations notice of the postal vote:
- (a) on a date or within the time that the board, by resolution, directs; or
  - (b) in the absence of such a direction, within 21 days after the board's resolution under clause 193.
- 195 The notice must:
- (a) set out the terms of the proposed resolution; and
  - (b) specify:
    - (1) whether the board resolved to endorse or not endorse the proposed resolution under paragraph 194(a); and
    - (2) if the board's resolution was not unanimous – the number of directors who voted in favour of, against and abstained from voting on the board's resolution; and
  - (c) be accompanied by the summary which was the subject of the board's resolution under paragraph 194(b); and
  - (d) specify a date (which must be not less than 21 days after the notice is given to financial affiliated associations) by which an affiliated association's vote on the proposed resolution must be submitted; and
  - (e) include a form by which an affiliated association may cast a vote on the proposed resolution; and
  - (f) specify a postal address to which the form may be returned to BQ by post; and
  - (g) explain how an affiliated association may cast a vote on the proposed resolution (by including the text of, or a summary of, clause 200).
- 196 The notice may contain or be accompanied by other information or material. It may also specify a fax number to which the completed form may be returned to BQ.



## Submitting a postal vote

- 197 If an affiliated association was a financial affiliated association when the notice of a postal vote was sent under clause 196, then that affiliated association may submit a postal vote.
- 198 An affiliated association's vote on a postal vote is valid only if:
- (a) the affiliated association was entitled to submit the vote under clause 199; and
  - (b) the affiliated association complete the form included in the notice of the postal vote under paragraph 197(e) in accordance with any directions in the form; and
  - (c) the form was signed by at least two members of the governing body of the affiliated association; and
  - (d) the form is received at or before 5pm on the date specified in the notice under paragraph 197(d):
    - (1) at the postal address specified in the notice under paragraph 197(f); or
    - (2) by fax to a fax number specified in the notice under clause 198; or
    - (3) by another method by which the form is actually received by BQ, if the board resolves to accept the form even though that other method was used.

## Counting postal votes

- 199 After 5pm on the date specified in the notice under paragraph 197(d), the company secretary must calculate:
- (a) the number of votes on the postal vote that are valid under clause 200; and
  - (b) how many of those votes were in favour of the proposed resolution; and
  - (c) how many of those votes were against the proposed resolution.
- 200 When calculating the votes, the votes by a financial affiliated association are to be weighted in the same way as they would be weighted under clause 187 if the proposed resolution that is the subject of the postal vote had been put at a general meeting held on the date when the notice of the postal vote was sent under clause 196.
- 201 The proposed resolution is taken to have been passed on the date specified in the notice under paragraph 197(d) (as if a general meeting had been held on that date and passed the proposed resolution) if the number of votes on the postal vote that are valid under clause 200 is at least the number that is half of the number of affiliated associations that were entitled to submit a vote under clause 199 and:
- (a) if the notice of the postal vote specified that the proposed resolution was submitted for a resolution requiring the same majority as a special resolution – a minimum of 75% of those votes was in favour of the proposed resolution; or
  - (b) otherwise – a minimum of a simple majority of those votes was in favour of the proposed resolution.

## **Part M Financial administration and management**

### **Application of income and property**

- 202 BQ's income and property must be used and applied solely in the promotion of its objects and the exercise of its powers.
- 203 None of BQ's income or property may be distributed, paid or transferred directly or indirectly by way of a divided, bonus or otherwise by way of profit among any of BQ's members.
- 204 Clause 205 does not prevent:
- (a) BQ:
    - (1) paying interest to a member in good faith on an amount advanced by the member to BQ; or
    - (2) repaying the amount advanced; or
  - (b) BQ paying remuneration for services actually rendered to or for BQ; or
  - (c) BQ paying or reimbursing out of pocket expenses (or an allowance to cover them) incurred by an affiliated association in:
    - (1) sending a delegate to attend a general meeting; or
    - (2) attending or being represented at a conference, meeting, competition or similar event conducted in the pursuit of BQ's objects and the exercise of its powers; or
  - (d) BQ paying reasonable and proper charges for goods hired or leased by BQ; or
  - (e) BQ paying reasonable and proper rent and outgoings for premises let to BQ; or
  - (f) the payment or transfer of income or property solely for the control or promotion of basketball or for the promotion of any of BQ's objects.

