



Constitution of the New Zealand Wind Energy Association Incorporated



Incorporated Societies Act 2022

**New Zealand Wind Energy
Association Incorporated**

Version 10: 17 September 2025

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1 **NAME OF INCORPORATED SOCIETY**

The name of the Society is New Zealand Wind Energy Association Incorporated.

2 **CHARITABLE STATUS**

The Society is currently registered as a charitable entity under the Charities Act 2005 under registration number CC37683.

3 **DEFINITIONS AND INTERPRETATION**

3.1 **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 and 2023 Regulations or any Act which replaces it (including amendments to it from time to time), and any regulations made under the Act or under any Act which replaces it.

'Annual General Meeting' means a meeting of the Members of the Society held once per year in accordance with section 84 of the Act at which, among other things, the Members will receive and consider reports on the Society's activities and finances.

'Associate Member' means a Member as described in clause 9.4(c), being a Company with more than 1 employee but less than 100 employees that has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member and is not an Honorary Member and has paid a Subscription and whose name has been entered in the Register of Members as an Associate Member.

'Auditor' means the person appointed in accordance with this Constitution.

'Board' means the Society's governing body for the time being, comprised (as further set out in clause 11.3) of the Chief Executive and Board Members elected to manage the affairs of the Society pursuant to clause 14 of this Constitution, and which may also from time to time be referred to as the Committee.

'Board Member' means an Officer elected or appointed to the Board for the time being, in accordance with this Constitution, and who is qualified to be an Officer under section 47 of the Act, excluding the Chairperson unless they are separately elected or appointed as an Officer of the Board, and unless the context otherwise requires, does not include the Chief Executive.

‘Chairperson’ means the person appointed as Chairperson under clause 13.1 from time to time, being the Officer responsible for chairing General Meetings and Board meetings, and who provides leadership for the Society, as further described in clause 13, and who is qualified to be an Officer under section 47 of the Act.

‘Chief Executive’ means the individual person appointed by the Board under the New Zealand Employment Relations Act 2000 to manage, operate and maintain the Society in accordance with this Constitution and within the Board approved delegations, and is qualified to be an Officer under section 47 of the Act.

‘Company’ means any organisation, limited liability company, unlimited liability company, co-operative company, partnership or other body corporate in New Zealand, whether incorporated or unincorporated.

‘Constitution’ means the rules and clauses in this document.

‘Corporate Member’ means a Member as described in clause 9.4(a), being a Company with 500 employees or more that has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member and is not an Honorary Member and has paid the required Subscription and been entered into the Register of Members as a Corporate Member.

‘Financial Year’ means the period from the 1st day of April in one year to the 31st day of March in the next.

‘Financial Statements’ means proper financial statements giving a true and fair account of:

- a) the income and expenditure of the Society during a Financial Year;
- b) the assets and liabilities of the Society at the end of a Financial Year; and
- c) all mortgages, charges and other securities of the Society at the end of a Financial Year.

‘General Meeting’ means either:

- a) an Annual General Meeting; or
- b) a Special General Meeting.

‘Honorary Member’ means any person that has consented to be a Member who abides by the rules of this Constitution and has been appointed by the Board, in their sole discretion, to be an Honorary Member due to their meritorious and enduring services to the Society and whose name has been entered in the Register of Members as an Honorary Member and who has not

ceased to be an Honorary Member or been admitted as a Member under any other Membership Category, as further described in clause 9.4(e).

'Individual Member' means an Individual Member as described in clause 9.4(d), being a person that is an individual or a Company with 1 employee or less that has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member and is not an Honorary Member and has paid the required Subscription and been entered into the Register of Members as an Individual Member.

'Interested Member' means a Member or Officer who has a personal or financial stake in a matter, transaction, or decision that could potentially benefit them or their interests, potentially creating a conflict of interest, either real or perceived, as further described in section 62 of the Act.

'Interests Register' means the register of interests of Officers, kept under this Constitution and as required by section 73 of the Act.

'Matter' means:

- a) the Society's performance of its activities or exercise of its powers; or
- b) an arrangement, agreement, or contract (a transaction) made or entered into, or proposed to be entered into, by the Society.

'Member' means a person or organisation who is either a Corporate Member, a Senior Associate Member, an Associate Member, an Individual Member or an Honorary Member.

'Membership Category' means any category of Members referred to in clause 9.4, being either a Corporate Member, a Senior Associate Member, an Associate Member, an Individual Member or an Honorary Member.

'Notice' to Members includes any notice given by email, post, or courier.

'Officer' means a natural person qualified to be an Officer under section 47 of the Act who:

- a) is a Board Member; or
- b) occupies a position in the Society that allows him or her to exercise significant influence over the management or administration of the Society, including the Chairperson, Chief Executive, Secretary, and any Working Group Chairperson.

'Purposes' means the charitable purposes and objectives of the Society, as set out in clause 4.

'Register of Members' means the register of Members kept under this Constitution as required by section 79 of the Act.

'Registered Office' means the registered office of the Society for the time being, as determined in accordance with this Constitution.

'Registrar' means the person holding the office from time to time of Registrar of Incorporated Societies in terms of the Act.

'Related Company' shall have the meaning given to that term in section 2(3) of the Companies Act 1993 but read as if the term "company" is as defined in this Constitution.

'Secretary' means the Officer appointed to be responsible for the matters specifically noted in clause 10.5 of this Constitution, being the Chief Executive unless otherwise determined by the Board from time to time, and who is a person qualified to be an Officer under section 47 of the Act.

'Senior Associate Member' means a Member as described in clause 9.4(b), being a Company that has 100 employees or more but less than 500 employees that has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member and is not an Honorary Member and has paid the required Subscription and been entered into the Register of Members as a Senior Associate Member.

'Society' means the incorporated society governed by this Constitution known as New Zealand Wind Energy Association Incorporated.

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

'Subscription' means the annual membership fee payment (plus GST if any) due from Members (excluding Honorary Members) to the Society fixed in accordance with this Constitution.

'Wind Energy' means the generation of electrical energy from the harnessing of the wind.

'Working Day' means a working day as defined in the Legislation Act 2019.

'Working Group' means the persons (non-Members) or Members appointed by the Board to progress matters of specific interest to the Society, under terms defined under written and agreed terms of reference approved by the Board.

'Working Group Chairperson' means the Officer elected in accordance with this Constitution responsible for chairing the relevant Working Group Meetings,

and who reports directly to the Board, and who is qualified to be an Officer under section 47 of the Act.

3.2 Interpretation

Unless the context otherwise requires, in this Constitution:

- a) headings will be ignored;
- b) words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- c) references to any legislation or regulation is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that legislation or regulation;
- d) reference to a "party", "person" or "entity" includes a natural person, individual, firm, company, corporation, society, trust, the Crown or any agency of the Crown, or other entity, in each case whether incorporated or not and whether or not having a separate legal personality, and includes their respective successors, assigns, executors and administrators;
- e) "written" and "in writing" include all means of reproducing words in a tangible and permanently visible form;
- f) a reference to a clause is a reference to that clause in this Constitution, as amended from time to time in accordance with the Act.

4 PURPOSE AND OBJECTIVES

4.1 Purpose

The Society is established and maintained exclusively for charitable purposes (including any purposes ancillary to those charitable purposes), namely the advancement and uptake of New Zealand's abundant wind resource as a reliable, sustainable, clean and commercially viable energy source, both onshore and offshore.

Any income, benefit, or advantage must be used to advance the charitable purposes of the Society.

