

Constitution and Rules of Association

**New Zealand Private Equity & Venture Capital Association
Incorporated**

June 2009

Table of Contents

1 INTRODUCTION	4
1.1 Interpretation.....	4
1.2 Name.....	4
1.3 Office.....	4
1.4 Object	5
2 MEMBERSHIP	5
2.1 Membership	5
2.2 Qualifications for Membership and Distinction	5
2.2.1 General.....	5
2.2.2 Types of Members.....	5
2.2.3 Number of Members	5
2.3 Eligibility	5
2.3.1 Full Membership.....	5
2.3.2 Associate membership.....	5
2.4 Member Representatives	6
2.5 Application for Membership	6
2.6 Membership Year.....	7
2.7 Non Transferable.....	7
2.8 Conduct of Members.....	7
2.9 Cessation of Membership.....	7
2.9.1 Automatic Cessation:.....	7
2.9.2 Resignation.....	8
2.10 Expulsion of Members.....	8
2.10.1 Explanations:	8
2.10.2 Expulsion	8
2.11 Fees.....	9
2.12 Member's Notification.....	9
3 MEETINGS OF THE ASSOCIATION	9
3.1 General Meetings.....	9
3.2 Notices of General Meetings	9
3.2.1 Notices	9
3.2.2 Member's Resolutions	10
3.2.3 Special Resolutions.....	10
3.3 Proceedings at Annual General Meetings	10
3.3.1 Ordinary business of annual general meetings	10
3.3.2 Further business	10
3.4 Quorum	10
3.5 Chairperson at General Meetings.....	10
3.6 Requisitioned General Meetings	11
3.6.1 Requisition.....	11
3.6.2 Notice of requisition.....	11
3.6.3 Failure to convene a meeting.....	11
3.6.4 Convening of meetings.....	11
3.6.5 Expenses.....	11
3.7 Right to Demand a Poll	12
3.8 Proxies	12

3.9	Voting	13
3.10	Postal and Electronic Votes.....	13
3.11	Electronic Meetings	14
4	COUNCIL.....	14
4.1	Functions of the Council	14
4.2	Number of Council Members	14
4.3	Eligibility to be a Council Member	15
4.4	Election of Council Members	15
4.5	Powers and Duties of the Council	17
4.6	Council Meetings	17
4.6.1	Meetings	17
4.6.2	Convening of meetings.....	17
4.6.3	Number of meetings	17
4.6.4	Notice	17
4.6.5	Place	18
4.6.6	Chairperson to preside	18
4.6.7	Circular resolutions	18
4.6.8	Voting	18
4.6.9	Quorum for Council meetings	18
4.6.10	Minutes of meetings	18
4.6.11	Form of meetings	18
4.7	Council Vacancies.....	18
4.8	Register of Members	19
5	ADMINISTRATION.....	19
5.1	Accounts	19
5.2	Auditor	19
5.2.1	Appointment.....	19
5.2.2	Appointment of first auditor	19
5.2.3	Failure to appoint	19
5.2.4	Termination.....	19
5.2.5	Nomination.....	20
5.2.6	Remuneration of auditor	20
5.2.7	Access to records	20
5.2.8	Attendance at general meetings	20
5.3	Amendment of Rules	20
5.4	Notices.....	20
5.4.1	Service	20
5.4.2	Time of Service by Post.....	21
5.4.3	Time of Service by Facsimile	21
5.4.4	Entitlement to notices	21
5.5	Winding Up	21
5.6	Public Statements by the Association	21
5.7	Indemnity	21
5.8	Common Seal	22

1 INTRODUCTION

1.1 Interpretation

In these Rules:

"**Association**" means New Zealand Private Equity & Venture Capital Association Incorporated;

"**By-laws**" mean any by-laws, codes of conduct or any other declarations issued by the Council from time to time;

"**Council**" means the governing council of the Association;

"**Council Member**" means any member of the Council;

"**Executive Director**" means the executive director of the Association from time to time appointed by the Council in accordance with these Constitution and Rules;

"**Fees**" mean all subscriptions, dues and levies (including entrance fees and membership fees) or any other sums payable by Members as determined by the Council from time to time;

"**Financial Year**" means the financial year beginning on 1 April in one year and ending on 31 March in the following year;

"**Member**" unless otherwise specified means a Full Member or an Associate Member;

"**Office**" means the registered office for the time being of the Association;

"**Rules**" means this Constitution and Rules of Association as from time to time amended or any constitution and/or Rules of Association adopted by way of substitution therefor;

"**Secretary**" means any person appointed to perform the duties of the Secretary of the Association and includes an honorary Secretary; and

"**Writing**" and "**written**" include any mode of representing or reproducing words on paper in a permanent visible form.