### **Application of income and property on winding up**

- 205 If BQ is wound up and has surplus assets remaining after payment of its debts and liabilities and the costs, charges and expenses of the winding up, the surplus assets are not to be distributed among BQ's members but instead must be given to another entity, selected by the board, that:
- (a) has objects that are similar to BQ's objects or are related to the promotion or administration of basketball; and
  - (b) has a governing document that prohibits the distribution of the entity's income and property to its members to at least the same extent as this constitution prohibits the distribution of BQ's income and property to its members; and

- (c) is exempt from income tax under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

*Interpretation note: The board may select multiple entities qualifying under this clause to receive separate proportions of the surplus assets or to receive particular surplus assets.*

## Financial year

- 206 BQ's financial year is to be determined by the board under the Corporations Act.

*Explanatory note: Under section 323D of the Corporations Act, the first financial year starts on the day when BQ is registered as a company, and lasts for 12 months or the period (not longer than 18 months) determined by the board. Subsequent financial years generally start at the end of the previous financial year and are 12 months long. The board may, in some circumstances, decide under section 323D(2A) to adopt a shorter financial year (for example, a 6 month financial year to allow for a transition from a 31 December to a 30 June close of financial year date, or vice versa).*

## Part N Other matters

### Interpreting this constitution

- 207 A reference in this constitution to:

- (a) any legislation or statutory provision includes any amendment or consolidation of the legislation or provision and any replacement of it or other legislation or provision dealing with the same or substantially the same subject matter on its repeal, and any statutory instrument under any of the foregoing; and
- (b) **writing** and **written** includes printing, lithography and other ways of representing or reproducing words in a visible form; and
- (c) an amount of money is in Australian dollars; and
- (d) a thing includes all or part of the thing; and
- (e) a person includes every kind of legal person or entity; and
- (f) a party consisting of more than one person is to be read as a reference to each of those persons individually as well as every combination of them together; and
- (g) a gender includes the other genders; and
- (h) includes (or a similar word) indicates that the words following it are examples only and do not limit any other words; and
- (i) an obligation includes a requirement to do or not to do something, and includes such a requirement that applies only in the future or conditionally; and
- (j) the singular includes the plural and the other way around; and
- (k) a time of the day refers to the time of day that it is in Brisbane, Queensland.

- 208 Headings are used in this constitution for convenience of reference only and must be ignored in the interpretation of this constitution.
- 209 A note in this constitution that is preceded by the words "Interpretation note" is an operative part of this constitution. It can clarify, explain or extend the meaning of the provision to which it relates.
- 210 A note in this constitution that is preceded by the words "Explanatory note" is included in this constitution only for readers' general guidance and information. The note is not part of this constitution and must be ignored when interpreting this constitution. Readers should be aware that the information in such a note may not always be current or correct, because the notes often refer to provisions of particular laws as they were in effect on the adoption date.
- 211 An expression used in a provision of this constitution that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in the latter provision, except to the extent that a different intention is apparent. Subject to this, and to the definitions in this constitution, an expression in this constitution that has a defined meaning for the purposes of the Corporations Act has the same meaning as in the Corporations Act, except to the extent that a different intention is apparent.
- 212 Part 1.2 of the Corporations Act applies in the interpretation of this constitution, except to the extent that a different intention is apparent.

## By-laws

- 213 The board may make, amend or repeal by-laws:
- (a) for the internal management of BQ; or
  - (b) providing for or dealing with a matter that this constitution allows to be prescribed; or
  - (c) providing for or dealing with a matter over which the board has jurisdiction; or
  - (d) regulating or dealing with any aspect of the sport of basketball in Queensland.

*Explanatory note: The board should ensure that any by-laws that it makes are within the scope of BQ's jurisdiction under BA's constitution and FIBA statutes.*

- 214 A by-law may impose monetary liabilities on members, including fines and penalties for non-compliance with the by-laws or this constitution.
- 215 A by-law binds BQ and its members to the extent it provides. It also binds a person who has ceased to be a member of BQ to the extent that:
- (a) it provides for any consequences resulting from an act or omission of the person while they were a member; or
  - (b) it provides for any consequences resulting from an event or thing occurring, or circumstances arising, while the person was a member; or

(c) a by-law specifically provides.

