

CONSTITUTION OF
WOLLONGONG HAWKS BASKETBALL LIMITED
(ACN 137 348 013)

A Corporation Limited by Guarantee

Corporations Act 2001 (Cth)

CORPORATIONS ACT 2001 (CTH)

CORPORATION LIMITED BY GUARANTEE

**Constitution of
Wollongong Hawks Basketball Limited**

1. **INTERPRETATION**

In this Constitution unless a contrary intention appears:

“**Act**” means the Corporations Act 2001 (Cth) as amended from time to time;

“**Governance Manual**” means the guidance manual (if any) adopted by the Board in respect of the governance of the Corporation, as amended by the Board from time to time;

“**Constitution**” means the Constitution of the Corporation for the time being in force and a reference to a particular clause is a reference to a particular clause in this Constitution;

“**Corporation**” means Wollongong Hawks Basketball Limited ACN

“**Board**” means the Board of Directors of the Corporation constituted under this Constitution;

“**Director**” means a member for the time being of the Board;

“**Membership Application**” means a membership application in the forms as the Board may from time to time approve;

“**NBL**” means the National Basketball League or its successor;

“**Officer**” has the same meaning as given to that term in Section 9 of the Act;

“**Player**” means a person who for the time being is a player engaged by the Corporation to play basketball whether as an individual or for a team operated, managed or supported by the Corporation;

“**Subscription Fees**” means any subscription fee or annual subscription fee, for any class of membership, fixed by the Board from time to time;

“**in writing**” means written, typed or printed, or partly written, partly typed and partly printed and includes, without limitation, electronic communication;

Words importing the singular number include the plural number and vice versa;

Words importing persons include corporation; and

Headings shall not affect the construction of this Constitution.

2. **OBJECTS**

The Corporation has the following objects:

- 2.1 to hold and maintain a licence from the NBL (or its successor) entitling the Corporation to operate a team participating in the NBL competition;
- 2.2 to promote and advance the playing of basketball in Australia and especially in the Illawarra region and advance that object by maintaining, providing, supporting and managing a team of basketball Players bearing the name Wollongong Hawks based in Wollongong, New South Wales and to compete in the NBL (or its successor) with other members of that competition and if considered necessary or desirable by the Board, to compete in any other sporting competition played in any other part of Australia or internationally;
- 2.3 to promote Wollongong Hawks Basketball Limited for the enjoyment of the Illawarra community and for the public benefits to be derived generally from the hosting in the region of a professional sports team at the elite level in a national competition; and
- 2.4 to do all things necessary for or incidental to the advancement of the objects set out in sub-clauses 2.1 to 2.3 above.

3. **DEALINGS**

Without limitation, and for any proper purpose arising from its objects, the Corporation may:

- 3.1 raise funds or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships, personal or public appeals or by any other manner;
- 3.2 provide funds or other material benefits by way of grant or otherwise;

- 3.3 acquire, control, manage, lease, hire, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;
- 3.4 invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans to, charitable objects or purposes;
- 3.5 construct, improve, maintain, develop, work, manage and control real or personal property;
- 3.6 enter into contracts and deeds;
- 3.7 appoint an attorney or agent with the powers (including the power to sub-delegate) and on the terms the Corporation deems fit;
- 3.8 enter into arrangements with any government or authority, and obtain from any government or authority any right, privilege or concession;
- 3.9 engage, dismiss or suspend any employee, agent, contractor, Player or professional person;
- 3.10 borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures of debenture stock (perpetual or otherwise) charged on all or any of the Corporation's property (both present and future) and purchase, redeem or pay off those securities;
- 3.11 make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;
- 3.12 print and publish newspapers, periodicals, books or leaflets or otherwise publish information in hard copy or by electronic means; or
- 3.13 do any other thing in pursuance of the objects of the Corporation.

4. **NOT FOR PROFIT STATUS**

- 4.1 The income and property of Wollongong Hawks Basketball Limited however derived, will be applied solely towards the promotion of the objects of the Corporation as set out in this Constitution, and no portion thereof will be paid,

distributed or transferred directly or indirectly by way of dividend, bonus or other profit distribution, to any member of the Corporation.

