

Netball Australia Limited

Website Terms of Use

Terms of Use

Last updated: 9 December 2014

1. Introduction and your agreement to these Terms of Use

- 1.1 Netball Australia Limited ("**Netball Australia**", "**us**", "**we**"), is an Australian public company limited by guarantee with Australian Company Number 003 142 818. Netball Australia is the national body for netball in Australia. The primary online address for Netball Australia is netball.com.au. This URL, and all associated sites linked to it by Netball Australia (including all websites of Netball Australia ANOs) are referred to in these terms and conditions of use ("**Terms of Use**") as the Website ("**Website**"). Netball Australia's affiliated organisations, Member Organisations, being the governing body of netball in each Australian State and Territory known as Netball ACT, Netball Victoria, Netball NSW, Netball Queensland, Netball NT, Netball WA, Netball SA and Netball Tasmania, together with Netball Australia and each of our agents and representatives are referred collectively in these Terms of Use as the "**Netball Australia ANOs**".
- 1.2 These Terms of Use are deemed to incorporate this Website's privacy policy (the "**Privacy Policy**"), which are available on this Website and which you should read together with these Terms of Use. The provisions of the Privacy Policy apply as if set out in full in these Terms of Use.
- 1.3 These Terms of Use govern your access to and use of this Website, including any: (i) software, database, information, content or materials that are located on, form part of or available through or in connection with this Website (the **Website Material**); and (ii) services provided through or in connection with this Website (the **Services**). By accessing or using this Website you are deemed to agree to these Terms of Use. If you do not agree to these Terms Use, you must immediately exit and not access or use this Website.

2. Changes to these Terms of Use

- 2.1 Netball Australia may from time to time (with or without notice to you) amend or update these Terms of Use at its sole discretion. Accordingly, you should ensure that you regularly review them. The Terms of Use applicable to your access to and use of this Website is the current version displayed on this Website at the time you access or use this Website. By continuing to access or use this Website after such changes, you are deemed to agree to be bound by such changes.
- 2.2 However, where we make material changes to these Terms of Use we will always try to notify you (provided you have supplied your contact details to us), and provide details of the key changes we have made so that you can determine whether or not you wish to continue to use the Website or Services.

3. Different types of Users

- 3.1 Subject to these Terms of Use, any person may access or use this Website via the internet without registering with or disclosing any personally identifying information to Netball Australia (an “**Unregistered User**”).
- 3.2 To make full use of the functionality of this Website, you may need to register with Netball Australia to access different parts of the Website or specific Services. There are 3 different types of registration (collectively referred to as “**Registered Users**”), namely: (i) MyNetball general registration, which is available where any affiliated netball entity has registered for access to the MyNetball Service (“**MyNetball General User**”); (ii) online shopping registration, which is required if you wish to make purchases from the Netball Australia online store (“**Online Shopping User**”); and (iii) industry registration, which is only available to a user who is an employee or other representative of an organisation that is a **Netball Australia ANO**.
- 3.3 Netball Australia may refuse any request for registration. Unregistered Users and Registered Users are referred to collectively in these Terms of Use as “**Users**”. Netball Australia may make varying levels of functionality available to different Users, depending on whether they are Unregistered Users or Registered Users, and depending also on the type of registration.
- 3.4 Online Shopping Users are subject to the additional terms and conditions for our online shop.
- 3.5 **Netball Australia ANOs** who use the MyNetball Payment Service must agree to our partners terms and conditions located at <http://netball.com.au/mynetball-payment-service/>

4. Registration

- 4.1 If you wish to become a Registered User, you must provide Netball Australia with certain true and correct information about yourself (the “**User Registration Information**”), as requested by the relevant registration page on this Website. Information requested may include your: email address; name; title; date of birth; home address; country of residence; telephone number; employer / organisation name; office address; payment details; and billing address.
- 4.2 You must promptly notify and update Netball Australia if any of your User Registration Information is erroneous or changes from time to time. By providing your contact details, you are deemed to agree to Netball Australia contacting you via such means.

5. Use of the Website Material

- 5.1 The Website Material is provided to you as a general guide only and must not be relied on by you or any other person as a substitute for appropriate professional coaching and other advice tailored to your specific circumstances. Any health, diet or exercise advice is not intended as medical diagnosis or treatment. You should always seek professional medical advice before commencing any new exercise program or taking up a new sport such as Netball.
- 5.2 Netball Australia grants you a revocable, non-exclusive, non-transferable, non-sublicensable, personal licence to use the Website Material solely in accordance with these Terms of Use.

6. Intellectual Property Rights

All intellectual property rights (including copyright, database rights and trade mark rights) subsisting in, relating to or arising out this Website, the Website Material or the Services are owned by and vest in Netball Australia or Netball Australia ANOs). You acknowledge and agree these Terms of Use do not transfer any right, title or interest in Netball Australia or Netball Australia ANOs intellectual property rights to you.