4.2 Objectives

The objectives of the Society are to achieve its Purpose by:

- a) policy advocacy with local and central government officials and elected representatives, regulatory bodies, industry groups and other interested organisations to raise the awareness of, and develop the concept of Wind Energy in Aotearoa New Zealand;
- b) organising seminars, conferences and other promotional and educational events, and to distribute information, relating to Wind Energy in Aotearoa New Zealand;
- c) providing a forum for external and internal networking, discussion and co-operation amongst persons with an interest in Wind Energy in Aotearoa New Zealand;
- d) promoting the economic, environmental, social and other benefits of Wind Energy in Aotearoa New Zealand; and
- e) promoting research and development of Wind Energy technology in Aotearoa New Zealand.

5 TIKANGA, KAWA, CULTURE OR PRACTICE

The tikanga or culture of the Society is as follows:

- a) Iwi engagement is essential in the development of wind farms to ensure cultural respect, legal compliance, environmental stewardship, community support, economic equity, and improved project outcomes. It is a fundamental aspect of responsible and sustainable development in Aotearoa. The Treaty of Waitangi (Te Tiriti o Waitangi) establishes a framework for the partnership between Māori and the Crown. Under this treaty, the Crown has obligations to consult with iwi on matters that affect their lands and interests. Engaging iwi in wind farm projects helps fulfil these legal obligations, ensuring that Māori rights and interests are considered and upheld.
- b) This Constitution shall be interpreted having regard to tikanga, kawa, culture or practice.

6 RESTRICTIONS ON SOCIETY POWERS

Nothing in this Constitution authorises the Society to do anything which contravenes or is inconsistent with the Act, any regulations made under the Act, or any other legislation, including the Charities Act 2005.

The Society's capacity, rights, powers, and privileges are subject to the following restrictions:

- a) The Society does not have the power to borrow money.

- b) No Member shall be entitled to receive any dividend out of any Subscriptions, fees, donations or other income or funds of the Society.
- c) Any Member may enter into any agreement or arrangement with the Society for the supply of any goods or services for such consideration and on such other terms and conditions as may be reasonable were that Member not a Member.
- d) Nothing expressed or implied in this Constitution shall permit the activities of the Society or any business carried on by or on behalf of the Society, to be carried on for the private pecuniary profit of any individual and no distribution of profit, capital or surplus may be made to any person unless such distribution must be applied by that person toward the Purposes.
- e) Notwithstanding anything to the contrary in this Constitution, no remuneration, income or benefit or advantage (regardless of whether it is convertible into money) or income of any of the kinds referred to in section CW 42(8) of the Income Tax Act 2007 shall be paid or afforded to or received or gained or achieved or derived by any person:
 - i. if the limitation in section CW 42(1)(c) of the Income Tax Act 2007 denies the Society an exemption from tax on income derived by the Society from the carrying on of any business by or on behalf of or for the benefit of the Society; or
 - ii. if that person can in any way (whether directly or indirectly) determine, or materially influence in any way the determination of, the nature or the amount of the remuneration, benefit, advantage or income or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person except where the remuneration, income, benefit or advantage is derived from professional services to the Society rendered in the course of business charged at no greater than current market rates.

7 REGISTERED OFFICE

The registered office of the Society shall be at such place in New Zealand as the Board from time to time determines. Changes to the registered office shall be notified to the Registrar:

- a) At least 5 working days before the change of address for the registered office is due to take effect, and
- b) In a form and as required by the Act.

8 CONTACT PERSON

The Society shall have at least 1 but no more than 3 contact person(s) whom the Registrar can contact when needed. As a minimum, the Chief Executive shall be the Society's nominated contact person.

The Society's other contact person/s (where appropriate) must be:

- a) At least 18 years of age, and
- b) Ordinarily resident in New Zealand.

Additional contact person/s can be appointed by the Board or elected by the Members at a General Meeting. Each contact person's name must be provided to the Registrar, along with their contact details, including:

- a) A physical address or an electronic address, and
- b) A telephone number.

Any change in that contact person or that person's name or contact details shall be advised to the Registrar within 20 Working Days of that change occurring, or the Society becoming aware of the change.

9 MEMBERSHIP

9.1 Minimum Number of Members

The Society shall maintain the minimum number of Members required by the Act.

9.2 Members

A Member is a natural person or Company who is either an Honorary Member, Individual Member, Associate Member, Senior Associate Member or a Corporate Member who has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member.

9.3 Condition of Membership

All Members as a continuing condition of membership of the Society agree to support the Society in achieving the Purposes.

9.4 Categories of Members

Each Member shall belong to one Membership Category only at any given time.

The Chief Executive and/or Board shall have absolute discretion to determine and shall not be bound to give any reason for determining the Membership Category for which any Member or applicant for membership of the Society qualifies.

The categories of membership and the method by which Members are admitted to different classes of membership are as follows:

a) Corporate Member

A Corporate Member is a Company with 500 employees or more that has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member and has paid a Subscription and whose name has been entered in the Register of Members as a Corporate Member.

A Corporate Member receives all rights and privileges of the Society and has a right to exercise a vote at a General Meeting and also be nominated and/or accepted to the Board under the process outlined in clause 14 of the Constitution.

b) Senior Associate Member

A Senior Associate Member is a Company with 100 to 499 employees that has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member and has paid a Subscription and whose name has been entered in the Register of Members as a Senior Associate Member.

A Senior Associate Member receives all rights and privileges of the Society and has a right to exercise a vote at a General Meeting and also be nominated and/or accepted to the Board under the process outlined in clause 14 of the Constitution.

c) Associate Member

An Associate Member is a Company with more than 1 employee but less than 100 employees that has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member and has paid a Subscription and whose name has been entered in the Register of Members as an Associate Member.

An Associate Member receives all rights and privileges of the Society and has a right to exercise a vote at a General Meeting and also be nominated and/or accepted to the Board of the Society under the process outlined in clause 14 of the Constitution.

d) Individual Member

An Individual Member is a person that is an individual or a Company with 1 employee or less that has consented to become a Member and has been properly admitted to the Society who has not ceased to be a Member and has paid a Subscription and whose name has been entered in the Register of Members as an Individual Member.

An Individual Member has no membership rights, voting rights, privileges or duties other than the right to be invited to General Meetings of the Society.

e) Honorary Member

An Honorary Member is a person honoured at the sole discretion of the Board for meritorious and enduring services to the Society who has consented to be a Member, who abides by the rules of this Constitution and whose name has been entered in the Register of Members as an Honorary Member and not as a Member of any other Membership Category.

An Honorary Member has no membership rights, voting rights, privileges or duties other than the right to be invited to General Meetings.

9.5 Becoming a Member - Consent

Every applicant for membership must consent in writing to becoming a Member.

9.6 Becoming a Member - Process

An applicant for membership must complete, sign and submit (in written or electronic form as prescribed by the Society, using the Society's application form), and supply any information, or attend an interview as may be reasonably required by the Chief Executive and/or Board regarding an application for membership and will become a Member on acceptance of that application by the Chief Executive and/or the Board.

The Chief Executive and/or the Board (may accept or decline an application for membership at its sole discretion (or in the case of the Chief Executive, as authorised by the Board). The Chief Executive and/or Board must advise the applicant of its decision and shall not be bound to give any reason for its acceptance or refusal of, an application for membership of the Society.

The signed (in written or electronic form) consent of every Member to become a Society Member shall be provided with each application for membership and shall be retained in the Society's membership records.

