

## Window & Glass Association New Zealand Incorporated Constitution

### 1. Name

- 1.1. The name of the society is Window & Glass Association New Zealand Incorporated (in this **Constitution** referred to as the '**Society**').

### 2. Charitable status

- 2.1. The **Society** is not and does not intend to be registered as a charitable entity under the Charities Act 2005.

### 3. Definitions

- 3.1. In this **Constitution**, unless the context requires otherwise, the following words and phrases have the following meanings:
- 3.2. '**Act**' means the Incorporated Societies Act 2022 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.
- 3.3. '**Annual General Meeting**' means a meeting of the **Members** of the **Society** held once per year which, among other things, will receive and consider reports on the **Society's** activities and finances.
- 3.4. '**Board**' means the **Society's** governing body.
- 3.5. '**Body Corporate**' broadly means a corporate entity which has a legal existence. The term "body corporate" is defined in Section 2(11) of the Companies Act, 2013. This includes a private company, public company, one personal company, small company, Limited Liability Partnerships, foreign company etc.
- 3.6. '**Chairperson**' means the **Officer** responsible for chairing **General Meetings** and committee meetings, and who provides leadership for the **Society**.
- 3.7. '**Code of Ethics and Rules**' means such code of ethics and rules as set down by the Board from time to time under rule 9.9.
- 3.8. '**Constitution**' means the rules in this document.
- 3.9. '**Deputy Chairperson**' means the **Officer** elected or appointed to deputise in the absence of the **Chairperson**.
- 3.10. '**Financial Member**' means a Member who has no outstanding membership subscriptions or levies owing to the **Society**.
- 3.11. '**General Meeting**' means either an **Annual General Meeting** or a **Special General Meeting** of the **Members** of the **Society**.
- 3.12. '**Interested Member**' means a **Member** who is interested in a matter for any of the reasons set out in section 62 of the **Act**.
- 3.13. '**Interests Register**' means the register of interests of **Officers**, kept under this **Constitution** and as required by section 73 of the **Act**.
- 3.14. '**Matter**' means—
  - 3.14.1. the **Society's** performance of its activities or exercise of its powers; or
  - 3.14.2. an arrangement, agreement, or contract (a transaction) made or entered into, or proposed to be entered into, by the **Society**.

- 3.15. **'Member'** means a person who has consented to become a **Member** of the **Society** and has been properly admitted to the **Society** who has not ceased to be a **Member** of the **Society**.
- 3.16. **'Notice'** to **Members** includes any notice given by email, post, or courier.
- 3.17. **'Officer'** means a natural person who is:
  - 3.17.1. a member of the **Board**, or
  - 3.17.2. occupying a position in the **Society** that allows them to exercise significant influence over the management or administration of the **Society**, including any Chief Executive or Treasurer.
- 3.18. **'Register of Members'** means the register of **Members** kept under this **Constitution** as required by section 79 of the **Act**.
- 3.19. **'Secretary'** means the **Officer** responsible for the matters specifically noted in this **Constitution**.
- 3.20. **'Special General Meeting'** means a meeting of the **Members**, other than an **Annual General Meeting**, called for a specific purpose or purposes.
- 3.21. **'Standards and Codes'** means such standards and codes as set out under the **Society's** bylaws.
- 3.22. **'Working Days'** have the meaning defined in the Legislation Act 2019. Examples of days that are not **Working Days** include, but are not limited to, the following — a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day.

#### 4. Purposes

- 4.1. The primary purposes of the **Society** are to help create a better and healthier built environment for New Zealanders. We are the voice of the window and glass industry, promoting, advocating and lobbying on behalf of our members. We provide education and support to our membership community.
- 4.2. The **Society** must not operate for the purpose of, or with the effect of—
  - 4.2.1. distributing, any gain, profit, surplus, dividend, or other similar financial benefit to any of its **Members** (whether in money or in kind); or
  - 4.2.2. having capital that is divided into shares or stock held by its **Members**; or
  - 4.2.3. holding, property in which its members have a disposable interest (whether directly, or in the form of shares or stock in the capital of the society or otherwise).
- 4.3. But the **Society** will not operate for the financial gain of **Members** simply if the **Society**—
  - 4.3.1. engages in trade,
  - 4.3.2. pays a **Member** for matters that are incidental to the purposes of the **Society**, and the **Member** is a not-for-profit entity,
  - 4.3.3. distributes funds to a **Member** to further the purposes of the **Society**, and the **Member**—

