



The Rules of the Home Owners and Buyers Association of New Zealand Incorporated

Incorporation Number: 2071519

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Copies of these Rules are available from the
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on the internet at www.hobanz.org.nz

**RULES OF
THE HOME OWNERS AND BUYERS ASSOCIATION OF NEW ZEALAND INCORPORATED
AS AT 28th day of February 2012**

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1. TITLE

- 1.1 The name of the Association shall be “The Home Owners and Buyers Association of New Zealand Incorporated”.

2. DEFINITIONS AND INTERPRETATION

2.1 In the Rules, unless the context otherwise requires:

- (a) “**Associate Member**” shall mean a member of the Association as defined under Rule 7.6.
- (b) “**Associated Person**” shall mean the spouse, civil union partner or de factor partner of a Member, or any company or other organisation in which such Member shall have an interest in.
- (c) “**Association**” shall mean “The Home Owners and Buyers Association of New Zealand Incorporated” which was registered as an incorporated society on 7 December 2007.
- (d) “**Board**” shall mean the body constituted under Rule 19.
- (e) “**Board Member**” shall mean a member of the Board duly appointed by the National Council in accordance with Rule 20.
- (f) “**Chief Executive**” shall mean a person appointed as such by the Board.
- (g) “**Guardian Member**” shall mean a member of the Association as defined under Rule 7.4
- (h) “**Member**” shall mean a member of the Association across all categories of member as provided for under Rule 7.2 or established under the provision of Rule 7.2(c)
- (i) “**National Council**” shall mean the body constituted under Rule 10.
- (j) “**National Councillor**” shall mean a member of the National Council including for the avoidance of doubt, the President and Vice President (if there is one).
- (k) “**Officer**” shall mean any one of the following: National Councillor, Board Member, Secretary or Treasurer.
- (l) “**Person**” includes a firm, a company, an incorporated society, a club, an organisation, a trust and an association and “Member” and “applicant” have corresponding meanings.

- (m) “**Present**” shall mean either physically in attendance or in communication via telephone, video conference or other similar electronic means.
- (n) “**Rules**” shall mean all the rules contained herein.
- (o) “**Secretary**” shall mean a person appointed as such by the Board.

2.2 The following provisions shall apply in the construction and interpretation of these Rules and any schedules from time to time except to the extent that the context requires otherwise:

- (a) Words importing the singular number include the plural and vice versa and the masculine gender includes the feminine or neuter genders and vice versa and references to a person shall include firms, partnerships, trusts, estates, corporations and unincorporated bodies of persons, a government or semi-government body or agency or instrumentality or a political or administrative subdivision thereof;
- (b) A reference to any legislation or to any provision of any legislation (including regulations and orders) includes that legislation or provision as from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under any said legislation or provisions;
- (c) References to “written” and “in writing” include representing or reproducing words, figures or symbols in a visible form by any means and in any medium, including by electronic means or in electronic form;
- (d) Where under or pursuant to any deed or agreement to which this provision applies, or in respect of any act, matter or thing to be done there under, the day on or by which it is to be done is a Saturday or a Sunday or a public holiday in the place in which the act, matter or thing is to be done, such act, matter or thing may be done on the next succeeding day which is not a Saturday, Sunday or public holiday.

3. BINDING RELATIONSHIP

- 3.1 These rules shall bind the Association, the Officers and Members.
- 3.2 The Rules will be available for viewing on the Association’s website. Every Member shall be entitled on request and on payment of a reasonable fee as may be determined by the Board from time to time, to receive a hard copy of the Rules.

4. PRINCIPAL PURPOSES

4.1 The Principal Purposes of the Association shall be as follows:

- (a) To educate, support and protect home owners and buyers in New Zealand;
- (b) To promote community housing projects, community infrastructure and affordable housing for the underprivileged;
- (c) To represent the interests of home owners and buyers to Government and housing related industries to improve the quality and sustainability of New Zealand's homes;
- (d) To improve the social and environmental wellbeing of our diverse communities for the benefit of all New Zealand citizens.

5. ANCILLARY PURPOSES

5.1 The Ancillary Purposes are secondary to the Principal Purposes of the Association and provide the framework under which the Association will operate in pursuit of the Principal Purposes:

- (a) To encourage, support and develop initiatives that provide protection and assurance for home owners and buyers, and to instil a focus on quality outcomes throughout housing related industries.
- (b) To advance the education of New Zealand home owners and buyers by providing independent information, support and guidance on the acquisition, sale, maintenance, repair, renovation, letting and construction of residential dwellings, ancillary buildings and/or the subdivision or cross-lease of residential land.
- (c) To encourage, participate in and initiate research within the housing industry and Government sectors to deliver healthy, safe, durable, energy-efficient, environmentally sustainable and affordable homes for all New Zealanders.
- (d) To facilitate the provision of independent technical, legal and other forms of personal advocacy, support or guidance required by home owners or buyers in relation to any matter that may arise in the acquisition, sale, maintenance, repair, renovation, alteration or construction of residential dwellings or ancillary buildings, and or the subdivision or cross-lease of residential land.
- (e) To represent the interests of New Zealand home owners and buyers through collaboration with Central and Local Government and relevant industries on all matters that will assist in achieving the preceding purposes.