9.7 Members' Obligations and Rights

Every Member shall provide the Society in writing (or electronic form) with that Member's name and contact details (namely, physical or email address and a

telephone number) and promptly advise the Society in writing of any changes to those details. All Members:

- a) Shall promote the interests and purposes of the Society and shall do nothing to bring the Society into disrepute.
- b) Are only entitled to exercise the rights of membership in accordance with their Membership Category (including attending and if applicable voting at General Meetings, accessing or using the Society's premises, facilities, equipment and other property, and participating in Society activities) if all Subscriptions and any other fees have been paid to the Society by their respective due dates, but no Member is liable for an obligation of the Society by reason only of being a Member.
- c) Shall, if they are a Company, provide the Board, in writing (or electronic form), with the name and contact details of the person who is the Company's authorised representative, and that person shall be deemed to be the Company's proxy for the purposes of voting at General Meetings.

The Board may decide what access or use Members may have of or to any premises, facilities, equipment or other property owned, occupied or otherwise used by the Society, and to participate in Society activities, including any conditions of and fees for such access, use or involvement.

9.8 Votes of Members

- a) Corporate Members present and be entitled to vote at General Meetings shall, for the purposes of such General Meetings only, be entitled to exercise 1 vote each, either in person (including electronically if the Board, at its discretion, permits participation at the relevant General Meeting by electronic means) or by proxy in accordance with clauses 9.9 and 9.10;
- b) Senior Associate Members present and be entitled to vote at General Meetings shall, for the purposes of such General Meetings only, be entitled to exercise 1 vote each, either in person (including electronically if the Board, at its discretion, permits participation at the relevant General Meeting by electronic means) or by proxy in accordance with clauses 9.9 and 9.10;
- c) Associate Members present and be entitled to vote at General Meetings shall, for the purposes of such General Meetings only, be entitled to exercise 1 vote each, either in person (including electronically if the Board, at its discretion, permits participation at the relevant General Meeting by electronic means) or by proxy in accordance with clauses 9.9 and 9.10;

- d) Individual Members present at General Meetings shall not be entitled to exercise any votes for the purposes of such General Meetings.
- e) Honorary Members present at General Meetings shall not be entitled to exercise any votes for the purposes of such General Meetings.

9.9 Form of Proxy

- a) The instrument appointing a proxy shall be in writing and signed by the appointer and, in all other respects, shall be in such other form as the Board may determine from time to time.
- b) A proxy must be:
 - i. the Chairperson; or
 - ii. the Chief Executive; or
 - iii. a Member, or an employee, officer, agent or shareholder of a Member, who is entitled to vote in its, his or her own right at the relevant General Meeting.

9.10 Delivery of Instrument Appointing Proxy

The instrument appointing a proxy shall be delivered to the Chief Executive and/or Chairperson before the time fixed for holding the meeting or adjourned meeting at which the person named in such instrument is authorised to vote, failing which the instrument appointing a proxy shall not be treated as valid.

9.11 No Vote if Subscriptions or Other Amounts Unpaid

If any Subscription or other amount presently payable by any Member to the Society is overdue, such Member, subject to Board discretion, shall not be entitled to vote at any General Meeting, whether in its, his or her own right or as a proxy for another person.

9.12 Liability of Members

- a) No action in law or otherwise shall lie in favour of any Member against any other Member, any Officer, the Chairperson, the Chief Executive, or the Secretary in respect of any matter or thing done or omitted to be done pursuant to this Constitution, notwithstanding any irregularity or informality in the observance of this Constitution (except in respect of any loss or expense arising from the wilful default of the person against whom such action is taken).

- b) No Member shall be under any liability in respect of any contract or other obligation made or incurred by the Society, except a contract or other obligation made or incurred between the Member and the Society.

9.13 Subscriptions and Fees

Subscriptions and other fees shall be:

- a) determined by the Board for the upcoming Financial Year before the commencement of that Financial Year, and if it is not practicable to make such determination before the commencement of any Financial Year, as soon as practicable thereafter; and
- b) reasonably sufficient for the proper functioning of the Society in undertaking the Mission, Purposes and other business of the Society in accordance with this Constitution.

9.14 Ceasing to be a Member

A Member ceases to be a Member:

- a) by resignation from that Member's class of membership by written or electronic notice signed by that Member to the Chief Executive and/or the Board; or
- b) on termination of a Member's membership by the Board following a dispute resolution process under this Constitution; or
- c) on death (or if a Company on liquidation or deregistration or, in the case of a partnership, on dissolution); or
- d) by resolution of the Board where:
 - i. The Member has failed to pay the Subscription, levy or other amount due to the Society within 60 Working Days of the due date for payment.
 - ii. In the opinion of the Board the Member has brought the Society into disrepute.
 - iii. if, in the opinion of the Board, that Member has materially broken any of its undertakings to the Society or breached the Constitution or is guilty of discreditable conduct or conduct materially prejudicial to the interests of the Society.

9.15 Effect of Cancellation or Change of Membership Category

Unless the Board determines otherwise, neither;

- a) A change of a Member's Membership Category; nor
- b) The cancellation of a Member's membership of the Society shall:
 - i. entitle the Member concerned to a refund of any Subscriptions paid to the Society; or
 - ii. relieve the Member from liability to pay any Subscriptions that have fallen payable at the time of such change or cancellation of membership with effect from the date of termination.

9.16 Obligations Once Membership has Ceased

A Member who has ceased to be a Member under this Constitution:

- a) Remains liable to pay all Subscriptions and other fees to the Society's next balance date;
- b) Shall cease to hold himself or herself out as a Member;
- c) Shall return to the Society all material provided to Members (including any membership certificate, badges, handbooks and manuals); and
- d) Shall cease to be entitled to any of the rights of a Member.

9.17 Becoming a Member Again

Any former Member may apply for re-admission in the manner prescribed for new applicants and may be re-admitted only by resolution of the Board.

But, if a former Member's membership was terminated following a disciplinary or dispute resolution process, the applicant may be re-admitted only by a resolution passed at a General Meeting on the recommendation of the Chief Executive or Board.

All Members as a continuing condition of membership of the Society agree to support the Society.

10 ADMINISTRATION

10.1 Administration

The management and administration of the Society shall be vested in the Board and, subject to the Act, the Board may at its discretion delegate any of its responsibilities to the Chief Executive, as provided in this Constitution.

10.2 Signing Documents

All documents and written announcements requiring execution or signing on behalf of the Society must be signed in the manner determined by the Board from time to time in accordance with section 123 of the Act.

10.3 Confidentiality

No Officer nor any Member or member of a Working Group shall, at any time (including after ceasing to be a Member or member of a Working Group) disclose:

- a) Any details of the proceedings of the Society in General Meeting, the Board and/or any committee or subcommittee of the Board or Working Group;
- b) Any information disclosed by any other Officer, Member or member of a Working Group to them, in connection with the affairs or proceedings of the Society, on a confidential basis;
- c) The terms of reference, results or any details as to the preparation of any reports or research undertaken by or on behalf of the Society;
- d) Any details as to the Financial Statements and other accounts, agenda for meetings, minutes or any other written material relating to the affairs or proceedings of the Society; or
- e) Any intellectual property that may be, or that becomes at any time, the property of the Society;

Except to the extent that such disclosure:

- a) Is expressly authorised in writing by the Board, by resolution of the Society at a General Meeting, or by this Constitution;
- b) Is already in the public domain other than as a result of a breach of this Constitution; or
- c) Is required by law.

10.4 Appointment and Removal of Chief Executive

The Chief Executive shall be the person appointed by the Board under the New Zealand Employment Relations Act 2000 to manage, operate and maintain the Society in accordance with this Constitution and within the Board approved delegations, and as such, shall be an Officer and qualify as an Officer under section 47 of the Act.