- 4.2 Subject to clause 4.4, nothing shall prevent the payment in good faith of remuneration to any Officer or servant of the Corporation or to any member of the Corporation in return for any services actually rendered to the Corporation or for any goods supplied in the ordinary and usual way of business, nor for payment of interest at a rate not exceeding the rate (if any) for the time being fixed for the purpose of this clause by determination of the Board on money borrowed from any member of the Corporation, or reasonable and proper rent for premises demised or let by any member to the Corporation.
- 4.3 For the purpose of clause 4.2 above, the rate of interest payable in respect of money lent by members to the Corporation must not exceed twelve percent (12%) per annum.
- 4.4 No director's fees may be paid to the Directors.
- 4.5 Subject to approval by the Board, a Director may be paid:
- a) reimbursement of out of pocket expenses incurred by the Director in performing a duty as a director of the Corporation; or
 - b) remuneration for any service rendered to the Corporation in a professional or technical capacity or as an employee (other than solely in the capacity as a director of the Corporation), provided that such remuneration is at reasonable commercial rates for such services.
- 4.6 To the extent of any inconsistency between the replaceable rules referred to in the Act and this Constitution, such replaceable rules do not apply to the Corporation and are replaced by the provisions of this Constitution.

5. **MEMBERSHIP**

- 5.1 The Board may from time to time admit persons as members of the Corporation and determine the terms and conditions on which any such persons shall be admitted to membership of the Corporation, provided that no person (the "Primary Person") alone or together with:
- a) any trustee, nominee or representative of the Primary Person;

- b) any person who is or (in the case of a body corporate) the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the Primary Person; or
- c) any body corporate in which the Primary Person has a controlling interest (within the meaning ascribed to that expression by the Act),

shall be entitled to hold more than one (1) vote at any one time.

5.2 Each applicant for membership of the Corporation, shall;

- a) complete, sign and deliver to the office of the Corporation a Membership Application; and
- b) pay to the Corporation the membership Subscription Fees fixed by the Board from time to time; and
- c) be approved as a member at a meeting of the Board or by an officer or committee delegated by the Board to complete this task.

5.3 Unless otherwise determined by the Board, the number of members of the Corporation shall be unlimited.

6. **CLASSES OF MEMBERSHIP**

6.1 The membership of the Corporation shall consist of the following classes of members:

- a) Full Members

A Full Member shall be :

- a person who has applied and paid for Full Membership and been admitted by the Board as a Full Member; or
- a person who is both (at the one time) a Social Member and a Season Ticket Member; or
- a person who is a Foundation Member; or
- a person who is a Life Member.

Full Members may vote at general meetings and be nominated for and act as a Director of the Corporation.

b) Foundation Members

Foundation Members shall be those persons who subscribed for Full Membership after the commencement of the Corporation by completing the Membership Application and paying the initial fee of \$5,000 (“Foundation Members”).

Foundation Members may vote at general meetings and be nominated for and act as a Director of the Corporation. The Full Membership of each Foundation Member will be renewed from year to year and all future Subscription Fees for such membership waived.

c) Life Members

Life membership may be granted by the Board to outstanding members of the Wollongong Hawks Basketball community (“Life Members”) and Life Members will have the rights and privileges set by the Board from time to time. Life Members may vote at general meetings and be nominated for and act as a Director of the Corporation. The Full Membership of each Life Member will be renewed from year to year and all future Subscription Fees for such membership waived.

d) Season Ticket members

Season Ticket Members shall comprise the holders of such senior, junior, family or any other category of season pass or ticket offered by the Corporation on terms and conditions as determined by the Board from time to time (“Season Ticket Member”). Season Ticket Members shall be limited to their rights under the season ticket terms and conditions and, subject to clause 6.1(a), shall have no voting rights.

e) Social Members

Social Members shall comprise the persons who subscribe for Social Membership by completing the Membership Application and paying the Subscription Fee determined by the Board from time to time for this class of membership ("Social Members"). Social Members will only be entitled to the social privileges, promotions and discounted tickets as determined by the Board from time to time. Subject to clause 6.1(a), Social Members will have no voting rights.

