



NV TERMS AND CONDITIONS

THIS IS AN IMPORTANT DOCUMENT AND YOU SHOULD READ IT CAREFULLY BEFORE AGREEING TO THE FOLLOWING TERMS AND CONDITIONS. UPON AGREEING, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THESE TERMS AND CONDITIONS.

The following terms and conditions must be read carefully: In consideration of your application to participate in the NV Activity being accepted you acknowledge and agree to the following terms and conditions:

1) Definitions – in these terms and conditions:

- a) "NV" means and includes Netball Victoria, its subsidiaries, members, and their respective directors, officers, members, servants or agents.
- b) "NV Activity" means any authorised or recognised event or activity conducted by NV including the activity you have applied to register within and including, but not limited to NV programs, competitions, championships, courses, clinics and events.
- c) "Claim" means and includes any action, suit, proceeding, claim, demand, damage, penalty, cost or expense however arising from or in connection with the NV Activity, but does not include a claim against NV:
 - i) by any person expressly entitled to make a claim under an NV insurance policy; or
 - ii) under any right expressly conferred by its Constitution or regulations.

2) If accepted you will be permitted to participate in the NV Activity subject to you complying with the terms and conditions of the NV Activity, the terms and conditions of the relevant venue at which the NV Activity is conducted, this declaration, NV policies which apply to participants in the NV Activity and any reasonable direction issued by the NV Activity organisers or their representatives. A copy of each of these documents is available upon request from NV.

3) Upon executing this contract you will be bound by it and any regulations, policies or codes which apply or relate to participants in the NV Activity. You shall submit to any disciplinary measures taken against you and shall only appeal any disciplinary decision in the manner permitted under NV's rules and regulations.

4) **Risk Warning**– Your participation in the NV Activity supplied by NV is inherently dangerous and may involve risk. There are risks specifically associated with participation in the NV Activity and accidents can and often do happen which may result in personal injury, death or property damage. Prior to participating in the NV Activity, you should ensure you are aware of all of the risks involved, including those risks associated with any health condition you may have. By agreeing to these terms and conditions, you acknowledge, agree, and understand that participation in the NV Activity may involve risk. You agree and undertake any such risk voluntarily and at your own risk. You acknowledge that the assumption of risk and warning above constitutes a 'risk warning' in accordance with relevant legislation.

5) **Waiver** – It is possible for a supplier of recreational services or recreational activities to ask you to agree that statutory guarantees under the Australian Consumer Law (which is Schedule 2 to the Competition and Consumer Act 2010 (Cth)) do not apply to you (or a person for whom or on whose behalf you are acquiring the services or activities). By agreeing to these terms and conditions, you will be agreeing that your rights (or the rights of a person for whom or on whose behalf you are acquiring the services) to sue the supplier in relation to recreational services or recreational activities because the services or recreational activities provided were not in accordance with the guarantees are excluded, restricted or modified as set out below.

For recreational services or recreational activities to which the Australian Consumer Law (Commonwealth) applies:

- 6) By agreeing to these terms and conditions, you agree that the liability of NV in relation to recreational services (as that term is defined in the Competition and Consumer Act 2010 (Cth) and the Australian Consumer Law) for any:
- a. death;
 - b. physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
 - c. the contraction, aggravation or acceleration of a disease;
 - d. the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs:
 - i. that is or may be harmful or disadvantageous to you or the community; or
 - ii. that may result in harm or disadvantage to you or the community, that may be suffered by you (or a person for whom or on whose behalf you are acquiring the

services) resulting from the supply of recreational services or recreational activities; is excluded and the application of any express or implied term that any services will be provided with due care and skill is hereby excluded.

For recreational services to which the Australian Consumer Law (Victoria) applies:

7) Warning under the Australian Consumer Law and Fair Trading Act 2012: Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form, NV, is required to ensure that the recreational services it supplies to you:

- a. are rendered with due care and skill; and
- b. are reasonably fit for any purpose which you either expressly or by implication, make known to the supplier; and
- c. might reasonably be expected to achieve any result you have made known to the supplier. Under section 22 of the Australian Consumer Law and Fair Trading Act 2012 (Vic), the supplier is entitled to ask you to agree that these conditions do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the Australian Consumer Law and Fair Trading Act 2012 if you are killed or injured because the services were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

Note: The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. "**Gross negligence**" in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the Australian Consumer Law and Fair Trading Regulations 2012 (Vic) and section 22(3)(b) of the Australian Consumer Law and Fair Trading Act 2012 (Vic).

