

CONSTITUTION OF

BASKETBALL MANAWATŪ ASSOCIATION INCORPORATED

Incorporated Society No. 217411

Adopted at an Annual General Meeting held on 19th November 2024

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Jason Pearn
Chairperson

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Tom Te Puni
Board Member

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Mike Ryan
Board Secretary

Basketball Manawatū

Constitution

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Constitution

1. Definitions and interpretation

1.1 Definitions: In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

Act means the Incorporated Societies Act 2022, including any amendments, and any regulations made under that Act.

AGM or Annual General Meeting means a meeting of the Members held once a year convened under this Constitution.

BBNZ means Basketball New Zealand Incorporated.

Board means the governing body of Basketball Manawatū.

Board Member means a member of the Board, including the Chair.

Bylaws means any bylaws, policies, regulations and codes of Basketball Manawatū made under clause 0.

Casual Vacancy is a vacancy which arises when a Board Member or the Chairperson or Treasurer, does not serve their full term of office.

Chair means the Board Member appointed as chair of Basketball Manawatū under this Constitution.

General Manager means the person in the highest-ranking management position in Basketball Manawatū.

Club means a group of individuals with an interest in basketball that meets the requirement for membership set out in clause

Constitution means this Constitution, including any amendments and any schedules to this Constitution.

Contact Details means a physical or an electronic address and a telephone number.

Diversity, Equity and Inclusion means ensuring fair and equitable opportunities are available to everyone to participate in sport and recreation irrespective of age, ability, ethnicity, gender, national origin, race, religion, sexual orientation, beliefs, or socio-economic status.

General Meeting means an AGM or SGM of Basketball Manawatū.

Interested has the meaning given in section 62 of the Act.

Matter has the meaning given in section 62(4) of the Act.

Member means each person who for the time being is a member of Basketball Manawatū and includes all classes of members described in clause 0.

National Organisation means BBNZ Incorporated.

Officer means a Board Member and any natural person occupying a position in Basketball Manawatū that allows the person to exercise significant influence over the management or administration of Basketball Manawatū.

Ordinary Resolution means a resolution passed by a majority of votes cast.

Purposes means the purposes of Basketball Manawatū described in clause 3.1.1.

Region means the geographical area as determined by BBNZ to be the region represented by Basketball Manawatū and within which the primary base of activities of Basketball Manawatū is located and is at the date of adoption of this Constitution,

SGM or **Special General Meeting** means a meeting of the Members, other than an AGM, called for a specific purpose or purposes.

Special Resolution means a resolution passed by a 75% majority of votes cast.

1.2 Interpretation: Unless the context otherwise requires:

- (a) Words referring to the singular include the plural and vice versa.
- (b) Clause headings are for reference only.
- (c) Expressions referring to writing include references to words visibly represented, copied, or reproduced, including by email.
- (d) Reference to a person includes any other entity or association recognised by law and vice versa and any reference to a particular entity includes a reference to that entity's successors.
- (e) A reference to any secondary legislation includes any statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.
- (f) All periods of time or notice exclude the days on which they are given.

1.3 Notices: Subject to any other notice requirements in this Constitution, any notice or other communication given under this Constitution must be in writing and will be given to:

- (a) a Member, if sent to the address set out in their Contact Details;
- (b) Basketball Manawatū, if sent to Admin@Manawatū.Basketball or by post to the registered office of Basketball Manawatū as set out on the Register of Incorporated Societies.

1.4 Receipt of notices: A notice is deemed to have been received:

- (a) if given by post, when left at the address of that party, or five Working Days after being put in the post; or
- (b) if given by email, upon production of a physical copy of the email detailing the time and the date the email was sent (provided that the sender does not receive any "out of office" auto-reply or other indication of non-receipt), provided that any notice or communication received or deemed received after 5pm on a Working Day, or on a day which is not a Working Day, will be deemed not to have been received until the next Working Day.

2 Details of Basketball Manawatū

- 2.1 **Name:** The name of the society is Basketball Manawatū Incorporated, which is abbreviated in this constitution as the "Association".
- 2.2 **Status:** Basketball Manawatū is the regional association for BBNZ and related activities in the Region and is bound by and must observe the rules of BBNZ.
- 2.3 **Registered office:** The registered office of Basketball Manawatū is at the place the Board decides.
- 2.4 **Contact person:** At its first meeting following an AGM, the Board must appoint or reappoint at least one, and a maximum of three, persons to be the contact person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of Incorporated Societies of any change in the contact person or their Contact Details.

3 Purpose and powers

3.1.1 Purpose: The purposes of Basketball Manawatū are to: -

- (a) be a member of BBNZ for the Manawatū Region;
- (b) lead the promotion, development and administration of Basketball within the Manawatū Region and to do so in a manner that is consistent with the requirements of BBNZ , mainly as an amateur sport for the well-being, benefit and recreation of the general public;
- (c) support and assist its Members to deliver Basketball in the Manawatū Region;
- (d) promote opportunities and facilities to enable, assist and enhance the participation, enjoyment, and performance in Basketball in the Manawatū Region;
- (e) lead, promote and enable Diversity, Equity and Inclusion across the whole organisation including governance of Basketball Manawatū and participation in Basketball;
- (f) promote, develop and co-ordinate Basketball competitions in the Manawatū Region;

- (g) publish and enforce the rules of Basketball in the Manawatū Region in a manner consistent with the requirements of BBNZ;
- (h) protect the integrity of Basketball and Basketball Manawatū by developing and enforcing standards of conduct, ethical behaviour and implementing good governance in the Manawatū Region;

3.2 Tikanga: Basketball Manawatū acknowledge the Rangitāne o Manawatū Iwi Settlement Trust as the recognised and mandated iwi authority for the Palmerston North Area.