- 6.2 Despite any other provision of this Constitution, only a Full Member having attained the age of eighteen (18) years will be entitled to vote.
- 6.3 Each member shall be liable to pay to the Corporation on the first day of each financial year of the Corporation the Subscription Fees in the amount (if any) from time to time fixed by the Board for the purposes of this clause.
- 6.4 A Full Member shall not be entitled to vote at any meeting of the Corporation while any Subscription Fees due and owing by that member to the Corporation in accordance with this Constitution remain in arrears in excess of two (2) calendar months. However, a member's voting rights will not be prejudiced if the only Subscription Fees outstanding are in respect of fees for a season ticket/s that are the subject of a payment plan approved by the Board and of which the member is not in default.
- 6.5 No member shall be liable to suspension or termination of his membership or expulsion from the Corporation for reason only that Subscription Fees owed by that member to the Corporation are overdue, except where Subscription Fees are overdue by a period in excess of two (2) calendar months.
- 6.6 Subject to clause 6.10, the privileges and obligations of any member of the Corporation shall not be transferable and shall cease on death, retirement, resignation or termination of membership.
- 6.7 Every member shall be deemed to have accepted and abide by and observe the terms of the Constitution and all regulations of the Corporation made pursuant to the powers contained in the Constitution (including all variations, amendments and alterations to the Constitution and regulations).
- 6.8 Subject to clause 6.5, any member who fails to observe any of the terms of the Constitution or regulations of the Corporation may be suspended or excluded from the Corporation by resolution of the Directors present and voting at a meeting of the Board. Such member shall have seven (7) clear days notice sent

to him of such special meeting of the Board and may attend the meeting and present their case, but shall not be present at the voting or take part in the proceedings other than as the Board allows.

- 6.9 A member so excluded shall cease to be a member of the Corporation.
- 6.10 A member may at any time by giving notice in writing to the Corporation secretary resign their membership of the Corporation.
- 6.11 A member who resigns their membership in accordance with clause 6.10 or is excluded from the Corporation in accordance with clause 6.8 shall continue to be liable to the Corporation for:
 - a) any or all Subscription Fees and any other debt or liability owed to the Corporation as at the date of resignation is received by the Corporation secretary or the date of resolution by the Board excluding that member from the Corporation, as the case may be; and
 - b) any amount not exceeding fifty dollars (\$50) for which he is liable as a member of the Corporation under clause 21.1 of the Constitution.

7 GENERAL MEETINGS

- 7.1 An annual general meeting of the Corporation shall be held in accordance with the Act at such times and at such place as the Board shall appoint.
- 7.2 The Board may, whenever it thinks fit, and shall, upon a requisition of at least five percent (5%) of the total voting rights of all of the members having at the date of the deposit of the requisition a right to vote at general meetings, convene a meeting of the Corporation.
- 7.3 Any requisition made by members shall state the object of the meeting proposed to be called, and shall be left at the registered office of the Corporation, together with such sum as the Board shall prescribe to reimburse the Corporation for the cost of such meeting.
- 7.4 Upon receipt of such a requisition, the Board shall forthwith proceed to convene a general meeting. If the Board does not within twenty one (21) days after the date of deposit of the requisition proceed to convene the meeting so as to be held

within two (2) months from the date of deposit of the requisition, those having made the requisition may themselves convene the meeting in accordance with the Act.

- 7.5 Subject to the provisions of the Act, at least twenty one (21) days before every meeting, notice relating to special resolution, special notice and agreements for shorter notice specifying the place, the day and hour of the meeting, and in case of special business the general nature of such business, shall be given to Full Members in the manner hereinafter mentioned, or in such manner, if any, as may be prescribed by the Corporation in general meeting, but the accidental omission to send such notice to, or the non-receipt of such notice by, any member shall not invalidate the proceeding at any general meeting.