5.2 The Association will undertake these purposes apolitically and always in the best interests of the Members and the wider community.

5.3 Notwithstanding the Association's purposes set down in Rule 4.1 and 5.1, the Association may undertake such things that are incidental or conducive to the attainment of the Association's charitable purposes.

6. AREA OF OPERATION

6.1 The activities of the Association will be limited to New Zealand.

7. MEMBERSHIP

7.1 General

- (a) Person's who prove to the satisfaction of the Board that they are suitable for membership may become members of the Association upon application to, and acceptance by, the Board. In the case of applications for Associate Membership the powers of the Board may be delegated to the Chief Executive or any other suitable employee. In the case of applications for Guardian Membership under clause 7.5 the powers of the Board in relation to the appointment of Guardian Members, are exercised by the Guardian Members at a general meeting.
- (b) Such application shall be in such a form and state such information as the Board may from time to time require.
- (c) The Board is empowered to determine the procedure by which applicants may prove their suitability for membership and any terms and conditions of acceptance and membership as may be determined by the Board from time to time.

7.2 Member Categories

- (a) A Member of the Association will fall into one of the following two categories;
 - (i) Guardian Member;
 - (ii) Associate Member.
- (b) Guardian Members may be bestowed Life Membership in accordance with Rule 7.11. For the avoidance of doubt, such members will still be considered as Guardian Members in the context of these rules.
- (c) The Board shall establish any other category or categories of membership of the Association and applicable terms and conditions governing such other categories of

membership as the Board may consider appropriate and as the Board may determine from time to time. Members in any such other category or categories so established shall not have voting rights.

7.3 **Membership fees**

- (a) Membership for a Guardian Member or an Associate Member shall be an annual membership.
- (b) The annual subscription for a Guardian Member and Associate Member shall be determined annually by the Board and may be different.
- (c) The annual subscription shall be due each year on the first day of the month following the anniversary of the date the Guardian Member or Associate Member joined the Association.
- (d) The Board may from time to time determine whether an entrance fee to the Association in addition to the annual subscription is payable upon initial application or an application to rejoin the Association after membership has lapsed, and whether any additional sum is payable to the Association for membership.

7.4 **Admission of Guardian Members**

- (a) The Guardian membership is a special and restricted category of Association membership and such members shall be required to act as guardians of the Association's purposes. Therefore, subject to clause 7.5, applicants for Guardian membership must prove to the satisfaction of the Board that they are worthy in that they meet the criteria as determined by the Board from time to time, but it is essential that they;
 - (i) have sufficient and appropriate experience, ability, qualifications and/or commitment to the Association and will contribute to the success, effectiveness and sustainability of the Association; and,
 - (ii) can demonstrate an understanding of the fundamental principles and objects of the Association and the underlying values related to community service and consumer protection; and,
 - (iii) have freedom from the type of association with other organisations that would, in the opinion of the Board, give rise to a conflict of interest with the Association's purposes.
- (b) Applicants for Guardian membership must already be an Associate Member and must be nominated by a Guardian Member.

- (c) Every application for Guardian membership shall, subject to Rules 7.3(d) and 7.8(a), be accompanied by the prescribed annual subscription, together with any entrance fee and/or additional fee payable and shall not be accepted without the required payment(s).
- (d) Every application for Guardian membership shall be considered by the Board in accordance with the conditions of acceptance and membership referred to in Rules 7.1(c) (if any) and 7.4(a), and the Board shall be empowered to accept or decline Guardian membership at its sole and absolute discretion.
- (e) The applicant shall be notified whether or not the application has been accepted.
- (f) If any application for Guardian membership is declined by the Board the decision will be final with no right of appeal. The Board shall notify the applicant in writing that their application has been declined and may, but is in no case obliged to, give a reason for doing so.
- (g) If an applicant is declined membership, the applicant shall be refunded any subscription or fee paid by that applicant under Rule 7.4(c).

7.5 Admission of Guardian Members by general meeting

- (a) If the Board cannot for any reason consider an application for Guardian membership, an application for guardian membership may be considered and accepted or declined by a resolution passed by a majority of two-thirds of the Guardian Members present in person or by proxy at an Annual or Special General Meeting of the Association or by two-thirds of the votes cast by Guardian Members in a postal or online ballot.
- (b) Clause 7.4 shall apply to all applications for Guardian Membership under this clause 7.5 in all respects, with references to the Board in clause 7.4 being read as a reference to the Guardian Members in a general meeting.

7.6 Admission of Associate Members

- (a) Associate Members shall have the same rights and obligations as Guardian Members except that whilst they shall have the right to attend and speak at any General Meeting of the Association they will not be entitled to vote.
- (b) Associate Members will have access to the same benefits and privileges of membership as bestowed on Guardian Members.