- 4.3.3.1. is a not-for-profit entity, and
- 4.3.3.2. is affiliated or closely related to the **Society**, and
- 4.3.3.3. has the same, or substantially the same, purposes as those of the **Society**.
- 4.3.4. reimburses a **Member** for reasonable expenses legitimately incurred on behalf of the **Society** or while pursuing the **Society's** purposes,
- 4.3.5. provides benefits to members of the public or of a class of the public and those persons include **Members** or their families,
- 4.3.6. provides benefits to **Members** or their families to alleviate hardship,
- 4.3.7. provides educational scholarships or grants to **Members** or their families,
- 4.3.8. pays a **Member** a salary or wages or other payments for services to the **Society** on arm's length terms (terms reasonable in the circumstances if the parties were connected or related only by the transaction in question, each acting independently, and each acting in its own best interests; or are terms less favourable to the **Member** than those terms and the payment for services, or other transaction, does not include any share of a gain, profit, or surplus, percentage of revenue, or other reward in connection with any gain, profit, surplus, or revenue of the **Society**),
- 4.3.9. provides a **Member** with incidental benefits (for example, trophies, prizes, or discounts on products or services) in accordance with the purposes of the **Society**, or
- 4.3.10. on removal of the **Society** from the Register of Incorporated Societies, having its surplus assets distributed under subpart 5 of Part 5 of the **Act** to a **Member** that is a not-for-profit entity.

## 5. Act and Regulations

- 5.1. 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.

## 6. Contact person

- 6.1. The **Society** shall have at least 1 but no more than 3 contact person(s) whom the Registrar can contact when needed.
- 6.2. The **Society's** contact person must be:
  - 6.2.1. At least 18 years of age, and
  - 6.2.2. Ordinarily resident in New Zealand.
- 6.3. The contact person or contact persons must be appointed by the **Board**.
- 6.4. Each contact person's name must be provided to the Registrar of Incorporated Societies, along with their contact details, including:
  - 6.4.1. a physical address or an electronic address, and
  - 6.4.2. a telephone number.
- 6.5 Any change in that contact person or that person's name or contact details shall be advised to the Registrar of Incorporated Societies within 20 **Working Days** of that change occurring, or the **Society** becoming aware of the change.

## 7. Members

### Minimum number of members

- 7.1. The **Society** shall maintain at least the minimum number of **Members** required by the **Act**.

### Types of members

- 7.2. **Members** of the **Society** can be either General Members or Associate Members.
- 7.3. General Members are individuals or bodies corporate admitted to membership under this **Constitution** and who or which have not ceased to be a **Member**.
- 7.4. Associate Members are individuals or bodies corporate who have an interest in the New Zealand Glass and/or Window Industry and do not qualify for membership under any other category, and both their admittance to membership, and their continuing membership, is at the discretion of the Board.
- 7.5. Associate Members shall not enjoy the voting and representation rights of ordinary members, and they may be involved in the activities of any sector group only upon the express invitation of that sector group.

### Becoming a member: consent

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

### Becoming a member: process

- 7.7. In order to apply to become a Member, a person must be nominated by an existing **Member** of the **Society**.
- 7.8. An applicant for membership must complete and sign an application form, supply any information, or attend an interview as may be reasonably required by the **Board** regarding an application for membership and will become a **Member** on acceptance of that application by the **Board**.
- 7.9. All applicants for membership will give written confirmation that they can and will work to the New Zealand Building Code, applicable Standards and Industry Codes of Practice, and that all their products sold meet those Code Clauses and Standards.
  - 7.9.1. Members must provide copies of the relevant evidence of compliance with clause 7.9 such as, but not limited to, test reports, if asked to do so by the Board.
- 7.10. All applicants for membership will give written confirmation that they can and will comply with the **Constitution** and the **Code of Ethics and Rules**.
- 7.11. Members reconfirm their acceptance and compliance with the **Constitution** and **Code of Ethics and Rules** by renewing their subscription each year.
- 7.12. All applications must be accompanied by the appropriate joining fee and a subscription fee for current year, as set under rule 7.23. The initial subscription fee is calculated on a prorated basis from the date of the next **Board** meeting to the end of

the year. Receipt of the payment does not confirm or infer acceptance into the membership of the **Society**. The applicant has no rights of membership until formally admitted to the **Society** and advised of this in writing by the CEO.

- 7.13. The **Society** shall, through its bylaws, establish Sector Groups.
- 7.14. Each **Member** shall, for the purpose of nominating **Board** members, be assigned to one or more Sector Groups in accordance with the bylaws of the time. The Sector Groups defined in the bylaws do not prevent the formation of further special interest subgroups. The **Board** can assign new categories to Sector Groups as the need arises.
- 7.15. The **Board** may accept or decline an application for membership at its sole discretion. The **Board** must advise the applicant of its decision.
- 7.16. The signed written consent of every **Member** to become a **Society Member** shall be retained in the **Society's** membership records.