Words importing the singular number shall include the plural number and vice versa.

Words importing one gender shall include the others.

Words importing persons shall include corporations and vice versa.

1.2 Name

The name of the Association is "New Zealand Private Equity & Venture Capital Association Incorporated".

1.3 Office

The Office shall be at Level 6, Affco House, 12-26 Swanson Street, Auckland or at such place as may from time to time be determined by the Council.

1.4 Object

The object for which the Association is established is the development of the venture capital and private equity industry for the benefit of business owners and managers, investors, professional advisers and other venture capital and private equity industry practitioners and participants in the New Zealand economy as a whole.

2 MEMBERSHIP

2.1 Membership

The subscribers to these Rules and such other persons as the Council shall admit to membership in accordance with these Rules shall, until such time as they cease to be Members in accordance with these Rules, be Members.

2.2 Qualifications for Membership and Distinction

2.2.1 General

An applicant for membership must:

- (a) Have an active interest in venture capital;
- (b) Be of good standing in the venture capital community;
- (c) Agree to abide by these Rules; and
- (d) Agree to abide by any By-laws made by the Council from time to time.

2.2.2 Types of Members

There shall be two types of members:

- (a) Full Members; and
- (b) Associate Members.

2.2.3 Number of Members

The total number of Members shall not be less than fifteen (15).

2.3 Eligibility

2.3.1 Full Membership

A corporation is eligible to become a Full Member if it is a corporation of appropriate standing and experience whose principal business, in the opinion of the Council, includes the provision of equity finance to unquoted companies and it makes its returns mainly through medium to long term capital gains. These activities may include start-up and early stage, expansion, management buy-out or management buy-in investments which includes an "equity-type" return. The Council may also grant Full membership status to individuals whose contribution to the field of venture capital in New Zealand has been in the opinion of the Council "significant".

2.3.2 Associate membership

The categories of Associate membership shall be –

- (a) Financial Organisations – financial organisations with funds available for investment but for whom this activity is not their principal business;
- (b) Professional Advisors – professional advisors, including accountants, lawyers, corporate finance advisers and stockbrokers;
- (c) Academic Organisations – academic organisations with an active involvement with the venture capital industry;
- (d) Government or Quasi-Government Agencies – government or quasi-government agencies with an active interest in or involvement with the venture capital industry;
- (e) Individuals – individuals with an active interest in or involvement with the venture capital industry;
- (f) Technology Incubators – organisations who facilitate the growth and development of emerging technology companies;
- (g) Angel Investors – investors in start-up and early stage companies; and
- (h) As otherwise determined by the Council from time to time.

2.4 Member Representatives

Every Member other than an individual Member shall register with the Association in writing the names of not more than two (2) eligible individuals, in order of preference, either of whom, in such order, may act as representative of the Member ("Member's Representatives"). That Member may, by notice in writing to the Association, cancel the appointment of any Member's Representative and register another Member's Representative in his place.

2.5 Application for Membership

(a) Forms

All applications for membership must be made in writing in such form as may be prescribed by the Council.

(b) Council consideration

- (i) All applications may be considered by the Council and shall be approved by a simple majority of the Council present and voting; and
- (ii) Notwithstanding Rule 2.5 (b) (i) above, the Council may delegate the approval of applications for membership to the Executive Director and the chairperson of the Council to be decided upon collectively.

(c) Refusal

The Council shall at its sole and absolute discretion and without providing reasons for its decision decline to admit any applicant to membership of the Association.

(d) Notice of acceptance

When an applicant has been accepted for membership, the Secretary shall forthwith send to the applicant written notice of its acceptance and a request for payment of Fees (if any) then payable pursuant to these Rules. Upon payment of such Fees (if any) the applicant shall become a Member.

(e) **Register of Members**

The Council shall maintain a register of Members in accordance with Rule 4.8.

(f) **Reclassification of Members**

The Council may, at any time, on the application of a Member, re-classify such Member as a Full Member or as an Associate Member.

2.6 Membership Year

The membership year of the Association is the Financial Year.

2.7 Non Transferable

The rights and privileges of a Member shall not be transferable.