8. PROCEEDINGS AT GENERAL MEETINGS

- 8.1 The quorum for a general meeting of the Corporation shall be seven (7) Full Members present in person and no business shall be transacted at any meeting unless a quorum is present at the commencement of such business.
- 8.2 If within thirty (30) minutes from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members shall be dissolved. In any other case the meeting shall stand adjourned to the same day in the next week at the same time and place or such other day, time and place as the Board may by notice to the members appoint. If at such adjourned meeting a quorum is not present within thirty (30) minutes from the time appointed for the meeting, those Full Members who are present in person shall be deemed to constitute a quorum and may transact the business for which the meeting was called.
- 8.3 The Chairman of the Board shall preside as Chairman at every general meeting of the Corporation.
- 8.4 If the Chairman of the Board is not present at the time of holding the meeting or is unwilling to act as Chairman, the Directors present shall chose one (1) of their number to be Chairman for the purposes of that meeting.
- 8.5 Every resolution submitted to a general meeting shall be decided in the first instance by a show of hands, and in the case of an equality of votes the

Chairman shall both on a show of hands and at a poll have a casting vote in addition to the vote to which he would be entitled as a Foundation Member or Full Member.

- 8.6 Notwithstanding clause 8.5, any resolution considered to be a special resolution, including but not limited to changes or amendments to the Constitution, shall require support of seventy five percent (75%) of the votes cast by Full members entitled to vote at the meeting on the resolution.
- 8.7 At any general meeting, unless a poll is demanded by at least five (5) Full Members OR by Full Members with at least five percent (5%) of the votes that may be cast on the resolution on a poll (whichever is the greater) OR by the Chairman, a declaration by the Chairman that a resolution has been carried or carried by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book of proceeding of the Corporation shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 8.8 If a poll is demanded pursuant to clause 8.7, it shall, subject to clause 8.9 be taken in such manner, and at such time and place as the Chairman of the meeting directs, and either at once, or after an interval or adjournment or otherwise.
- 8.9 A poll demanded on a question of adjournment shall be taken forthwith.
- 8.10 The result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 8.11 The demand for a poll may be withdrawn.
- 8.12 The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any such adjourned meeting other than that left unfinished at the meeting from which the adjournment took place.

9 VOTING AT GENERAL MEETING

- 9.1 Only Full Members are entitled to vote or attend general meetings of the Corporation and each such member shall only have one (1) vote.

- 9.2 Subject to clause 6.4, no Full Member shall be entitled to vote at any general meeting should any monies including Subscription Fees presently payable by such member to the Corporation be in arrears in excess of two (2) calendar months.
- 9.3 Votes may be given either personally or by proxy or attorney.
- 9.4 A Full member entitled to attend and vote at a general meeting of the Corporation may appoint a proxy (who must be a Full Member) to attend, speak and vote at a meeting in his place only by an instrument that, for the time being, has been approved by the Board.
- 9.5 An instrument of proxy must be executed under the hand of the Full Member, or by the attorney appointed in writing by the Full Member.
- 9.6 Any appointment of a proxy, attorney or representative is effective in respect of a particular general meeting if, and only if, the following instruments are actually received (which includes receipt of a copy of those instruments by legible facsimile transmission) by the Corporation at its registered office (or another place notified by the Board) at least forty eight (48) hours (or any other shorter time that the Board determines) before the time notified for that meeting;
- a) in the case of a proxy, the instrument of proxy and, if it is executed by an attorney, the relevant power of attorney or an office copy of notarially certified copy of the power of attorney;
 - b) in the case of an attorney, a copy of the power of attorney together with a declaration of non-revocation of the power of attorney; and
 - c) in the case of a representative, the certificate under subsection 250D of the Act, or other evidence satisfactory to the Corporation.
- 9.7 Where the Corporation has received an instrument of proxy from a Full Member the appointment made by that instrument is and remains valid and effective, except that where the Corporation subsequently receives:
- a) a power of attorney entitling the attorney to attend and vote at the meeting, the appointment is revoked;

- b) intimation in writing either of the revocation of the appointment under the instrument of proxy or of the death of the member, the appointment is revoked; or
- c) another instrument of proxy from the member the instrument of proxy bearing the later date (or if the instrument of proxy bearing the later date or if the instruments bear the same date, the instrument later received by the Corporation) is an intimation in writing of the revocation of the appointment under the instrument.