#### **Members' obligations and rights**

- 7.17. Every **Member** shall provide the **Society** in writing 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.
- 7.18. All **Members** shall promote the interests and purposes of the **Society** and shall do nothing to bring the **Society** into disrepute.
- 7.19. A **Member** is only entitled to exercise the rights of membership (including attending and 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**.
- 7.20. Any **Member** that is a body corporate shall provide the Board, in writing, with the name and contact details of the person who is the organisation's authorised representative, and that person shall be deemed to be the organisation's proxy for the purposes of voting at **General Meetings**.
- 7.21. 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.

#### **Use of the Association logo and names**

- 7.22. All **Members** are entitled to use the Association logo in a manner approved by the **Board** and which fairly represents their bona fide status as a member of the **Society**. Application to use the **Society** logos should confirm when/where they are to be used and requires CEO approval and agreement with the Trademark Licence.

## Subscriptions and fees

- 7.23. The annual subscription and any other fees or levies for membership for the then current financial year shall be set by resolution of a **General Meeting** (which can also decide that payment be made by periodic instalments).
- 7.24. The **Board** may terminate the membership of any **Member** failing to pay the annual subscription (including any periodic payment) or any levy, within **four** calendar month(s) of the date the same was due for payment (without being required to give prior notice to that Member).
- 7.25. Termination under rule 7.24 shall not release the terminated **Member** from their obligation to pay owing subscriptions or levies.
- 7.26. If a **Member's** business is sold a new membership (and a new subscription) is required from the new owners.

## Ceasing to be a member

- 7.27. A **Member** ceases to be a **Member**—

- 7.27.1. by resignation from that **Member's** of membership by written notice signed by that **Member** to the **Board**, or
- 7.27.2. on termination of a **Member's** membership following a dispute resolution process under this **Constitution**, or
- 7.27.3. on death (or if a body corporate on liquidation or deregistration, or if a partnership on dissolution of the partnership), or
- 7.27.4. by resolution of the **Board** where—
- 7.27.4.1. The **Member** has failed to pay a subscription, levy or other amount due to the **Society** within four calendar months.
- 7.27.4.2. In the opinion of the **Board** the **Member** has brought the **Society** into disrepute.
- 7.27.4.3. If the **Board** resolves that the member has in any respect breached this **Constitution**, the **Code of Ethics and Rules**, or any other decision of the **Society**, or that the continued membership of the **Member** is not in the best interests of the **Society**.

- 7.28. with effect from (as applicable)—

- 7.28.1. the date of receipt of the **Member's** notice of resignation by the **Board** (or any subsequent date stated in the notice of resignation), or
- 7.28.2. the date of termination of the **Member's** membership under this **Constitution**, or
- 7.28.3. the date of death of the **Member** (or if a body corporate from the date of its liquidation or deregistration, or if a partnership from the date of its dissolution), or

- 7.28.4. the date specified in a resolution of the **Board** and when a **Member's** membership has been terminated the **Board** shall promptly notify the former **Member** in writing.

#### **Obligations once membership has ceased**

7.29. A **Member** who has ceased to be a **Member** under this **Constitution**—

- 7.29.1. remains liable to pay all subscriptions and other fees to the **Society's** next balance date,
- 7.29.2. shall cease to hold himself or herself out as a **Member** of the **Society**,
- 7.29.3. shall return to the **Society** all material provided to **Members** by the **Society** (including any membership certificate, badges, handbooks and manuals),
- 7.29.4. shall cease to be entitled to any of the rights of a **Society Member**, and
- 7.29.5. is not entitled to a refund of any unexpired portion of any subscription or levy that has been paid to the **Society**.

#### **Becoming a member again**

- 7.30. 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**.
- 7.31. The former member must discharge all debts and obligations to the Association.
- 7.32. 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 **Board**.

### **8. General meetings**

#### **Procedures for all general meetings**

- 8.1. The **Board** shall give all **Members** at least 10 **Working Days'** written **Notice** of any **General Meeting** and of the business to be conducted at that **General Meeting**.
- 8.2. That **Notice** will be addressed to the **Member** at the contact address notified to the **Society** and recorded in the **Society's** register of members. The **General Meeting** and its business will not be invalidated simply because one or more **Members** do not receive the **Notice** of the **General Meeting**.
- 8.3. Only financial **Members** may attend, speak and vote at **General Meetings**—
- 8.3.1. in person, or
- 8.3.2. by a signed original written proxy in favour of some individual entitled to be present at the meeting and received by, or handed to, the **Chairperson** before the commencement of the **General Meeting**, or
- 8.3.3. through the authorised representative of a body corporate as notified to the **Board**, and
- 8.3.4. no other proxy voting shall be permitted.