2.8 Conduct of Members

The Council may regulate the conduct of Members. It may from time to time issue By-laws without notice to ensure sound practice, or to prevent illegal or dishonourable practices and it may prohibit such acts in that regard as it thinks fit. It may investigate the conduct of Members and take disciplinary action against those Members who wilfully refuse or neglect to comply with these Rules or any By-laws.

2.9 Cessation of Membership

2.9.1 Automatic Cessation:

A Member automatically ceases to be a Member if any of the following occurs:

- (a) the Member serves a notice of resignation on the Council;
- (b) the Member fails to pay any amount payable by it to the Association within sixty (60) days of being required to do so and the Council resolves that the membership of such Member be terminated;
- (c) an application is made to a court for an order appointing a liquidator, provisional liquidator, official manager, receiver, receiver and manager or similar officer in respect of a Member;
- (d) the Member enters into or resolves to enter into a scheme of arrangement or composition with or assignment for the benefit of all or any class of creditors;
- (e) an application is made to a court for an order or an order is made for the Member to be wound up;
- (f) the Member resolves by special resolution to be wound up or otherwise dissolve itself;

- (g) the Member is adjudged bankrupt;
- (h) the Member is expelled in accordance with these Rules; or
- (i) the Member, in the Council's absolute opinion, ceases to satisfy the criteria to be such a Member.

2.9.2 Resignation

Any Member may resign from the Association by giving the Council at least thirty-one (31) days written notice.

2.10 Expulsion of Members

2.10.1 Explanations:

The Council shall be entitled at any time to require any Member to give an explanation of any conduct, whether or not such conduct occurred or is alleged to have occurred prior to membership or during membership, of such Member or its Member's Representative or Representatives, which the Council considers is or may be:

- (a) prejudicial to the interests of the Association;
- (b) prejudicial to the good name of the Association and its reputation for promoting and maintaining high standards of business conduct and professional competence; or
- (c) in breach of these Rules or any By-laws.

2.10.2 Expulsion

- (a) If any Member or Member's Representative shall wilfully refuse or neglect to comply with these Rules or any By-laws issued by the Council, or shall be guilty of any conduct which in the opinion of the Council is unbecoming of a Member or prejudicial to the interests, the good name or the reputation of the Association, the Council shall have the power by resolution to censure, fine, or expel the Member or Member's Representative. If a Member's Representative is expelled by the Council then such expulsion shall not affect the ability of the Member to nominate a substitute Member's Representative.
- (b) At least one week before any meeting of the Council at which a resolution in relation to a Member or Member's Representative is proposed to be passed the Member shall have been given notice of such meeting and of what is alleged against such Member or Member's Representative and of the intended resolution and such Member and, if appropriate, the relevant Member's Representative shall at such meeting and before the passing of such resolution have an opportunity of giving orally or in writing any explanation or defence such Member and/or Member's Representative may think fit. Additionally, in the case of expulsion of a Member, any Member may by notice in writing lodged with the Secretary within twenty-four (24) hours of receiving notice of expulsion, request that an extraordinary general meeting of the Association be convened for the purpose and if at that meeting a Special Resolution is passed (by ballot) to

reverse the Council's resolution to expel the Member concerned, the Member concerned shall be reinstated.

2.11 Fees

- (a) The Council shall determine all Fees.
- (b) Fees may be set at different rates for Full Members and Associate Members. The Council may also set different Fees between Members within a membership category.
- (c) Members shall pay Fees no later than thirty-one (31) days after the date at which the Fees are set and notified by the Council.
- (d) A Member shall not be entitled to exercise any of the rights and privileges of membership until he has paid all Fees due and payable to the Association.
- (e) In the event that a Member resigns or his membership is terminated, he shall not be entitled to a refund of any payment or part thereof for the period following termination or resignation and all Fees then due to the Association shall remain payable.
- (f) Nothing herein will entitle the Council to fix subscriptions at a level contrary to a resolution of a duly convened general meeting.

2.12 Member's Notification

Every Member shall notify the Association as soon as practicable of:

- (a) any change of address;
- (b) any change of business or employment; or
- (c) any other information of relevance to the membership of the Association.

3 MEETINGS OF THE ASSOCIATION

3.1 General Meetings

An annual general meeting shall be held in accordance with the provisions of these Rules. Any other general meetings shall be extraordinary general meetings.

The Council may, whenever it thinks fit, convene an extraordinary general meeting.

3.2 Notices of General Meetings

3.2.1 Notices

General meetings shall be convened by giving not less than fourteen (14) days notice in writing specifying:

- (a) the place of the meeting;
- (b) the day and the hour of the meeting; and
- (c) in case of special business, the general nature of that business.