Basketball Manawatū will follow the advice and foster a relationship with the Rangitāne o Manawatū Iwi Settlement Trust in regard to all tikanga and kaupapa māori.

3.2.1 Capacity and powers: Basketball Manawatū has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter into any transaction, subject to this Constitution, the constitution of BBNZ, the Act, any other legislation, and the general law.

4 Members

4.1 Application: An application to become a Member (**Application**) must be in the form required by Basketball Manawatū. All Applications are decided by the Basketball Manawatū management, which may accept or decline an Application in its absolute discretion. A person becomes a Member when their Application has been accepted and they have paid the required membership fees and satisfied any other preconditions.

4.2 Member consent: A person or entity consents to become a Member by completing the BBNZ on-line registration system and paying the appropriate membership fee, unless otherwise specified in this Constitution.

4.3 Membership Categories: The categories of membership of the Association, (collectively called “Members”) shall be:

- (a) **Sub-Associations:** as described in Rule 4.3.1 (Sub-Associations);
- (b) **Individual Members:** as described in Rule 4.3.2 (Individual Members);
- (c) **Life Members:** as described in Rule 4.3.3 (Life Members);
- (d) **Other categories:** any other category or categories of membership of the Association as determined by the Board.

4.3.1 Sub-Associations

- (a) **Existing Sub-Associations:** Every Sub-Association that was a member of the Association immediately prior to the commencement of this Constitution is deemed to be a Member of the Association (as a Sub-Association) from the date this Constitution comes into force.
- (b) **Part of Association:** Every Sub-Association shall be deemed to be merely a component division of the Association, even if it is a separately incorporated entity, and shall be subject to the authority of the Association.

- (c) **Members of Sub-Associations:** Each player that is a member of a Sub-Association must also be a Member of the Association. Sub-Associations may only have players as Members and are not permitted to have any other categories of membership.
- (d) **Representation:** A Sub-Association shall not, in and of itself, be entitled to separate representation or to vote at general meetings of the Association but may act as a proxy for some or all of its Members if properly appointed in accordance with this Constitution. Sub-Associations shall have no right to attend or vote at general meetings of BBNZ.

4.3.2 Individual Members: Every person who is, or agrees to be, a member of a team (whether as a player, a coach, an assistant coach or a manager), and basketball officials, and a parent or other family/whanau member, and who completes the association's membership form using the process prescribed by the BBNZ Board and pays any membership fee or other fee due to the Association and the person shall then become an Individual Member of the Association and BBNZ.

4.3.2.1 Duration of Membership: Subject to Rule 4.10 (Membership Fees) and Rule 4.6 (Suspension of Member), the duration of membership of Individual Members is from the date of approval as an Individual Member by the Association until 31st December of the same year. Upon payment of any membership fee due to the Association in each year, membership of the Association by an Individual Member shall be renewed without further application.

4.3.2.2 Representatives: To be eligible for selection to, or to play for, a BBNZ or Association representative team (which participates in a BBNZ controlled competition or event), a person must be an Individual Member of the Association and BBNZ.

4.3.3 Life Members: Life Membership may be granted in recognition and appreciation of outstanding service by an individual to Basketball Manawatū. Any Member may nominate an individual to become a Life Member by giving notice to the Board (no later than 1st August in any year) setting out the grounds for the nomination. The Board must then determine whether the nomination should be forwarded to a General Meeting for determination by the Members. A person may only be elected as a Life Member by [an Ordinary / a Special] Resolution at a General Meeting. A person consents to becoming a Life Member on acceptance of their life membership. Life Members have such rights and benefits as determined by the Board as set out in Sect 4.5.

4.4 Rights: A Life Member shall be entitled to:

- (a) receive a suitable plaque or badge;
- (b) receive notice of, attend and vote at all General Meetings;
- (c) shall not be liable for payment of subscription fee; and
- (d) such other privileges as may be granted by the Association to Life Members from time to time.

4.5 Member rights and obligations: Members acknowledge and agree that

- (a) they are bound by, and will comply with, this Constitution and the Bylaws, and to the extent they apply, the rules, procedures or policies of BBNZ
- (b) they are subject to the jurisdiction of Basketball Manawatū;

- (c) they are entitled to all rights and entitlements granted by this Constitution or as determined by the Board;
- (d) to receive, or continue to receive or exercise member rights, they must meet all the member requirements set out in this Constitution and the Bylaws or as otherwise set by the Board, including payment of any membership or other fees within the required time period;
- (e) if they fail to comply with sub-clause (d) the Board may terminate their membership, but the Member continues to be bound by this Constitution;
- (f) they do not have any rights of ownership of, or the automatic right to use, the property of Basketball Manawatū; and
- (g) they will promote the interests and Purposes of Basketball Manawatū and must not do anything to bring Basketball Manawatū into disrepute.

4.6 Suspension of Member: If a Member is, or may be, in breach under clause 0, and the Board believes it is in the best interests of Basketball Manawatū to do so, the Board may suspend the Member until final determination of the matter under the dispute resolution process applicable to the matter. Before imposing any such suspension, the Member must be given notice of the suspension.

4.7 Suspension of Member rights: Unless otherwise determined by the Board, while a Member is suspended, the Member is not entitled to attend, speak or vote at a General Meeting, or to any other rights or entitlements as a Member and is not entitled to continue to hold office in any position within Basketball Manawatū until such time as the alleged breach is resolved or determined.