- 8.4. No **General Meeting** may be held unless at least 10 eligible **Financial Members** attend throughout the meeting and this will constitute a quorum.
- 8.5. If, within half an hour after the time appointed for a meeting a quorum is not present, the meeting – if convened upon request of **Members** – shall be dissolved. In any other case it shall stand adjourned to a day, time and place determined by the **Chairperson** of the **Society**, and if at such adjourned meeting a quorum is not present those **Members** present in person or by proxy shall be deemed to constitute a sufficient quorum.
- 8.6. A **Member** is entitled to exercise one vote on any motion at a **General Meeting** in person or by proxy, and voting at a **General Meeting** shall be by voices or by show of hands.
- 8.7. Unless otherwise required by this **Constitution**, all questions shall be decided by a simple majority of those in attendance in person or by proxy and voting at a **General Meeting** or voting by remote ballot.
- 8.8. Any decisions made when a quorum is not present are not valid.
- 8.9. Written resolutions may not be passed in lieu of a **General Meeting**.
- 8.10. **General Meetings** may be held at one or more venues by **Members** present in person and/or using any real-time audio, audio and visual, or electronic communication that gives each **Member** a reasonable opportunity to participate.
- 8.11. All **General Meetings** shall be chaired by the **Chairperson**. If the **Chairperson** is absent, the **Deputy Chairperson** shall chair that meeting.
- 8.12. The **Board** may propose motions for the **Society** to vote on (**'Board Motions'**), which shall be notified to **Members** with the notice of the **General Meeting**.
- 8.13. Any **Member** may request that a motion be voted on (**'Member's Motion'**) at a **General Meeting**, by giving notice to the **Secretary** or **Board** at least 15 **Working Days** before that meeting. The **Member** may also provide information in support of the motion (**'Member's Information'**). If notice of the motion is given to the **Secretary** or **Board** before written **Notice** of the **General Meeting** is given to **Members**, notice of the motion shall be provided to **Members** with the written **Notice** of the **General Meeting**.

#### **Minutes**

- 8.14. The **Society** must keep minutes of all **General Meetings**.

#### **Annual General Meetings: when they will be held**

- 8.15. An **Annual General Meeting** shall be held once a year on a date and at a location and/or using any electronic communication method determined by the **Board** and consistent with any requirements in the **Act**, and the **Constitution** relating to the procedure to be followed at **General Meetings** shall apply.



8.16. The **Annual General Meeting** must be held no later than the earlier of the following—

8.16.1. 6 months after the balance date of the **Society**

8.16.2. 15 months after the previous annual meeting.

#### **Annual General Meetings: business**

8.17. The business of an **Annual General Meeting** shall be to—

8.17.1. confirm the minutes of the last **Annual General Meeting** and any **Special General Meeting(s)** held since the last **Annual General Meeting**,

8.17.2. adopt the annual report on the operations and affairs of the **Society**,

8.17.3. adopt the **Board's** report on the finances of the **Society**, and the annual financial statements,

8.17.4. set any subscriptions for the following financial year,

8.17.5. consider any motions of which prior notice has been given to **Members** with notice of the **Meeting**, and

8.17.6. consider any general business.

8.18. The **Board** must, at each **Annual General Meeting**, present the following information—

8.18.1. an annual report on the operation and affairs of the **Society** during the most recently completed accounting period,

8.18.2. the annual financial statements for that period, and

8.18.3. notice of any disclosures of conflicts of interest made by **Officers** during that period (including a summary of the matters, or types of matters, to which those disclosures relate).

#### **Special General Meetings**

8.19. **Special General Meetings** may be called at any time by the **Board** by resolution.

8.20. The **Board** must call a **Special General Meeting** if it receives a written request signed by at least 10 **Members**.

8.21. Any resolution or written request must state the business that the **Special General Meeting** is to deal with.

8.22. The rules in this **Constitution** relating to the procedure to be followed at **General Meetings** shall apply to a **Special General Meeting**, and a **Special General Meeting** shall only consider and deal with the business specified in the **Board's** resolution or the written request by **Members** for the **Meeting**.