- 216 A person who is bound by a by-law must comply with any obligation that the by-law imposes on the person.
- 217 A by-law, or a provision of a by-law, may be set aside by a special resolution passed at a general meeting. However, a general meeting has no authority to make or amend a by-law.
- 218 The company secretary must keep a register of the by-laws in force from time to time at BQ's registered office. A member or director may inspect the register by appointment with the company secretary at BQ's registered office if they give reasonable advance notice to the company secretary.

## Indemnity and insurance

- 219 To the extent permitted by law, BQ must indemnify, on a full indemnity basis and to the full extent permitted by law, each indemnified officer against all losses or liabilities (including costs and expenses) incurred by the person as, or because of being or having been, an officer of BQ.

*Explanatory note: Section 199A of the Corporations Act is relevant to the effective scope of this clause.*

- 220 The indemnity in clause 221:
- (a) is a continuing obligation and is enforceable by an indemnified officer who has ceased to be an officer of BQ; and
  - (b) extends to costs and expenses incurred by the indemnified officer:
    - (1) in defending civil or criminal proceedings in which they become involved as, or because of being or having been, an officer of BQ and in which judgment is given in favour of the indemnified officer or in which they are acquitted; or
    - (2) in connection with an application in relation to any such civil or criminal proceedings in which the court grants relief to the indemnified officer under the Corporations Act; and
    - (3) does not cover any loss or liability arising out of conduct which is a wilful breach of duty, wilful neglect or lack of good faith; and
  - (c) operates only to the extent that the loss or liability in question is not covered by insurance.
- 221 To the extent permitted by law, BQ may purchase and maintain insurance, or pay or agree to pay for insurance, for any indemnified officer (including one who has ceased to be an officer of BQ) against any liability incurred by them as an officer of BQ if the board considers it appropriate to do so.

*Explanatory note: Section 199B of the Corporations Act is relevant to the effective scope of this clause.*

## How notices can be given

- 222 BQ may give notice of a general meeting to its members by:
- (a) advertising it in a newspaper circulating generally in Queensland; or

- (b) posting the notice on BQ's website.

*Interpretation note: These methods are in addition to those provided in section 249J(3) of the Corporations Act and in clause 225.*

- 223 BQ may give a person a notice that this constitution requires or authorises to be given, by:
- (a) having it personally delivered to the person; or
  - (b) sending it by any form of prepaid post to the residential, business or postal address for the person last known to BQ; or
  - (c) sending it by facsimile transmission to the facsimile number for the person last known to BQ; or
  - (d) sending it by email to the email address for the person last known to BQ; or
  - (e) giving it to the person by a method allowed by law; or
  - (f) if the person is a body corporate – using one of the above methods to give the notice to a member of the body corporate's governing body.

## Irregularities

- 224 The accidental omission to give notice of a general meeting or postal vote to, or the non-receipt of the notice by, any person entitled to receive the notice under this constitution or the Corporations Act does not invalidate the proceedings at or any resolution passed at the general meeting or under the postal vote.

*Explanatory note: This clause applies subject to a declaration of a court under section 1322(3) of the Corporations Act.*

*Interpretation note: This clause is intended to apply in addition to the provisions of the Corporations Act, including section 1322, which preserve the validity of things done when there are irregularities.*

- 225 If some formality required by this constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid.

*Explanatory note: This clause applies subject to section 1322 of the Corporations Act.*

*Interpretation note: This clause is intended to apply in addition to the provisions of the Corporations Act, including section 1322, which preserve the validity of things done when there are irregularities.*

## Reliance on authenticity of information

- 226 For the purposes of this constitution, BQ and any person chairing a general meeting may make the assumptions that:
- (a) a person is who they say they are; and
  - (b) a person claiming to be the president of an affiliated association is its president; and
  - (c) a person claiming to be a member of the governing body of an affiliated association is a member of it; and
  - (d) a person claiming to hold a particular position on the governing body of an affiliated association holds that position; and

- (e) what purports to be the signature of the president, or of a member of the governing body, of an affiliated association is that person's signature; and
  - (f) a document given to BQ by an affiliated association or an associate member was properly authorised under its governing document and, if required, by its governing body,
- unless BQ has actual knowledge that the assumption is wrong.

227 Nobody who is bound by this constitution is entitled to question the validity of a meeting, resolution or other act or thing done on the basis of a matter about which BQ is entitled to make an assumption under clause 228.

228 BQ or a person chairing a general meeting does not have to make an assumption about something even if this is permitted by clause 228.