Unless otherwise determined by the Board from time to time, the Chief Executive shall also be the Secretary. The Board may at its discretion appoint another person to be Secretary instead provided that they must also qualify as an Officer under section 47 of the Act.

The duties, rights, powers and obligations of the Chief Executive and/or Secretary shall be defined in accordance with their individual employment agreement as agreed between them and the Board from time to time and as further set out in this Constitution and any relevant job description or other relevant policies or procedures set by the Board that may be applicable under their terms of appointment.

If the Board reasonably considers the Chief Executive and/or Secretary is not adequately performing their duties, the Board may remove them from office by giving written notice of termination to them in accordance with their employment agreement and any other relevant and applicable terms of appointment.

10.5 Duties of Secretary

The duties of the Secretary shall include:

- a) Convening and attending General Meetings when required to do so in accordance with this Constitution and likewise convening and attending meetings of the Board and of all sub-committees (if any) of the Board;
- b) Giving all such notices as the Society in General Meeting or the Board may instruct, or that the Society may be required to give to Members in the manner provided in this Constitution;
- c) Keeping minutes of all meetings of the Society and of the Board and all sub-committees (if any) of the Board;
- d) Performing, or supervising the performance of, the administration, and the maintenance of proper records of, the Society;
- e) Maintaining the Register of Members in accordance with clause 17.1 and ensuring this is kept up to date;

- f) Giving all such notices, certificates and information to the Registrar as may be required by the Act or by the Registrar pursuant to the Act;
- g) Issuing and receiving correspondence on behalf of the Society;
- h) Receiving all fees, Subscriptions, levies and other moneys paid to the Society;
- i) Opening and operating current and interest-bearing bank accounts in the name of the Society;
- j) Making such deposits and investments in the name of the Society as the Board may determine from time to time;
- k) Paying all accounts and making all advances passed for payment by the Board;
- l) Keeping all financial records of the Society and ensuring their safe keeping together with any security documents;
- m) Reporting to the Board any Member who breaches this Constitution or who fails to pay fees, Subscriptions or other moneys properly payable by that Member within the prescribed period;
- n) Preparing, or causing to be prepared, and submitting to the Auditor as soon as practicable after each Financial Year, the Financial Statements for that Financial Year; and
- o) Such other duties as prescribed by the Board from time to time.

11 THE BOARD

11.1 Functions of the Board

From the end of each Annual General Meeting until the end of the next, the Society shall be managed by, or under the direction or supervision of, the Board, in accordance with the Act, any Regulations made under that Act, and this Constitution.

11.2 Powers of Board

The Board has all the powers necessary for managing and for directing and supervising the management of the operation and affairs of the Society, subject to such modifications, exceptions, or limitations as are contained in the Act or in this Constitution.

11.3 Composition of Board

In addition to the Chief Executive, the Board shall consist of eight (8) Board Members, duly elected by Members at each Annual General Meeting for a two (2) year term in accordance with the procedure set out in clause 14 of this Constitution. Board Members must be:

- a) Members; or
- b) Representatives of a Company that are Members.

To avoid doubt, the Chairperson is not a Board Member unless separately elected or appointed as a Board Member.

11.4 Restrictions of the Board

The restrictions of the Board are such that:

- a) no Board Member shall hold more than one seat on the Board.
- b) no more than one employee, officer or agent of any particular Member (or its Related Company) may be a Board Member at any time unless otherwise expressly agreed by the Members at a General Meeting.

11.5 Working Groups

The Board may appoint Working Group/s consisting of such persons (whether or not they are Members) and for such purposes as it thinks fit, under terms defined under written and agreed terms of reference approved by the Board. Unless otherwise resolved by the Board:

- a) At its sole discretion, appoint a Working Group Chairperson to chair the Working Group, who must abide by this Constitution;
- b) The quorum of every Working Group is half the members of the Working Group but not less than 2;
- c) No Working Group shall have power to co-opt additional members;
- d) A Working Group must not commit the Society to any financial expenditure without express authority from the Board; and
- e) A Working Group must not further delegate any of its powers.

11.6 **General Matters: Boards**

The Board and any Working Group may act by resolution approved during a conference call using audio and/or audio-visual technology or through a written ballot conducted by email, electronic voting system, or post, and any such resolution shall be recorded in the minutes of the next Board or Working Group meeting.

Other than as prescribed by the Act or this Constitution, the Board or any Working Group may regulate its proceedings as it thinks fit.

12 **OFFICERS**

12.1 **Qualifications of Officers**

The following qualifications apply to all Board Members, and all Officers of the Society, collectively referred to as Officers.

All Officers prior to election or appointment as an Officer must be a natural person who:

- a) has consented in writing to be an Officer; and
- b) certifies that they are not disqualified from being elected or appointed or otherwise holding office as an Officer and is qualified to be an Officer under section 47 of the Act.

Officers must not be disqualified under section 47(3) of the Act or section 36B of the Charities Act 2005 from being appointed or holding office as an Officer, namely a person who:

- a) is under 16 years of age;
- b) is an undischarged bankrupt;
- c) is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993, or any other similar legislation;
- d) is disqualified from being a member of the governing body of a charitable entity under the Charities Act 2005;
- e) has been convicted of any of the following, and has been sentenced for the offence, within the last 7 years:
 - i. an offence under subpart 6 of Part 4 of the Act;

- ii. a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961);
 - iii. an offence under section 143B of the Tax Administration Act 1994;
 - iv. an offence under section 22(2) of the Act (being an officer of a society carried on for the financial gain of any of its members with the officer's authority, permission, or consent);
 - v. an offence, in a country other than New Zealand, that is substantially similar to an offence specified in subparagraphs (i) to (iv) above;
 - vi. a money laundering offence or an offence relating to the financing of terrorism, whether in New Zealand or elsewhere;
- f) is subject to:
- i. a banning order under subpart 7 of Part 4 of the Act; or
 - ii. an order under section 108 of the Credit Contracts and Consumer Finance Act 2003; or
 - iii. a forfeiture order under the Criminal Proceeds (Recovery) Act 2009, or a property order made under the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act; or
- g) is subject to an order that is substantially similar to an order referred to in paragraph (f) under a law of a country, State, or territory outside New Zealand that is a country, State, or territory prescribed by the regulations (if any) of the Act.

Note that each consent and certification shall be retained in the Society's records.

12.2 Officers' Duties

At all times each Officer:

- a) shall act in good faith and in what he or she believes to be the best interests of the Society;
- b) must not make false statements or falsify documents;
- c) must comply with the Act and the Constitution;

- d) must ensure the Constitution complies with the Act;
- e) must exercise all powers for a proper purpose;
- f) must not act, or agree to the Society acting, in a manner that contravenes the Act or this Constitution;
- g) 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:
 - i. the nature of the Society;
 - ii. the nature of the decision; and
 - iii. the position of the Officer and the nature of the responsibilities undertaken by him or her.
- h) must not agree to the activities of the Society being carried on in a manner likely to create a substantial risk of serious loss to the Society or to the Society's creditors, or cause or allow the activities of the Society to be carried on in a manner likely to create a substantial risk of serious loss to the Society or to the Society's creditors; and
- i) must not agree to the Society incurring an obligation unless he or she believes at that time on reasonable grounds that the Society will be able to perform the obligation when it is required to do so.