The non-receipt of the notice by any Member shall not invalidate the proceedings at any general meeting.

3.2.2 Member's Resolutions

Any Member, wishing to submit a resolution to a general meeting, shall give written notice thereof to the Association not less than seven (7) days prior to the date of the meeting.

3.2.3 Special Resolutions

A Special Resolution is a resolution:-

- (a) passed at a meeting, being a meeting of which not less than fourteen (14) days written notice specifying the intention to propose the resolution as a Special Resolution has been duly given; and
- (b) which is passed at the meeting by a majority of not less than three quarters of such Members as, being entitled to do so, vote at the meeting.

3.3 Proceedings at Annual General Meetings

3.3.1 Ordinary business of annual general meetings

The ordinary business of the annual general meeting shall be:-

- (a) to receive, consider and (if so decided) to adopt the financial statements of the Association, the report of the Council, and the report of the auditors;
- (b) to elect Council Members in place of those who are retiring at that annual general meeting;
- (c) to appoint auditors; and
- (d) to receive notice for the current membership year of Fees.

3.3.2 Further business

The annual general meetings may also transact any other business of which notice has been given to the Members in accordance with these Rules.

3.4 Quorum

No business shall be transacted at any general meeting unless a quorum of Members entitled to vote is present. Five Members present in person or by proxy or through the presence of one of their Member's Representatives shall constitute a quorum.

If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved. If any other case it shall stand adjourned to the same day in the next week at the same time and place and if at the adjourned meeting a quorum is not present within fifteen minutes from the time appointed for the meeting, the Members present in person or by proxy or through the presence of one of their Member's Representatives shall constitute a quorum.

3.5 Chairperson at General Meetings

- (a) The chairperson of the Council and in his absence a vice-chairperson of the Council shall preside at every general meeting of the Association.
- (b) In the absence of both the chairperson and a vice-chairperson of the Council from any general meeting, a chairperson shall be appointed by the meeting.
- (c) The chairperson of a general meeting may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten (10) days or more, notice of the adjourned meeting shall be given in the same manner as for the original meeting. Save as aforesaid, it shall not be necessary to give any notice of any adjournment or of the business to be transacted at an adjourned meeting.

3.6 Requisitioned General Meetings

3.6.1 Requisition

The Council shall convene an extraordinary general meeting of Members upon a requisition of not less than five percent (5%) in number of the Members for the time being.

3.6.2 Notice of requisition

The requisition:

- (a) shall state the objects of the meeting;
- (b) shall state the names of and be signed by or on behalf of requisitioning Members;
- (c) shall be deposited with the Council; and
- (d) may consist of several documents in like form, each signed by or on behalf of one or more of the requisitioning Members.

3.6.3 Failure to convene a meeting

If, within twenty-one (21) days from the date of the deposit of the requisition, the Council has not proceeded duly to convene a meeting, the requisitioning Members or any ten (10) or more of them may, themselves, convene a meeting, but any meeting so convened shall be held after the expiration of three (3) months from the date of deposit.

3.6.4 Convening of meetings

A meeting convened by the requisitioning Members shall, as nearly as possible, be convened in the same manner as that in which meetings are to be convened by the Council.

3.6.5 Expenses

Any reasonable expenses incurred by the requisitioning Member or Members by reason of the failure of the Council duly to convene a meeting shall be repaid to the requisitioning Member or Members by the Association.

3.7 Right to Demand a Poll

- (a) At any general meeting, a resolution put to the vote at the meeting shall be decided on a show of hands unless a poll is (before or on declaration of the result of the show of hands) demanded by the chairperson of the meeting.
- (b) Unless a poll is so demanded, a declaration by the chairperson of the meeting that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of proceedings of the Association shall be evidence to the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.
- (c) The demand for a poll may be withdrawn.
- (d) If a poll is duly demanded it shall be taken in such manner as the chairperson of the meeting directs and unless the meeting is adjourned the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- (e) A poll demanded on the election of a chairperson or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs.
- (f) On a poll, votes may be given either personally or by proxy in the manner prescribed below, or by a Member's Representative or by postal vote.