### **Transitional provision about members**

229 An entity which was an affiliated association of BQ under the old BQ constitution immediately before the adoption date becomes, on the adoption date, an affiliated association of BQ under this constitution.

230 An entity which was an associate member of BQ under the old BQ constitution immediately before the adoption date becomes, on the adoption date, an associate member of BQ under this constitution.

231 A person who was a life member of BQ under the old BQ constitution immediately before the adoption date becomes, on the adoption date, a life member of BQ under this constitution.

232 A person who was an individual member of BQ under the old BQ constitution immediately before the adoption date becomes, on the adoption date, an individual member of BQ under this constitution.

233 Clauses 231, 232, 233 and 234 apply even if the entity or person would not be entitled under this constitution to apply or to become a member of BQ in the relevant membership class under this constitution.

### **Transitional provision about directors**

234 The following persons who were directors of BQ immediately before the adoption date become directors of BQ holding elected board positions on the adoption date on the conditions respectively designated below.

<b><i>Name of director</i></b>	<b><i>Conditions</i></b>
Neil Hamilton-Smith	<p>Occupies the position of Chair until that position becomes vacant under clause 93 of this constitution</p> <p>Occupies the position of Director 4 which becomes vacant at BQ's third AGM after the adoption date, under clause 76 of this constitution</p>

<b>Name of director</b>	<b>Conditions</b>
Kenneth John Madsen	Occupies the position of Director 1 which becomes vacant at BQ's first AGM after the adoption date, under clause 76 of this constitution
Timothy Albert Horrell	Occupies the position of Director 5 which becomes vacant at BQ's third AGM after the adoption date, under clause 76 of this constitution
Rachelle Elizabeth Foreman	Occupies the position of Director 2 which becomes vacant at BQ's first AGM after the adoption date, under clause 76 of this constitution
Bronwyn Marshall	Occupies the position of Director 3 which becomes vacant at BQ's second AGM after the adoption date, under clause 76 of this constitution

### **Transitional provision about by-laws**

- 235 Each by-law that was in effect under the old BQ constitution immediately before the adoption date continues in effect as a by-law under this constitution (as if it was made by the board as a by-law under clause 215 on the adoption date) on and from the adoption date until it is repealed under clause 215 or 219.

### **Transitional provision about things done under the old BQ constitution**

- 236 If a thing has been done under the old BQ constitution immediately before the adoption date, and a provision of this constitution authorises or requires the same or a similar thing to be done, then the thing that was done continues to be valid:
- (a) even if the thing could not be done in the same way, or in the same circumstances, under this constitution; and
  - (b) for as long as it can still sensibly be treated as valid under this constitution; and
  - (c) to the extent that this constitution does not provide or necessarily intend otherwise.

*Interpretation note: For example, if the governing body of BQ has passed a resolution to set membership fees under the old BQ constitution for a period that spans the adoption date, then the resolution continues to have effect.*



## Schedule 1 Dictionary and interpretation

### Dictionary

<b>Term</b>	<b>Definition</b>
<b>adoption date</b>	means the date when a special resolution is passed to adopt this constitution as BQ's constitution under the Corporations Act.
<b>affiliated association</b>	means an entity which is a member of BQ under Part B. <i>Interpretation note: See also the transitional provision in clause 231.</i>
<b>affiliation agreement</b>	means a written agreement between BQ and: (a) an affiliated association; or (b) a basketball association that has applied or proposes to apply to become an affiliated association, which, in either case, sets out terms on which the affiliated association or basketball association will or might be an affiliated association of BQ during a financial year.
<b>AGM</b>	means an annual general meeting of BQ that section 250N or 601BR of the Corporations Act requires to be held.
<b>appointed delegate</b>	see clause 173.
<b>approved auditor</b>	see clause 30.
<b>associate member</b>	means an entity which is a member of BQ under Part C. <i>Interpretation note: See also the transitional provision in clause 232.</i>
<b>associate member agreement</b>	means a written agreement between BQ and: (a) an associate member; or (b) a person or entity that has applied or proposes to apply to become an associate member, which, in either case, sets out terms on which the associate member, person or entity will or might be an associate member of BQ during a financial year.
<b>BA</b>	means BA Limited ACN 072 484 998, otherwise known as Basketball Australia, the controlling body for basketball in Australia.