9.8 Any Full Member may by power of attorney duly executed in the presence of at least one witness, appoint an attorney (who must be a Full Member) to act on his behalf at all meetings of the Corporation and such power of attorney or proof therefore to the satisfaction of the Board, shall before the attorney shall be entitled to act thereunder be produced for inspection at the registered office of the Corporation together with such evidence of the due execution therefore as the Board may require and such attorney may be authorised to appoint a proxy for the member granting the power of attorney.

10. FINANCIAL YEAR

The financial year of the Corporation shall end on 30 June each year.

11. THE BOARD

11.1 The affairs of the Corporation shall be managed by the Board which must be elected by the Full Members of the Corporation at a general meeting of the Corporation by ordinary resolution or if the Board resolves to conduct a postal ballot, in accordance with that ballot.

11.2 The number of Directors shall be as determined by the Board from time to time but shall not:

- a) be less than five (5) or greater than nine (9) in number; or
- b) be less than the number in office at the time of such determination.

- 11.3 Subject to corporations law requirements with respect to the tenure of the initial interim Board, the Directors in office at the time of adoption of this Constitution shall continue in office as Directors until their current terms of appointment expire and, subject to the provisions of this Constitution, such Directors remain eligible for re-election.
- 11.4 The Board shall from time to time as occasion requires elect one (1) of its number to be Chairman of the Board and shall determine the period for which he is to hold office.
- 11.5 At each general meeting of the Corporation, one third (1/3) of the Directors for the time being, or, if their number is not three or a multiple of three (3), then the number nearest to one third (1/3), shall retire from office.
- 11.6 A retiring Director is eligible for re-election. A retiring Director shall act as a Director until the close of the meeting at which he retires.
- 11.7 The Directors to retire at an annual general meeting are those who have been longest in office since their last election, but, as between persons who became Directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot.
- 11.8 The Corporation may, at the meeting at which a Director so retires, by resolution or if the Board resolves to conduct a postal ballot, in accordance with that ballot, fill the vacated office by electing a person to that office.
- 11.9 If the vacated office is not so filled, the retiring Director shall, if offering himself for re-election and not being disqualified under the Act or this Constitution from holding office as a Director, be deemed to have been re-elected unless at that meeting:
- a) it is expressly resolved not to fill the vacated office; or
 - b) a resolution for the re-election of that Director is put and lost.
- 11.10 The Directors shall have power at any time and from time to time to appoint any other qualified person as Director either to fill a casual vacancy or as an addition to the Board but so that the total number of Directors shall not at any time exceed the number fixed pursuant to clause 11.2(a). Any such Director appointed must retire at the next annual general meeting and if he so desires offer himself to members for election at that meeting. Any such Director shall not be taken into

account in determining the retirement of Directors or the number of them to retire under clause 11.5 at that meeting.

- 11.11 Any Full Member seeking election to the Board must:
- a) complete and sign the required nomination form and lodge such with the Corporation secretary of the Corporation;
 - b) be nominated and seconded by Full Members of the Corporation;
 - c) lodge such nomination form by 1st September in the financial year in which the member seeks election to the Board.
- 11.12 The Board may resolve that the election of Directors shall take place by postal ballot conducted prior to the close of the annual general meeting (subject to the provisions of clauses 11.11 and 11.13) determine the form, manner of voting, timing and conduct of such ballot. The result of the ballot shall be received at the relevant annual general meeting and the persons elected as Directors shall hold office as from the close of that annual general meeting.
- 11.13 Subject to clause 11.15, a person shall not be eligible to be a Director;
- a) if that person is not a Full Member of the Corporation; and
 - b) unless that person has confirmed in writing that they accept and agree to comply with the Corporation's governance guidelines adopted by the Board from time to time.

12. DISQUALIFICATION OF MEMBERS OF THE BOARD

- 12.1 The office of a Director shall be vacated if the Director:
- a) ceases to be a Full member of the Corporation; or
 - b) ceases to be a Director by virtue of the Act; or
 - c) becomes bankrupt; or
 - d) is found lunatic or becomes of unsound mind; or
 - e) resigns his office by notice in writing to the Corporation.

