

CORPORATIONS ACT 2001

**CONSTITUTION**

of

**VOLLEYBALL AUSTRALIA LTD**

**ACN 601 234 888**

A Company LIMITED BY GUARANTEE

Registered in the Office of the Australian Securities and Investments Commission on the 22nd day of February 2019.



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## 1 DEFINED MEANINGS

Words used in this Constitution and the rules of interpretation that apply are set out and explained in the Definitions and Interpretation clause at the back of this document.

## PART I - FOUNDATIONAL

### 2 NAME OF COMPANY

The name of the company is Volleyball Australia Ltd ("Company").

### 3 VOLUNTARY TRANSFER OF INCORPORATION

The Company is registered as a company limited by guarantee pursuant to section 601BA(1)(d) of the *Corporations Act 2001* (Cth) upon the voluntary transfer of incorporation of Australian Volleyball Federation Incorporated ABN 46 487 409 518 ("the Association"), a body incorporated under the *Associations Incorporation Act 1991* (ACT) ("the ACT Act"). The voluntary transfer of incorporation was authorised by the registrar-general under section 82 of the ACT Act and has not created a new legal identity.

### 4 REGISTERED OFFICE

#### 4.1 Location

The registered office of the Company shall be situated at such place in Australia as the Board may from time to time determine.

#### 4.2 Display name

The Company must display its name and the expression "Registered Office" at that place.

### 5 OBJECTS OF COMPANY

The Company is the peak body for the administration of the sport of volleyball in Australia. The objects for which the Company is established and maintained are to:

- (a) conduct, encourage, promote, advance, standardise, control and administer all forms of the sport of volleyball in and throughout Australia as a human endeavour;
- (b) provide for the conduct, encouragement, promotion and administration of the sport of volleyball through and by various Member States or other organisations for the mutual and collective benefit of the Members and the sport of volleyball;
- (c) act in good faith and loyalty to ensure the maintenance and enhancement of the Company and volleyball, its standards, quality and reputation for the collective and mutual benefit of the Members and the sport of volleyball;
- (d) at all times operate with, and promote, mutual trust and confidence between the Company and the Members in pursuit of these objects;
- (e) at all times to act on behalf of, and in the interests of, the Members and the sport of volleyball;
- (f) promote the economic and sporting success, strength and stability of the Company and each Member State and to act interdependently with each Member State in pursuit of these objects;

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- (g) affiliate and otherwise liaise with the Federation Internationale de Volleyball (“**FIVB**”), the Australian Olympic Committee, the Australian Sports Commission, the Asian Volleyball Confederation (“**AVC**”) Oceania Zone and any other such organisation in the pursuit of these objects and the sport of volleyball;
- (h) ensure compliance with the rules and regulations as amended from time to time of the FIVB and the AVC;
- (i) ensure that a high standard of the sport of volleyball is maintained;
- (j) develop a sense of sportsmanship and a high degree of proficiency in competitors in the sport of volleyball;
- (k) enable competitors to achieve a high level of physical and mental fitness through the teaching and practice of the sport of volleyball;
- (l) apply the property and capacity of the Company towards the fulfilment and achievement of these objects;
- (m) use and protect the Intellectual Property;
- (n) collect, distribute and publish information in connection with the sport of volleyball and international and national volleyball tournaments and competitions;
- (o) promote and control interstate, national and international (as directed by the FIVB) tournaments, competitions and championships;
- (p) strive for governmental, commercial and public recognition of the Company and the sport of volleyball;
- (q) promulgate, and secure uniformity in, such rules as may be necessary or appropriate for the management and control of the sport of volleyball and related activities in Australia;
- (r) further develop the Company as an organised institution and with these purposes in view, to foster, regulate, organise and manage examinations, competitions, displays and other activities and to issue badges, medallions and certifications and award trophies as appropriate;
- (s) review and/or determine any matters relating to the sport of volleyball which may arise or be referred to it by any Member State;
- (t) recognise any penalty imposed by any Member State (within the Member States’ jurisdiction);
- (u) through or in association with the Member States or other entities or of itself, promote the health and safety of players, coaches, referees and officials registered with any Member State or other volleyball organisation;
- (v) through or in association with the Member States or other entities or of itself, encourage players, coaches, referees and officials registered with any Member State or other volleyball organisation to realise their potential and athletic abilities by extending to them the opportunity of education, and further participation, in the sport of volleyball;
- (w) conduct or commission research and development for improvements in the sport of volleyball and volleyball equipment generally;
- (x) pursue through itself or others such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the objects of the Company and the sport of volleyball;

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- (y) act as final arbiter (where applicable) on all matters pertaining to the conduct of the sport of volleyball in Australia, including disciplinary matters;
- (z) formulate or adopt and implement appropriate policies, including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, privacy, junior and senior programs, infectious diseases and such other matters as arise from time to time as issues to be addressed in the sport of volleyball;
- (aa) represent the interests of its Members and of the sport of volleyball generally in any appropriate forum;
- (bb) have regard to the public interest in its operation;
- (cc) do all that is reasonably necessary to enable these objects to be achieved and to enable the Members to receive the benefits which these objects are intended to achieve;
- (dd) encourage and promote performance-enhancing drug free competition; and
- (ee) undertake and or do all things or activities which are necessary, incidental or conducive to the advancement of these purposes.

**6 POWERS OF COMPANY**

The Company has the legal capacity and powers of an individual as set out in Section 124(1) of the Act.

**7 APPLICATION OF INCOME AND PROPERTY**

- 7.1 The income and property of the Company shall be applied solely towards the promotion of the objects of the Company as set out in this Constitution.
- 7.2 Except as prescribed in this Constitution:
- (a) no portion of the income or property of the Company shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member; and
  - (b) no remuneration or other benefit in money or money's worth shall be paid or given by the Company to any Member who holds any office of the Company.
- 7.3 Nothing contained in **clauses 7.2(a) or (b)** shall prevent payment in good faith of or to any Member for:
- (a) any services actually rendered to the Company whether as an employee or otherwise;
  - (b) goods supplied to the Company in the ordinary and usual course of operation;
  - (c) interest on money borrowed from any Member;
  - (d) rent for premises demised or let by any Member to the Company; or
  - (e) any out-of-pocket expenses incurred by the Member on behalf of the Company, provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

## 8 LIABILITY OF MEMBERS

The liability of the Members of the Company is limited.