<b>Term</b>	<b>Definition</b>
<b>basketball association</b>	<p>means an entity whose main objects, as specified in its governing document, are similar in substance to some or all of the objects in clause 4 and:</p> <ul style="list-style-type: none"> <li>(a) whose governing document provides for the pursuit of those objects within a particular region or area in Queensland; or</li> <li>(b) whose governing document provides for the pursuit of those objects in relation to particular aspects of the sport of basketball in Queensland; or</li> <li>(c) whose members or participants are a definable category or segment of basketball participants in Queensland.</li> </ul>
<b>basketball coach</b>	<p>means a person who:</p> <ul style="list-style-type: none"> <li>(a) is responsible for instructing and supervising a team of basketball players during training and games and who provides technical or tactical advice or guidance to the players or team; or</li> <li>(b) is the manager of a team of basketball players; or</li> <li>(c) is responsible for instructing and supervising basketball referees during training and games and who provides technical or tactical advice or guidance to the basketball referees; or</li> <li>(d) fulfils other functions commonly called coaching in the sport of basketball.</li> </ul>
<b>basketball official</b>	<p>means a person who is:</p> <ul style="list-style-type: none"> <li>(a) a member of the governing body of an affiliated association or associate member; or</li> <li>(b) an employee of an affiliated association or associate member; or</li> <li>(c) a volunteer administrator of an affiliated association or associate member; or</li> <li>(d) a member of the medical, fitness or statistical staff involved with a team of basketball players; or</li> <li>(e) a referee; or</li> <li>(f) a person who supervises or reviews referees (such as a referee supervisor or a person who assesses referees' performance); or</li> <li>(g) a scoretable official.</li> </ul>

<b>Term</b>	<b>Definition</b>
<b>basketball participant</b>	means a person who: <ul style="list-style-type: none"> <li>(a) plays basketball; or</li> <li>(b) is a basketball coach; or</li> <li>(c) is a basketball official.</li> </ul>
<b>board</b>	means the board consisting of the directors of BQ.
<b>board meeting</b>	means a meeting of the board.
<b>board year</b>	see clause 73.
<b>BQ</b>	means Basketball Queensland Limited.
<b>business day</b>	means a day that is not a Saturday, a Sunday or a public or special holiday in the central business district of Brisbane, Queensland.
<b>by-laws</b>	means by-laws made by the board (as amended) under clause 215, until they are repealed, under clause 215 or set aside under set aside under clause 219. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Interpretation note 1: By-laws may be called something else (for example, codes of conduct and policies) if they are expressed to take effect as by-laws under this constitution.</i></p> <p><i>Interpretation note 2: See the transitional provision in clause 237.</i></p> </div>
<b>candidate</b>	see clause 80.
<b>candidate statement</b>	see clause 88.
<b>casual vacancy</b>	see clause 98.
<b>Chair</b>	means the director elected or appointed to that position under clause 91 or 92, until he or she vacates the position under clause 93.
<b>company secretary</b>	means a secretary of BQ appointed and holding office under the Corporations Act. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Explanatory note: See section 204D of the Corporations Act.</i></p> </div>
<b>contributor</b>	see clause 11.
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> .
<b>delegate</b>	see clause 172.

<b>Term</b>	<b>Definition</b>
<b>Deputy Chair</b>	means the director elected or appointed to that position under clause 91 or 92, until he or she vacates the position under clause 93.
<b>disciplinary ground</b>	<p>means, in relation to a member, that:</p> <ul style="list-style-type: none"> <li>(a) the member (or, if the member is an entity, a person on the governing body of the member) has been convicted of an indictable offence; or</li> <li>(b) the member has breached this constitution or the by-laws; or</li> <li>(c) the member has wilfully disobeyed BQ's lawful rules or instructions or has permitted or counselled another person to do so; or</li> <li>(d) the member has engaged in, condoned or not taken effective measures to prevent conduct that is injurious or prejudicial to BQ, BQ's character or interests or the sport of basketball generally; or</li> <li>(e) the member has brought the game of basketball into disrepute; or</li> <li>(f) the member is not a fit and proper person or entity to be a member of BQ.</li> </ul>
<b>elected board positions</b>	see clause 75.
<b>financial affiliated association</b>	means an affiliated association that does not owe any money to BQ which is at least one month overdue for payment.
<b>financial statement</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) for an affiliated association or entity to which section 59 of the <i>Associations Incorporation Act 1981</i> applies – a financial statement and audit report under that section; and</li> <li>(b) for an affiliated association to which section 59A of the <i>Associations Incorporation Act 1981</i> applies – a financial statement and a statement signed by an auditor, accountant or approved person under that section; and</li> <li>(c) for an affiliated association to which section 59B of the <i>Associations Incorporation Act 1981</i> applies – a financial statement and a statement signed by the affiliated association's president or treasurer under that section; and</li> <li>(d) for an affiliated association which is a company incorporated under the Corporations Act and which is required to prepare a financial report and directors' report under section 292 of the</li> </ul>