13. POWERS AND DUTIES OF THE BOARD

- 13.1 The Board shall have absolute control over all the affairs and property of the Corporation, and shall have power to prepare, alter, cancel and enforce regulations of the Corporation (not amounting to an alteration or addition to this Constitution for the regulation of the Corporation, and the promotion of its objects) and may exercise all such powers of the Corporation as are not by the Act or this Constitution required to be exercised by the Corporation in general meeting.
- 13.2 The Board may appoint a chief executive officer of the Corporation (who, unless otherwise determined by the Board, will also hold the position of Corporation secretary) and engage all such officers and employees as they may consider necessary.
- 13.3 The Board shall have the power to enter into agreements and arrangements with such corporations, societies, organisations and individuals as the Board shall think fit, for the purposes of furthering the objects of the Corporation or any of them.
- 13.4 The Board will meet together for the dispatch of business, adjourn or otherwise regulate its meetings as it thinks fit. Subject to this Constitution, questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes the Chairman shall have a second or casting vote.
- 13.5 A resolution in writing (either contained in one (1) document or in more than one (1) document) signed by each of the Directors entitled to vote thereon shall have the same force and effect as a resolution duly passed at a meeting of the Board notwithstanding that such resolution was not passed at a meeting of the Board.
- 13.6 If each of the Directors entitled to vote thereon has signed a resolution in accordance with clause 13.5 a resolution in those terms shall be deemed to have been passed at the time at which the resolution was last signed.
- 13.7 A resolution passed during a discussion held by telephone (or by any other electronic or other medium) in which Directors participate who would, if present together at a meeting, be sufficient to constitute a quorum, and can hear and be heard by all other participating Directors throughout the discussion, and be

recorded by a Director who participated in the discussion, shall have the same force and effect as a resolution duly passed at a meeting of the Board.

- 13.8 A Director may, and the Corporation secretary of the Corporation shall, on the requisition of a Director, summon a meeting of the Board.
- 13.9 The quorum necessary for the transaction of the business of the Board shall be more than one half (1/2) of the Directors from time to time, or such greater number as may be fixed by the Board.
- 13.10 The Directors may act notwithstanding any vacancy in their number but if and so long as their number is reduced below the number fixed as the necessary quorum of the Board, the Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Corporation, but for no other purpose.
- 13.11 All acts done by any of the Board or by any person acting as a Director shall notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.
- 13.12 The Board may at any time and from time to time by writing or by power of attorney under the Corporation's seal appoint any person or persons to be the agent or attorney of the Corporation for such purpose and with such powers and discretions (not exceeding those vested in or exercisable by the Board under this Constitution) and for such period and subject to such conditions as the Board may from time to time think fit; and any such appointment made (if the Board thinks fit) be made in favour of any Corporation or firm or of the members, directors, nominees or managers of any Corporation or firm or in favour of any fluctuating body of persons whether nominated directly or indirectly by the Board; and any such writing or power of attorney may contain such provisions for the protection or convenience of persons dealing with such agent or attorney as the Board may think fit.
- 13.13 Any such agent or attorney as aforesaid may be authorised by the Board to sub-delegate all or any of the powers, authorities and discretions for the time being invested in him. The provisions of this and preceding sub-paragraph shall be supplemental to the powers conferred on the Corporation by the Act.

13.14 A Director shall not be disqualified by reason only of his being a Director from holding any office or place of profit (except that of Auditor) under the Corporation or under any Corporation in which the Corporation is a shareholder or otherwise interested or from contracting with the Corporation either as a vendor, purchaser or otherwise nor shall any contract or any contract or arrangement entered into by or on behalf of the Corporation in which any Director is in any way directly or indirectly interested be avoided or in any other way affected nor shall any Director be liable to account to the Corporation for any profit arising from any such office or place or profit or realised by any such act, contract or arrangement by reason only of such Director holding that office or of the fiduciary relationship thereby established.