Exclusion of rights under the Australian Consumer Law (Victoria): By agreeing to these terms and conditions, you agree that the liability of NV for any death or personal injury (as defined in the Australian Consumer Law and Fair Trading Act 2012) that may be suffered by you (or a person from whom or on whose behalf you are acquiring the services) resulting from the supply of recreational services is excluded.

8) Release & Indemnity – In consideration of NV accepting your application to participate in the NV Activity, to the extent permitted by law you:

- a) release and forever discharge NV from all Claims that you may have or may have had but for this release arising from or in connection with this application and/or undertaking the NV Activity; and
- b) release and indemnify NV against any Claim which may be made by you or on your behalf for or in respect of or arising out of your death whether caused by the negligence or breach of contract by NV or in any other manner whatsoever; and
- c) indemnify and will keep indemnified and hold harmless NV to the extent permitted by law in respect of any Claim by any person:
 - i) arising as a result of or in connection with you undertaking the NV Activity; and
 - ii) against NV in respect of any injury, loss or damage arising out of or in connection with your failure to comply with the rules or directions of NV (or any authorised person),

save that the above releases and indemnities shall not apply to the extent that the loss, damage or injury that is the subject of the Claim is caused or contributed to by the grossly negligent act or omission of NV.

9) **Insurance** - Insurance is in place that may provide you with limited cover while participating in the NV Activity. You understand this insurance may not cover you for all injury, loss or damage sustained and you acknowledge that NV does not make any representations about the suitability of any insurance. You also understand you can, in your own interests and at your own expense, seek and obtain personal insurances over and above any cover that may be provided by NV at your own expense and after taking into account the NV insurance arrangements and your own personal circumstances.

10) **Disclosure of Medical Conditions** – You declare that you are medically and physically fit and able to participate in the NV Activity. You are not and must not be a danger to yourself or to the health and safety of others. You will immediately notify NV in writing of any change to your medical condition, fitness and ability to participate. You understand and accept that NV will continue to rely upon this declaration as evidence of your fitness and ability to participate in the NV Activity. You will report to NV any accidents, injuries, loss or damage suffered by you during the NV Activity before you leave any relevant venue.

11) **Safety**– You understand and acknowledge the dangers associated with the consumption of alcohol or any mind-altering substance before or during your involvement in the NV Activity, and you accept full

responsibility for any injury, loss or damage associated with the consumption of alcohol or any other mind-altering substance. You agree to follow any rules set by NV in connection with the NV Activity. If you fail to comply with the rules and/or directions of NV, you will not be permitted to participate or to continue to participate in the NV Activity and no refund will be given.

12) Bar to proceedings – NV may plead this contract as a bar to proceedings now or in the future commenced by or on behalf of you or by any person claiming through you. Where you seek to commence proceedings against NV, you:

- a) will commence those proceedings in the courts of the jurisdiction in which any incident occurs;
- b) waive any right to object to the exercise of such jurisdiction;
- c) will, where you seek to commence proceedings in another jurisdiction from where any incident occurs, consent (if required by NV) to move those proceedings to the jurisdiction in which any incident occurs including consenting to any application made by NV to remove the proceedings to the jurisdiction in which any incident occurs;
- d) will pay the costs of any application made by NV under paragraph 12c) and will consent to any application for security of costs made at any time by NV; and
- e) consent to paying NV's legal defence costs of the proceedings (on a solicitor client basis) where NV successfully defends the proceedings.

13) Governing Law – The governing law of this agreement is the law of the state of Victoria ('**Jurisdiction**'). You irrevocably and unconditionally consent and submit to the jurisdiction of the courts of the jurisdiction in which any incident occurs and waive any right to object to the exercise of such jurisdiction.

14) Prevailing conditions – You acknowledge and agree that: a) participation in the NV Activity may be affected by weather and associated conditions; and b) there is often an element of the "luck of the prevailing conditions" when undertaking the certain elements of the NV Activity over which NV has no control. You accept that in the event of extreme weather conditions NV reserves the right to alter the format of, shorten, or cancel the NV Activity in the interest of participant safety. You acknowledge that NV will use all reasonable efforts to conduct the NV Activity in the planned format if it is safe to do so. Should prevailing weather conditions force any change you accept that NV is not obliged to provide any refund to you, nor to provide a credit transfer for you to another NV Activity, or to restage the NV Activity, as weather and associated conditions are beyond the control of NV.