13 CHAIRPERSON

13.1 Chairperson Appointment

- b) Not less than 15 Working Days prior to the Annual General Meeting and then every 2 years thereafter, the Chief Executive shall call for nominations for the position of Chairperson.
- c) The nominations shall be in writing but in all other respects shall be in a form and shall be called for, reviewed, confirmed with nominees, and notified to Members at such times as the Board considers appropriate provided that all bona fide nominations received are notified to Members before the Annual General Meeting.
- d) If no nominations are received and confirmed for a person other than an existing Officer of the Board to become Chairperson then, following the Annual General Meeting the Board will select a Chairperson from amongst themselves and so resolve by simple majority.

- e) If only one nomination is received and confirmed for a person other than an existing Officer of the Board to become Chairperson, then prior to the Annual General Meeting the Board shall either:
 - i. ratify the nomination and notify the Members, in which case the nominee will become the Chairperson after the Annual General Meeting; or
 - ii. select from amongst themselves such nominee or nominees for the position of Chairperson in addition to the one nomination in which case the following clause shall apply.
- f) If there is more than one nomination for the position of Chairperson then the Chief Executive shall at the Annual General Meeting conduct a ballot with all Members eligible to vote in accordance with their Membership Category, where the highest polling nomination will be the duly appointed Chairperson.
- g) If the Chairperson is at any time during the period of his or her appointment as a Chairperson, also elected or appointed as a Board Member, then the Chairperson shall be entitled to attend and vote at all Board meetings in their capacity as an Officer of the Board and, in the case of equality of votes shall have a casting vote in their capacity as Chairperson also.
- h) The Chairperson may, in addition to any other rights or privileges conferred on the holder of that office in or pursuant to this Constitution:
 - i. attend and chair all Board meetings, General Meetings, and all meetings of Working Groups of the Board;
 - ii. receive all information (including copies of all documents and written communications) relating to the running of the Society.
- i) Subject to Board approval and clause 6(e), the Chairperson may be entitled to an annual honorarium that shall be payable in the amount, at the time and in the manner determined by the Board. The Chairperson, in his or her capacity as Chairperson and/or an Officer of the Board (if applicable), may not vote on any resolution of the Board relating to the Chairperson's honorarium.
- j) All references to the Chairperson in the other provisions of this Constitution relating to proceedings of the Board or of the Society in General Meeting shall, unless the context otherwise requires, be deemed references also to any person chairing a Board meeting or General Meetings of the Society in place of the Chairperson in accordance with this Constitution.

- k) The role and responsibilities of the Chairperson may be further set out in the terms of appointment for the Chairperson as agreed by the Board. If the Board reasonably considers the Chairperson is not adequately performing their duties as set out in this Constitution and such terms of appointment, the Board may remove them from office by giving written notice of termination in accordance with their applicable terms of appointment.

13.2 Voting by Chairperson

Subject to clause 13.1(g) above the Chairperson shall not be entitled to vote at any Board meeting or General Meeting in his or her capacity as Chairperson, except in the case of a tie in votes, in which case the Chairperson may (but without being required to do so) vote.

13.3 Chairperson to Chair Board Meetings

- a) The Chairperson shall chair all meetings of the Board at which he or she is present.
- b) If the Chairperson is not present, or being present is unwilling to take the chair, then those Officers who are present shall choose one of their number to chair such Board meeting.

14 BOARD MEMBERS

14.1 Board Member Elections

The election of Board Members shall be conducted as follows.

- a) Not less than 15 Working Days prior to each Annual General Meeting the Chief Executive shall call for nominations from all Members eligible to vote and be nominated to be Board Members.
- b) Board Members shall be elected during Annual General Meetings. However, if a vacancy in the position of any Board Member occurs between Annual General Meetings, that vacancy shall be filled by resolution of the Board (and any such appointee must, before appointment, supply a signed consent to appointment and a certificate that the nominee is not disqualified from being appointed or holding office as a Board Member (as described in the 'Qualification of Board Members' clause of this Constitution). Any such appointment must be ratified at the next Annual General Meeting.
- c) A candidate's written nomination, accompanied by the written consent of the nominee with a certificate that the nominee is not disqualified from being appointed or holding office as a Board Member (as described in the

'Qualification of Board Members') shall be received by the Society at least 5 Working Days before the date of the Annual General Meeting. If there are insufficient valid nominations received, further nominations may be received from the floor at the Annual General Meeting.

- d) Votes shall be cast in such a manner as the Chairperson determines. In the event of any vote being tied, the tie shall be resolved by the Board (excluding those in respect of whom the votes are tied).
- e) Two Members (who are not nominees) or non-Members appointed by the Chairperson shall act as scrutineers for the counting of the votes and destruction of any voting papers.
- f) The failure for any reason of any entitled Member to receive such Notice of the General Meeting shall not invalidate the election.

14.2 Term

The term of office for all Board Members elected to the Board shall be 2 years, expiring at the end of the Annual General Meeting in the year corresponding with the last year of each Board Member's term of office.

- a) No Board Member shall serve for more than 2 consecutive terms.
- b) No Chairperson shall serve for more than 2 consecutive years as Chairperson.

14.3 Alternate Board Members

Each Board Member shall have power from time to time by written notice to the Chief Executive to appoint any person to act as an alternate Board Member in place of such Board Member whenever that Board Member is unable to attend to his or her duty as a Board Member. Any such alternate Board member:

- a) shall provide a written consent of the appointment along with a certificate that the nominee is not disqualified from being appointed or holding office as a Board Member (as described in the 'Qualification of Officers' clause of this Constitution);
- b) may be removed or suspended from office by notice in writing to the Chief Executive from the Board Member by whom such alternate Board Member was appointed;
- c) shall be entitled to receive notice of meetings of the Board;
- d) shall only be entitled to attend and vote at meetings of the Board if the Board Member by whom such alternate Board Member was appointed is

not present, at which meeting the alternate Board Member shall be entitled to exercise all the powers and perform all the duties of a Board Member insofar as that Board Member by whom he or she was appointed has not exercised or performed them;

- e) shall not have the power to appoint an alternate Board Member;
- f) shall, whilst acting as a Board Member, be responsible to the Society for his or her own acts and defaults and shall not be deemed to be the agent of the Board Member by whom he or she was appointed.

14.4 Casual Vacancies on Board

In the event of any casual vacancy on the Board (whether caused by the death, resignation, or ineligibility of a Board Member or by some other circumstance) the Chairperson shall call for written nominations and, if necessary, conduct a written ballot, to fill such casual vacancy for the balance of the term for which the Board Member being replaced was appointed, at the earliest reasonable opportunity (adopting, with any necessary modifications, the same procedure as is set out in this Constitution). For the avoidance of doubt, the appointment of any Board Member as Chairperson shall not create a casual vacancy on the Board and the Board Member will remain a Board Member following such appointment.

14.5 Removal of Board Members

A Board Member shall be removed as a Board Member by resolution of the Board or the Society where in the opinion of the Board or the Society:

- a) The Board Member elected to the Board has been absent from 3 Board meetings without leave of absence from the Board.
- b) The Board Member has brought the Society into disrepute.
- c) The Board Member has failed to disclose a conflict of interest.
- d) The Board passes a vote of 'no confidence' in the Board Member.

14.6 Ceasing to Hold Office

An Officer ceases to hold office when they resign (by notice in writing to the Board), are removed, die, or otherwise vacate office in accordance with section 50(1) of the Act, and in the case of the Chairperson, Chief Executive and/or Secretary in accordance with their terms of appointment.

Each Officer shall within 10 Working Days of submitting a resignation or ceasing to hold office, deliver to the Board all books, papers and other property of the Society held by such former Officer.