<b>Term</b>	<b>Definition</b>
	Corporations Act – that financial report and directors' report.
<b>financial year</b>	of BQ – see clause 208.
<b>general meeting</b>	means a general meeting of members.
<b>governing body</b>	means in relation to: <ul style="list-style-type: none"> <li>(a) a company – its directors; or</li> <li>(b) an association incorporated under the <i>Associations Incorporation Act 1981</i> – its management committee under that Act; or</li> <li>(c) another entity – its board of management (whatever its name is).</li> </ul>
<b>governing document</b>	means in relation to: <ul style="list-style-type: none"> <li>(a) a company – its constitution under the Corporations Act or, if it does not have one, the replaceable rules under the Corporations Act; or</li> <li>(b) an association incorporated under the <i>Associations Incorporation Act 1981</i> – its rules under that Act; or</li> <li>(c) another entity – the constitution (whatever its name is) that operates as a contract between it and its members.</li> </ul>
<b>guaranteed amount</b>	means \$50.
<b>indemnified officer</b>	means a current or former director or company of BQ.
<b>individual member</b>	means a person who is a member of BQ under Part E <i>Interpretation note: See also the transitional provision in clause 234.</i>
<b>insolvency action</b>	means: <ul style="list-style-type: none"> <li>(a) with respect to a body corporate: <ul style="list-style-type: none"> <li>(1) being or becoming an externally-administered body corporate as defined by the Corporations Act; or</li> <li>(2) a person having applied to any court for an order which, if granted, would make the body corporate an externally-administered body corporate as defined by the Corporations Act (unless the application has been finally dismissed or withdrawn); or</li> <li>(3) a resolution having been passed, or a notice having</li> </ul> </li> </ul>

<b>Term</b>	<b>Definition</b>
	<p>been given of any meeting to consider a motion for the passing of a resolution, to make the body corporate an externally-administered body corporate as defined by the Corporations Act; or</p> <p>(4) the body corporate, if it is a company, having failed (as defined by section 459F of the Corporations Act) to comply with a statutory demand; or</p> <p>(5) a provisional liquidator to the body corporate having been appointed; or</p> <p>(6) a person having applied to any court for an order for the appointment of a provisional liquidator to the body corporate (unless the application has been finally dismissed or withdrawn); and</p> <p>(b) with respect to an individual:</p> <p>(1) being or becoming an insolvent under administration as defined by the Corporations Act; or</p> <p>(2) a step having been taken (such as the filing of a creditor's petition or the presentation of a debtor's petition) which could lead to the person being or becoming an insolvent under administration as defined by the Corporations Act; or</p> <p>(3) the commission of an act of bankruptcy by the individual (within the meaning of the <i>Bankruptcy Act 1966</i>).</p>
<b>life member</b>	<p>means a person who is a member of BQ under Part D.</p> <p><i>Interpretation note: See also the transitional provision in clause 233.</i></p>
<b>member</b>	<p>of BQ means an affiliated association, an associate member, a life member and an individual member.</p>
<b>member participation opportunities</b>	<p>means the opportunities:</p> <p>(a) for the people who would, if the entity was an affiliated association, be its registered participants to be or become members of the entity (or of another entity which itself is a member of the entity); and</p> <p>(b) for the entity's members (or the members of another entity which itself is a member of the entity) to be nominated for election to the entity's governing body; and</p> <p>(c) for the entity's members (or the members of another entity which itself is a member of the entity) to enjoy the benefits of</p>