4.8 Ceasing to be Member: A Member ceases to be a Member:

- (a) if an individual on death, or if a body corporate on liquidation;
- (b) by giving notice to the Board of their resignation;
- (c) if their membership is terminated for a default in fees
- (d) if their membership is terminated following a dispute resolution process or such other process set out or referred to in this Constitution.

4.9 Consequences of ceasing to be a Member: A Member who ceases to be a Member:

- (a) remains responsible to pay all their outstanding membership and other fees to Basketball Manawatū;
- (b) must return all of the property of Basketball Manawatū if required;
- (c) ceases to be entitled to any rights of a Member.

4.10 Membership fees:

- (a) Membership fees: Each year, the Board shall determine the nature and amount of fees payable by Members for the financial year following the year in which the AGM is held ("Membership Fees").
- (b) Levy: For special purposes required by the Association, further levies may be imposed as determined by the Board at a General Meeting from time to time ("Levy(s)").

(c) When Due: The Membership Fee shall be payable by each Member to the Association as determined by the Association and shall be paid in the calendar year to which the fee relates. Any Levy shall be payable by the date determined by the Board.

(d) Default: Should any Member fail to pay its or their Membership Fee(s) or Levy(s) in full by the due date(s), the Member shall be subject to such penalty payment as the Board shall determine and shall in the meantime be suspended from membership of the Association with the consequential penalties being imposed

4.11 Member register: The Board will keep an up-to-date Member register, which includes each Member's name, Contact Details and the date they became a Member. A Member must provide notice to the Club of any change to their Contact Details. The Member register will be updated as soon as practicable after the Board becomes aware of changes of the information recorded in the Member register. The Board will keep a record of those who have ceased to be a Club member within the previous 7 years and the date on which they ceased to be a member. The Member Register records will be entered and maintained in the BBNZ Mandated database and up to date information available for BBNZ to access

5 General Meeting

5.1 AGM: An AGM must be held once a year at the time, date and place as the Board decides, but not more than 6 months after the balance date of Basketball Manawatū and not more than 15 months after the previous AGM. Any other General Meetings of the Members shall be a Special General Meeting.

5.2 Notice of AGM: The Members must be given at least 30 days notice of the AGM. Notice to Members of an AGM may be given by posting on the website of Basketball Manawatū.

5.3. Business of AGM: The following business will be discussed at the AGM:

- (a) confirmation of the minutes of the previous AGM and any Special General Meeting held since the previous AGM;
- (b) the Board's presentation of the following information during the most recently completed accounting period:
 - (i) the annual report;
 - (ii) the annual financial statements for the financial year ending 30th day of SEPTEMBER each year;
 - (iii) the auditor's report to members on the financial statements audited by a qualified auditor or the review report of the financial statements;
 - (iv) notice of any disclosures of conflicts of interest made by Officers (including a brief summary of the Matters, or types of Matters, to which those disclosures relate);
- (c) election of any vacancies arising in positions of Elected Board Members and/or the Patron;
- (d) the appointment or announcement of any Appointed Board Members;
- (e) consideration of any motions proposing to amend this Constitution that have been properly submitted for consideration at the AGM

- (f) as the Association will obtain an annual audit or financial review, an auditor will be appointed, (who cannot be a Board member. His or her function shall be to examine and certify the Annual statement of receipts and payments submitted to him or her by the Association)
- (g) consideration of any other items of business that have been properly submitted for consideration at the AGM.

5.4 Notice of proposed motions: Members must give notice of any proposed motions and other items of business to the General Manager of Basketball Manawātū at least 21 days before the date of the AGM.

5.5 Notice of agenda: Notice of the agenda containing the business to be discussed at the AGM must be sent to all persons entitled to attend the AGM at least 14 days before the date of the AGM. No additional items of business can be voted on other than those set out in the agenda, but the Members present may agree by Special Resolution to discuss any other items.

5.6 Calling of SGM: The Board must call a SGM if it receives a written request stating the purpose of the SGM from the Board itself; or by 75% of Members.

5.7. Notice of SGM: Members must be given at least 14 days' notice of the SGM, unless the Board, in its discretion, decides that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members. The notice of SGM must clearly state the reasons why the SGM is being convened and provide as full details as possible of the nature of the business to be transacted at the meeting. Only the business stated in the notice of SGM may be dealt with at such SGM.

5.8 Method of holding meeting: A General Meeting may be held by a quorum of people being assembled at the time and place appointed for the meeting, participating by audio link, audio-visual link or other electronic communication or by a combination of those methods

5.9 Quorum: No business may occur at any General Meeting unless a quorum is present at the meeting's start time. The quorum for a General Meeting is not less than ten (10) of the Members who are entitled to vote, including Members present by casting votes by electronic means or by proxy. The quorum must always be present during the General Meeting. As the Board allows voting by proxy, post or electronic means, the quorum takes into account members present by proxy or casting postal votes or votes by electronic means.

5.10 No quorum at AGM: If a quorum is not met within 30 minutes of the AGM's scheduled start time, the AGM is adjourned to a day, time and place set by the chair of the AGM. If no quorum is met at the further AGM, the Members present, in person or through audio, audio visual link or other electronic communication, 15 minutes after the further AGM's scheduled start time are deemed to constitute a valid quorum.

5.11 No quorum at SGM: If a quorum is not met within 30 minutes of the scheduled start time of the SGM, the SGM is cancelled.

5.12 Control of General Meetings: The chairperson chairs General Meetings. If that person is unavailable, then the Deputy Chairperson will preside. In the absence of both of those persons, the Members present will elect a person to chair the General Meeting.