14.7 **Conflicts of Interest**

An Officer, including the Chief Executive and the Chairperson (in the event that they have a casting vote) or member of a Working Group who is an Interested Member in respect of any Matter being considered by the Society, must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified):

- a) to the Board and/or relevant Working Group (as appropriate); and
- b) in an Interests Register kept by the Board.

Disclosure must be made as soon as practicable after the Board Member or member of a Working Group becomes aware that they are interested in the Matter. An Officer or member of a Working Group who is an Interested Member regarding a Matter:

- a) must not vote or take part in the decision of the Board and/or Working Group relating to the Matter unless all members of the Board who are not interested in the Matter consent; and
- b) must not sign any document relating to the entry into a transaction or the initiation of the Matter unless all members of the Board who are not interested in the Matter consent; but
- c) may take part in any discussion of the Board and/or Working Group relating to the Matter and be present at the time of the decision of the Board and/or Working Group (unless the Board and/or Working Group decides otherwise).

However, an Officer or member of a Working Group who is prevented from voting on a Matter may still be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered.

Where 50 per cent or more of Board Members are prevented from voting on a Matter because they are interested in that Matter, a Special General Meeting must be called to consider and determine the Matter, unless all non-interested Board Members agree otherwise. Such Special General Meeting shall be called and held in the same manner as other Special General Meetings.

Where 50 per cent or more of the members of a Working Group are prevented from voting on a Matter because they are interested in that Matter, the Board shall consider and determine the Matter.

14.8 Reimbursement for Expenses

Board Members shall not be entitled to any remuneration for their services as such, but Board Members and their alternates may be entitled to reimbursement for reasonable expenditure by way of travelling and other out-of-pocket expenses incurred in connection with the business of the Society and in attending meetings of the Board, or any Working Group or committees or sub-committees of the Board.

15 PROCEEDINGS OF THE BOARD

15.1 Procedure

A meeting of the Board may be held either:

- a) By a number of the Board Members of the Board who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- b) By means of audio, or audio and visual, communication by which all members of the Board participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- c) The Chairperson shall chair all meetings of the Board at which he or she is present.
- d) If the Chairperson is not present, or being present is unwilling to take the chair, then those Board Members who are present shall choose one of their number to chair such Board meeting.
- e) Except as otherwise provided in this Constitution, the Board may regulate its own procedure.

15.2 Frequency

The Board shall meet as required at such times and places and in such manner (including by audio, audio and visual, or electronic communication) as it may determine and otherwise where and as convened by the Chairperson or Chief Executive.

The Chief Executive, or other Officer nominated by the Board, shall give to all Board Members not less than 5 Working Days' notice of Board meetings, but in cases of urgency a shorter period of notice shall suffice.

15.3 Quorum

- a) At least 50% of the total number of Board Members on the Board plus the Chief Executive from time to time shall form a quorum for a Board meeting.
- b) No business of the Board shall be conducted at any time when less than a quorum is present. For the purposes of this clause 15.3, any person attending a Board meeting or otherwise participating in the Board meeting by electronic means as permitted by the Board for the relevant meeting is considered present for the purposes of a quorum, but the Board has discretion regarding whether to permit attendance or participation by electronic means.
- c) If, within half an hour of the time appointed for the holding of a Board meeting, a quorum is not present:
 - i. the meeting shall be adjourned for no more than 7 Working Days at such time, day and place as the Board may determine; and
 - ii. at least 5 Working Days prior written notice of such adjourned meeting shall be given to each Board Member specifying that such notice is given pursuant to this Rule.

15.4 Board Resolutions

- a) Resolutions of the Board shall be passed by simple majority of those Board Members and the Chief Executive present and entitled to vote.
- b) Each Board Member and the Chief Executive shall be entitled to 1 vote only. To avoid doubt, the Chairperson is not entitled to a vote unless they are separately a Board Member and/or a casting vote is required from the Chairperson in the event of an equality of votes.
- c) Notwithstanding any contrary provision in this Constitution, a resolution in writing signed by all Board Members shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and constituted.

15.5 Validity of Board's Actions

All acts properly done by any meeting of the Board or by any person acting as an Officer, notwithstanding that it may afterwards be discovered that there was some defect in the appointment or continuance in office of any such Officer or person acting as such, or that they or any of them were disqualified, shall be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be an Officer.

16 GENERAL MEETINGS

16.1 Annual General Meeting

- a) The Society shall in each year hold an Annual General Meeting in addition to any other meetings in that year, and shall specify the meeting as such, and the matters to be dealt with in that meeting, in the notices calling such meeting, which matters shall include (without limitation):
 - i. considering and approving a report from the Board on the activities of the Society since the last Annual General Meeting of the Society and any proposed activities of the Society; and
 - ii. approving the Financial Statements for the last Financial Year.
- b) Not more than 15 months shall elapse between the date of one Annual General Meeting and that of the next.
- c) Each year's Annual General Meeting shall be held at such time and place as the Board shall determine subject to paragraph (b) above and provided that an Annual General Meeting must be held not later than 6 months after the end of a Financial Year.

16.2 Special General Meetings

A Special General Meeting other than an Annual General Meeting shall be convened by the Chief Executive whenever required by the Board or by written requisition signed by more than 20% in number of current Members.

16.3 Minutes

The Society must keep minutes of all General Meetings in accordance with this Constitution and the Act and as otherwise directed by the Board.

16.4 Powers of Society

The Society in General Meetings may, by resolution passed by not less than a 75% majority of the votes of Members whom are present in person or by proxy and are entitled to vote at such meeting, exercise all powers, authorities and discretions of the Society, notwithstanding that any such power, authority or discretion may have been vested in the Board or the Chief Executive by or pursuant to this Constitution.

16.5 Quorum

- a) No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business.
- b) A quorum shall be more than 50% in number of all current Members for the time being entitled to vote at General Meetings of the Society and present in person (including electronically if the Board at its discretion permits participation in the relevant meeting by electronic means) or by proxy.

16.6 Notice

- a) A notice of every General Meeting shall be sent to every Member not less than 10 Working Days before the date of such meeting.
- b) Such notice shall specify the date, time and venue of such meeting.
- c) Except in the case of the general business to be considered at an Annual General Meeting, such notice shall specify all business and all notices of motion to be considered at such meeting and no business or notice of motion that is not specified shall be discussed or transacted at such meeting.
- d) Notwithstanding any contrary provision, the requirements of this clause relating to notice and limiting the business to be transacted at any meeting may be modified in any particular case with the consent in writing of all Members entitled to attend a meeting of the Society (provided that the modification of such requirements for any given meeting shall not be so construed or deemed to affect such requirements in any respect of any other meeting of the Society).

16.7 Failure to Give Notice

The accidental omission to give notice to or the non-receipt of any notice by any Member or any other person entitled to such notice shall not invalidate the proceedings of any General Meeting to which such notice relates.

16.8 Chairperson

- a) The Chairperson shall chair any General Meeting at which he or she is present.
- b) If the Chairperson is not present, or being present is unwilling to take the chair, then the Chief Executive shall be chair, or those Officers who are present may select one of their number to chair such meeting, or if for any reason no such selection is made by those Officers, then those

Members entitled to vote at that meeting may elect any person who is entitled to be present to chair that meeting.