3.8 Proxies

- (a) The instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney duly authorised in writing, or, if the appointor is a corporation either under seal or under the hand of an officer or attorney duly authorised and the notice must state whether the appointment is for a particular meeting or a specified term. A proxy need not be a Member.
- (b) No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting.
- (c) The instrument appointing a proxy and a power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority or such other evidence as may from time to time be required by the Council shall be deposited at the Office of the Association or at such other place as is specified for that purpose in the notice convening the meeting, not less than forty-eight (48) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or in the case of a poll, not less than twenty-four (24) hours before the time appointed for the taking of the poll and in default the instrument of proxy shall not be treated as valid.
- (d) An instrument appointing a proxy shall be in a form approved by the Council or in the following form or a form as near thereto as circumstances permit:

New Zealand Private Equity & Venture Capital Association Incorporated

I / we,

Of
being a Member of the above named Association,
hereby appoint
of
as my proxy to vote for me on my behalf at the *annual
/*extraordinary general meeting of the Association, to be held on
the day of 2..... and at any
adjournment thereof.

Signed this day of 2.....

This form is to be used * in favour of / * against the resolution.

Unless otherwise instructed the proxy will vote as the proxy
thinks fit.

* Strike out whichever is not desired.

- (e) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (f) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or revocation of the authority under which the proxy was executed, if no intimation in writing of such death, insanity or revocation has been received by the Association at the Office before the commencement of the meeting or adjourned meeting at which the instrument is used.

3.9 Voting

- (a) Each Member shall have only one (1) vote on any resolution at any general meeting. A Member's Representative may attend and cast one (1) vote on behalf of the appointing Member. Under no circumstances may a Member have more than one (1) vote.
- (b) No Member shall be entitled to vote on any resolution at any general meeting unless all Fees then payable by it to the Association have been paid.
- (c) All resolutions other than Special Resolutions shall be determined by a simple majority of votes ("Ordinary Resolution").
- (d) In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting shall be entitled to a second or casting vote.
- (e) Every Member may vote either personally, by proxy, by Member's Representative, or by postal ballot or electronic vote in the manner outlined below.

3.10 Postal and Electronic Votes

- (a) A Member may cast a postal or electronic vote on all or any of the matters to be voted on at the meeting.
- (b) Where a Member wishes to vote by postal or electronic ballot he shall:
 - i. Record his vote on an appropriate postal ballot paper and sign it or respond by email as directed to an electronic voting request; and

- ii. In the case of a resolution to be passed at a meeting, forward the postal or electronic ballot to the chairperson of the Council so as to be received at least forty-eight (48) hours before the time appointed for the commencement of the meeting.
- 1) The chairperson of a meeting must ensure that a record of postal and electronic votes held by him is annexed to the minutes of the meeting.

3.11 Electronic Meetings

Notwithstanding any other provision contained in these Rules, any meeting may, if so determined by the Council, be held electronically in which case the following provisions shall apply in respect of the meeting:

- (a) Written notice of the meeting shall be sent to each of the Members (and may be sent by email). Such notice shall detail all resolutions which are proposed to be passed electronically in lieu of a meeting (providing any supporting information reasonably required to properly consider each resolution) along with details of the period ("Voting Period") during which Members may vote, which must expire not less than 21 days from the notice being sent out.
- (b) Prior to expiry of the Voting Period, Members may submit comments on any proposed resolution to the Association's email address. If any such comments are accompanied by a request for such comments to be forwarded to Members or if the Association determines in its reasonable discretion the comments provide a new perspective on the subject of any resolution, the Association will email the comments to all Members as soon as practical.
- (c) Each Member may vote electronically during the Voting Period.
- (d) A resolution at a meeting undertaken as provided for above shall be passed if the requisite majority of Members voting on the resolution (as specified in these Rules for Ordinary and Special Resolutions respectively) vote in favour of the resolution.

4 COUNCIL

4.1 Functions of the Council

The functions of the Council shall be to:

- (a) Carry out the objectives of the Association;
- (b) Set the Association's strategic objectives;
- (c) Manage and control the Association's affairs; and
- (d) Issue By-laws.

4.2 Number of Council Members

Unless and until otherwise determined by a Special Resolution, the Council shall consist of not more than fourteen (14) and not less than five (5) Members or Member's Representatives. At all times, the Council shall comprise of not less than three (3) Full Members or Member's Representatives in respect of Full Members and not less than two (2) Associate Members or Member's Representatives in respect of Associate Members.

In addition to the fourteen (14) Council Members, the person filling the unelected role of Executive Director may be invited by the chairperson of the Council to attend Council meetings but will not be entitled to vote at such Council meetings.