5.13 Omissions and irregularities: The General Meeting and its business will not be invalidated if one or more Members do not receive notice of the meeting. The General Meeting and its business will not be invalidated by an irregularity, error or omission in notices, agendas and

papers of the meeting or the giving of notice within the required time frame or the omission to give notice to all Members and any other error in the organisation of the meeting if:

- (a) the chair of the meeting in their discretion determines that it is still appropriate for the meeting to proceed despite the irregularity, error, or omission; and
- (b) a motion to proceed is put to the meeting and a majority, of two-thirds of votes cast, is obtained in favour of the motion to proceed.

5.14 Attendance: Members and any other persons invited by the Board are eligible to attend and speak at General Meetings

5.15 Voting: The voting entitlement for each Member eligible to vote is as follows:

- (a) Each individual member present shall be entitled to one vote.
- (b) Each Life Members shall be entitled to one vote.
- (c) The Chairperson shall not have a casting vote. The Chairperson may exercise a deliberative vote(s) if the Chairperson has the right to vote.
- (d) For each meeting at least two scrutineers shall be appointed to keep a record of, and count votes cast at a General Meeting.
- (e) The Chairperson shall declare the result of the vote, once voting is complete. The Chairpersons declaration of the result will be conclusive.

5.16 Voting by electronic means: Voting by electronic means is permitted. All electronic votes must be forwarded to the General Manager 24 hours before the time schedule to commence the General Meeting.

5.17 Voting by proxy: Proxy voting is permitted. The General Manager as Secretary of the meeting must receive notice of the proxy signed by the Member prior to the start of the meeting. The form of the proxy is available on request from the General Manager of Basketball Manawatū or can be downloaded from the website of Basketball Manawatū. A Proxy vote may include a representative from a Sub-Association

5.18 Conduct of voting: Voting is conducted by voices or a show of hands as determined by the chair of the meeting, unless a secret ballot is called for and approved by the chair or five of Members or as otherwise required under this Constitution.

5.19 Minutes: Minutes must be kept of all General Meetings.

5.20 Resolution: An Ordinary Resolution of Members at a General Meeting is sufficient to pass a resolution, except as specified in the Act or this Constitution.

5.21 Resolution passed in lieu of meeting: A resolution in writing signed or consented to by email or other electronic means by a 75% majority of Members is valid as if it had been passed at a General Meeting provided the requirements under sections 89 to 92 of the Act are complied with. Any resolution may consist of several documents in the same form each signed by one or more Members

6. Board

6.1 Functions, and role: Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution the Board must manage, direct or supervise the operation and affairs of Basketball Manawatū and has all the powers necessary for managing, and for

directing and supervising the management of, the operation and affairs of Basketball Manawatū. The Board is responsible for governing the Association.

6.2 Composition of the Board: The Board shall comprise of:

- (a) a minimum of five (5) members and up to nine (9) persons elected by the AGM under Rule (Elected Board Members); and
- (b) up to two (2) persons appointed under Rule 6.8 (Appointed Board Members).

6.3 Election of Board Members: Board Members are elected as follows

- (a) the Board must call for nominations for any Elected Board Member positions that are to be vacated at an AGM at least 30 days before the AGM;
- (b) nominations are made in the form decided by the Board and must be received by the date set by the Board and if no date is set, at least 21 days before the AGM
- (c) the Board must give notice of the nominations to all Members at least 14 days before the AGM;
- (d) at the AGM, if there are more nominees than number of positions available, the election is by secret ballot, unless otherwise decided by the Chair of the General Meeting and approved by a Special Resolution of Members. If a secret ballot is held, two scrutineers must be appointed at the General Meeting to count the votes;
- (e) those nominees who have the highest number of votes in their favour to fit the number of vacant positions are declared elected;
- (f) if the number of votes for one or more nominees is equal to another nominee, a further vote will be held between the tied nominees;
- (g) if there is only one nominee for a vacant position, that person is declared to be elected without the need for a vote.

6.4 Qualification: Every Board Member must, in writing:

- (a) consent to be a Board Member; and
- (b) certify that they are not disqualified from being elected, appointed or holding office as a Board Member by this Constitution or under section 47 of the Act

6.5 Disqualification: The following persons are disqualified from being elected or holding office as a Board Member.

- (a) A person who is an employee of, or independent contractor to Basketball Manawatū.
- (b) A person who holds office with a Member, unless as a condition of becoming a Board Member they resign from office with the Member
- (c) A person who is disqualified from being elected or holding office as a Board Member under section 47 of Act
- (d) A person who has been removed as a Board Member following a process under this Constitution or any Bylaw.

If an existing Board Member becomes or holds any position in (a) or (b) above then upon appointment to such a position, they are deemed to have vacated their office as a Board Member. If any of the circumstances listed in (c) above clause occur to an existing Board Member, they are deemed to have vacated their office upon the relevant authority making an order or finding against them of any of those circumstances.

6.6 Term of office: The term of office for all Board Members is three (3) years, expiring at the end of the relevant AGM. A Board Member may be re-elected to the Board for a maximum of three (3) consecutive terms of office (i.e. nine years). The term of any period served to fill a Casual Vacancy is disregarded for the purposes of calculating the total term served

6.7 Rotation: To ensure rotation on the Board, there should be at least two vacancies (whether by expiry of term of office, retirement or otherwise) on the Board at every AGM. If there are insufficient vacancies to give effect to this requirement the Board shall, prior to the AGM, determine by lot which of its number shall retire and notify the Members of this decision prior to the AGM.