## 9 MEMBERS' CONTRIBUTIONS

Every Member of the Company undertakes to contribute to the assets of the Company in the event of it being wound up while a Member, or within 1 year after ceasing to be a Member for payment of the debts and liabilities of the Company contracted before the time at which the Member ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding one dollar (\$1.00).

## 10 DISTRIBUTION OF PROPERTY ON WINDING UP

If upon winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members of the Company but shall be given or transferred to some body or bodies having purposes similar to the purposes of the Company and which 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 Company by this Constitution and which is also not carried on for profit and which is similarly exempt (or entitled to be exempt) from income tax. Such body or bodies to be determined by the Members of the Company at or before the time of dissolution, and in default thereof by such judge of the relevant Supreme Court or such other court as may have or acquire jurisdiction in the matter.

## 11 AMALGAMATION

The Company must not amalgamate with any other body that is carried on for profit or which is not similarly exempt (or not entitled to be exempt) from income tax.

## PART II – MEMBER STATES

## 12 MEMBER STATES

### 12.1 Recognition of Member States

The entity which is recognised as the only official representative of and controlling authority for the sport of volleyball in a State (in the Board's sole discretion) is or shall be recognised as a Member State and shall administer the sport of volleyball in that particular State in accordance with the objects of the Company. Each Member State shall be named according to the State in which it is located, which name must be approved by the Board.

### 12.2 Compliance of Member States

Each Member State shall:

- (a) be incorporated in its particular State;
- (b) elect or appoint up to 2 State Delegates to represent it at General Meetings in accordance with this Constitution;
- (c) provide the Company with copies of its audited accounts, annual report and other associated documents within 30 days of the Member State's annual general meeting;
- (d) adopt in principle, the objects of the Company and adopt rules which reflect and which

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are, to the extent permitted or required by the State Acts, generally in conformity with this Constitution;

- (e) apply its property and assets solely in pursuit of the objects of the Company, the Member State and the sport of volleyball;
- (f) at all times act for the joint advantage of the Company and the Members and the sport of volleyball;
- (g) do all that is reasonably necessary to enable the objects of the Company to be achieved;
- (h) act in good faith and loyalty to ensure the maintenance and enhancement of the Company and the sport of volleyball, its standards, quality and reputation for the collective and mutual benefit of the Members and the sport of volleyball;
- (i) at all times operate with, and promote, mutual trust and confidence between the Company and the Members in pursuit of these objects;
- (j) at all times act on behalf of and in the interests of the Members and the sport of volleyball; and
- (k) comply with the terms and conditions of the Charter agreement between the Member State and the Company as determined or amended by Special Resolution by the Member States in General Meeting.

### 12.3 **Operation of Constitution**

The Company and the Member States agree:

- (a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the objects of the Company and the sport of volleyball are to be conducted, encouraged, promoted and administered in Australia;
- (b) to comply with the terms and condition of the Charter agreement between the Member State and the Company as determined or amended by Special Resolution by the Member States in General Meeting;
- (c) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of the sport of volleyball, its standards, quality and reputation for the collective and mutual benefit of the Members and the sport of volleyball;
- (d) not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of the sport of volleyball, and its maintenance and enhancement;
- (e) to make full and proper disclosure to each other of all matters of importance to the Company and the sport of volleyball;
- (f) not to acquire a private advantage at the expense of any of the Company or any other Member State or the sport of volleyball;
- (g) to operate with mutual trust and confidence in pursuit of the objects of the Company;
- (h) to promote the economic and sporting success, strength and stability of each other and to act interdependently with each other in pursuit of the objects of the Company;

- (i) to act for and on behalf of the interests of the sport of volleyball, the Company and the Members; and
- (j) that should a Member State have administrative, operational or financial difficulties, including but not limited to where a Member State:
  - (i) takes or has taken or has instituted against it any action or proceeding, whether voluntary or compulsory, having as its object the winding up of the Member State; or
  - (ii) enters into a composition or arrangement with its creditors, other than a voluntary winding up by members for the purpose of reconstruction or amalgamation; or
  - (iii) a mortgagee or other creditor takes possession of any of its assets;the Company may, in its absolute discretion act to assist that Member State in whatever manner and on such conditions as the Company considers appropriate, including, but not limited to the appointment of an administrator.

## 13 MEMBER STATE CONSTITUTIONS AND RULES

### 13.1 Constitution

The constituent documents of each Member State shall clearly reflect the objects of the Company and shall be in a form acceptable to the Board, with such incidental variations as are necessary or appropriate, having regard to the State Act applicable to each Member State.

### 13.2 Amendments to Member State Constitutions

Each Member State shall take all steps necessary to ensure its constituent documents and rules are in a form acceptable to the Board and shall ensure its documents are amended in conformity with future amendments made to this Constitution, subject to any prohibition or inconsistency in any relevant State Act.

### 13.3 Register of Members

Each Member State shall maintain, in a form and with such details as are acceptable to the Company, a register of all State Affiliates and Individual Members in its State. Each Member State shall provide a copy of the register at a time and in a form acceptable to the Company, and shall provide prompt and regular updates of that register to the Company when requested by the Board.

## PART III - MEMBERSHIP

## 14 MEMBERS

### 14.1 Class of Members

The Members of the Company shall consist of:

- (a) the Member States, which subject to this Constitution, shall be represented by their State Delegates who have the right to be present, debate and vote at General Meetings for and on behalf of the Member States;
- (b) Life Members, who subject to this Constitution, may attend and debate at

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General Meetings at the discretion of the Board, but otherwise have no right to vote at General Meetings;

- (c) State Affiliates, who have no right to attend, debate or vote at General Meetings;
- (d) Individual Members, who have no right to attend, debate or vote at General Meetings;
- (e) such new classes of Members, created in accordance with clause 14.3 below.

The Member States, Life Members, State Affiliates and Individual Members of the Association at the time of voluntary transfer of its incorporation to a company limited by guarantee shall be deemed the Member States, Life Members, State Affiliates and Individual Members from the time the Company is registered under the Act as a Company.

#### **14.2 Membership Renewal**

In order to remain Members, Individual Members and State Affiliates must:

- (a) renew their membership with their respective Member State annually;
- (b) otherwise remain registered financial members of their Member State in accordance with the procedures applicable from time to time; and
- (c) must pay the annual fees prescribed by the Company from time to time (if any) to the Company through their respective Member State.