4.3 Eligibility to be a Council Member

- (a) A person shall not be qualified to be appointed or elected as a Council Member unless that person is a Member or a Member's Representative.
- (b) The office bearers of the Council (and thereby of the Association) shall consist of a chairperson up to two vice-chairpersons, a treasurer and Secretary all of whom shall be Members, or Member's Representatives. The Council shall determine which of its Council Members shall be the office bearers as soon as practicable after each annual general meeting and such persons will hold office until successors are appointed following the ensuing annual general meeting. Unless the Council resolves to do otherwise, the intention is that the chairperson elected by the Council will be the immediate past vice-chairperson or, if there are two vice-chairpersons, one of those past vice-chairpersons.
- (c) At each annual general meeting of the Association at least one half of the other Council Members shall retire but they shall be eligible for re-election. If there is disagreement as to which Council Members should retire, the Council Members to retire will be those who have been longest on Council. In the case of Council Members who became Council Members on the same day, those to retire (unless the affected Council Members otherwise agree amongst themselves) will be determined by lot.
- (d) The Council may at any time by unanimous agreement determine that it is appropriate to have an election for all positions on the Council and may convene an extraordinary general meeting for this purpose. The Council Members shall be entitled to be re-elected and shall not be deemed to have retired until such time as new Council Members have been appointed. Such appointees to the Council shall hold office until the next annual general meeting.

4.4 Election of Council Members

- (a) The election of Full Members or Member's Representatives in respect of Full Members necessary to achieve the minimum number of such Council Members shall take place in the following manner:
 - (i) Any two Members shall be at liberty to nominate any person to serve as such a Council Member;
 - (ii) Nominations of candidates for such Council membership shall be in writing and signed by the candidate and his proposer and seconder and shall be lodged with the chairperson of the Council at least fourteen (14) days (or such other period as may be determined by the Council) before the annual general meeting at which the election is to take place;
 - (iii) A list of the candidates' names in alphabetical order, with the proposer's and seconder's names, shall be posted in a conspicuous place in the Office for at least seven (7) days (or such other period as may be determined by the Council) immediately preceding the annual general meeting;
 - (iv) Balloting lists shall be prepared (if necessary) containing only the names of the candidates for such Council membership in alphabetical order, and

- Members shall be entitled to vote for any number of such candidates not exceeding the number of vacancies for such Council membership;
- (v) In case there shall not be sufficient number of candidates for such Council membership nominated the Council may fill up the remaining vacancy or vacancies;
 - (vi) Positions vacant for such Council membership shall be filled in descending order by reference to the candidates with the greatest number of votes.
- (b) The election of Associate Members or Member's Representatives in respect of Associate Members necessary to achieve the minimum number of such Council Members shall take place in the following manner:
- (i) Any two Members shall be at liberty to nominate any person to serve as such a Council Member;
 - (ii) Nominations of candidates for such Council membership shall be in writing and signed by the candidate and his proposer and seconder and shall be lodged with the chairperson of the Council at least fourteen (14) days (or such other period as may be determined by the Council) before the annual general meeting at which the election is to take place;
 - (iii) A list of the candidates' names in alphabetical order, with the proposer's and seconder's names, shall be posted in a conspicuous place in the Office for at least seven (7) days (or such other period as may be determined by the Council) immediately preceding the annual general meeting;
 - (iv) Balloting lists shall be prepared (if necessary) containing only the names of the candidates for such Council membership in alphabetical order, and Members shall be entitled to vote for any number of such candidates not exceeding the number of vacancies for such Council membership;
 - (v) In case there shall not be sufficient number of candidates for such Council membership nominated the Council may fill up the remaining vacancy or vacancies;
 - (vi) Positions vacant for such Council membership shall be filled in descending order by reference to the candidates with the greatest number of votes.
- (c) Any remaining vacancies for Council membership shall be deemed to have been filled by those candidates who have not been elected in accordance with Rules 4.4(a) and 4.4(b) above but who received the next greatest number of votes in descending order in either election.
- (d) The Council shall have power at any time to appoint any Member or Member's Representative to the Council, either to fill a casual vacancy or as an addition to the existing Council Members but so that the total number of Council Members shall not at any time exceed the number fixed in accordance with these Rules.
- (e) The Association may, by Ordinary Resolution, remove any Council Member before the expiration of his period of office, and may, by Ordinary Resolution, appoint another person in his stead.