16.9 **Voting at Meetings**

At any General Meeting of the Society:

- a) a poll may be directed by the Chairperson or demanded by any Member present in person or by proxy and entitled to vote;
- b) a poll may be demanded either before the declaration of the result of a vote by a show of hands or immediately afterwards, but before the meeting moves to the next business or it adjourns;
- c) the Chairperson shall determine whether resolutions are to be put to the vote of the meeting by a show of hands, a poll, or by some other means unless a poll is demanded by any Member present in person or by proxy and entitled to vote;
- d) in the case of a resolution put to the vote of the meeting by a show of hands, a declaration by the Chairperson that such resolution has been carried or lost, unanimously or by a particular majority, and an entry to the effect in the Society's records, shall be conclusive evidence of the fact without further proof of the number or proportion of votes recorded in favour of or against such resolution.
- e) To avoid doubt no votes may be cast by postal votes or by electronic means unless otherwise notified by the Board at its discretion in the relevant notice of meeting.

16.10 **Adjournments**

- a) If, within half an hour from the time appointed for the holding of a General Meeting of the Society, a quorum is not present, the meeting, if convened on requisition of Members, shall be dissolved.
- b) In any other case, such meeting shall stand adjourned to the same day in the next week, at the same time and place or, if the Chairperson of the adjourned meeting determines to such other day within 7 days of the adjourned meeting and/or time and/or place.
- c) If at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Member(s) present shall be a quorum.

16.11 **Adjourned Meetings**

- a) The Chairperson may adjourn any General Meeting, but no business shall be transacted at any adjourned meeting other than business that might have been transacted at the meeting from which the adjournment took place.
- b) Members shall not be entitled to receive any notice(s) in respect of adjourned meetings, except when a General Meeting has been adjourned for 30 days or more, in which case notice of the adjourned meeting shall be given in the same manner as for the original meeting.

17 **RECORDS**

17.1 **Register of Members**

The Society shall keep an up-to-date Register of Members. For each current Member, the information contained in the Register of Members shall include:

- a) Their name or organisation name;
- b) The date on which they became a Member (if there is no record of the date they joined, this date will be recorded as 'Unknown');
- c) Their contact details, including:
 - i. a physical address or an electronic address;
 - ii. a telephone number;
 - iii. email address (if any);
- d) Their Membership Category; and
- e) Whether the Member has fully paid the current Subscription, levy or other amount due to the Society.

Every current Member shall promptly advise the Society of any change of the Member's contact details to ensure that the Register of Members remains kept up to date.

The Society shall also keep a record of the former Members of the Society. For each Member who ceased to be a Member within the previous 7 years, the Society will record:

- a) the former Member's name; and

- b) the date the former Member ceased to be a Member.

17.2 **Interests Register**

The Board shall at all times maintain an up-to-date register of the interests disclosed by Officers and by members of any Working Group.

17.3 **Access to Information for Members**

A Member may at any time make a written request to the Society for information held by the Society. The request must specify the information sought in sufficient detail to enable the information to be identified. The Society must, within a reasonable time after receiving a request:

- a) provide the information; or
- b) agree to provide the information within a specified period; or
- c) agree to provide the information within a specified period if the Member pays a reasonable charge to the Society (which must be specified and explained) to meet the cost of providing the information; or
- d) refuse to provide the information, specifying the reasons for the refusal.

Without limiting the reasons for which the Society may refuse to provide the information, the Society may refuse to provide the information if:

- a) withholding information is necessary to protect the privacy of natural persons, including that of deceased natural persons; or
- b) the disclosure of the information would, or would be likely to, prejudice the commercial position of the Society or of any of its Members; or
- c) the disclosure of the information would, or would be likely to, prejudice the financial or commercial position of any other person, whether or not that person supplied the information to the Society; or
- d) the information is not relevant to the operation or affairs of the Society; or
- e) withholding the information is necessary to maintain legal professional privilege; or
- f) the disclosure of the information would, or would be likely to, breach an enactment; or

- g) the burden to the Society in responding to the request is substantially disproportionate to any benefit that the Member (or any other person) will or may receive from the disclosure of the information; or
- h) the request for the information is frivolous or vexatious; or
- i) the request seeks information about a dispute or complaint which is or has been the subject of the procedures for resolving such matters under this Constitution and the Act.

If the Society requires the Member to pay a charge for the information, the Member may withdraw the request, and must be treated as having done so unless, within 10 Working Days after receiving notification of the charge, the Member informs the Society:

- a) that the Member will pay the charge; or
- b) that the Member considers the charge to be unreasonable.

Nothing in this rule limits Information Privacy Principle 6 of the Privacy Act 2020 relating to access to personal information.

18 FINANCES

18.1 Control and Management

The funds and property of the Society shall be:

- a) controlled, invested and disposed of by the Board, subject to this Constitution; and
- b) devoted solely to the promotion of the Purposes.

The Board shall maintain bank accounts in the name of the Society. All money received on account of the Society shall be banked within 5 Working Days of receipt. All accounts paid or for payment shall be submitted to the Chairperson for approval of payment, or if unavailable, by a Board Member.

The Board must ensure that there are kept at all times accounting records that:

- a) correctly record the transactions of the Society; and
- b) allow the Society to produce financial statements that comply with the requirements of the Act; and
- c) would enable the financial statements to be readily and properly audited (if required under any legislation or the Society's Constitution).

The Board must establish and maintain a satisfactory system of control of the Society's accounting records.

The accounting records must be kept in written form or in a form or manner that is easily accessible and convertible into written form. The accounting records must be kept for the current accounting period and for the last 7 completed accounting periods of the Society.

18.2 Balance Date

The Society's financial year shall commence on 1st April of each year and end on 31st March (the latter date being the Society's balance date).

18.3 Change of Financial Year

The Board shall have such rights and powers as are reasonably necessary to undertake a transition from a Financial Year ending on the date that is 30 June, to a Financial Year ending on the date that is 31 March, or vice versa, in accordance with good accounting practice, good financial management, and sound governance.

18.4 Auditor

- a) An auditor, who shall be a member of the New Zealand Society of Accountants, shall be appointed for the purposes set out in paragraph (b) of this clause and shall hold office until he or she resigns or is replaced by majority resolution of the Board.
- b) The Auditor shall audit the Financial Statements and all other financial records of the Society prior to each year's Annual General Meeting.

18.5 Copies to Members

Copies of all Financial Statements and other financial accounts that are to be laid before the Society in General Meeting, together with a copy of the Auditor's report (if any), shall be sent to every Member not less than 5 Working Days before the date of the relevant General Meeting.

19 DISPUTE RESOLUTION

19.1 Meanings of Dispute and Complaint

A dispute is a disagreement or conflict involving the Society and/or its Members in relation to specific allegations set out below. The disagreement or conflict may be between any of the following persons:

- a) 2 or more Members;

- b) 1 or more Members and the Society;
- c) 1 or more Members and 1 or more Officers;
- d) 2 or more Officers;
- e) 1 or more Officers and the Society; and/or
- f) 1 or more Members or Officers and the Society.

The disagreement or conflict relates to any of the following allegations:

- a) A Member or an Officer has engaged in misconduct;
- b) A Member or an Officer has breached, or is likely to breach, a duty under the Society's Constitution or bylaws or the Act;
- c) The Society has breached, or is likely to breach, a duty under the Society's Constitution or bylaws or the Act; and/or
- d) A Member's rights or interests as a Member have been damaged or Member's rights or interests generally have been damaged.

A Member or an Officer may make a complaint by giving to the Board (or a complaints Working Group) a notice in writing that:

- a) States that the Member or Officer is starting a procedure for resolving a dispute in accordance with the Society's Constitution; and
- b) Sets out the allegation(s) to which the dispute relates and whom the allegation or allegations is or are against; and
- c) Sets out any other information or allegations reasonably required by the Society.