<b>Term</b>	<b>Definition</b>
	membership of the entity; and
	(d) for the entity's members to vote at general meetings of the entity's members and for the members' votes to carry the same weight as the votes of the other members; and
	(e) for the members of the entity's governing body to vote at meetings of the entity's governing body and for those members' votes to carry the same weight as the votes of the other members of the entity's governing body; and
	(f) for resolutions of the general meetings of the entity, and meetings of the entity's governing body, to be given effect.
<b>old BQ constitution</b>	means the constitution of BQ under the Corporations Act in effect immediately before the adoption date.
<b>ordinary resolution</b>	means a resolution that is passed at a general meeting under clause 188 and that is not a special resolution.
<b>participants registration system</b>	means a system adopted by BQ from time to time which: <ul style="list-style-type: none"> <li>(a) includes, and relates to, the registration of basketball participants (or some classes of basketball participants) with BQ or with another person or entity determined by BQ from time to time; and</li> <li>(b) is provided for in, and governed by, a by-law or by-laws.</li> </ul>
<b>president</b>	means: <ul style="list-style-type: none"> <li>(a) in relation to an affiliated association which is an association incorporated under the <i>Associations Incorporation Act 1981</i> – its president under that Act; or</li> <li>(b) in relation to another affiliated association – the member of its governing body who chairs meetings of the governing body.</li> </ul>
<b>prescribed</b>	means prescribed: <ul style="list-style-type: none"> <li>(a) in the by-laws; or</li> <li>(b) by a resolution of the board which has not been rescinded by a further resolution of the board.</li> </ul>
<b>reaffiliation cutoff date</b>	see clause 21.
<b>scheduled board meeting</b>	means a board meeting listed in a schedule approved under clause 122.

<b>Term</b>	<b>Definition</b>
<b>SGM</b>	means a general meeting that is not an AGM.
<b>special resolution</b>	<p>means the same thing as in the Corporations Act.</p> <div> <p><i>Explanatory note: Section 9 of the Corporations Act defines a special resolution as a resolution of which notice as set out in section 249L(1)(c) of the Corporations Act has been given, and that has been passed by at least 75% of the votes cast by members entitled to vote on the resolution.</i></p> </div>
<b>teleconferencing</b>	means interactive group communication between people at two or more different locations using an electronic medium
<b>unreasonable barrier to member participation opportunities</b>	<p>means an arrangement that denies or (in the board's opinion) unreasonably restricts a member participation opportunity in an entity, other than an arrangement:</p> <ul style="list-style-type: none"> <li>(a) required by law or to comply with any law; or</li> <li>(b) under the entity's governing document which the board decides is reasonable.</li> </ul>
<b>unregistered participant</b>	<p>means a basketball participant who:</p> <ul style="list-style-type: none"> <li>(a) is required to be registered under the participants registration system; and</li> <li>(b) is not registered under the participants registration system.</li> </ul> <div> <p><i>Interpretation note: In applying paragraph (a), it does not matter whether the obligation to register the basketball participant is imposed on the basketball participant or on someone else (such as an affiliated association).</i></p> </div>
<b>vacant positions</b>	see clause 78.



## Schedule 2 Form of appointment of delegate

Name of affiliated association:

Name of delegate:

### Appointment

The affiliated association named above appoints the delegate named above to be its delegate under the constitution of Basketball Queensland Limited to vote at:

- \* the general meeting to be held on:
- \* any general meeting until this appointment is revoked by written notice given by the affiliated association to Basketball Queensland Limited or the affiliated association gives Basketball Queensland Limited a new appointment of a delegate.

(The inapplicable option should be ruled through. If neither option is ruled through and a date is inserted in the box in the first option, the first option applies. Otherwise, if neither option is ruled through, the second option applies.)

### Substitute delegate

If the delegate named above is not present at a general meeting to which this appointment applies, the affiliated association appoints any substitute delegate named below to be its delegate on the same terms:

Name of substitute delegate:

### Delegate's authority

Unless the word NO is printed in the box alongside, the delegate's authority extends to:

acting at an adjourned general meeting

demanding or joining in demanding a poll

### Conditions

If the affiliated association's appointment of the delegate is conditional on something not detailed in this form itself, the word YES must be printed in the box alongside the following statement, the conditions of appointment must be attached to this form in a typed document and the number of pages forming the typed documents must be printed in the box below. If the word YES has not been inserted, or if the latter two requirements are not met, the appointment is not conditional.

Print YES if the appointment is conditional

Number of typed pages of conditions:

**Signing (form must be signed by President and another member of affiliated association's governing body, unless the President is the only member of the governing body)**

Signature of President::		Name of President:	
Second signature:		Name and position of signatory:	

Date signed: