



# CONSTITUTION

Diamond Valley Basketball Association Incorporated

## DIAMOND VALLEY BASKETBALL ASSOCIATION INC.

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**DATE:** 23 July 2020

**Amended:** 24 August 2021

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# Diamond Valley Basketball Association Incorporated

## Constitution – Resolution passed date: 23 July 2020

(amended via special resolution: 24 August 2021)

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### 1. Name

The name of the incorporated association is Diamond Valley Basketball Association Incorporated and is hereinafter referred to as the “Association”.

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### 2. Objectives

2.1 The objectives of the Association shall be to:

- (a) represent the interests of basketball and all involved in basketball within the Association, the Diamond Valley region and at state and national level;
- (b) provide individuals with opportunities to maximise their potential by competing in the highest level of basketball possible, given their own ability; and
- (c) promote, develop and encourage participation in the sport of basketball.

2.2 In pursuit of these objectives, the Association will seek to:

- (a) provide support and assistance for clubs and teams in all areas of their operations;
  - (b) encourage and support member junior clubs and foster their growth and development;
  - (c) choose and manage teams to represent the Association;
  - (d) affiliate with Basketball Victoria and actively promote, foster and develop state basketball;
  - (e) seek sponsorship for various programs and events and endorse products that will be consistent with projecting the best image of the sport; and
  - (f) deal with any other matters that the Association may deem to be in the interest of the sport of basketball.
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### 3. Powers of the Association

3.1 To acquire, hold, deal with and dispose of any real or personal property for the purpose of satisfying the Objectives of the Association;

3.2 To open and operate bank accounts;

3.3 To invest its money:

- (i) in any security in which trust monies may be invested; or
- (ii) in any other manner authorised by the Rules of the Association:

3.4 To borrow money for capital works for the purpose of satisfying the Objectives of the Association upon such terms and conditions as the Association thinks fit;

3.5 To give such security for the discharge of liabilities incurred by the Association on its behalf for reward or otherwise;

- 3.6 To build construct, erect, maintain, alter and repair any premises, building or the other structure of any kind and to furnish, equip and improve the same for use by the Association for the purpose of satisfying the Objectives of the Association;
  - 3.7 Accept donations and gifts in accordance with the Objectives of the Association;
  - 3.8 Print and publish any approved information by any media, whether in print or electronic, including newsletters, newspapers, articles or leaflets for promotion of the Association;
  - 3.9 Provide gifts and prizes in accordance with the Objectives of the Association;
  - 3.10 Organise social events for members and the promotion of the Association;
  - 3.11 To enter into any other contract the Association considers necessary or desirable for the purpose of satisfying the Objectives of the Association:
  - 3.12 Appoint such Board and sub-committees as from time to time are considered necessary for the good conduct of the affairs of the Association;
  - 3.13 Provide By-laws and their updates and edits as the Association sees fit from time to time that govern the conduct of the Association's activities; and
  - 3.14 Otherwise do all things which are incidental to or necessary for the attainment of the Objectives of the Association.
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#### **4. Definitions**

- 4.1 In these Rules, unless the contrary intention appears –

"Act" means the Associations Incorporation Reform Act 2012;

"Board" means the Board of the Association;

"By-laws" means the playing conditions set by the Board for the conduct of domestic competition;

"Director" means a member of the Board, as appointed to the positions set out in these Rules;

"Elected Director" means an Office Bearer or Ordinary Director elected to the Board by the Members of the Association in accordance with these Rules;

"Financial Report" means a report within the meaning of these Rules;

"Financial year" means the year ending on 31 December;

"General Meeting" means a general meeting of members convened in accordance with these Rules;

"Incorporated Association" has the same meaning as in the Act;

"Individual Player" refers to any unique player in a team and/or club as determined by the Board or the By-laws of the Association;

"Member" means member of the membership categories as defined in Rule 7;

"Office Bearer" means a Director of the Board elected to the position of: President, Vice-President, Secretary or Treasurer

"Ordinary Director" means an elected Director that is not an Office Bearer as defined in these Rules;

"Objectives" means the powers of the Association as set out in Rule 2;

"Regulations" means regulations under the Act;

"Relevant documents" has the same meaning as in the Act;

"Rules" means the rules of the Association as set out in the terms of this Constitution;

“Secretary” means person on the Board holding that office and responsible for the administrative management of the Association;

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## **5. Alteration of the Rules**

These Rules and Objectives of the Association must not be altered except in accordance with the Act.

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## **6. Not for profit organisation**

6.1 The Association must not distribute any surplus, income or assets directly or indirectly to its members.

6.2 Rule 6.1 does not prevent the Association from paying a member:

- (a) reimbursement for expenses properly incurred by the member; or
- (b) for goods or services provided by the member

if this is done in good faith on terms no more favourable than if the member was not a member.

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## **7. Membership**

### 7.1 Membership Categories

Membership of Diamond Valley Basketball Association Inc shall consist of Life Members, registered financial Junior Domestic Clubs, registered financial Senior Domestic Teams.

### 7.2 Junior Domestic Clubs

- (a) Junior Domestic Clubs (hereinafter referred to as "Club or Clubs") shall consist of a minimum of three (3) teams that participate in the Association's Junior Domestic Competition.
- (b) A registered Club shall be deemed a club that is an Incorporated Association and financial with the Association at least seven (7) days prior to the Annual General Meeting.
- (c) A Club shall cease to be a member when it enters fewer than three (3) teams in a playing season, without approval from the Board.
- (d) The Votes of each Junior Domestic Club will be calculated in accordance with Rule 7.6. Each Junior Domestic Club will be represented at a meeting of the Association by a Club Delegate as defined in Rule 9.
- (e) The maximum number of votes that a Junior Domestic Club can have at any particular meeting is capped at 25 votes.
- (f) The number of Individual Players attributed to Junior Domestic Clubs will be determined as at the end of the most recently completed regular season of domestic basketball run by the Association, as determined by the Board of the Association.

### 7.3 Senior Domestic Teams

- (a) Senior Domestic Teams (hereinafter referred to as "Team" or "Teams") are teams that participate in the Association's Senior Domestic Competitions.
- (b) A registered Team shall be deemed a team that is financial at least seven (7) days prior to the Annual General Meeting.
- (c) A Team shall cease to be a member when it fails to enter a Team in a playing season.

- (d) The Votes of each Senior Domestic Team will be calculated in accordance with Rule 7.6. Each Senior Domestic Team will ordinarily be represented at a meeting of the Association by a contact person as listed on the Team registration form.
- (e) The number of Individual Players attributed to Senior Domestic Teams will be determined as at the end of the most recently completed regular season of domestic basketball run by the Association, as determined by the Board of the Association.

#### 7.4 Life Members

Life Members of the Association may be elected at a General Meeting by a seventy-five per cent (75%) majority of eligible votes.

- (a) Written notice of nomination of an individual for Life Membership must have been given to the Secretary of the Association at least seven (7) days prior to the General Meeting.
- (b) Any person may nominate an individual for Life Membership of the Association in accordance with rule 7.4 (a). Written notice of the nomination shall provide details of the candidate's service and attributes that deem them eligible for consideration as a Life Member.

Life Membership shall be restricted to those whose service to basketball and the Association has been exemplary.

- (c) The Life Membership nominations received shall be presented in a written report to Members, for their consideration, prior to the General Meeting.
- (d) Votes for Life Members shall be determined in accordance with Rule 7.6.
- (e) Individuals elected as Life Members at a General Meeting shall be notified by the Secretary not more than 14 days after their election.  
  
Public introduction of an elected Life Member may take place at a time and venue deemed appropriate by the Board.
- (f) By resolution of seventy-five per cent (75%) majority of eligible votes at a General Meeting of the Association, Life Membership may be cancelled.
- (g) Life Members shall be granted the privileges of free admission to all functions held by the Association and the right to attend and vote at General Meetings.
- (h) Life Members shall be awarded a badge of appropriate design.

#### 7.5 Creation of New Categories

The Board may, from time to time, 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 category of Members. No new category of membership created under this rule may be granted voting rights.

#### 7.6 Voting rights

Votes for members shall be determined by the following formulae:

- (a) Votes for Junior Domestic Clubs

$$VA = \frac{A}{(X + Y)} \times 90$$

Where:

- A = Number of Individual Players registered to teams of a particular Junior Domestic Club
- X = Sum of all the Individual Players registered to all Junior Domestic Clubs
- Y = Sum of all the Individual Players registered to all Senior Domestic Teams

VA = Votes for a particular Junior Domestic Club

(b) Votes for Senior Domestic Teams

$$VB = \frac{B}{(X + Y)} \times 90$$

Where:

B = Number of Individual Players registered to a particular Senior Domestic Team

X = Sum of all the Individual Players registered to all Junior Domestic Clubs

Y = Sum of all the Individual Players registered to all Senior Domestic Teams

VB = Votes for a particular Senior Domestic Team

(c) Votes for Life Members

$$VL = \frac{1}{Z} \times 10$$

Where:

VL = Votes for a particular Life Member

Z = Sum of all Life Members

(d) Any players that take a Club above the maximum number of votes referred to in Rule 7.2(e) will not be counted as Individual Players for the purpose of the calculations in this Rule 7.6.

(e) The Board will not generally have a vote at a meeting of the Association under these Rules. However, in the event of a tied vote, the Board will decide as a group (as per their own voting procedure) and will then have a single casting vote to decide the matter at hand.

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## 8. Register of Members

8.1 The Secretary must keep and maintain a register of Members containing:

- (a) the name and contact details of each Member in Rule 7.4.
- (b) Contact details, nominated Delegate details and office bearers (where applicable) for each Junior Domestic Club as described in Rule 7.2;
- (c) Contact details for each person listed on the Team registration form for each Senior Domestic Team as described in Rule 7.3;
- (d) postal address and contact details for persons listed on Team registration form; and
- (e) the date on which each Member's name was entered in the register.

8.2 The register is available for inspection free of charge by any Member upon request except that contact details will not be disclosed.

8.3 A Member may make a copy of entries in the register other than contact details of Members.



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## **9. Delegate**

- 9.1 The Member, other than a Life Member, is entitled to be represented at any Meeting of the Association by its Delegate.
- 9.2 The Association shall accept the appointment of a Delegate from each Member (as allowed by Rule 9.1). The Member must notify the Board in writing of the name of its Delegate. The Member may at any time, by giving seven (7) days written notice to the Board, withdraw its Delegate and replace the Delegate with another Delegate named in the Notice.
- 9.3 A Delegate is not entitled to attend or vote at any meeting or in any postal ballot on behalf of a Member unless all monies due and payable to the Association by the Member (of which they are the Delegate) has been paid.
- 9.4 All resolutions passed by the Association shall be conclusive and binding on all Members whether their Delegate was present or not and notwithstanding that a Delegate may have voted contrary to the wishes of the Member.
- 9.5 A Delegate cannot cast a vote on behalf of another Member or Delegate.

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## **10. Conditions of Membership**

- 10.1 The conditions of membership shall be as follows:
- (a) That the Member agrees to abide and be bound by these Rules and By-Laws of the Association, and to accept, comply with and enforce all decisions of the Association.
  - (b) That all Members shall manage their affairs in a manner that will not discredit basketball in Victoria and in accordance with the policies of the Association.
  - (c) That each Club submit to the Association for approval, prior to affiliation being granted, a copy of the Constitution of the Club (or advise that they operate under the 'Model Rules') and subsequent copies upon update.
  - (d) The Secretary of each Club shall keep and maintain a register of its members in which shall be entered the full name and address of each member. This register is available for inspection, free of charge, by the Association upon request; except that contact details will not be disclosed.
  - (e) The Team contact of each Team shall submit a registration form (in the manner required by the Association) with the details of each Team member, at the start of each new season.

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## **11. Discipline, Suspension and Expulsion of Members**

- 11.1 Subject to these Rules, if the Board is of the opinion that a Member has refused or neglected to comply with these Rules, or has been guilty of conduct unbecoming of a Member or prejudicial to the interests of the Association, the Board may, by resolution:
- (a) fine that Member an amount not exceeding \$500; or
  - (b) suspend that Member from membership of the Association for a specified period; or
  - (c) expel that Member from the Association.
- 11.2 A resolution of the Board under Rule 11.1 does not take effect unless:
- (a) at a meeting held in accordance with Rule 11.3, the Board confirms the resolution; and

- (b) if the Member exercises a right of appeal to the Association under this rule, the Association confirms the resolution in accordance with this rule.
- 11.3 A meeting of the Board to confirm or revoke a resolution passed under Rule 11.1 must be held not earlier than fourteen (14) days, and not later than twenty-eight (28) days, after notice has been given to the Member in accordance with Rule 11.4.
- 11.4 For the purposes of giving notice in accordance with Rule 11.3, the Secretary must, as soon as practicable, cause to be given to the Member a written notice:
- (a) setting out the resolution of the Board and the grounds on which it is based; and
  - (b) stating that the Member or the Member's representative, may address the Board at a meeting to be held not earlier than fourteen (14) days and not later than twenty-eight (28) days after the notice has been given to that Member; and
  - (c) stating the date, place and time of that meeting; and
  - (d) informing the Member that they may do one or both of the following-
    - (i) attend that meeting personally or by a representative;
    - (ii) give to the Board, before the date of that meeting, a written statement seeking the revocation or diminution of the resolution;
  - (e) informing the Member that, if at that meeting, the Board confirms the resolution, they may, not later than forty-eight (48) hours after that meeting, give the Secretary a notice to the effect that they wish to appeal to the Association in a General Meeting against the resolution.
- 11.5 At a meeting of the Board to confirm or revoke a resolution passed under Rule 11.1, the Board must:
- (a) give the Member, or their representative, an opportunity to be heard; and
  - (b) give due consideration to any written statement submitted by the Member; and
  - (c) determine by resolution whether to confirm or to revoke the resolution.
- 11.6 If at the meeting of the Board, the Board confirms the resolution, the Member may, not later than forty-eight (48) hours after that meeting, give the Secretary a notice to the effect that he, she or it wishes to appeal to the Association in a General Meeting against the resolution.
- 11.7 If the Secretary receives a notice under Rule 11.6, he or she must notify the Board and the Board must convene a General Meeting of the Association to be held within twenty-one (21) days after the date on which the Secretary received the notice.
- 11.8 At a General Meeting of the Association convened under Rule 11.7:
- (a) no business other than the question of the appeal may be conducted; and
  - (b) the Board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution; and
  - (c) the Member, or their representative, must be given an opportunity to be heard; and
  - (d) the Members present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- 11.9 A resolution is confirmed if, at the General Meeting, not less than two-thirds of the Members present vote in favour of the resolution. In any other case, the resolution is revoked.

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## **12. Fees**

- 12.1 The Board shall determine, from time to time:

- (a) the fees (including, but not limited to, registration team fees, game fees and any other levies), if any, that are payable by Members (or any category of Members) to the Association; and
  - (b) the basis of, the time due, and the manner of payment, of the fees created by Rule 12.1(a).
- 12.2 Any Member which or who has not paid all monies due and payable by the Member to the Association 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 at the Board's discretion. In the meantime, the Member shall have no automatic right to resign from the Association, and shall be dealt with at 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.
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### **13. Disputes and Mediation**

- 13.1 The grievance procedure set out in this rule applies to disputes under these Rules between-
- (a) a Member and another Member; or
  - (b) a Member and the Association.
- 13.2 The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all parties.
- 13.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within ten (10) days, hold a meeting in the presence of a mediator.
- 13.4 The mediator must be-
- (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement:
    - (i) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
    - (ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice and Community Safety).
- 13.5 A member of the Association can be a mediator.
- 13.6 The mediator cannot be a Member who is a party to the dispute.
- 13.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 13.8 The mediator, in conducting the mediation, must –
- (a) give the parties to the mediation process every opportunity to be heard; and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- 13.9 The mediator must not determine the dispute.
- 13.10 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.
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### **14. Annual General Meetings**

- 14.1 The Board may determine the date, time and place of the Annual General Meeting of the Association provided it is held within five (5) months of the end of the financial year or per allowances made by Consumer Affairs Victoria (or such body that replaces Consumer Affairs Victoria).
- 14.2 The notice convening the Annual General Meeting must specify that the meeting is an Annual General Meeting.
- 14.3 The ordinary business of the Annual General Meeting shall be –
- (a) to confirm the minutes of the previous Annual General Meeting and of any General Meeting held since that meeting;
  - (b) to receive from the Board, reports upon the transactions of the Association during the last preceding financial year including;
    - (i) President’s Report;
    - (ii) Secretary’s Report;
    - (iii) Financial Report (including Treasurer Statement, Profit & Loss, Balance Sheet and Auditor’s Report (if applicable));
  - (c) to elect the Directors of the Association;
  - (d) to appoint an Auditor for the forthcoming year (if applicable); and
  - (e) to transact any other business of which notice in writing shall have been given to the Secretary of the Association at least seven (7) days prior to the date of the meeting.
- 14.4 The Annual General Meeting may conduct any special business of which notice has been given in accordance with these Rules.
- 14.5 The Secretary of the Association shall give seven (7) days’ notice of the Agenda to Members and the Board.

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## **15. Special General Meetings**

- 15.1 In addition to the Annual General Meeting, other General Meetings may be held in the same year.
- 15.2 All General Meetings other than the Annual General Meeting are Special General Meetings.
- 15.3 The Board may, whenever it thinks fit, convene a Special General Meeting of the Association.
- 15.4 The Board must, on the request in writing of Members representing not less than twenty-five per cent (25%) of all Members, convene a Special General Meeting of the Association.
- 15.5 The request for a Special General Meeting must –
- (a) state the objectives of the meeting; and
  - (b) be signed by the members requesting the meeting; and
  - (c) be sent to the address of the Association.
- 15.6 If the Board does not cause a Special General Meeting to be held within one (1) month after the date on which the request is sent to the address of the Association, the Members making the request, or any of them, may convene a Special General Meeting to be held not later than three (3) months after that date.
- 15.7 If a Special General Meeting is convened by Members in accordance with this rule, it must be convened in the same manner so far as possible as a meeting convened by the Board and all reasonable expenses incurred in convening the Special General Meeting must be refunded by the Association to the persons incurring the expenses.

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## **16. Special Business**

All business that is conducted at a Special General Meeting and all business that is transacted at an Annual General Meeting, with the exception of that specially referred to in these rules as being the ordinary business of an Annual General Meeting, shall be deemed to be special business.

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## **17. Notice of General Meetings**

17.1 The Secretary of the Association must give to each Member of the Association –

- (a) at least twenty-one (21) days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
- (b) at least 14 days' notice of a general meeting in any other case.

17.2 The notice must –

- (a) specify the date, time and place of the meeting;
- (b) indicate the general nature of each item of business to be considered at the meeting; and
- (c) if a special resolution is to be proposed –
  - (i) state in full the proposed resolution; and
  - (ii) state the intention to propose the resolution as a special resolution.

17.3 Notice may be given –

- (a) By prepaid post to the address appearing in the register of Members; or
- (b) By facsimile transmission or electronic transmission; or
- (c) By placing the notice on the notice board of the stadium or on the Association website.

17.4 No business other than that set out in the notice convening the meeting shall be transacted at the meeting.

17.5 A Member desiring to bring any business before a meeting may give notice of that business in writing to the Secretary, who shall include that business in the notice calling the next General Meeting after the receipt of the notice.

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## **18. Quorum at General Meetings**

18.1 No item of business may be conducted at a General Meeting unless a quorum of members entitled under these Rules to vote is present at the time when the meeting is considering that item.

18.2 Members or Delegates of Members representing twenty-five percent (25%) of the votes constitutes a quorum for the conduct of the business of a General Meeting.

18.3 If, within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present-

- (a) in the case of a meeting convened upon the request of Members - the meeting must be dissolved; and
- (b) in any other case - the meeting shall stand adjourned to the same day in the next week at the same time and (unless another place is specified by the Chairperson at the time of the adjournment or by written notice to Members given before the day to which the meeting is adjourned) at the same place.

- 18.4 Notice of any adjourned meeting shall be posted on the notice board at the stadium.
- 18.5 If at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting must be dissolved.
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## **19. Presiding at General Meetings**

- 19.1 The President, or in the President's absence, the Vice-President, shall preside as Chairperson at each General Meeting of the Association.
- 19.2 If the President and the Vice-President are absent from a General Meeting, or are otherwise unable to preside, the Members present must select one of their number to preside as Chairperson.
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## **20. Adjournment of Meetings**

- 20.1 The person presiding may, with the consent of a majority of votes from Members present at the meeting, adjourn the meeting from time to time and place to place.
- 20.2 No business may be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- 20.3 If a meeting is adjourned for fourteen (14) days or more, notice of the adjourned meeting must be given in accordance with these Rules.
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## **21. Voting at General Meetings**

- 21.1 All Directors of the Association and all Members eligible to vote, including those voting via Delegates (as provided for in Rule 9) shall only be able to vote in accordance with their voting rights granted under these Rules, with particular attention to Rule 7.6, at the Annual General Meeting and Special General Meetings of the Association.
- 21.2 No proxy or postal votes will be allowed at any meeting of the Association.
- 21.3 A Member not physically present at a General Meeting may be permitted to participate in the meeting by the use of technology that allows that Member and the Members present at the meeting to clearly and simultaneously communicate with each other.
- 21.4 A Member participating in a General Meeting, as permitted under Rule 21.3 is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.
- 21.5 A secret ballot shall be held if at least one Delegate demands a secret ballot.
- 21.6 Always subject to Rule 21.5 above, at any General Meeting a resolution shall be decided by a show of hands (with appropriate tallying of Delegates holding multiple votes) or in such other way as the Chairperson decides is reasonably appropriate.
- 21.7 If, at a General Meeting, a ballot on any question is demanded by not less than ten (10) Members or their Delegates, it shall be taken at that meeting in such manner as the Chairperson may direct but two (2) scrutineers shall be appointed, by those present, to count the votes of the meeting on that question.
- 21.8 The decision will be taken by simple majority unless otherwise required.
- 21.9 In the event of a tie the Board vote provision from Rule 7.6(e) will be used to decide the matter.
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## **22. Manner of determining whether resolution carried**

- 22.1 If a question arising at a general meeting of the Association is determined on a show of hands, a declaration by the Chairperson that a resolution has been—
- (a) carried; or
  - (b) carried unanimously; or
  - (c) carried by a particular majority; or
  - (d) lost;

An entry to that effect in the minute book of the Association is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

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## **23. Poll at general meetings**

- 23.1 If at a meeting a poll on any question is demanded by a Member present and eligible to vote, it must be taken at that meeting in such manner as the Chairperson may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.
- 23.2 A poll that is demanded on the election of a Chairperson or on a question of an adjournment must be taken immediately and a poll that is demanded on any other question must be taken at such time before the close of the meeting as the Chairperson may direct.
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## **24. Board**

- 24.1 The affairs of the Association shall be managed by the Board.
- 24.2 The Board shall:
- (a) control and manage the business and affairs of the Association;
  - (b) subject to these Rules, the Act and the Regulations, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these Rules to be exercised by General Meetings of the Members of the Association; and
  - (c) subject to these Rules, the Act and the Regulations, has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Association.
- 24.3 The Board shall consist of:
- (a) the Office Bearers of the Association;
  - (b) any Ordinary Directors; and
  - (c) any Co-opted Directors.
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## **25. Directors**

- 25.1 The Office Bearers of the Association shall be--
- (a) a President;
  - (b) a Vice-President;
  - (c) a Treasurer; and
  - (d) a Secretary

- 25.2 The provisions of Rule 26, so far as they are applicable and with the necessary modifications, apply to and are in relation to the election of persons to any of the offices referred to in Rule 25.1.
- 25.3 Each Elected Director of the Association position is, subject to Rules 26.2 and 26.3, an office for a period of two (2) years. When a person's term of office has come to an end, they will relinquish the position at the end of the Annual General Meeting two (2) years after the date of their election. This person is eligible for re-election.
- 25.4 In the event of a casual vacancy on the Board, the Board may appoint another person to the vacant office. A person appointed in this way may continue in office up to and including the conclusion of the Annual General Meeting next following the date of the appointment.
- 25.5 The minimum number of Directors in office after an election is five (5) and the maximum after an election is nine (9). The Board may co-opt up to two (2) other persons to become Directors for a period which will not exceed the time to the next Annual General Meeting.
- 25.6 The Secretary of the Board is also notified as the Association Secretary to Consumer Affairs Victoria.
- 25.7 The Board must notify Consumer Affairs Victoria within fourteen (14) days of the appointment of a new Secretary.
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## **26. Election of Directors**

- 26.1 The Director positions of any Office Bearers and Ordinary Directors will be up for election from time to time in accordance with these Rules.
- 26.2 The Vice President, Treasurer and half (rounded down to the nearest whole number) of the Ordinary Directors will be elected in each odd calendar year. The President, Secretary and other Ordinary Directors will be elected in each even calendar year. If, for any reason, an Ordinary Director's term (as described in Rule 25.3) has ended, that Ordinary Director position will be considered vacant irrespective of how many other Ordinary Director positions are up for election.
- 26.3 The regular election schedule described in Rule 26.2 takes precedence over the term allowed in Rule 25.3.
- 26.4 The position of anyone appointed to fill a casual vacancy, such as mentioned in Rule 25.4, will also be up for election on top of the usual elections described in Rule 26.2
- 26.5 Nominations of candidates for election as Directors of the Association must be:
- (a) made in writing, signed by two (2) Members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
  - (b) delivered to the Secretary of the Association not less than seven (7) days before the date fixed for the holding of the Annual General Meeting.
- 26.6 A candidate may only be nominated for one position prior to the Annual General Meeting.
- 26.7 If no prior nomination is received for any vacancy, nominations may be called for at the meeting. As with written nominations, two (2) Members of the Association who are present must nominate a candidate at the meeting and the nominators shall be recorded in the minutes.
- 26.8 If only one nomination is received for any vacancy to be filled, either prior to the meeting or at the meeting, the candidate nominated shall be deemed elected.
- 26.9 If the number of nominations, received prior to the Annual General Meeting, for any vacancy exceeds one, a ballot shall be held at the meeting. If a person nominated for a position as a Director is defeated in that election, they may be nominated, at the Annual General Meeting, for any other position that is at that time not determined. Two (2) Members of the Association who are present must nominate the candidate at the meeting and the nominators shall be recorded in the minutes.
- 26.10 The ballot for the election of Directors must be conducted at the Annual General Meeting in such manner as the Board directs.



- 26.11 The number of new Ordinary Directors to be elected will be as needed to bring the number of Ordinary Directors to five (5).
- 26.12 A single election may be held to fill all of the Elected Director positions.
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## **27. Vacancies**

- 27.1 The office of a Director of the Association becomes vacant if the Director:
- (a) becomes subject to the provisions of the Bankruptcy Act; or
  - (b) resigns from office by notice in writing given to the Board; or
  - (c) is removed from office under Rule 34; or
  - (d) dies; or
  - (e) becomes a represented person within the Guardianship and Administration Act 2019.
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## **28. Meetings of the Board**

- 28.1 The Board must meet at least six (6) times in each year at such place and such times as the Board may determine.
- 28.2 Special meetings of the Board may be convened by the President or by any five (5) Directors.
- 28.3 Meetings of the Board may be conducted electronically whereby each Director is able to hear and be heard by all other Directors present. Directors present in any such electronic meeting shall be deemed to be physically present for the meeting.
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## **29. Notice of Board Meetings**

- 29.1 Notice of each Board meeting must be given to each Director at least five (5) business days before the date of the meeting.
- 29.2 Notice must be given to Directors of any special meeting specifying the general nature of the business to be conducted and no other business may be conducted at such a meeting.
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## **30. Urgent meetings**

- 30.1 In cases of urgency, a meeting can be held without notice being given in accordance with Rule 29 provided that as much notice as practicable is given to each Board member by the quickest means practicable.
- 30.2 Any resolution made at the meeting must be passed by an absolute majority of the Board.
- 30.3 The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.
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## **31. Quorum for Board Meetings**

- 31.1 Any four (4) Directors constitute a quorum for the conduct of the business of a meeting of the Board.
- 31.2 No business may be conducted unless a quorum is present.

- 31.3 If within half an hour of the time appointed for the meeting a quorum is not present:
- (i) in the case of a special meeting - the meeting lapses;
  - (ii) in any other case - the meeting shall stand adjourned to the same place and the same time and day in the following week.
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## **32. Presiding at Board Meetings**

- 32.1 The President, or in the President's absence, the Vice-President, shall preside as Chairperson at each Board meeting.
- 32.2 If the President and the Vice-President are absent from a Board meeting, or are otherwise unable to preside, the Directors present must select one of their number to preside as Chairperson.
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## **33. Voting at Board Meetings**

- 33.1 Questions arising at a meeting of the Board, or at a meeting of any sub-committee appointed by the Board, shall be determined on a show of hands or, if a member requests, by a poll taken in such manner as the person presiding at that meeting may determine.
- 33.2 Each Director present at a meeting of the Board, or at a meeting of any sub-committee appointed by the Board (including the person presiding at the meeting), is entitled to one vote and, in the event of an equality of votes on any question, the person presiding may exercise a casting vote.
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## **34. Removal of Director**

- 34.1 The Members may, by a resolution of seventy-five per cent (75%) of the Members present and eligible to vote at a General Meeting remove a Director from the Board.
- 34.2 A Director who is the subject of a proposed resolution referred to in Rule 34.1 may no later than seven (7) days prior to a General Meeting, at which a motion for removal is proposed, make representations in writing to the Secretary of the Association (not exceeding a reasonable length) and may request that the representations be provided to the Members of the Association.
- If the Secretary is the subject of the proposed resolution, they may make representations in writing to the President of the Association (not exceeding a reasonable length) and may request that the representations be provided to the Members of the Association.
- 34.3 The Secretary may give a copy of the representations to each Member of the Association or, if they are not so given, the Director may require that they be read out at the meeting.
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## **35. Conflict of interest**

- 35.1 The Association and its Directors acknowledge the responsibility in law, around and in relation to, disclosing and managing conflicts of interest. This Rule 35 is intended as a restatement of that legal duty in simple terms so that Members are aware of the requirements for the Directors of the Board.
- 35.2 A Director who has a material personal interest in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.
- (a) A Director with such a material personal interest must not:
    - (i) be present while the matter is being considered at the meeting;
    - (ii) must not vote on the matter; and