7. Submitted Materials

- 7.1 This Website may allow Users to submit or post information, content and materials (“**User Material**”) to this Website and/or Netball Australia, for access and use by other Users and/or Netball Australia ANOs (References in these Terms of Use to “User Material” do not include any User Registration Information, which is treated separately to User Material.) relating to registration if a User is a Registered User. Netball Australia does not systematically review User Material submitted by Users and is not responsible for the form or content of any User Material.
- 7.2 If you choose to submit or post User Material, you must own or have the right to submit or post that User Material and it must not: (i) infringe any intellectual property right (including copyright, database right or trade mark right) of any person or be in breach of any legal duty owed to any person, such as a contractual duty or a duty of confidence; (ii) deceive or be likely to deceive any person; (iii) be used to impersonate any person (including Netball Australia and its representatives) or to misrepresent your identity or affiliation with any person; (iv) be illegal, obscene, defamatory, threatening, pornographic, harassing, hateful, racially or ethnically offensive, encourage conduct that would be considered a criminal offence, give rise to civil liability, violate any law or be otherwise inappropriate; or (v) advertise any product or service or solicit any business.
- 7.3 You agree that Netball Australia ANOs may: (i) edit or delete your User Material; (ii) link your User Material to other material, including User Material submitted by other Users or material created by Netball Australia and/or other third parties; (iii) use your User Material for its business purposes, including to promote, market or advertise this Website and Netball Australia; and (iv) directly or indirectly commercially benefit from your User Material.
- 7.4 Unless agreed otherwise, Netball Australia ANOs do not claim any ownership rights in your User Material, however, by submitting User Material you are deemed to grant Netball Australia an irrevocable, perpetual, non-exclusive, royalty-free, transferable, sublicensable, worldwide license to download, use, modify, distribute, copy, reproduce in a material form, publish, perform or cause to be heard or seen in public, communicate to the public, make an adaptation of, enter into a commercial rental arrangement in respect of that User Material.

8. Prohibited activities

You must not submit, post, upload, email or otherwise send or transmit to this Website, Netball Australia ANOs or any User anything that contains software viruses or any other computer code, files or programs designed to interrupt, harm, damage, destroy or limit the functionality of any computer software or hardware or equipment linked directly or indirectly to this Website. You must not interfere with this Website or the servers or networks underlying or connected to this Website or violate any of the procedures, policies or regulations of this Website or any networks connected to this Website. You must not impersonate any other person while using this Website, conduct yourself in an offensive manner while using this Website, or use this Website for any illegal, immoral or harmful purpose.

9. Confidentiality of user name and password

If you are a Registered User, you must not disclose your login user name or password for this Website to any other person. If such disclosure has or you believe that such disclosure may have occurred (whether intentionally or accidentally), then you must immediately inform the relevant Netball Australia Entity. To the extent that the functionality of this Website does not already require Users to do so, you must change your password regularly.

10. Cessation of services

The Netball Australia ANOs may (with or without notice to you) modify, restrict, prevent or withdraw your access to or use of this Website for any reason whatsoever or for no reason, including where a Netball Australia Entity believes that you are in breach of these Terms of Use.

11. Indemnity by you-

To the extent permitted by law, you must indemnify and hold harmless each Netball Australia Entity (and its officers, employees and representatives) against all losses, liabilities and costs (including legal expenses) sustained, incurred or suffered by the Netball Australia ANOs (or its officers, employees and representatives) as a result of your breach of these Terms of Use or any violation by you of any laws or the rights of any person.

12. Other websites

The Netball Australia ANOs are not responsible for the policies and practices of internet websites operated by persons other than Netball Australia, even if: (i) you access them using links on this Website; or (ii) are directed or link to this Website using links on such websites, and recommends that you carefully review the terms and conditions of use and privacy policy of every internet website you access or use.

13. Changes to this Website

Subject to clause 2.2, the Netball Australia ANOs may (with or without notice to you) make changes to this Website, the Website Material and the Services.

14. Availability of this Website

This Website, the Website Material and the Services are provided on an “as available” basis and the Netball Australia ANOs shall not be liable if this Website, the Website Material or the Services are unavailable for any period. We may (with or without notice to you) temporarily suspend access to this Website, the Website Material and/or the Services or indefinitely close down this Website at any time. The Netball Australia ANOs do not represent, warrant or undertake that this Website, the Website Material or the Services will be error, defect, “bug” or “virus” free.

15. Accuracy of this Website

This Website, the Website Materials and the Services are provided on an “as is” basis and Netball Australia makes no representations, warranties or undertakings with respect to this Website, the Website Material or the Services, including as to the currency, accuracy or completeness of this Website, the Website Material or the Services.

16. Limitation of liability

16.1 The exclusions and limitations on liability in these terms and conditions, including this clause 16, do not apply to any liability to the extent that the same may not be excluded or limited as a matter of law and this clause 16 is subject always to clause 17.

16.2 The Netball Australia ANOs' liability for any claim, action, proceeding or dispute, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, under or in connection with these Terms of Use, the Website, Website Material or the, is limited to: (i) in the case of a supply of goods, us doing any one or more of the following (at our election): replacing the goods or supplying equivalent goods; repairing the goods; paying the cost of replacing the goods or of acquiring equivalent goods; or, paying the cost of having the goods repaired; and (ii) in the case of a supply of services, us doing either or both of the following (at our election): supplying the services again; or, paying the cost of having the services supplied again.