### **9. Board**

#### **Board composition**

9.1. The **Board** will consist of at least 5 **Officers** and no more than 15 **Officers**.

9.2. A majority of the **Officers** on the **Board** must be either:

- 9.2.1. **Members** of the **Society**, or
- 9.2.2. representatives of bodies corporate that are **Members** of the **Society**.
- 9.3. The **Society** shall be governed by a **Board** comprised of representatives of the Sector Group interests of the **Society** as follows:
  - 9.3.1. Up to Four Proprietary System Supplier representatives (cannot be from the same company);
  - 9.3.2. Up to Three window or door manufacturer representatives (cannot be from the same company);
  - 9.3.3. Up to Four glass industry representatives (cannot be from the same company), one of whom must also be a Director of Glass & Glazing Institute;
  - 9.3.4. One Component supplier representative; and
  - 9.3.5. Any persons co-opted by the Board under rule 9.6.
- 9.4. The respective Sector Groups will select their representative(s) and their appointment to the **Board** will be automatic. In the event that no representative is appointed, the position remains vacant. The Sector Group may decide at any time to withdraw the nominated representative and replace that person with another, or to appoint representatives to a vacant position. Such decisions will be communicated in writing to the CEO.
- 9.5. The **Board** shall elect from the **Board** Members a **Chairperson** and a **Deputy Chairperson**. The **Chairperson** and **Deputy Chairperson** shall serve for a period of one year, and are eligible for re-election.
- 9.6. The **Board** may co-opt up to 3 further **Board** Members for terms of up to one year. A person co-opted under this rule may be co-opted again on the conclusion of their term.

#### **Functions of the Board**

- 9.7. 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 Incorporated Societies Act 2022, any Regulations made under that **Act**, and this **Constitution**.

#### **Powers of the Board**

- 9.8. 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**.
- 9.9. The **Board** may adopt or alter a **Code of Ethics and Rules** as they see necessary.

## **Sub-committees**

- 9.10. The **Board** may appoint sub-committees consisting of such persons (whether or not **Members** of the **Society**) and for such purposes as it thinks fit. Unless otherwise resolved by the **Board**—
- 9.10.1. the quorum of every sub-committee is half the members of the sub-committee but not less than 2,
  - 9.10.2. no sub-committee shall have power to co-opt additional members,
  - 9.10.3. a sub-committee must not commit the **Society** to any financial expenditure without express authority from the **Board**, and
  - 9.10.4. a sub-committee must not further delegate any of its powers.

## **General matters: sub-committees**

- 9.11. The **Board** and any sub-committee 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 sub-committee meeting.
- 9.12. Other than as prescribed by the **Act** or this **Constitution**, the **Board** or any sub-committee may regulate its proceedings as it thinks fit.

## **10. Board meetings**

### **Procedure**

- 10.1. The Quorum for any **Board** meeting is 50% of the number of appointed and/or elected representatives, rounded up (e.g. 50% of nine persons is a quorum of 5 persons). The quorum shall never fall below three persons, and never includes paid staff such as the CEO.
- 10.2. A meeting of the **Board** may be held either—
- 10.2.1. by a number of the members of the **Board** who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
  - 10.2.2. by means of audio visual, communication by which all members of the **Board** participating and constituting a quorum can simultaneously hear and see each other throughout the meeting.
- 10.3. A resolution of the **Board** is passed at any meeting of the **Board** if a majority of the votes cast on it are in favour of the resolution. Every **Officer** on the **Board** shall have one vote.
- 10.4. The **Chairperson** does have a casting vote in the event of a tied vote on any resolution of the **Board**.
- 10.5. Except as otherwise provided in this **Constitution**, the **Board** may regulate its own procedure.

## HR Committee

10.6. The **Board** shall appoint three of its members to comprise the **HR Committee**. The fourth member of the **HR Committee** shall be the CEO. The duties of the **HR Committee** include all aspects of administering the employment and performance of staff.

## 11. Officers

### Qualifications of officers

11.1. Every **Officer** must be a natural person who—

- 11.1.1. has consented in writing to be an officer of the **Society**, and
- 11.1.2. certifies that they are not disqualified from being elected or appointed or otherwise holding office as an **Officer** of the **Society**.

11.2. **Officers** must not be disqualified under section 47(3) of the **Act** from being appointed or holding office as an **Officer** of the **Society**, namely—

- 11.2.1. a person who is under 16 years of age
- 11.2.2. a person who is an undischarged bankrupt
- 11.2.3. a person who 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
- 11.2.4. A person who is disqualified from being a member of the governing body of a charitable entity under section 16(2) of the Charities Act 2005
- 11.2.5. a person who has been convicted of any of the following, and has been sentenced for the offence, within the last 7 years—
  - 11.2.5.1. an offence under subpart 6 of Part 4 of the **Act**
  - 11.2.5.2. a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961)
  - 11.2.5.3. an offence under section 143B of the Tax Administration Act 1994
  - 11.2.5.4. an offence, in a country other than New Zealand, that is substantially similar to an offence specified in subparagraphs (1) to (3)
  - 11.2.5.5. a money laundering offence or an offence relating to the financing of terrorism, whether in New Zealand or elsewhere
- 11.2.6. a person subject to:
  - 11.2.6.1. a banning order under subpart 7 of Part 4 of the **Act**, or
  - 11.2.6.2. an order under section 108 of the Credit Contracts and Consumer Finance Act 2003, or
  - 11.2.6.3. a forfeiture order under the Criminal Proceeds (Recovery) Act 2009, or

- 11.2.6.4. 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.
  - 11.2.7. a person who is subject to an order that is substantially similar to an order referred to in paragraph (6) 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**.
- 11.3. Prior to election or appointment as an **Officer** a person must—
- 11.3.1. consent in writing to be an **Officer**, and
  - 11.3.2. certify in writing that they are not disqualified from being elected or appointed as an **Officer** either by this **Constitution** or the **Act**.
- 11.4. Note that only a natural person may be an **Officer** and each certificate shall be retained in the **Society's** records.