15) Use of Image – You acknowledge and consent to photographs and electronic images being taken of you during the NV Activity. You acknowledge and agree that such photographs and electronic images are owned by NV and NV may use the photographs for promotional or other purposes without your further consent being necessary. Further, you consent to NV using your name, image, likeness and participation in the NV Activity, at any time, by any form of media, to promote NV.

16) Privacy – You understand that the personal information you have provided in this application is necessary for the conduct and management of the NV Activity and other related activities, and that it is collected in accordance with NV's Privacy Policy (available from [<http://vic.netball.com.au/privacy-policy/>]). You acknowledge that NV may use or disclose your personal information for the purposes of conducting and administering the NV Activity or promotional material or otherwise in accordance with NV's Privacy Policy. NV may share your information (including name, date of birth, emergency contact details and suburb of residence) with third parties such as: affiliates; NV Activity providers; companies engaged by NV to carry out functions and activities on NV's behalf including direct marketing; and NV's professional advisers, including its accountants, auditors and lawyers and insurers; and government departments or agencies. Your information may be disclosed outside Australia from time to time when NV engages a third-party service provider who is based outside of Australia including (but not limited to) in New Zealand. Outside of disclosure of that nature, your information is not generally disclosed outside of Australia. You understand that you may access and request correction of your personal information held by NV or make a complaint about the handling of your personal information, by contacting NV. You acknowledge that your NV Activity application may be rejected if the information is not provided. If you do not wish to receive promotional material from NV, NV's sponsors and third parties you must advise NV in writing or via the optout procedures provided in the relevant communication.

17) Non transferrable - You understand that where NV grants a right to participate in the NV Activity, such right is non-transferrable to other events or to other people. Any attempt to transfer your right to participate in the NV Activity to another person without the knowledge of NV may result in the cancellation of your registration without refund and you may not be permitted to participate in further NV Activities.

18) Cancellation of participation in NV Activity - Unless otherwise stated in the NV Activity registration application, if you wish to cancel your participation in the NV Activity, you may apply for a refund or credit note for the value of payments already made to NV, which will be determined by NV on a case by case basis

taking into account the period of notice provided by you and any expenses incurred by NV for your booking that NV is not able to avoid or recoup despite its reasonable endeavours. If you would like to obtain detailed information about a refund for the NV Activity prior to registration, please contact NV Finance Department, accounts@netballvic.com.au. If you wish to apply for a refund, you must write to the NV Finance Department, accounts@netballvic.com.au and provide your name, address and reason for cancellation.

19) **Entire agreement** – This agreement (and the documents to which it refers) constitutes the entire agreement between the parties in respect to the NV Activity and supersedes all other agreements, understandings and representations and negotiations with NV in relation to the NV Activity. To the extent that any clause of this agreement is void or unenforceable it is severable and does not affect the remaining provisions of the agreement.

20) **Warranty** - You warrant that all information provided is true and correct. You acknowledge this application and declaration cannot be amended. If you do amend it your application will be null and void and cannot be accepted by NV.

PLEASE NOTE THE FOLLOWING:

If the Competition and Consumer Act 2010 or similar State laws operate so as to prevent the exclusion, restriction or modification of warranties otherwise implied by those laws then the liability of NV for breach of warranties is limited to the:

- (i) re-supply of the NV Activity and related activities; or
- (ii) payment of the cost of having the NV Activity or related activities supplied again.

DECLARATION

In order to proceed, I must have read and agreed to these terms and conditions. By checking the box below or signing where indicated, I declare that I have read, understood, acknowledge and agree to these terms and conditions including the exclusion of implied terms, warning, assumption of risk, release and indemnity. I agree that if my application is accepted I will be bound by these terms and conditions.

Where the applicant is under 18 years of age:

You are the parent or guardian of the applicant. You authorise and consent to the applicant participating in the NV Activity. In consideration of the application being accepted, you expressly agree to be responsible for the applicant's behaviour and agree to accept in your capacity as parent or guardian, the terms set out in these terms and conditions. You have read and understood these terms and conditions and have fully explained to the applicant its terms and effect. The applicant has read these terms and conditions and together with your explanation the applicant has, to the best of your belief, understood the terms and effect of the application and declaration. In addition, you agree to be bound by and to comply with the rules, regulations, policies and codes of NV related to the conduct of the NV Activity.

Netball Victoria
PO Box 60, North Melbourne 3051
ABN: 83 704 752 745

October 2016

[Print](#) | [Netball Victoria ABN 83 704 752 745](#)