- 16.3 If, notwithstanding the above, we are liable to any person, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, under or in connection with these terms and conditions, then our liability is limited in aggregate to the lesser of \$5,000 and the purchase price paid for our product the subject of the relevant claim, action, proceeding or dispute.
- 16.4 In no circumstances are we liable to any person, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, under or in connection with these Terms of Use, for any special, indirect or consequential loss, even if you advise us of any special circumstances, or for any loss of profits, loss of sales, loss of business or agreements, loss of goodwill, loss of or wasted management of staff time or loss of anticipated savings.

17. Statutory Rights

- 17.1 To the fullest extent permitted by applicable law, we exclude all implied representations, warranties, terms and conditions of any kind whatsoever (whether implied by common law, statute or otherwise) and the application or availability of any statutory rights (including any statutory guarantees that any goods or services supplied under these terms and conditions are of satisfactory quality or fit for their purpose).
- 17.2 Nothing in these Terms of Use are intended to exclude, restrict or modify any rights that you may have under the Competition and Consumer Act 2010 (Cth) (the “**CCA**”) or any other applicable legislation which may not be excluded, restricted or modified by agreement.
- 17.3 If the CCA or any other applicable legislation provides you with any non-excludable statutory rights (including any implied representations, warranties, terms or conditions or any statutory guarantees) in respect of any goods or services supplied under these terms and conditions, then the exclusions of and limitations on our liability in these terms and conditions do not apply in respect of such non-excludable statutory rights, however, where our liability with respect to such non-excludable statutory rights may be restricted or modified, then, without prejudice to any non-excludable statutory rights that you may have which may not be restricted or modified by agreement, our liability is limited in the manner set out in clause 16.2.

18. Force majeure

Netball Australia will not be in breach of these Terms of Use or otherwise liable to you or any other person for any unavailability or failure of this Website, the Website Material or the Services or any delay or other failure by Netball Australia to comply with these Terms of Use that is caused by or arises from any event or circumstances beyond Netball Australia's control.

19. Assignment

You must not assign, transfer, sub-contract or otherwise dispose of any or all of your rights and/or obligations under these Terms of Use. Netball Australia may assign, transfer, sub-contract or otherwise dispose of any or all of Netball Australia's rights and/or obligations under these Terms of Use.

20. Entire agreement

These Terms of Use, together with any additional terms and conditions or usage rules set out on this Website from time to time, constitutes the whole agreement between you and Netball Australia relating to its subject matter and supersedes and extinguishes any prior drafts, versions, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.

21. Rights cumulative

The rights, powers, privileges and remedies provided under any provision of these Terms of Use are cumulative and are not exclusive of any rights, powers, privileges or remedies provided under any other provision of these Terms of Use or by applicable law or otherwise.

22. Waiver

No failure to exercise nor any delay in exercising by Netball Australia of any right, power, privilege or remedy under these Terms of use shall impair or operate as a waiver thereof in whole or in part. No single or partial exercise of any right, power privilege or remedy under these Terms of Use shall prevent any further or other exercise thereof or the exercise of any other right, powers, privilege or remedy.

23. Invalidity

If any provision of these Terms of Use is held to be illegal, void, invalid or unenforceable under the applicable laws of any jurisdiction, the legality, validity and enforceability of the remainder of these Terms of Use in that jurisdiction shall not be affected, and the legality, validity and enforceability of the whole of these Terms of Use in any other jurisdiction shall not be affected.

24. Governing law

These Terms of Use shall be governed by, and construed in accordance with, the laws of Victoria. You are deemed to submit to the non-exclusive jurisdiction of the courts of Victoria.

25. Interpretation

In these Terms of Use, unless the context requires otherwise: (i) any reference to a "person" includes any individual, company, corporation, firm partnership, joint venture, association, organisation or trust (in each case, whether or not having separate legal personality) and references to any of the same shall include a reference to the others; (ii) any phrase introduced by the words "including", "include", "in particular", "for example" or any similar expression shall be construed as illustrative only and shall not be construed as limiting the generality of any preceding words; (iii) references to the singular include the plural and to the masculine include the feminine, and in each case vice versa; and (iv) the headings and sub-headings are inserted for convenience only and shall not affect the meaning of these Terms of Use.

26. Contacting NETBALL AUSTRALIA and NETBALL AUSTRALIA ANOS

All correspondence to Netball Australia or Netball Australia ANOs, including any queries you may have regarding this Website or these Terms of Use, should be sent to:

Netball Australia

email to: infonet@netball.asn.au

phone to: 03 8621 8600

writing to: The Privacy Officer Netball Australia, PO Box 13285 Law Courts VIC 8010.

Netball Australia will investigate your queries and complaints within a reasonable period of time and will notify you of the outcome of our investigation. Netball Australia may refer your correspondence to the relevant ANO.