#### **Officers' duties**

- 11.5. At all times each **Officer**:
- 11.5.1. shall act in good faith and in what he or she believes to be the best interests of the **Society**,
  - 11.5.2. must exercise all powers for a proper purpose,
  - 11.5.3. must not act, or agree to the **Society** acting, in a manner that contravenes the **Act** or this **Constitution**,
  - 11.5.4. 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:
    - 11.5.4.1. the nature of the **Society**,
    - 11.5.4.2. the nature of the decision, and
    - 11.5.4.3. the position of the **Officer** and the nature of the responsibilities undertaken by him or her
  - 11.5.5. 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
  - 11.5.6. 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.

### **Election or appointment of officers**

11.6. The respective Sector Groups will select their representative(s) and their appointment to the **Board** will be automatic. In the event that no representative is appointed, the position remains vacant. The Sector Group may decide at any time to withdraw the nominated representative and replace that person with another, or to appoint representatives to a vacant position. Such decisions will be communicated in writing to the CEO.

### **Term**

11.7. Each **Officer** shall hold office for one year, and may be reappointed.

### **Removal of officers**

11.8. An **Officer** shall be removed as an **Officer** by resolution of the **Board** or the **Society** where in the opinion of the **Board** or the **Society** —

- 11.8.1. The **Officer** elected to the **Board** has been absent from 2 **Board** meetings without leave of absence from the **Board**.
- 11.8.2. The **Officer** has brought the **Society** into disrepute.
- 11.8.3. The **Officer** has failed to disclose a conflict of interest.
- 11.8.4. The **Board** passes a vote of no confidence in the **Officer**.
- 11.8.5. with effect from (as applicable) the date specified in a resolution of the **Board** or **Society**.

### **Conflicts of interest**

11.9. An **Officer** or member of a sub-committee 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)—

- 11.9.1. to the **Board** and or sub-committee, and
- 11.9.2. in an **Interests Register** kept by the **Board**.

11.10. Disclosure must be made as soon as practicable after the **Officer** or member of a sub-committee becomes aware that they are interested in the **Matter**.

11.11. An **Officer** or member of a sub-committee who is an **Interested Member** regarding a **Matter**—

- 11.11.1. must not vote or take part in the decision of the **Board** and/or sub-committee relating to the **Matter** unless all members of the **Board** who are not interested in the **Matter** consent; and
- 11.11.2. 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
- 11.11.3. may take part in any discussion of the **Board** and/or sub-committee relating to the **Matter** and be present at the time of the decision of the

**Board** and/or sub-committee (unless the **Board** and/or sub-committee decides otherwise).

11.12. However, an **Officer** or member of a sub-committee 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.

11.13. Where 50 per cent or more of **Officers** 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 **Officers** agree otherwise.

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

## 12. Records

### Register of Members

12.1. The **Society** shall keep an up-to-date Register of Members.

12.2. For each current **Member**, the information contained in the Register of Members shall include —

12.2.1. Their name, and

12.2.2. 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'), and

12.2.3. Their contact details, including —

12.2.3.1. A physical address or an electronic address, and

12.2.3.2. A telephone number.

12.3. The register will also include each **Member's** —

12.3.1. postal address

12.3.2. email address (if any)

12.3.3. whether the **Member** is financial or unfinancial

12.4. Every current **Member** shall promptly advise the **Society** of any change of the **Member's** contact details.

12.5. 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:

12.5.1. The former **Member's** name, and

12.5.2. The date the former **Member** ceased to be a **Member**.

### Interests Register

12.6. The **Board** shall at all times maintain an up-to-date register of the interests disclosed by **Officers** and by members of any sub-committee.