13.15 The directors have the following obligations in respect of contracts or proposed contracts with the Corporation;

- a) No Director shall as a Director vote in respect of any contract or arrangement in which he has directly or indirectly a material interest and if he does so vote his vote shall not be counted.
- b) It shall be the duty of a Director who is in any way directly or indirectly interested in any contract or arrangement or proposed contract or arrangement with the Corporation to declare the nature of his interest in the manner required by the Act.
- c) It shall also be the duty of a Director who holds any office or possesses any property whereby whether directly or indirectly duties or interests might be created in conflict with his duties or interests as a Director to declare the nature, character and extent of the conflict in accordance with the Act.
- d) A Director may not attest the affixing of any Seal of the Corporation to any instrument relating to any matter in which he is interested.
- e) It shall be the duty of the Corporation secretary to record in the minutes any declarations made or notices given by a Director.
- f) It shall be the duty of each Director to comply with sections 180, 181, 182 and 183 of the Act at all times.

14. REGULATIONS

14.1 Subject to clause 14.2, the Board shall have power from time to time to make, alter, amend and repeal any or all such Regulations as the Board in its discretion considers necessary for the administration, conduct and management of the Corporation, its business and players and without limiting the foregoing, may by such regulations regulate:

- a) the engagement and appointment of Players and coaching staff;
- b) the use or supply to members of any of the property of the Corporation;
- c) the operating hours of any premises owned or occupied by the Corporation;
- d) the activities of members on the Corporation's premises;
- e) the conduct of members in relation to one another and in relation to the employees and agents of the Corporation;
- f) the duties, obligations, responsibilities and functions of any employee or agent of the Corporation or delegate of the Board;
- g) the establishment and operation of administrative committees of the Board;
- h) the procedure at or order of business of general meetings of members of the Corporation and the members of the Board and any committees of the Board.

14.2 The Board shall not make, alter or amend any regulation so that it is inconsistent with any provision of the Constitution and to the extent that any inconsistency exists, the provisions of the Constitution shall prevail.

14.3 The Board shall ensure that copies of the regulations of the Board as altered and amended from time to time are available for the perusal of members at the registered office and principal place of business of the Corporation.

15. CHEQUES, BILLS ETC

All cheques, bills of exchange, promissory notes or other negotiable instruments shall be signed, drawn, accepted, made or endorsed as the case may be for and on behalf of the Corporation in such manner as the Board may from time to time determine.

16. EXECUTION OF DOCUMENTATION

- 16.1 If the Corporation has a common seal, the Directors shall provide for the safe custody of the seal.
- 16.2 No agreement, deed, share certificate, contract, document, writing or other material shall be executed by the Corporation except pursuant to the authority of the Board.
- 16.3 Every document which is executed by the Corporation shall be signed (whether with or without the common seal) by at least two (2) Directors, a Director along with the Corporation secretary or a Director and another person specifically authorised by the Directors for that purpose.

17. ACCOUNTS

- 17.1 The Board shall cause accounts maintained in accordance with accepted accounting standards to be kept of all sums of money received and expended by the Corporation and of the matters in respect of which such receipts and expenditure take place, and of the property, credits and liabilities of the Corporation.
- 17.2 The Board shall at every annual general meeting present a statement of financial performance of the Corporation during the preceding year and also a statement of financial position as at the close of the financial year, together with a report of the Board as to the state and progress of the Corporation.
- 17.3 A copy of such statement, balance sheet and report shall be made available to every Full Member at least twenty one (21) days before the annual general meeting.

18. AUDITORS

- 18.1 An Auditor or Auditors shall be appointed in accordance with the Act and his or their duties shall be regulated in accordance with the Act.
- 18.2 Any person who is:

- a) a Director of the Corporation;
- b) an Officer of the Corporation;
- c) a partner, employer or employee of a Director or officer of the Corporation;
- d) a partner, employer or employee of an employee of a Director or Officer of the Corporation;
- e) not a registered Corporation auditor; or
- f) indebted in any amount exceeding five thousand dollars (\$5,000) to the Corporation or to a related Corporation,

shall not be capable of being appointed or of acting as Auditor of the Corporation.