6.8 Appointed Board Member vacancy: If a Casual Vacancy of an Appointed Board Member arises

- a) the remaining Board Members may:
- b) appoint a person of their choice to fill the Casual Vacancy; or
- c) leave the Casual Vacancy unfilled until the next AGM;

A person appointed to fill a Casual Vacancy of an Appointed Board Member continues until the expiry of the term of the person they replace.

6.9 Elected Board Member vacancy: If a Casual Vacancy of an Elected Board Member arises, the remaining Board Members may:

- a) appoint a person of their choice to fill the Casual Vacancy until the expiry of the term of the person they replace;
- b) appoint a person of their choice to fill the Casual Vacancy only until the next AGM, at which a person is elected to fill the remainder of the term of the Casual Vacancy;
- c) leave the Casual Vacancy unfilled until the next AGM, at which a person is elected to fill the remainder of the term of the Casual Vacancy.

6.10 Suspension of Board Member: If any Board Member is or may be the subject of an allegation, notice or charge described in the sub-clause headed "Disqualification" or any circumstances arise in relation to a Board Member which are or may be of concern to the Board, the remaining Board Members may by Special Resolution suspend the Board Member from the Board and set conditions as it requires pending the final determination of the allegation, notice, charge or circumstances. Before imposing any suspension, the Board Member must be given notice of the suspension.

6.11 Removal of Board Member:

The Board may, by Special Resolution, remove any Board Member from the Board before the expiry of their term of office if the Board considers the Board Member concerned:

- a) has seriously breached duties under this Constitution or the Act; or
- b) is no longer a suitable person to be a Board Member; or

- c) is involved with, interested in, or otherwise closely connected to a person or activity which has or may bring Basketball Manawatū or Basketball into disrepute or which may be prejudicial to the Purposes or the interests of Basketball Manawatū and/or Basketball if they remain as a Board Member.

The Board Member who is the subject of the motion is counted for the purpose of reaching a quorum but will not participate in the vote on the motion.

Before considering a motion for removal, the Board Member who is the subject of the motion must be given:

- a) notice that a Board meeting is to be held to discuss the motion to remove the Board Member; and
- b) adequate time to prepare a response; and
- c) the opportunity prior to the Board meeting to make written submissions; and
- d) the opportunity to be heard at the Board meeting.

6.12 Board Member ceasing to hold office: A person ceases to be a Board Member if: their term expires;

- a) the person resigns by delivering a signed notice of resignation to the Board;
- b) the person is removed from office under this Constitution;
- c) the person becomes disqualified from being an officer under section 47(3) of the Act;
- d) the person dies.

7 Board meetings

7.1 Calling meetings: Board meetings may be called at any time by the Chair or by five (5) Board Members, but generally the Board meets monthly

7.2 Number of Meetings: The Board shall meet on a regular basis through the year as determined by the Board but sufficient to ensure proper control and efficient handling of the affairs of the Association

7.3 Meeting procedure: Except to the extent specified in the Act or this Constitution, the Board may regulate its own procedure.

7.4 Quorum: The quorum for a Board meeting is 50% plus 1 of the current number of Board Members. Any Board Member may be counted for the purposes of a quorum, participate in any Board meeting and vote on any proposed resolution at a meeting without being physically present. This may only occur at Board meetings by audio or audio-visual link or other electronic communication provided that all persons participating in the Board meeting can hear each other effectively and simultaneously.

7.5 Chair: At its first meeting following an AGM, the Board must elect a Chair. The role of the Chair is to chair meetings of the Board. If the Chair is unavailable, another Board Member must be appointed by the Board to undertake the Chair's role during the period of unavailability.

7.6 Voting: Each Board Member has one vote. Voting is by voices or on request of any Board Member by a show of hands or by a ballot. Proxy and postal votes are not permitted. Voting by electronic means is permitted. If there is an equality of votes, the Chair does not have a casting vote.

7.7 Resolution in writing: A resolution in writing signed or consented to by email or other electronic means by a majority of Board Members is valid as if it had been passed at a Board meeting. Any resolution may consist of several documents in the same form each signed by one or more Board Members.

8 Powers & Duties of the Board

8.1 Powers and Duties: The Board shall have the power to exercise all of the powers of the Association and without restricting those powers the Board shall have the following general powers and duties:

- a) to develop and implement strategies, policies and procedures for the administration, promotion and development of the sport of basketball in the Association's region.
- b) to develop and implement prudent policies to protect and enhance the Association's finances and property;
- c) to establish such committees and groups as it considers appropriate to assist it to carry out its responsibilities;
- d) to establish such corporate and other entities to carry on and conduct any part of the affairs of the Association;
- e) to co-opt, engage, contract or otherwise agree to obtain the assistance or advice of any person or organisation for the Board.
- f) to delegate such powers as it considers appropriate to employees, committees or other groups appointed by it;
- g) to enforce the laws of basketball when requested to do so by BBNZ;
- h) to employ, engage or otherwise appoint coaches, managers, umpires and other support personnel for Association representative Basketball teams and competitions, determine the terms and conditions of such appointments and, if necessary, terminate such appointments;
- i) to appoint such persons as it considers appropriate to committees, positions and roles within the Association, (except as otherwise specified in this Constitution or the Association Regulations), to determine the terms and conditions of such appointment and, if necessary, to terminate such appointments.
- j) subject to this Constitution, to fill vacancies of the Board, and of any committees and other groups which are established by it;
- k) to determine the conditions and rules of Association tournaments, events and competitions, held by or under its auspices.
- l) to participate in Regional Association forums in accordance with the constitution and regulations of the Regional Association;
- m) to discipline Members as specified in this Constitution;
- n) to develop Association programmes for playing, coaching, umpiring and officiating the sport of basketball and implement them as agreed by BBNZ together with national programmes in the Manawatū region.