- (iii) if the Director votes, the vote shall not be counted.
  - (b) Despite 35.2(a)(i) a Director can be present for discussion if the Board, by majority, choose to call on the Director to be present.
  - (c) In the event of any uncertainty as to whether it is necessary for a Director to absent themselves from discussions and refrain from voting on an issue, the issue should immediately be determined by vote of the Board or, if this is not possible, the matter shall be adjourned or deferred.
- 35.3 Rule 35.2 does not apply to a material personal interest that:
- (a) exists only because the Director belongs to a class of persons for whose benefit the Association is established; or
  - (b) that the Director has in common with all, or a substantial proportion, of the Members.
- 35.4 A general notice that a Director is to be regarded as having a material personal interest in a matter being considered is sufficient declaration for the Director in relation to said matter. After such general notice it is not necessary for the Director to give a special notice relating to said matter.
- 35.5 It is the duty of the Secretary to record in the minutes any declaration of conflict of interest made or any general notice, as aforesaid, given by a Director in accordance with this Rule 35.
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## **36. Sub-committees**

Subject to its overall supervision, the Board may delegate the promotion and management of basketball to such sub-committees on such terms and conditions as it considers appropriate from time to time.

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## **37. Minutes of Meetings**

- 37.1 The Secretary of the Association must keep minutes of the resolutions and proceedings of each General Meeting and each Board meeting, together with a record of the names of Directors and other persons present at Board meetings and of each person present at General Meetings.
  - 37.2 In the Secretary's absence, the Chairperson may nominate another Director to keep minutes for that meeting in accordance with the procedure in rule 37.1.
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## **38. Funds**

- 38.1 The Treasurer of the Association (or their delegate) must –
    - (a) collect and receive all monies due to the Association and authorise all payments made by the Association; and
    - (b) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.
  - 38.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by the two (2) Directors of the Board or such other persons as it considers prudent.
  - 38.3 The funds of the Association shall be derived from entrance fees, annual subscriptions, donations and such other sources as the Board determines.
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## **39. Seal**

- 39.1 The common seal of the Association must be kept in the custody of the Secretary.
- 39.2 The common seal must not be affixed to any instrument except by the authority of the Board and the affixing of the common seal must be attested by the signatures either of two (2) Directors or, of one (1) Director and of one (1) other authorised person.
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#### **40. Notice to Members**

- 40.1 Except for the requirement in Rule 17, any notice that is required to be given to a Member, by or on behalf of the Association under these Rules, may be given by –
- (a) delivering the notice to the member personally;
  - (b) sending it by prepaid post addressed to the member at that member's address shown in the register of members;
  - (c) facsimile transmission; or
  - (d) electronic transmission.
- 40.2 Where a document is properly addressed, pre-paid and posted, the document shall, unless the contrary is proved, be deemed to have been delivered at the time at which the document would have been delivered in the ordinary course of post.
- 40.3 Where a document is sent by facsimile or by e-mail or other electronic means it shall be deemed to have been delivered in the ordinary course of time for delivery by that means.
- 40.4 Where the time for giving notice under these Rules falls on a non-business day, the notice shall be required to be given by the next business day.
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#### **41. Procedural Irregularities**

- 41.1 No decision of the Association or its Board or sub-committees shall be invalid merely because of a failure to give proper notice under these Rules or the By-laws, or other irregularity in procedure required by these Rules or the By-laws, unless a person suffers serious detriment as a result of that failure to give proper notice or irregularity in procedure.
- 41.2 The Association or its Board or sub-committees may confirm an earlier decision which may have been otherwise invalid because of a failure to give proper notice or other irregularity in procedure and the decision shall be deemed to be valid from the time it was originally made.
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#### **42. Unforeseen Matter**

Should any matter arise for which provision has not been made in these Rules, the Association or the Board shall take such action as is necessary to protect the interests of the Association.

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#### **43. Dissolution**

If, on the winding up of the Association, any property or funds of the Association remain after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of that winding up, that property and funds shall be distributed to Basketball Victoria to use for re-establishing or maintaining basketball in the Diamond Valley Region.

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## **44. Custody and Inspection of Books and Records**

- 44.1 Except as otherwise provided in this section, the Secretary must keep in their custody or under their control all books, documents, and securities of the Association.
- 44.2 All accounts, books, securities, and any other relevant documents of the Association (other than Members' contact details) must be available for inspection free of charge by any Member upon request unless to do so would compromise the privacy of another member of staff of the Association, or would breach commercial confidence, or an order of a Court.
- 44.3 A Member may make a copy of any accounts, books, securities, and any other relevant documents of the Association which the Member is permitted to inspect under Rule 44.2.
- 44.4 No inspection or copying of documents by Members is permitted where to do so would breach a requirement of confidentiality in contract, or at law, or would breach a provision of privacy legislation.