19. NOTICES

19.1 A notice may be given by the Corporation to a member:

- a) by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members, or by sending it to the fax number or electronic address, or such other address the member has supplied to the Corporation for the giving of notices; or
- b) if the member does not have a registered address and has not supplied another address to the Corporation for the giving of notices, by exhibiting it at the registered office of the Corporation.

19.2 The fact that a person has supplied a fax number or electronic address for the giving of notices does not require the Corporation to give any notice to that person by fax or electronic means.

19.3 A signature to any notice given by the Corporation to a member under this rule may be in writing or a facsimile printed or affixed by some mechanical or other means.

19.4 A certificate signed by a Director or Corporation secretary of the Corporation to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact.

- 19.5 Subject to this Constitution, a notice may be given by the Corporation to any Director either by serving it personally at, or by sending it by post in a prepaid envelope to, the Director's usual residential or business address, or by sending it to the fax number or electronic address, or such other address as the Director has supplied to the Corporation for the giving of notices.
- 19.6 Subject to this Constitution, a notice may be given by a member or Director to the Corporation by serving it on the Corporation at, or by sending it by post in a prepaid envelope to, the registered office of the Corporation or by sending it to the principal fax number or principal electronic address of the Corporation at its registered office.
- 19.7 A notice sent by post to an address outside Australia must be sent by airmail.
- 19.8 Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
- a) in the case of a notice of a general meeting, on the day after the date of its posting: or
 - b) in any other case, at the time at which the letter would be delivered in the ordinary course of the post.
- 19.9 Where a notice is sent by fax or electronic means, service of the notice is to be taken to be effected on the day after the date it is sent.
- 19.10 Where the Corporation gives a notice under clause 19.1 (b) by exhibiting it at the registered office of the Corporation, service of the notice is to be taken to be effected when the notice was first exhibited.
- 19.11 Clauses 19.1 to 19.10 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.
- 19.12 A reference in this Constitution to a notice in writing includes a notice given by facsimile or electronic means.

20. INDEMNITY

20.1 To the extent permitted by law every Officer (and former Officer) of the Corporation shall be indemnified out of the funds of the Corporation against all costs, expenses and liabilities incurred as such an Officer (or former Officer). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Corporation under this clause unless:

- a) it is in respect of a liability to another person (other than the Corporation or a related body corporate to the Corporation) where the liability to the other person does not arise out of conduct involving a lack of good faith; or
- b) it is in respect of a liability for costs and expenses incurred:
 - (i) in defending proceedings, whether civil or a criminal in which judgement is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Act.

20.2 To the extent permitted by law the Corporation may at the discretion of the Directors enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Corporation against any liability incurred by such person in that capacity (whether in respect of act or omissions prior to or after the date of the issue of the policy or both) except for:

- a) a liability arising out of conduct involving a wilful breach of duty in relation to the Corporation; or
- b) a contravention of Sections 182, 183 or 184 of the Act.

The Directors shall have the discretion to approve the terms and conditions of any such policy of insurance.

20.3 Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his actions or omissions then the Corporation shall not be required to indemnify the Officer under clause 20.1 except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

20.4 The indemnity granted by the Corporation contained in clause 20.1 shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.

21. WINDING UP

21.1 Every member of the Corporation undertakes to contribute to the property of the Corporation in the event of the same being wound up while he is a member, or within one (1) year after he ceases to be a member, for payment of the debts and liabilities of the Corporation (incurred before he ceased to be a member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding fifty dollars (\$50).

21.2 If upon the winding up or dissolution of the Corporation there remains, after satisfaction of all its debts and liabilities, any property whatever, the same shall not be paid to or distributed among the members of the Corporation, but shall be given or transferred to the Illawarra Basketball Association or its successor association. This association must have in its constitution a prohibition on the distribution of its income and property among its members in a manner consistent with this Constitution. Should there be no such eligible association in existence at that time any proceeds from this winding up or dissolution of the Corporation should be given or transferred to some other institution or institutions having objects similar to the objects of the Corporation and whose constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Corporation under or by virtue of this Constitution, such institution or institutions to be determined by the members of the Corporation at or before the time of dissolution and in default thereof by application to the Supreme Court of New South Wales for determination.