#### **14.3 Creation of New Categories**

The Board has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined applicable (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of an existing class of Members. No new category of membership may be granted voting rights.

#### **14.4 Life Members**

- (a) The Board or a Member State may nominate a person who has rendered distinguished or special service to volleyball at the national level, for life membership. The nomination must be on the prescribed form (if any) and must be submitted to the Chief Executive Officer at least 60 days before the date set down for the Annual General Meeting.
- (b) The nomination for Life Member shall be considered at the Annual General Meeting. A resolution of the Annual General Meeting to confer life membership must be passed by Special Resolution. The vote on such resolution will be taken by secret ballot.
- (c) Conditions, obligations and privileges of life membership shall be as prescribed in the By-Laws.

### **15 SUBSCRIPTIONS AND FEES**

- 15.1 Fees, including annual membership fees, payable by Members (or any class of Members) to the Company, the basis of, the time for and the manner of payment shall be as determined by the Board.

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- 15.2 The Board may also require that fees be levied upon all State Affiliates and Individual Members by the Member States, and the Member States shall collect such prescribed fees and remit them to the Company. Such fees when levied will be in the nature of a “capitation” fee.
- 15.3 Monies payable to the Company by the Members under this **clause 15** shall be forwarded to the Company, for the Company’s use by such dates as are prescribed by the Board.
- 15.4 Any Member which or who has not paid all monies due and payable by that Member to the Company shall (subject to the Board’s discretion) have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until such time as the monies are fully paid or otherwise in the Board’s discretion. In the meantime, the Member shall have no automatic right to resign from the Company, and shall be dealt with in the Board’s discretion, which includes the right to expel, suspend, disqualify, fine, discipline or retain that Member as a Member, or impose such other conditions or requirements as the Board considers appropriate.

**16 REGISTER OF MEMBERS**

**Chief Executive Officer to Keep Register**

The Chief Executive Officer shall keep and maintain a register of Members in which shall be entered such information as is required under the Act from time to time.

**17 EFFECT OF MEMBERSHIP**

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Company and that they are bound by the Constitution and the By-Laws;
- (b) they shall comply with and observe the Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised delegated entity under clause 38;
- (c) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of the Company;
- (d) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of the Company, the Members and the sport of volleyball;
- (e) the Constitution and By-Laws are necessary and reasonable for promoting the objects of the Company and particularly the advancement and protection of the sport of volleyball; and
- (f) they are entitled to all benefits, advantages, privileges and services of Company membership.

**18 DISCONTINUANCE OF MEMBERSHIP**

**18.1 Notice of Resignation**

Subject to this Constitution any Member which has paid all monies due and payable to the Company and has no other liability (contingent or otherwise) to the Company with the exception of a liability under **clause 9** may resign from the Company by giving 3 months’ notice in writing to the Company of such intention to withdraw or resign and upon the expiration of that period of notice, the Member shall cease to be a Member. A Life Member who has paid all monies due and

payable to the Company may resign by notice in writing with immediate effect. A Member remains liable after resignation for any sum for which the Member is liable as a Member under **clause 9**.

#### 18.2 **Expiration of Notice Period**

Subject to **clause 18.6** upon the expiration of any notice period applicable under **clause 18.1** an entry, recording the date on which the Member who or which gave notice ceased to be a Member shall be recorded in the Register.

#### 18.3 **Member's Failure to Comply**

Notwithstanding **clause 19**, where a Member fails to comply with its financial and reporting obligations under the Constitution and By-Laws, the Board may determine that Member to be not of good standing. On determination that a Member is not of good standing, the Board may give notice to the Member of:

- (a) the Board's determination; and
- (b) the grounds for the Board's determination;

and request that the Member show cause within one month from the date of that notice as to why action should not be taken against the Member. The Member's failure to respond or act to the Board's satisfaction (including assurances or compliance with its obligations) may result in the Board suspending or terminating the Member's membership of the Company, or otherwise imposing such conditions on the Member's membership, as the Board sees fit. Nothing in this clause effects the operation of **clause 15.4**.

#### 18.4 **Forfeiture of Rights**

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon the Company and its property including Intellectual Property. Any Company documents, records or other property in the possession, custody or control of that Member shall be returned to the Company immediately.

#### 18.5 **Membership may be Reinstated**

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Board, on application in accordance with this Constitution and otherwise on such conditions as it sees fit.

#### 18.6 **Cessation of Membership**

Where a Member State ceases to be a Member in accordance with the Constitution or the Act, the Individual Members and State Affiliates of that Member States may cease or remain Members to the extent (if any) and for such time (if any) as is determined in the sole discretion of the Board.

### 19 **DISCIPLINE OF MEMBERS**

#### 19.1 **Disciplinary Action**

Where the Board is advised or considers that a Member has allegedly:

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- (a) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any resolution or determination of the Board or any duly authorised delegated entity under clause 38; or
- (b) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of the Company and/or volleyball; or
- (c) brought the Company or volleyball into disrepute;

the Board may commence or cause to be commenced disciplinary proceedings ("proceedings") against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the Company set out in the By-Laws.

**PART IV – GENERAL MEETINGS**

**20 STATE DELEGATES**

**20.1 Appointment of State Delegates**

Each Member State shall appoint up to two State Delegates for such term as is deemed appropriate by the Member State. A State Delegate must:

- (a) be an Individual Member of a Member State; and
- (b) be appropriately empowered by the appointing Member State to consider, make decisions and vote at General Meetings.

**20.2 Member State to Advise**

Each Member State shall, at least 21 days prior to any General Meeting, advise the Chief Executive Officer of:

- (a) its appointed State Delegates;
- (b) which of the State Delegates will exercise the votes for the Member State; and
- (c) how many votes of the Member State each State Delegate will exercise.

**21 GENERAL MEETINGS**

- 21.1 An Annual General Meeting of the Company shall be held in accordance with the provisions of the Act and this Constitution and on a date and at a venue to be determined by the Board.
- 21.2 All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.
- 21.3 The company may hold a meeting of its Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

**22 NOTICE OF GENERAL MEETING**

**22.1 Notice of General Meetings**

- (a) Notice of every General Meeting shall be given to Member States at the address appearing in the Register kept by the Company, each Director and the Auditor. No other person

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shall be entitled as of right to receive notices of General Meetings. Life Members may be invited to attend in the discretion of the Board.