## Access to information for members

- 12.7. A **Member** may at any time make a written request to the **Society** for information held by the **Society**.
- 12.8. The request must specify the information sought in sufficient detail to enable the information to be identified.
- 12.9. The **Society** must, within a reasonable time after receiving a request —
- 12.9.1. provide the information, or
  - 12.9.2. agree to provide the information within a specified period, or
  - 12.9.3. 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
  - 12.9.4. refuse to provide the information, specifying the reasons for the refusal.
- 12.10. Without limiting the reasons for which the **Society** may refuse to provide the information, the **Society** may refuse to provide the information if —
- 12.10.1. withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons, or
  - 12.10.2. 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
  - 12.10.3. 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
  - 12.10.4. the information is not relevant to the operation or affairs of the society, or
  - 12.10.5. withholding the information is necessary to maintain legal professional privilege, or
  - 12.10.6. the disclosure of the information would, or would be likely to, breach an enactment, or
  - 12.10.7. 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
  - 12.10.8. the request for the information is frivolous or vexatious, or
  - 12.10.9. 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**.
- 12.11. 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** —
- 12.11.1. that the **Member** will pay the charge; or
  - 12.11.2. that the **Member** considers the charge to be unreasonable.



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

### **13. Finances**

#### **Control and management**

13.1. The funds and property of the **Society** shall be—

13.1.1. controlled, invested and disposed of by the **Board**, subject to this **Constitution**, and

13.1.2. devoted solely to the promotion of the purposes of the **Society**.

13.2. The **Board** shall maintain bank accounts in the name of the **Society**.

13.3. All money received on account of the **Society** shall be banked within 5 **Working Days** of receipt.

13.4. The **Board** must ensure that there are kept at all times accounting records that—

13.4.1. correctly record the transactions of the **Society**, and

13.4.2. allow the **Society** to produce financial statements that comply with the requirements of the **Act**, and

13.4.3. would enable the financial statements to be readily and properly audited (if required under any legislation or the **Society's Constitution**).

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

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

13.7. The **Board** may, at its discretion but subject to any legal obligation to do so, engage an external Auditor at any time to conduct a financial audit of accounts.

#### **Balance date**

13.8. The **Society's** financial year shall commence on 01/01 of each year and end on 31/12 (the latter date being the **Society's** balance date).

### **14. Dispute resolution**

#### **Meanings of dispute and complaint**

14.1. A dispute is a disagreement or conflict involving the **Society** and/or its **Members** in relation to specific allegations set out below.

14.2. The disagreement or conflict may be between any of the following persons—

14.2.1. 2 or more **Members**

- 14.2.2. 1 or more **Members** and the **Society**
  - 14.2.3. 1 or more **Members** and 1 or more **Officers**
  - 14.2.4. 2 or more **Officers**
  - 14.2.5. 1 or more **Officers** and the **Society**
  - 14.2.6. 1 or more **Members** or **Officers** and the **Society**.
- 14.3. The disagreement or conflict relates to any of the following allegations—
- 14.3.1. a **Member** or an **Officer** has engaged in misconduct
  - 14.3.2. a **Member** or an **Officer** has breached, or is likely to breach, a duty under the **Society's Constitution** or bylaws or the **Act**
  - 14.3.3. the **Society** has breached, or is likely to breach, a duty under the **Society's Constitution** or bylaws or the **Act**
  - 14.3.4. a **Member's** rights or interests as a **Member** have been damaged or **Member's** rights or interests generally have been damaged.
- 14.4. A **Member** or an **Officer** may make a complaint by giving to the **Board** (or a complaints subcommittee) a notice in writing that—
- 14.4.1. states that the **Member** or **Officer** is starting a procedure for resolving a dispute in accordance with the **Society's Constitution**; and
  - 14.4.2. sets out the allegation(s) to which the dispute relates and whom the allegation or allegations is or are against; and
  - 14.4.3. sets out any other information or allegations reasonably required by the **Society**.
- 14.5. 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—
- 14.5.1. states that the **Society** is starting a procedure for resolving a dispute in accordance with the **Society's Constitution**; and
  - 14.5.2. sets out the allegation to which the dispute relates.
- 14.6. 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.
- 14.7. A complaint may be made in any other reasonable manner permitted by the **Society's Constitution**.
- 14.8. All **Members** (including the **Board**) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the **Society's** activities.
- 14.9. The complainant raising a dispute, and the **Board**, must consider and discuss whether a dispute may best be resolved through informal discussions, mediation, arbitration. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.

### How complaint is made

- 14.10. A **Member** or an **Officer** may make a complaint by giving to the **Board** (or a complaints subcommittee) a notice in writing that—
- 14.10.1. states that the **Member** or **Officer** is starting a procedure for resolving a dispute in accordance with the **Society's Constitution**; and
  - 14.10.2. sets out the allegation or allegations to which the dispute relates and whom the allegation is against; and
  - 14.10.3. sets out any other information reasonably required by the **Society**.
- 14.11. 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—
- 14.11.1. states that the **Society** is starting a procedure for resolving a dispute in accordance with the **Society's Constitution**; and
  - 14.11.2. sets out the allegation to which the dispute relates.
- 14.12. The information given under subclause 14.10 or 14.11 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.
- 14.13. A complaint may be made in any other reasonable manner permitted by the **Society's Constitution**.
- 14.14. 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.
- 14.15. If the **Society** makes a complaint—
- 14.15.1. the **Society** has a right to be heard before the complaint is resolved or any outcome is determined; and
  - 14.15.2. an **Officer** may exercise that right on behalf of the **Society**.
- 14.16. 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—
- 14.16.1. they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
  - 14.16.2. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - 14.16.3. an oral hearing (if any) is held before the decision maker; and
  - 14.16.4. the **Member's**, **Officer's**, or **Society's** written or verbal statement or submissions (if any) are considered by the decision maker.