4.5 Powers and Duties of the Council

- (a) The business of the Association shall be managed by the Council who may pay all expenses incurred in promoting and registering the Association, and may exercise all such powers of the Association as are not, by these Rules, required to be exercised by the Association in general meeting. The exercise of such powers shall be subject to these Rules, and to such regulations, as may be properly prescribed by the Association in general meetings. However, any By-law of the Association issued by the Council may be disallowed by the Association in a general meeting provided that no resolution of a general meeting shall invalidate any prior act of the Council or the Association which would have been valid if that resolution had not been passed or made.
- (b) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two (2) Council Members or in such other manner as the Council from time to time determines.
- (c) The Council may delegate its powers to sub-committees consisting of such Members or Member's Representatives as it thinks fit. Any such sub-committees so formed shall, in the exercise of the power so delegated, conform to any By-laws that may from time to time be imposed on them by the Council. The meetings and proceedings of any such sub-committees, shall be governed by the provisions herein contained for the regulation of meetings of the Council, in so far as they are applicable. In addition, the Council may delegate to a Council Member or Member or any other person any one or more of its powers under these Rules.

4.6 Council Meetings

4.6.1 Meetings

The Council may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit.

4.6.2 Convening of meetings

Council meetings may be called at any time:

- (a) by the chairperson of the Council; or
- (b) by any Council Member.

4.6.3 Number of meetings

No less than two (2) Council meetings must be held during the twelve (12) month period between 1 April and 31 March every year.

4.6.4 Notice

Except in special circumstances determined by the chairperson of the Council, seven (7) days notice shall be given of all Council meetings.

4.6.5 Place

The time and place of any Council meeting shall be nominated by the chairperson of the Council.

4.6.6 Chairperson to preside

The chairperson of the Council shall preside at every Council meeting, and in his absence a vice-chairperson shall preside. In the absence of both from any meeting, a chairperson shall be appointed by the meeting.

4.6.7 Circular resolutions

A resolution in writing (which may be in separate parts) signed by all the Council Members shall be as valid and effectual as if it had been passed at a Council meeting duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more Council Members.

4.6.8 Voting

Questions arising at any Council meeting shall be decided by a majority of votes. In case of an equality of votes, the chairperson of the Council shall not have a second or casting vote.

4.6.9 Quorum for Council meetings

The quorum for any Council meeting shall be three (3) Council Members, unless otherwise determined by Council.

4.6.10 Minutes of meetings

The Council shall cause minutes to be made:

- (a) of all appointments of officers and servants;
- (b) of names of Council Members present at each meeting of the Association and of the Council; and
- (c) of all proceedings at all meetings of the Association and of the Council.

Such minutes shall be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of the next succeeding meeting.

4.6.11 Form of meetings

Council Members may meet together in person or by telephone, video-conferencing or any other form of instantaneous communication for the transaction of business.

4.7 Council Vacancies

Council Members shall be deemed to have vacated their office if they:

- (a) are absent without the consent of the Council from three (3) consecutive Council meetings; or
- (b) cease to be a Member or Member's Representative.

4.8 Register of Members

The Council shall cause to be kept a register of Members and have entered therein the following particulars:

- (a) The name and address and membership category of each Member and any changes therein;
- (b) The date on which the name of the Member was entered in the register;
- (c) The date upon which the Member ceases to be a Member; and
- (d) The names of any Member's Representative or Member's Representatives, appointed by that Member.

5 ADMINISTRATION

5.1 Accounts

The funds of the Associations and its income and property shall be under the control of the Council, which shall have the sole management thereof. The Council shall cause proper accounting and other records to be kept and shall make available copies of every Statement of Financial Performance and Statement of Financial Position (including every document required by law to be attached thereto) accompanied by a copy of the auditors report. The Council shall cause to be made out and laid before each annual general meeting a Statement of Financial Performance and Statement of Financial Position made up to a date not more than six (6) months before the date of the meeting.

The Council shall from time to time determine at what times and places and under what conditions the accounting and other records of the Association shall be open to the inspection of Members.

5.2 Auditor

5.2.1 Appointment

The auditor or auditors shall be appointed at each annual general meeting and shall hold office until the next annual general meeting and shall be eligible for re-appointment.

5.2.2 Appointment of first auditor

If, at any time, there are no auditors of the Association, then auditors may be appointed by the Council and shall hold office until the next annual general meeting.

5.2.3 Failure to appoint

If an appointment of auditors is not made at an annual general meeting, or if there is a vacancy in the office of auditor the Council shall appoint auditors of the Association for the current year.

5.2.4 Termination

The Members may at any general meeting terminate the appointment of the auditors and at such meeting appoint auditors to fill the vacancy so created.