The Society may make a complaint involving an allegation against a Member or an Officer by giving to the Member or Officer a notice in writing that:

- a) States that the Society is starting a procedure for resolving a dispute in accordance with the Society's Constitution; and
- b) Sets out the allegation to which the dispute relates.

The information setting out the allegations must be sufficiently detailed to ensure that a person against whom an allegation or allegations is made is fairly advised of the allegation or allegations concerning them, with sufficient details given to enable that person to prepare a response.

A complaint may be made in any other reasonable manner permitted by the Society's Constitution.

All Members (including the Board) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the Society's activities.

The complainant raising a dispute, and the Board, must consider and discuss whether a dispute may best be resolved through informal discussions, mediation, arbitration, or a tikanga-based practice. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.

19.2 How complaint is Made

A Member or an Officer may make a complaint by giving to the Board (or a complaints Working Group) a notice in writing that:

- a) States that the Member or Officer is starting a procedure for resolving a dispute in accordance with the Society's Constitution; and
- b) Sets out the allegation or allegations to which the dispute relates and whom the allegation is against; and
- c) Sets out any other information reasonably required by the Society.

The Society may make a complaint involving an allegation or allegations against a Member or an Officer by giving to the Member or Officer a notice in writing that:

- a) States that the Society is starting a procedure for resolving a dispute in accordance with the Society's Constitution; and
- b) Sets out the allegation to which the dispute relates.

The information given must be sufficient to ensure that a person against whom an allegation is made is fairly advised of the allegation or allegations concerning them, with sufficient details given to enable that person to prepare a response.

A complaint may be made in any other reasonable manner permitted by the Society's Constitution.

19.3 Person who Makes Complaint - Right to be Heard

- a) A Member or an Officer who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.
- b) If the Society makes a complaint:

- i. The Society has a right to be heard before the complaint is resolved or any outcome is determined; and
 - ii. An Officer may exercise that right on behalf of the Society.
- c) Without limiting the manner in which the Member, Officer, or Society may be given the right to be heard, they must be taken to have been given the right if:
 - i. They have 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 decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - iii. An oral hearing (if any) is held before the decision maker; and
 - iv. The Member's, Officer's, or Society's written or verbal statement or submissions (if any) are considered by the decision maker.

19.4 Person who is Subject of Complaint - Right to be Heard

- a) This clause applies if a complaint involves an allegation that a Member, an Officer, or the Society (the 'respondent'):
 - i. Has engaged in misconduct; or
 - ii. Has breached, or is likely to breach, a duty under the Society's Constitution or bylaws or this Act; or
 - iii. Has damaged the rights or interests of a Member or the rights or interests of Members generally.
- b) The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
- c) If the respondent is the Society, an Officer may exercise the right on behalf of the Society.
- d) Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if:
 - i. 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

- ii. The respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
- iii. An oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
- iv. An oral hearing (if any) is held before the decision maker; and
- v. The respondent's written statement or submissions (if any) are considered by the decision maker.

19.5 Investigating and Determining Dispute

The Society must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with its Constitution, ensure that the dispute is investigated and determined. Disputes must be dealt with under the Constitution in a fair, efficient, and effective manner and in accordance with the provisions of the Act.

19.6 Society may not to Proceed with Complaint

Despite the 'Investigating and determining dispute' rule above, the Society may decide not to proceed further with a complaint if:

- a) The complaint is considered to be trivial; or
- b) The complaint does not appear to disclose or involve any allegation of the following kind:
 - i. that a Member or an Officer has engaged in material misconduct;
 - ii. that a Member, an Officer, or the Society has materially breached, or is likely to materially breach, a duty under the Society's Constitution or bylaws or the Act; or
 - iii. that a Member's rights or interests or Members' rights or interests generally have been materially damaged;
- c) The complaint appears to be without foundation or there is no apparent evidence to support it;
- d) The person who makes the complaint has an insignificant interest in the matter;
- e) The conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the Constitution; or

- f) There has been an undue delay in making the complaint.

19.7 Society May Refer Complaint

The Society may refer a complaint to:

- a) A Working Group or an external person to investigate and report; or
- b) A Working Group, an arbitral tribunal, or an external person to investigate and make a decision.

The Society may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).

19.8 Decision Makers

A person may not act as a decision maker in relation to a complaint if 2 or more members of the Board or a complaints Working Group consider that there are reasonable grounds to believe that the person may not be:

- a) Impartial; or
- b) Able to consider the matter without a predetermined view.

20 LIQUIDATION AND REMOVAL FROM THE REGISTER

20.1 Resolving to put Society into Liquidation

The Society may be liquidated in accordance with the provisions of Part 5 of the Act. The Board shall give 30 Working Days written Notice to all Members of the proposed resolution to put the Society into liquidation.

The Board shall also give written Notice to all Members of the General Meeting at which any such proposed resolution is to be considered. The Notice shall include all information as required by section 228(4) of the Act. Any resolution to put the Society into liquidation must be passed by a two-thirds majority of all Members present and voting.

20.2 Resolving to Apply for Removal from the Register

The Society may be removed from the Register of Incorporated Societies in accordance with the provisions of Part 5 of the Act. The Board shall give 30 Working Days written Notice to all Members of the proposed resolution to remove the Society from the Register of Incorporated Societies.

The Board shall also give written Notice to all Members of the General Meeting at which any such proposed resolution is to be considered. The Notice shall include all information as required by section 228(4) of the Act.

Any resolution to remove the Society from the Register of Incorporated Societies must be passed by a two-thirds majority of all Members present and voting.

20.3 Surplus Assets

If the Society is liquidated or removed from the Register of Incorporated Societies, no distribution shall be made to any Officer or Member, and if any property remains after the settlement of the Society's debts and liabilities, that property must be used to further the Purposes (or if approved at a General Meeting any other exclusively charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005) by distribution of such property to any one or more not-for-profit entities approved by the Society at a General Meeting exclusively for such charitable purposes.

21 ALTERATIONS TO THE CONSTITUTION

21.1 Amending this Constitution

All amendments must be made in accordance with this Constitution and the Act. Any minor or technical amendments (as reasonably determined by the Board) may be made in accordance with section 31 of the Act and shall be notified to Members as outlined in section 31 of the Act.

The Society may amend or replace this Constitution at a General Meeting by a resolution passed by a simple majority of those Members present and voting.

That amendment could be approved by a resolution passed in lieu of a meeting signed or assented to in writing by 75% of all current Members. Any proposed resolution to amend or replace this Constitution shall be signed by at least 50 per cent of eligible Members and given in writing to the Board at least 14 Working Days before the General Meeting at which the resolution is to be considered and accompanied by a written explanation of the reasons for the proposal.

At least 5 Working Days before the General Meeting at which any amendment is to be considered the Board shall give to all Members notice of the proposed resolution, the reasons for the proposal, and any recommendations the Board has.

When an amendment is approved by a General Meeting it shall be notified to the Registrar in the form and manner specified in the Act for registration and shall take effect from the date of registration.

While the Society remains registered as a charity under the Charities Act 2005 the amendment shall also be notified to Charities Services as required by section 40 of that Act and no right or power to amend this Constitution may be exercised so as to affect the charitable or done status of the Society.

22 OTHER

22.1 Bylaws

The Board from time to time may make and amend bylaws, and policies for the conduct and control of Society activities and codes of conduct applicable to Members, but no such bylaws, policies or codes of conduct applicable to Members shall be inconsistent with this Constitution, the Act, regulations made under the Act, or any other legislation.

22.2 Indemnity and Insurance

The Society may indemnify and/or effect insurance for its own current and former Board Members and other Officers and employees of the Society, as permitted by sections 94 to 98 of the Act.