### Investigating and determining dispute

- 14.17. 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.
- 14.18. Disputes must be dealt with under the **Constitution** in a fair, efficient, and effective manner and in accordance with the provisions of the **Act**.

### **Society may decide not to proceed further with complaint**

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

- 14.19.1. the complaint is considered to be trivial; or
- 14.19.2. the complaint does not appear to disclose or involve any allegation of the following kind:
  - 14.19.2.1. that a **Member** or an **Officer** has engaged in material misconduct:
  - 14.19.2.2. 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**:
  - 14.19.2.3. that a **Member's** rights or interests or **Members'** rights or interests generally have been materially damaged:
- 14.19.3. the complaint appears to be without foundation or there is no apparent evidence to support it; or
- 14.19.4. the person who makes the complaint has an insignificant interest in the matter; or
- 14.19.5. the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the **Constitution**; or
- 14.19.6. there has been an undue delay in making the complaint.

### **Society may refer complaint**

14.20. The **Society** may refer a complaint to—

- 14.20.1. a subcommittee or an external person to investigate and report; or
- 14.20.2. a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.

14.21. 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).

### **Decision makers**

14.22. 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 subcommittee consider that there are reasonable grounds to believe that the person may not be—

- 14.22.1. impartial; or
- 14.22.2. able to consider the matter without a predetermined view.

### **Complaint from member of public**

14.23. The **Society** receives, and at its discretion acts upon complaints brought against members, as per a process agreed by the **Board**. The role of the **Society** is one of

facilitating resolution between the parties, offering appropriate assistance if required, and monitoring the process. Each **Member's** continuing membership of the **Society** is conditional upon reasonable conduct and discharging of obligations in respect to all complaints they are responsible for. A review panel set up for that purpose at the instruction of the **Board** shall determine and recommend to the **Board** the appropriate action to be taken with respect to that member/s. **Members** may be tutored, censured, suspended, or terminated as the Board decides. Termination will be in accordance with the termination provisions in this **Constitution**.

## **15. Liquidation and removal from the register**

### **Resolving to put society into liquidation**

- 15.1. The **Society** may be liquidated in accordance with the provisions of Part 5 of the **Act**.
- 15.2. The **Board** shall give 30 **Working Days** written **Notice** to all **Members** of the proposed resolution to put the **Society** into liquidation.
- 15.3. 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**.
- 15.4. Any resolution to put the **Society** into liquidation must be passed by at least 75% of all **Members** present and voting.

### **Resolving to apply for removal from the register**

- 15.5. The **Society** may be removed from the Register of Incorporated Societies in accordance with the provisions of Part 5 of the **Act**.
- 15.6. 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.
- 15.7. 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**.
- 15.8. Any resolution to remove the **Society** from the Register of Incorporated Societies must be passed by a simple majority of all **Members** present and voting.

### **Surplus assets**

- 15.9. If the **Society** is liquidated or removed from the Register of Incorporated Societies, no distribution shall be made to any **Member**.
- 15.10. On the liquidation or removal from the Register of Incorporated Societies of the **Society**, its surplus assets — after payment of all debts, costs and liabilities — shall be distributed to a not for profit entity operating in a similar industry to the Society.
- 15.11. However, in any resolution under this rule, the **Society** may approve a different distribution to a different not-for-profit entity from that specified above, so long as the **Society** complies with this **Constitution** and the **Act** in all other respects.

## **16. Alterations to the constitution**

### **Amending this constitution**

- 16.1. All amendments must be made in accordance with this **Constitution**. Any minor or technical amendments shall be notified to **Members** as required by section 31 of the **Act**.
- 16.2. 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.
- 16.3. Any proposed resolution to amend or replace this **Constitution** shall either:
  - 16.3.1. be signed by at least 10 eligible **Members** and given in writing to the **Board** at least 15 **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; or
  - 16.3.2. proposed by the **Board** at least 15 Working Days before the General Meeting.
- 16.4. At least 10 **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.
- 16.5. When an amendment is approved by a **General Meeting** it shall be notified to the Registrar of Incorporated Societies in the form and manner specified in the **Act** for registration, and shall take effect from the date of registration.

## **17. Other**

### **Bylaws**

- 17.1. 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.