- o) to resolve and determine any disputes or matters not provided for in this Constitution; and
- p) to do all other acts and things which are within the powers and objects of the Association and which the Board considers appropriate.

9 Officers' Duties

9.1 An Officer:

- a) when exercising powers or performing duties as an Officer, must act in good faith and in what the Officer believes to be the best interests of Basketball Manawatū;
- b) must exercise a power as an Officer for a proper purpose;
- c) must not act, or agree to Basketball Manawatū acting, in a manner that contravenes the Act or this Constitution;
- d) when exercising powers or performing duties as an Officer, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances, taking into account, but without limitation the nature of Basketball Manawatū, the nature of the decision and the position of the Officer and the nature of the responsibilities undertaken by them;
- e) must not agree to the activities of Basketball Manawatū being carried on in a manner likely to create a substantial risk of serious loss to Basketball Manawatū's creditors or cause or allow the activities of Basketball Manawatū
- f) to be carried on in a manner likely to create a substantial risk of serious loss to Basketball Manawatū's creditors;
- g) must not agree to Basketball Manawatū incurring an obligation unless the Officer believes at that time on reasonable grounds that Basketball Manawatū will be able to perform the obligation when it is required to do so; and
- h) when exercising powers or performing duties as an Officer, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - i) an employee whom the Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - j) a professional adviser or expert in relation to matters that the officer believes on reasonable grounds to be within the person's professional or expert competence; or
 - k) any other Officer or subcommittee of Officers on which the Officer did not serve in relation to matters within the Officer's or subcommittee's designated authority,
 - l) if the Officer, acts in good faith, makes proper inquiry where the need for inquiry is indicated by the circumstances, and has no knowledge that the reliance is unwarranted.

10 Interests

- 10.1 Register of interests:** The Board must keep a register of interest disclosures made by Officers.
- 10.2 Duty to disclose interest:** An Officer who is Interested in a Matter relating to Basketball Manawatū must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) to the Board, as soon as practicable after the officer becomes aware that they are interested in the Matter and include it in the register of interests.
- 10.3 Consequences of being interested:** A Board Member who is Interested in a Matter:
- a) must not vote or take part in a decision of the Board relating to the Matter, unless all non-interested Board Members consent;
 - b) must not sign any document relating to the entry into a transaction or the initiation of the Matter, unless all non-interested Board Members consent;
 - c) must not take part in any Board discussion relating to the Matter or be present at the time of the Board decision, unless all non-interested Board Members consent
 - d) may be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered
- 10.4 Calling of SGM:** Despite clause 10.3, if 50% or more Board Members are Interested in a Matter, an SGM must be called to consider and determine the Matter.
- 10.5 Notice of failure to comply:** The Board must notify Members of a failure to comply with Section 63 or 64 of the Act, and of any transactions affected, as soon as practicable after becoming aware of the failure.

11 Patrons

A person may be invited by the Board to be a Patron to show their support for Basketball Manawatū and to help establish or maintain public credibility of Basketball Manawatū. A Patron is entitled to attend and speak at General Meetings but has no right to vote.

12 General Manager

- 12.1 Role of General Manager:** The General Manager is under the direction of the Board and is responsible for the day-to-day management of the affairs of Basketball Manawatū under this Constitution and the Bylaws and within any delegated authority from the Board.
- 12.2 Board involvement:** The General Manager may attend Board meetings on as “an and when” required basis, by the Board; but has no voting rights.

The General Manager shall be entitled with the permission of the Chairperson to address and advise the Members and the Board on any matter under consideration.

13 Finances

- 13.1 Financial Year:** The financial year of the Association shall end on 30th day of September, or such other date as determined by the Board.
- 13.2 Finance, Audit & Risk Sub-Committee:** At the first Board meeting following each AGM, the Board shall appoint a sub-committee from amongst the Board Members. The role of the sub-committee is to oversee the work of the Association in discharging its responsibilities in the areas of risk management, statutory reporting, internal and external audit and assurance, monitoring of compliance with laws and regulations (including health and safety), and significant projects and programmes of work focussing on the appropriate management of risk.
- 13.3 Control & Investment of Funds:** All bank account(s) of the Association must be operated in accordance with any policies determined by the Board. In the absence of any applicable Board policies, funds and property of the Association shall be under the control of the Board which may invest, and deal with the same only in furtherance of Rule 21.1 of this constitution. The funds of the Association shall be deposited with a registered Bank. All payments from the Association bank accounts shall be authorised by two members of the Board or a member of the Board and a Board approved staff member or contractor. Allowance is also made for the association to hold a debit card cheque account that authorised payments can be deposited into for payment of bills by debit card.
- 13.4 Accounting Records:** The Board shall ensure true and complete accounts are kept. The accounting records of the Association must be kept at the office of the Association or at such other place as the Board may determine. The accounting records must be open to inspection by Members at such reasonable times agreed by the Board.
- 13.5 Auditor:** The Board may appoint an External Auditor to examine and audit the books and accounts of the Association and report on these at the AGM (and as otherwise required by the Board).
- 13.6 Financial Reviewer:** The Board may appoint a suitably qualified external financial reviewer to examine and review the books and accounts of the Association and report on these at the AGM (and as otherwise required by the Board)

14 Application of Income & No Pecuniary Profit

- 14.1 Application of Income:** The income and property of the Association shall be applied solely towards the promotion of the Objects of the Association.
- 14.2 No Pecuniary Profit:** No Member of the Association or any person associated with a Member shall participate in or materially influence any decision made by the Association in respect of the payment to or on behalf of that Member or associated person of any income, benefit, or advantage whatsoever. Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value). The provisions and effect of this Rule shall not be removed from this Constitution and shall be included and implied into any document replacing this Constitution.