- (b) Notice of General Meeting shall be given at least sixty (60) days prior to the General Meeting and shall specify the place and day and hour of the General Meeting (and, if the meeting is to be held in 2 or more venues, the technology that will be used to facilitate this), and contain a statement setting out information regarding the appointment of a proxy in accordance with the Act.
- (c) The agenda for the General Meeting stating the business to be transacted at the General Meeting shall be given at least thirty (30) days prior to the General Meeting, together with any notice of motion received from Member States. If a special resolution is to be proposed at the General Meeting, the Agenda shall set out an intention to propose a special resolution and state the resolution. Documents to be considered at the Annual General Meeting shall be forwarded to the Member States fourteen (14) days prior to the Annual General Meeting.

## **22.2 Entitlement to Attend General Meeting**

Notwithstanding any other clause, no Member shall be represented at, or take part in a General Meeting, unless all monies (set in accordance with **clause 15**) then due and payable to the Company are paid.

## **23 BUSINESS**

### **23.1 Business of General Meetings**

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts, reports of the Board and auditors, the election of Directors and Life Members and (if required) the appointment of Patrons.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at the Annual General Meeting, with the exception of those matters set out in **clause 23.1(a)** shall be special business. "Special business" is business of which a notice of motion has been submitted in accordance with **clause 24**.

### **23.2 Business Transacted**

No business other than that stated on the notice shall be transacted at that meeting.

## **24 NOTICES OF MOTION**

All notices of motion for inclusion as special business at a General Meeting must be submitted in writing (in the required form) to the Chief Executive Officer not less than 45 days (excluding receiving date and meeting date) prior to the General Meeting.

## **25 SPECIAL GENERAL MEETINGS**

### **25.1 Special General Meetings May be Held**

The Board may, whenever it thinks fit, convene a Special General Meeting of the Company and, where, but for this clause more than 15 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

## 25.2 Requisition of Special General Meetings

- (a) The Board shall on the requisition in writing of 3 Member States convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Member States making the requisition and be sent to the Company. The requisition may consist of several documents in a like form, each signed by 1 or more of the Member States making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within 3 months after the date on which the requisition is sent to the Company, the Member States making the requisition, or any of them, may convene a Special General Meeting to be held not later than 3 months after that date.
- (d) A Special General Meeting convened by Member States under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

## 26 PROCEEDINGS AT GENERAL MEETINGS

### 26.1 Quorum

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of the Company shall be 50% plus 1 of the Member States, present in person (through the State Delegate) or by proxy.

### 26.2 President to Preside

The President shall, subject to this Constitution, preside as Chair at every General Meeting of the Company. If the President is not present, or is unwilling or unable to preside, the Vice President shall, subject to this Constitution, preside as chair for that meeting only. If the Vice President is not present, or is unwilling or unable to preside, the Directors shall choose one of their number present who shall, subject to this Constitution, preside as chair for that meeting only.

### 26.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the General Meeting or such other time as determined by the Chair in their reasonable discretion, a quorum is not present the meeting shall be adjourned to such other day and at such other time and place as the Chair may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting will lapse.
- (b) The Chair may, with the consent of any General Meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **clause 26.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

#### 26.4 **Voting Procedure**

At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the Chair; or
- (b) by 2 Delegates.

#### 26.5 **Recording of Determinations**

Unless a poll is demanded under **clause 26.4**, a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

#### 26.6 **Where Poll Demanded**

If a poll is duly demanded under **clause 26.4** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

#### 26.7 **Resolutions at General Meetings**

Except where a Special Resolution is required, all questions at General Meetings shall be determined by the majority of votes (as set out in **clause 27**). If however 3 Member States can have the majority of votes in accordance with **clause 27**, all questions at General Meetings shall then be determined by a majority of Member States.

#### 26.8 **Minutes**

The Chief Executive Officer shall cause minutes to be made of the resolutions and proceedings of each General Meeting in books provided for that purpose, together with a record of the names of persons present at all meetings. The Chief Executive Officer shall forward all Member States a copy of the General Meeting minutes within 30 days of the General Meeting.

### 27 **VOTING AT GENERAL MEETINGS**

Each Member State in attendance through its State Delegate or Proxy shall, subject to this Constitution, be entitled to vote at General Meetings. No other Member shall be entitled to vote, but shall subject to this Constitution have, and be entitled to exercise, those rights set out in **clause 14.1**. The number of votes per Member State shall be determined by having regard to the amount of capitation funding (or its replacement funding policy referable to participation models across all member jurisdictions) paid to Volleyball Australia by a Member State in the prior financial year. Each Member State shall be ranked in order, with 1 representing the Member State paying the greatest in capitation fees (or its replacement policy) to the Company in the prior Financial Year, 2 representing the Member State paying the next greatest in capitation fees (or its replacement policy) to the Company in the prior Financial Year and so on. The Member States shall be entitled to the following number of votes based on their capitation fee ranking:

- (a) the Member States ranked 1, 2 and 3 shall be entitled to 4 votes;
- (b) the Member States ranked 4, 5 and 6 shall be entitled to 3 votes; and
- (c) the remaining Member States shall be entitled to 2 votes.

28 **PROXY VOTING**

28.1 **Appointment of proxies**

The instrument appointing a proxy shall be in writing under seal or under the hand of an officer or attorney duly authorised by the Member State. Any proxy so appointed shall stand in the place of the State Delegate appointed by the Member State pursuant to **clause 20**. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member State shall be entitled to instruct its proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as he thinks fit.

28.2 **Proxy form**

The instrument appointing a proxy may be in the following form or in a common or usual form:

"..... [date]

..... [name of Member State]

of..... [address of Member State]

being a Member State of VOLLEYBALL AUSTRALIA LTD hereby appoints

..... of ..... or failing him/her

..... of ..... as proxy to vote on its behalf at the  
(annual or special as the case may be) general meeting of the Company, to be held on the ..... day  
of ..... 20...  
and at any adjournment thereof.

The proxy is hereby authorised to vote \*in favour of/against the following resolutions:

Signed this ..... day of .....20....

(Note - in the event of the Member State desiring to vote for or against any resolution, it shall instruct its proxy accordingly. Unless otherwise instructed, the proxy may vote as he/she thinks fit.)

\* Strike out whichever is not desired."

28.3 **Proxy form and power of attorney to be deposited before meeting**

The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a duly certified copy of that power or authority shall be deposited at the registered office of the Company, faxed to the registered office or deposited at, faxed or sent by electronic mail to such other place as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in that instrument proposes to vote, or in the case of a poll, not less than twenty-four hours before the time appointed for the take of the poll and in default the instrument or proxy shall not be treated as valid.

28.4 **Validity of proxy vote**

A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous revocation of the instrument or of the authority under which the instrument was executed if no intimation in writing of such revocation as aforesaid has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.

## PART V – THE BOARD

### 29 FIRST BOARD

- 29.1 The first Directors, who have consented in writing, will be those individuals named in the application to register the Company, and who were the five Interested Directors (hereafter referred to as “Elected Directors”) and the two Independent Directors of the Association at the time of the voluntary transfer of incorporation. They shall constitute the first Board.
- 29.2 The first Board may appoint two (2) additional Elected Directors in accordance with **clause 34.3(a)** prior to the first Annual General Meeting of the Company in 2014, and any persons so appointed shall also form part of the first Board, so that the first Board would then be comprised of a maximum of nine (9) Directors.
- 29.3 The two (2) Elected Directors who were elected at the AGM of the Association in 2012 shall hold office until the conclusion of the Annual General Meeting of the Company in 2014 but shall be eligible for re-election. The three (3) Elected Directors who were elected at the AGM of the Association in 2013 shall hold office until the conclusion of the Annual General Meeting of the Company in 2015 but shall be eligible for re-election. Any persons appointed as Elected Directors pursuant to **clause 29.2**, provided the appointments are confirmed at the Annual General Meeting of the Company in 2014, shall hold office until the conclusion of the Annual General Meeting in 2016 but shall be eligible for re-election. Thereafter Elected Directors are elected for a term of three (3) years pursuant to **clause 32.3**. A rotation of Elected Directors is thereby established with approximately one third of the Elected Directors retiring each year.

The Independent Director who was appointed by the Elected Directors of the Association in 2012 shall hold office until six weeks after the conclusion of the Annual General Meeting of the Company in 2014. The remaining Independent Director shall hold office until six weeks after the conclusion of the Annual General Meeting in 2016, to allow for a rotation of Independent Directors.

### 30 POWERS OF THE BOARD

Subject to the Act and this Constitution the business of the Company shall be managed, and the powers of the Company shall be exercised, by the Board. In particular, the Board as the controlling authority of the Company shall be responsible for acting on all national issues in accordance with the objects of the Company and shall operate for the collective and mutual benefit of the Company, the Members and the sport of volleyball throughout Australia and shall:

- (a) govern the sport of volleyball in Australia in accordance with the objects of the Company;
- (b) determine major strategic directions of the Company;
- (c) determine policies;
- (d) review the Company’s performance in achieving its pre-determined aims, objectives and policies; and
- (e) manage international responsibilities.

### 31 COMPOSITION OF THE BOARD

#### 31.1 Board Composition

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The Board shall comprise:

- (a) Seven (7) Elected Directors elected by the Member States in accordance with **clause 32**;
- (b) Two (2) Independent Directors who may be appointed in accordance with **clause 33**.

**31.2 President and Vice President**

The positions of President and Vice-President shall be appointed by the Board from amongst the Directors as soon as practicable after each Annual General Meeting. The Directors may appoint a second Vice President at their discretion, in which case at least one Vice President must be female. The appointee will hold the position until the conclusion of the next Annual General Meeting following their appointment. A Director may be re-appointed as President or Vice-President.

**32 ELECTION OF ELECTED DIRECTORS**

**32.1 Qualifications for Elected Directors**

- (a) Nominees for Elected Director positions on the Board must meet the qualifications as prescribed from time to time by the Board and set out in this Constitution or in By-Laws.
- (b) Nominees for Elected Director positions on the Board must declare any position they hold in a Member State, including as an office bearer, director or a paid appointee. If the nominee is elected they must resign from their position in the Member State, including but not limited to a position as officer, director or a paid appointee.
- (c) A person who has served as the Chief Executive Officer or Auditor of the Company can not be nominated for an Elected Director position within three (3) years of the end of their period of service unless the person was only serving as an acting Chief Executive Officer whilst the position was vacant in which case the restriction shall not apply.

**32.2 Elections of Elected Directors**

- (a) The Chief Executive Officer shall call for nominations sixty (60) days before the date of the Annual General Meeting. All Member States shall be notified of the call for nominations.
- (b) Nominations for Elected Directors must be:
  - (i) in writing;
  - (ii) on the prescribed form (if any) provided for that purpose;
  - (iii) signed by a Member State; and
  - (iv) certified by the nominee (who must be a Member) expressing his or her consent to accept the position for which he or she is nominated.
- (c) Nominations must be received by the Chief Executive Officer at least forty five (45) days prior to the Annual General Meeting.
- (d) If the number of nominations received for the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be declared elected at the Annual General Meeting and further nominations shall be called for at the Annual General Meeting from the floor.
- (e) If the number of nominations exceeds the number of vacancies to be filled, the Chief Executive Officer shall advise of (whether by way of voting papers, electronic means or otherwise) the names of the nominees in alphabetical order. The election shall be

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determined by secret ballot.

- (f) Vote counting by exhaustive preference
  - (i) Election of one person - If a nominee has received an absolute majority of the first preferences cast, that person is declared elected. If no nominee is in that position, the nominee with the lowest number of first preferences is eliminated, and a re-ballot conducted. If any nominee has an absolute majority of the first preferences cast at that stage (after the re-ballot), then that person is declared elected. If no nominee is in that position, then the nominee with the lowest number of first preference votes at that stage is eliminated and a further re-ballot conducted. This process is repeated until a nominee has an absolute majority of first preferences cast. If in the case of two nominees for the election of one person, there is a deadlock in the first preferences cast, there shall be a re-ballot. If there is a deadlock after the re-ballot, the election of the nominees shall be determined by lot.
  - (ii) Election of two or more persons – If any nominee has more than an absolute majority of the first preferences cast, that person is declared elected and is called the “first elected candidate”. If no nominee is in that position, elimination of nominees is carried out as described in **clause 32.2(f)(i)** above, until one nominee reaches the required absolute majority of votes and becomes the “first elected candidate”. Upon the first elected candidate being determined, new ballot papers shall be prepared with the names of the remaining nominees and the procedure set out in this **clause 32.2(f)(i)** repeated to ascertain the “second elected candidate”. This process is repeated until the required number of nominees have been elected. No nominee is declared elected until credited with the absolute majority of first preferences cast.

### 32.3 **Term of Appointment**

- (a) Elected Directors shall be elected in accordance with this Constitution for a term of three (3) years, which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the third Annual General Meeting following.
- (b) Approximately one third of the Elected Directors shall be elected in each year based upon the rotation system established by clause 29.3.
- (c) Should any adjustment to the term of Elected Directors elected under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. Elections to subsequent Boards shall then proceed in accordance with the procedures in this Constitution with approximately one third of the Board retiring each year.

## 33 **APPOINTMENT OF INDEPENDENT DIRECTORS**

### 33.1 **Appointment of Independent Directors**

The Elected Directors may appoint 2 Independent Directors. Any person that the Directors propose to appoint as an Independent Director must provide a signed consent to act as a Director prior to their appointment as required by the Act.

### 33.2 Qualifications for Independent Directors

The Independent Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which compliment the Board composition, but need not have experience in or exposure to volleyball. They do not need to be Members of the Company. A person who has served as the Chief Executive Officer or Auditor of the Company can not be appointed as an Independent Director within three (3) years of the end of their period of service unless the person was only serving as an acting Chief Executive Officer whilst the position was vacant in which case the restriction shall not apply.

### 33.3 Term of Appointment

- (a) Independent Directors may be appointed by the Elected Directors in accordance with this Constitution for a term of three (3) years, which shall commence six weeks after the Annual General Meeting until six weeks after the conclusion of the third Annual General Meeting following.
- (b) Only one Independent Director, if any, may be appointed in any year so that there is a rotation of Independent Directors.
- (c) Should any adjustment to the term of Independent Directors appointed under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. Appointments to subsequent Boards shall then proceed in accordance with the procedures in this Constitution with approximately one third of the Board retiring each year.

## 34 VACANCIES OF BOARD MEMBERS

### 34.1 Grounds for Termination of Director

In addition to the circumstances (if any) in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) resigns his office in writing to the Company;
- (e) is absent without the consent of the Board from 3 consecutive meetings of the Board;
- (f) holds any office of employment of the Company;
- (g) without the prior consent or later ratification of the Members in General Meeting holds any office of profit under the Company;
- (h) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of his interest;
- (i) is suspended or expelled from membership of his Member State without further course under this Constitution or the rules of the Member State or otherwise loses or is disqualified from the qualification on which his appointment was based; or
- (j) is removed from office by Resolution under **clause 34.2**.

#### 34.2 **Removal of a Director**

- (a) Subject to the Act, the Company in a General Meeting may by Resolution remove any Director, before the expiration of their term of office. If a Director is removed in accordance with this clause the office of the Director becomes vacant and shall be filled in accordance with the procedure set out in **clause 34.3**.
- (b) Subject to the Act, where the Director to whom a proposed resolution referred to in **clause 34.2(a)** makes representations in writing to the Chief Executive Officer and requests that such representations be notified to the Members, the Chief Executive Officer may send a copy of the representations to each Member State or, if they are not so sent, the Director may require that they be read out at the meeting, and the representations shall be so read.

#### 34.3 **Casual Vacancies**

- (a) Any Elected Director casual vacancy may be filled by the remaining Directors from among persons who satisfy the qualifications for Elected Directors in accordance with **clause 32.1**. Any person that the Directors propose to appoint pursuant to this clause must provide a signed consent to act as a Director prior to their appointment. Any Elected Director so appointed shall hold office only until the conclusion of the next following Annual General Meeting when they shall retire but they shall be eligible for election.
- (b) Any Independent Director casual vacancy may be filled by the remaining Directors from among persons who satisfy the qualifications for Independent Directors in accordance with **clause 33.2**. Any person that the Directors propose to appoint pursuant to this clause must provide a signed consent to act as a Director prior to their appointment. Any Independent Director so appointed shall hold office only until six weeks after the conclusion of the next following Annual General Meeting when they shall retire but they shall be eligible for re-appointment.

#### 34.4 **Remaining Directors May Act**

In the event of a casual vacancy or vacancies in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum in accordance with **clause 34.3**.

### 35 **MEETINGS OF THE BOARD**

#### 35.1 **Board to Meet**

The Board shall meet as often as is deemed necessary but at least five (5) times in every calendar year for the dispatch of business and may adjourn and, subject to this Constitution otherwise regulate, its meetings as it thinks fit. The Chief Executive Officer shall, on the requisition of 3 Directors, convene a meeting of the Board within a reasonable time.

#### 35.2 **Decisions of Board**

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and all questions so decided shall for all purposes be deemed a determination of the Board. All Directors shall have 1 vote on any question. The Chief Executive Officer shall not

be entitled to vote. The Chair shall also have a casting vote where voting is equal.

35.3 **Resolutions not in Meeting**

The Directors may pass a resolution without a meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of the document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

35.4 **Meetings using Technology**

Without limiting the power of the Board to regulate their meetings as they think fit, a meeting of Board may be held where 1 or more of the Directors is not physically present at the meeting, provided that:

- (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of communication;
- (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board and such notice specifies that Directors are not required to be present in person;
- (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this article to be held, then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated;
- (iv) any meeting held where 1 or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the Chairperson of the meeting is located.

35.5 **Quorum**

At meetings of the Board the number of Directors whose presence (or participation under **clause 35.4**) is required to constitute a quorum is 50% plus 1 of the number of Directors, but in any case no less than 4 Directors.

35.6 **Notice of Board Meetings**

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than 7 days' written notice of the meeting of the Board shall be given to each Directors. The agenda shall be forwarded to each Director not less than 3 days prior to such meeting.

35.7 **Validity of Board Decisions**

A procedural defect in decisions taken by the Board shall not result in such decision being invalidated.

35.8 **President to Preside**

The President shall preside as Chair at every meeting of the Board, If the President is not present,

or is unwilling or unable to preside, the Vice President shall preside as chair for that meeting only. If the Vice President is not present, or is unwilling or unable to preside, the Directors shall choose one of their number to preside as chair for that meeting only.

## 36 CONFLICTS

### 36.1 Directors' Interests

A Director is disqualified by holding any place of profit or position of employment in the Company, any Member State or in any company or incorporated association in which the Company is a shareholder or otherwise interested or from contracting with the Company either as vendor, purchaser or otherwise except with express resolution of approval of the Board. Any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested will be voided for such reason.

### 36.2 Conflict of Interest

A Director shall declare his interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) disciplinary matter; or
- (d) other financial matter;

in which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent himself from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Director votes, the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a Director to absent himself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

### 36.3 Disclosure of Interests

The nature of the interest of such Director must be declared by the Director at the meeting of the Board at which the contract or other matter is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a contract or other matter after it is made or entered into the declaration of the interest must be made at the first meeting of the Board held after the Director becomes so interested.

### 36.4 General Disclosure

A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **clause 36.3** as regards such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

### 36.5 Recording Disclosures

It is the duty of the Chief Executive Officer to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with **clause 36.3 and 36.4**.

## 37 CHIEF EXECUTIVE OFFICER

### 37.1 Appointment of Chief Executive Officer

The Chief Executive Officer shall be appointed by the Board for such term and on such conditions as it thinks fit. To be clear, the Chief Executive Officer of the Association at the time of the voluntary transfer of incorporation shall continue as the Chief Executive Officer of the Company on the same terms and conditions. The Chief Executive Officer, shall be entitled to notice of, attend and participate in debate at, all meetings of the Board, but shall have no entitlement to vote.

### 37.2 Chief Executive Officer to Act as Secretary

The Chief Executive Officer shall act as and carry out the duties of secretary (and unless prohibited by law), public officer of the Company and shall administer and manage the Company in accordance with this Constitution.

### 37.3 Specific Duties

The Chief Executive Officer shall:

- (a) as far as practicable attend all Board meetings and General Meetings;
- (b) prepare the agenda for all Board meetings and all General Meetings;
- (c) record and prepare minutes of the proceedings of all meetings of the Board and the Company; and
- (d) regularly report on the activities of, and issues relating to, the Company.

### 37.4 Broad Power to Manage

Subject to the Act, this Constitution, the By-Laws and any directive of the Board, the Chief Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of the Company. No resolution passed by the Company in General Meeting shall invalidate any prior act of the Chief Executive Officer or the Board which would have been valid if that resolution had not been passed.

### 37.5 Chief Executive Officer may Employ

The Chief Executive Officer, in consultation with the Board, may employ such office personnel as are deemed necessary from time to time and such appointments shall be for such period and on such conditions as the Chief Executive Officer and the Board determine.

## PART VI - MISCELLANEOUS

## 38 DELEGATIONS

### 38.1 Board may Delegate Functions

The Board may by instrument in writing create or establish or appoint from among its own members, the Members, or otherwise, committees, commissions, individual officers or consultants to carry out such duties and functions, and with such powers, as the Board determines.

**38.2 Delegation by Instrument**

The Board may in the establishing instrument delegate such functions as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board or the Chief Executive Officer by the Act or any other law, or this Constitution or by resolution of the Company in General Meeting.

**38.3 Delegated Function Exercised in Accordance With Terms**

A function, the exercise of which has been delegated under this clause, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

**38.4 Procedure of Delegated Entity**

The procedures for any delegated entity shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **clause 35**. The quorum shall be determined by the delegated entity, but shall be no less than one half of the total number of the delegated entity members.

**38.5 Delegation may be Conditional**

A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

**38.6 Revocation of Delegation**

The Board may by instrument in writing, revoke wholly or in part any delegation made under this clause, and may amend, repeal or veto any decision made by such body or person under this clause only where such decision is clearly contrary to this Constitution, the By-Laws, the Act, the objects of the Company or the delegation to the delegated entity.

**39 BY-LAWS**

**39.1 Board to Formulate By-Laws**

The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such by-laws, regulations and policies ("By-Laws") for the proper advancement, management and administration of the Company, the advancement of the objects of the Company and the sport of volleyball as it thinks necessary or desirable. Such By-Laws must be consistent with this Constitution, Charter, and any policy directives of the Board.

**39.2 By-Laws Binding**

All By-Laws made under this clause shall be binding on the Company and Members.

**39.3 By-Laws Deemed Applicable**

All rules, by-laws and regulations of the Association in force at the date of the voluntary transfer of incorporation insofar as such rules and regulations are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-Laws of the Company under this clause.

39.4 **Notices Binding on Members**

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Member States by means of notices approved by the Board and prepared and issued by the Chief Executive Officer. Member States shall be obliged to draw such notices to the attention of their respective Members. Notices are binding upon all Members.

40 **RECORDS AND ACCOUNTS**

40.1 **Chief Executive Officer to Keep Records**

The Chief Executive Officer shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Company and the Board and shall produce these as appropriate at each Board meeting or General Meeting.

40.2 **Records Kept in Accordance with Act**

Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct. The books of account shall be kept in the care and control of the Chief Executive Officer.

40.3 **Company to Retain Records**

The Company shall retain such records for 7 years after the completion of the transactions or operations to which they relate.

40.4 **Board to Submit Accounts**

The Board shall submit to the Annual General Meeting the accounts of the Company in accordance with this Constitution and the Act.

40.5 **Accounts Conclusive**

The accounts when approved or adopted by an Annual General Meeting shall be conclusive except as regards any error discovered in them within 3 months after such approval or adoption.

40.6 **Accounts to be Sent to Members**

The Chief Executive Officer shall cause to be sent to all persons entitled to receive notice of Annual General Meetings of the Company in accordance with this Constitution, a copy of the accounts, the Board's report, the auditor's report and every other document required under the Act (if any).

40.7 **Negotiable Instruments**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such other manner and by such persons the Board determines.

41 **AUDITOR**

41.1 A properly qualified auditor or auditors shall be appointed and the remuneration of such auditor or auditors fixed by the Board. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with generally accepted principles, or any applicable code of conduct.

41.2 The accounts of the Company including the profit and loss accounts and balance sheet shall be examined by the auditor or auditors at least once in every year.

## 42 NOTICE

### 42.1 Manner of Notice

- (a) Notices may be given by the Chief Executive Officer to any Member by sending the notice by post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected 3 days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected on the same day as transmission.

### 42.2 Notice of General Meeting

Notice of every General Meeting shall be given in the manner authorised and to the persons entitled to receive notice under this Constitution.

### 42.3 Notice to Participants and State Affiliates

Notice to Individual Members or State Affiliates (where appropriate or required) shall be deemed given by notice being given in accordance with this Constitution to the Member State of that Individual Member or State Affiliate.

## 43 SEAL

### 43.1 Common seal optional

The Board may provide for the Company to have a common seal which must only be used with the authority of the Board or of a sub-committee of Directors authorised by the Board in that behalf.

### 43.2 Affixing the seal

The Company may execute a document (including a Deed) using a seal if the seal is affixed to the document and the affixing of the seal is witnessed by:

43.2.1 two (2) Directors; or

43.2.2 a Director and a Secretary.

### 43.3 Execution of documents without seal

The Company may execute a document (including a Deed) without using a seal if the document is signed by:

43.3.1 two (2) Directors; or

43.3.2 a Director and a Secretary.

#### 43.4 **Other ways of executing documents**

Notwithstanding **clauses 43.2 and 43.3**, a document (including a Deed) may also be signed by the Company in any other manner permitted by law.

#### 43.5 **Director's Interest**

A Director may not sign a document where the Director is interested in the contact or arrangement to which the document relates.

### 44 **PATRONS AND VICE PATRONS**

The Company at its Annual General Meeting may appoint on the recommendation of the Board a Chief Patron and such number of Patrons and Vice-patrons as it considers necessary.

### 45 **ALTERATION OF CONSTITUTION**

This Constitution shall not be altered except by Special Resolution.

### 46 **INDEMNITY**

#### 46.1 **Indemnity for Directors, Secretaries and other officers**

Subject to the Act and to the extent permitted by law, the Company must indemnify every person who is or has been a Director, the Secretary or another officer of the Company against a liability:

46.1.1 incurred by any such person acting in that capacity to a person other than the Company or a related body corporate where the liability does not arise out of a lack of good faith;

46.1.2 for the costs and expenses incurred by any such person:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the court grants relief to him or her under the Act.

#### 46.2 **Indemnity for employees**

Every employee who is not the Secretary or another officer of the Company may be indemnified, unless prohibited by law, out of the property of the Company against a liability:

46.2.1 incurred by the employee acting in that capacity;

46.2.2 for the costs and expenses incurred by him or her:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which he or she is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under Act.

## 47 INSURANCE

### 47.1 Insurance for Directors, Secretaries and other officers

Subject to the Act, the Company may pay insurance premiums in respect of insurance for the benefit of a Director, Secretary or another officer of the Company acting in that capacity against:

- 47.1.1 costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
- 47.1.2 a liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Act dealing with improper use of inside information or position.

### 47.2 Insurance for others

The Company may pay insurance premiums in respect of insurance for the benefit of the auditor or an employee of the Company who is not a Secretary or another officer of the Company concerned in the management of the Company.

## 48 INTERNATIONAL REGULATIONS AND INCONSISTENCY

### International Volleyball Federation

Subject to the Act and to the extent permitted by Australian law, for so long as the Company remains affiliated or otherwise under the auspices of or associated with the Federation Internationale de Volleyball (“FIVB”), it shall act in accordance with the constituent documents, rules, regulations and policies of the FIVB, to the extent that the same applies to the Company. Subject to the Act and to the extent permitted by Australian law, in the event of any conflict or inconsistency between such constituent documents, rules and regulations, or any of them, then the following order of precedence shall apply in order to resolve such conflict or inconsistency:

- 48.1 FIVB; and
- 48.2 Company.

## PART VII - INTERPRETATION

## 49 DEFINITIONS AND INTERPRETATION

### 49.1 Definitions

In this Constitution unless the contrary intention appears, these words shall have the following meanings:

“**Act**” means the *Corporation Act 2001* (Cth) as amended from time to time.

“**Association**” means the former incorporated Association with the name Australian Volleyball Federation Incorporated, the incorporation of which was voluntarily transferred to the Company.

“**Board**” means the body consisting of the Directors under **clause 31**.

“**By-Law**” means any by-law, regulation or policy made by the Board under **clause 39**.

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“**Charter**” means the agreement between the Member State and the Company in relation to the respective rights and obligations of each party.

“**Chief Executive Officer**” means the person who is appointed under this Constitution to carry out the duties set out in **clause 37** (howsoever described).

“**Company**” means Volleyball Australia Ltd ACN 601 234 888.

“**Director**” means a member of the Board elected or appointed in accordance with this Constitution and includes the Independent Directors and Elected Directors, but does not include the Chief Executive Officer.

“**Elected Director**” means a Director elected under **clause 32**.

“**Financial Year**” means the year commencing 1 July and ending 30 June in any year.

“**General Meeting**” means the annual or any special general meeting of the Company.

“**Independent Director**” means a Director appointed under **clause 33**.

“**Individual Member**” means a registered financial individual member of a Member State.

“**Intellectual Property**” means all rights or goodwill subsisting in copyright, business names, names, trade marks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to the Company or any Event, competition or volleyball activity of or conducted, promoted or administered by the Company.

“**Life Member**” means an individual upon whom Life Membership of the Company has been conferred under **clause 14.4**.

“**Member**” means a member for the time being of the Company under **Part III** of this Constitution.

“**Member State**” means an entity recognised under **clause 12.1** to administer the sport of volleyball in its particular State or Territory.

“**Official**” means any administrator, coach, umpire, team manager, scorer, statistician or other person who has a position as an official in the sport of volleyball.

“**Seal**” means the common seal of the Company..

“**Special Resolution**” means a resolution passed:

- (a) at a General Meeting of the Company of which 21 days notice, accompanied by notice of intention to propose resolution as a special resolution, and stating the resolution has been given to the Member in accordance with this Constitution; and
- (b) by at least three quarters of votes of those Member States who, being entitled to vote, vote in person or by proxy at the meeting.

“**State**” means a State of Australia and includes the Territories of Australia.

“**State Acts**” means the state associations incorporation legislation (by whatever name called) governing the Members.

**“State Affiliates”** means organisations (whether incorporated, unincorporated or otherwise) affiliated as members of Member States.

**“State Delegate”** means the persons elected or appointed from time to time by a Member State to act for and on behalf of that Member State and represent the Member State at General Meetings.

#### 49.2 Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

#### 49.3 Severance

If any provision of this Constitution or any phrase contained in them is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If the clause or phrase can not be so read down it shall be severed to the extent of the invalidity or unenforceability. Such severance shall not affect the remaining provisions of this Constitution or affect the validity or enforceability of any provision in any other jurisdiction.

#### 49.4 Expressions in Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act.

#### 49.5 Replaceable Rules

Except to the extent that is contained in any provision of this Constitution the replaceable rules referred to in the Act do not apply to the Company.

Registered in the Office of the Australian Securities and Investments Commission on the 22nd day of February 2019.

Australian Securities and Investments Commission