5.2.5 Nomination

A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless a notice of an intention to nominate that person to the office of auditor has been given by a Member not less than fourteen (14) days before the annual general meeting and the Association shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the Members and their Member's Representatives, either by advertisement or in any other mode allowed by these Rules, not less than seven (7) days before the annual general meeting.

5.2.6 Remuneration of auditor

The remuneration of the auditors of the Association may be fixed by the Association in general meeting but, if not, the remuneration of any auditors shall be fixed by the Council.

5.2.7 Access to records

The Council shall cause the auditors to have access to all records and securities of the Association, and to be furnished with such information and explanation by themselves or any other officers, as may be necessary for the performance of their duties as auditors.

5.2.8 Attendance at general meetings

The auditors of the Association shall be entitled to attend any general meeting of the Association and to receive all notices of and other communications relating to any general meeting which any Member is entitled to receive and to be heard at any general meeting they attend on any part of the business of the meeting which concerns them as auditors.

5.3 Amendment of Rules

These Rules with the exception of this Rule may be amended, altered or rescinded only by a Special Resolution. Not less than fourteen (14) days notice in writing of any such meeting shall be given and such notice shall contain full particulars of the proposed amendments. Any such amendment, alteration or rescission shall take effect only when approved in writing by the chairperson who may only withhold such approval if the amendment, alteration or rescission is in conflict with the powers and rights conferred upon any Member by these Rules.

5.4 Notices

5.4.1 Service

A notice may be given by the Association to any Member, Member's Representative, or Council Member by serving it on them personally or by sending it by post in a prepaid envelope or package to them at their address in New Zealand as shown in the register of Members or the address in New Zealand supplied by them to the Association for the giving of notices to them or by facsimile to the facsimile telephone number of such Member, Member's Representative or Council Member. The Council shall not be obliged to give notice to any Member, Member's Representative or Council Member outside New Zealand (unless Council agrees otherwise).

5.4.2 Time of Service by Post

If notice of a meeting is given by post, it shall be deemed to be served on the day after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.

5.4.3 Time of Service by Facsimile

A notice served by facsimile shall be deemed to have been served at 5pm on the day following completion of transmission or if such day is a Saturday or a Sunday or a day on which major trading banks are closed for usual business in the place of intended receipt then on the next day (not being a Saturday or a Sunday) on which such banks are open for business in the place of receipt.

5.4.4 Entitlement to notices

Notice of every general meeting shall be given in the manner authorised by these Rules to:

- (a) every Member;
- (b) every Council Member; and
- (c) the auditors for the time being of the Association.

5.5 Winding Up

If, upon the winding up or dissolution of the Association, there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members, but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Association and whose memorandum of association or constitution shall prohibit the distribution of its or their income and property among its or their members to the extent at least as great as is imposed on the Association, such institution or institutions to be determined by the Council at or before the time of the dissolution and in default thereof by application to the Courts for determination.

5.6 Public Statements by the Association

No Member or Member's Representative shall make or provide any oral or written statement for publication on behalf of the Association without first obtaining the unanimous approval of the Council to such statement. In the event that such approval shall not have been obtained the Council may suspend the Member making or providing such statement from membership.

5.7 Indemnity

- (a) Every officer, auditor or agent of the Association shall be indemnified out of the property of the Association against any liability incurred by him in his capacity as officer, auditor or agent in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application in relation to any such proceedings in which relief is under the law granted to him by the Court.
- (b) Every chairperson of the Council, vice-chairperson of the Council, and Council Member and every other officer and servant of the Association shall be indemnified by the Association, out of the funds of the Association, against all

costs, losses, charges and expenses with respect to any moneys paid or any liability incurred by him by reason of any contract entered into by him, or in any act or thing done or omitted to be done by him in any of the capacities aforesaid, in the course of his office or duty.

- (c) Travelling and other expenses shall be included in such indemnity but only if approved or confirmed by the Council before or after they are incurred.
- (d) No officer or servant of the Association shall be liable for the act, neglect or default of any other officer or servant or for any loss, expense or damage which may be incurred by the Association unless incurred through his dishonesty or his wilful refusal or neglect to carry out the duties pertaining to his office or employment.

5.8 Common Seal

The common seal of the Association shall be kept in the custody of the Secretary (or Member carrying out the secretarial functions of the Association if there is no Secretary) and shall be affixed to any document requiring execution by the Association only by the authority of the Council and in the presence of the chairperson of the Council and one other Council Member who shall affix their signature to every document so sealed.