14.3 No personal benefit: The Officers and Members may not receive any distributions of profit or income from Basketball Manawatū. This does not prevent Officers or Members

- a) receiving reimbursement of actual and reasonable expenses incurred, or
- b) entering into any transactions with the organisation for goods or services supplied to or from them, which are at arms' length, relative to what would occur between unrelated parties, provided no Officer or Member is allowed to influence any such decision made by Basketball Manawatū in respect of payments or transactions between it and them, their direct family or any associated entity.

15 Indemnity and insurance

15.1 Basketball Manawatū indemnifies its current and former Officers, Members and employees as permitted by Section 96 of the Act.

15.2 With the prior approval of its Board, Basketball Manawatū may affect insurance for its current and former Officers, Members and employees as permitted by Section 97 of the Act.

15.3 Basketball Manawatū is authorised to indemnify an Officer under Section 96 of the Act or effect insurance for an Officer under Section 97 of the Act for the following matters:

- a) liability (other than criminal liability) for a failure to comply with a duty under Sections 54 to 61 of the Act or any other duty imposed on the Officer in their capacity as an Officer; and
- b) costs incurred by the Officer for any claim or proceeding relating to that liability. Inc Soc Act.

16 Amendments

16.1 Amendments: This Constitution may only be amended or replaced by Special Resolution of Members at a General Meeting.

16.2 No amendment: No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals.

16.3 Minor effect or technical alteration: If an amendment to this Constitution would have no more than a minor effect or is to correct errors or makes similar technical alterations, then the Board may give notice of the amendment to every Member stating the text of the amendment and the right of Members to object to the amendment. If the Board does not receive any objections from Members within 20 Working Days after the date on which the notice is sent, or any longer period of time that the Board decides, then the Board may make that amendment. If it does receive an objection, then the Board may not make the amendment.

17 Bylaws and Integrity

- 17.1** The Board may make and amend Bylaws for the conduct and control of Basketball Manawatū activities and codes of conduct applicable to Members. Any Bylaw must be consistent with this Constitution, the Purposes, the constitution of BBNZ, the Act and any bylaws and the Members. All Bylaws are binding on Basketball Manawatū and the Members. The making, amendment, revocation, or replacement of a Bylaw is not an amendment of this Constitution.
- 17.2** **Definition:** In this clause, Integrity Code means an integrity code issued by the Integrity Sport and Recreation Commission under section 19 of the Integrity Sport and Recreation Act 2023.
- 17.3** **Integrity Code binding And Its Application to Members:** When Basketball New Zealand adopts an Integrity Code, all Members of Basketball Manawatū agree to the application of the Integrity Code to them and agree to be bound by it.

18 Dispute resolution

18.1 **Definitions:** In this clause 18:

- (a) **Dispute** means a disagreement or conflict between and among any one or more Members, any one or more Officers and Basketball Manawatū, that relates to an allegation that:
- (i) a Member or an Officer has engaged in misconduct; or
 - (ii) a Member or an Officer has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (iii) Basketball Manawatū has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (iv) a Member's rights or interests as a member have been damaged or Members' rights or interests generally have been damaged;
- (b) **Disputes Procedure** means the procedure for resolving a Dispute set out in clauses 18.5 to 18.13;
- (c) a **Member** is a reference to a Member acting in their capacity as a Member;
- (d) an **Officer** is a reference to an Officer acting in their capacity as an Officer.

- 18.2** **Application of other legislation to a Dispute:** The Disputes Procedure will not apply to a Dispute to the extent that other legislation requires the Dispute to be dealt with in a

different way. The Disputes Procedure will have no effect to the extent that it contravenes, or is inconsistent with, that legislation.

18.3 Application of other procedures under this Constitution or in a Bylaw:

- (a) If the Dispute is dealt with by a separate procedure under this Constitution or in a Bylaw (**Other Procedure**), that Other Procedure applies to the exclusion of the Disputes Procedure. If any part of the Other Procedure is inconsistent with the rules of natural justice, that part will not apply, but the remainder of the Other Procedure will continue to apply together with adjustments as determined by the Board in its discretion so that the Other Procedure is consistent with the rules of natural justice
- (b) If the conduct, incident, event or issue does not meet the definition of a Dispute and is managed by any Other Procedure, that Other Procedure applies to the exclusion of the Disputes Procedure.

18.4 Application of the Disputes Procedure: If the Dispute is not required by other legislation to be dealt with in a different way and it is not dealt with by any Other Procedure, the Disputes Procedure applies to the Dispute.

Disputes Procedure

18.5 Raising a complaint:

- (a) A Member or an Officer may start the Disputes Procedure (a **Complaint**) by giving written notice to the Board setting out:
 - (i) the allegation to which the dispute relates and who the allegation is against; and
 - (ii) any other information reasonably required by Basketball Manawatū.
- (b) Basketball Manawatū may make a Complaint involving an allegation against a Member or an Officer by giving notice to the person concerned setting out the allegation to which the Dispute relates.
- (c) The information given must be enough to ensure a person against whom the Complaint is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response

18.6 Investigating and determining Disputes: Unless otherwise provided, Basketball Manawatū must as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure the Dispute is investigated and determined. Disputes must be dealt with in a fair, efficient, and effective manner

18.7 Decision to not proceed with a matter: Despite the contents of the Disputes Procedure, Basketball Manawatū may decide not to proceed with a matter if:

- (a) the Complaint is trivial; or
- (b) the Complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct; or
 - (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act; or
 - (iii) any material damage to a Member's rights or interests or Members' rights or interests generally; or
- (c) the Complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the Complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under this Constitution; or
- (f) there has been an undue delay in making the Complaint; or
- (g) the Complaint involves two Members who are also members of an organisation (**Organisation X**) which is also a Member of Basketball Manawatū and the Complaint has either been dealt with by Organisation X or is required to be, pursuant to the dispute resolution procedures of Organisation X.

18.8 Complaint may be referred: Basketball Manawatū may refer a Complaint to:

- (a) a hearing body or person authorised, delegated or appointed by the Board to hear and resolve Disputes, and includes an arbitral tribunal (**Hearing Body**); or
- (b) a subcommittee or an external person to investigate and report; or
- (c) any type of consensual dispute resolution with the consent of all parties to the Complaint.

18.9 Hearing Body: The Board may determine the composition, jurisdiction, functions and procedures of, and any sanctions which can be imposed by, any Hearing Body. Each Hearing Body has delegated authority by the Board to resolve, or assist to resolve, Complaints.

18.10 Bias: An individual may not be part of a Hearing Body in relation to a Complaint if two or more members of the Board or of the Hearing Body consider there are reasonable grounds to believe that the individual may not be:

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.

18.11 Complainant's right to be heard:

- (a) The Member or Officer has a right to be heard before the Complaint is resolved or any outcome is determined. If Basketball Manawatū makes a Complaint, Basketball Manawatū has a right to be heard before the Complaint is resolved or any outcome is determined, and a Board Member may exercise that right on behalf of Basketball Manawatū.
- (b) A Member or Officer or Basketball Manawatū must be taken to have been given the right if:
 - (i) the Member or Officer or Basketball Manawatū has a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and
 - (ii) an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and
 - (iii) an oral hearing, if any, is held before the Hearing Body; and
 - (iv) the Member's or Officer's or Basketball Manawatū written statement or submission, if any, are considered by the Hearing Body.

18.12 Respondent's right to be heard: The Member or Officer who, or Basketball Manawatū which, is the subject of the Complaint (**Respondent**) has a right to be heard before the Complaint is resolved or any outcome is determined. If the Respondent is Basketball Manawatū, a Board Member may exercise the right on behalf of Basketball Manawatū. A Respondent must be taken to have been given the right if:

- (a) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and

- (b) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing, if one is to be held; and
- (c) an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and
- (d) an oral hearing, if any, is held before the Hearing Body; and
- (e) the Respondent's written statement or submissions, if any, are considered by the Hearing Body

18.13 Appeals: There is no right of appeal or right of review of a decision unless specified.

Judicial Matters- Relating to Competitions

18.14 The Board shall appoint judicial and disciplinary bodies, committees, officers, commissioners and such other individuals as it considers appropriate, to carry out judicial, and disciplinary functions. The composition, powers, functions, jurisdiction, penalties and any appeal mechanism for any judicial or disciplinary body or officer shall be set out in the Basketball Manawatū Judicial Regulations.

The jurisdiction of any judicial or disciplinary body, or officer, shall be set out in the Basketball Manawatū Judicial Regulations and may include but is not limited to the following matters:

- a) Misconduct at, or in connection with, basketball Leagues & tournaments;
- b) Breaches of this Constitution, the Regulations or any policies, procedures or decisions of the Board or any committee of it;
- c) Conduct which is unbecoming of a Member or prejudicial to the Objects and interests of Basketball Manawatū and/or basketball or has brought BBNZ or basketball into disrepute; or

19 Liquidation and removal

19.1 Notice: The Board must give notice to all Members at least 30 Working Days of a proposed motion:

- a) to appoint a liquidator;
- b) to remove Basketball Manawatū from the Register of Incorporated Societies; or
- c) for the distribution of Basketball Manawatū surplus assets.

The notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.

19.2 Special resolution: Any resolution for a motion set out in clauses 19 (a) to (c) must be passed by a Special Resolution of Members.

- 19.3 Surplus assets:** The surplus assets of the Basketball Manawatū, after the payment of all costs, debts and liabilities, must be disposed of to any not-for-profit entity that shares similar purposes to Basketball Manawatū.

20 Matters not provided for

If any matter arises that, in the opinion of the Board, is not provided for in this Constitution or any Bylaws, or if any dispute arises out of the interpretation of this Constitution or the Bylaws, the matter or dispute will be determined by the Board.

21 Transition

- 21.1 Transition:** This clause 21 applies to facilitate transition of Basketball Manawatū from the previous (21 Nov 2023) constitution to this Constitution. If this clause is inconsistent with any other clause in this Constitution, this clause applies to the extent of the inconsistency and the other clause will not.

- 21.2 Power of Board during transition period:** Subject to the Act, the Board may amend any requirement for and/or the date by which this Constitution requires anything to be done. This clause applies for 12 Months and is solely to enable flexibility in the transition of Basketball Manawatū from the previous constitution to this Constitution and to correct any unintended consequences occurring through different wording being used.

21.3 Transition of Board Members:

All Basketball Manawatū Board Members under the previous rules/constitution will continue to remain as Board Members under this Constitution and serve out their Term of Office.

And they shall retain their current date of rotation as a Board Member.

The number of Terms currently served under the previous rule/constitution count towards any maximum number of terms in this constitution.