- (c) Applicants for Associate membership must be a natural person aged 18 years or over.
- (d) Every application for Associate membership shall, subject to Rules 7.3(d) and 7.8(a), be accompanied by the prescribed annual subscription, together with any entrance fee and/or additional fee payable and shall not be accepted without the required payment(s).
- (e) Every application for Associate membership shall be considered by the Chief Executive under the delegated authority of the Board (who in turn shall have the right to delegate this determination to any other employee of the Association) in accordance with the conditions of acceptance and membership referred to in Rule 7.1(c) (if any), and the applicant shall be notified in writing whether or not the application has been accepted or declined.
- (f) If any application for Associate membership is declined by the Chief Executive, the applicant may appeal that decision to the Board in writing. The decision of the Board will be final with no further right of appeal and the applicant shall be advised in writing that their application has been declined. The Board may, but is in no case obliged to, give a reason for declining the application.
- (g) If an applicant is declined membership in either case as set out in 7.6(e) and 7.6(f) above, the applicant shall be refunded any subscription or fee paid by that applicant under Rule 7.6(d).

7.7 Renewal of membership

- (a) An existing Guardian or Associate Member may obtain a renewal of membership upon payment of the prescribed annual subscription. Subject to Rule 7.8(a) non-payment of the annual subscription will result in the membership being cancelled if it is in arrears of three months or more from the due date referred to in Rule 7.3(c).

7.8 Non-payment of fees

- (a) Subject to Rule 7.6(a), while a Guardian Member's annual subscription is due for payment, that Member is unable to take part in or vote at any meeting of the Association or vote in any postal or online ballot.
- (b) Subject to Rule 7.6(a), while an Associate Member's annual subscription is due for payment that Member is unable to take part in any meeting of the Association.

- (c) Irrespective of the category of membership the member will not be entitled to any of the benefits or privileges of membership while the annual subscription remains due for payment.

7.9 Waiver of fees and subscription

- (a) The Board may, in its absolute discretion, and shall in the case of Officers and their spouses or civil union partners or de facto partners, waive payment of the whole or any part of the entrance fee, additional fee, or annual subscription payable by that person.

7.10 Resignation

- (a) Any Member may resign from the Association by giving notice in writing to the Secretary. Such resignation shall take effect from the date referred to for that purpose in the notice or, where there is no such date, the date the notice is received (or deemed to be received) by the Secretary.
- (b) Upon resignation a Member will not be entitled to a refund in full or in part of any subscription already paid.

7.11 Life Membership

- (a) The National Council may bestow Life Membership on any Guardian Member of the Association in recognition of the Member's outstanding contribution to the activities of the Association over a number of years or for any other reason whatsoever which the National Council may consider fit.
- (b) Nominations for Life Membership can be made by any Member and shall be submitted to the National Council in writing. Such nominations will be put to a vote at a meeting of the National Council and subject to the standard provisions of Rules 12 and 13 which govern the conduct of, and voting at, the meeting of the National Council.
- (c) Guardian Member bestowed Life Membership;
 - (i) shall have the same rights, obligations, benefits and privileges as provided for in these Rules, and;
 - (ii) shall not be precluded from holding any Office of the Association other than where otherwise provided for in these Rules, and;
 - (iii) will not be required to make a financial contribution to the Association and therefore their annual subscription fee is permanently waived as of right.

- (d) The Life Membership will remain current for the term of the person's natural life but is subject to the provisions of Rule 9.

7.12 **Transitional provisions**

- (a) All founding members being those persons listed on the application to incorporate the Association dated 4th December, 2007, and listed in the schedule appended to these rules (Appendix 1) shall, as at the date of the adoption of these Rules, be deemed to have been admitted as Guardian Members of the Association in accordance with Rule 7.4.

8. MEMBERS REGISTER

8.1 The Secretary, or the Secretary's delegate, shall keep a register of Members which shall contain their names, postal addresses (and if available, email addresses), the date at which they became Members, their category of Membership and the date at which the annual subscription (where applicable) is due.

8.2 The Secretary shall, from time to time, purge the register of Members by striking off the name of any person:

- (a) who has died; or
- (b) who has resigned; or
- (c) who has been expelled in accordance with Rule 9; or
- (d) where payment of the annual subscription is in arrears for three months or more from the due date under Rule 7.3(c),

provided that the fact of purging shall not affect the liability of any person to pay any fee, subscription, fine or account payable at the time of purging, nor shall it affect any liability.

8.3 It shall be the duty of every Member to advise in writing any change of postal and/or email address to the Secretary.

8.4 The Board shall implement and maintain a Privacy and Security of Information Policy which is in accordance with applicable principles of the Privacy Act 1993 and the Members Register shall be subject to this policy.

9. MISCONDUCT AND DISCIPLINING OF MEMBERS

- 9.1 The Board has the discretion to expel or suspend any Member from membership of the Association, or to censure any Member, where that Member has breached the Rules or, in the opinion of the Board, brought the Association into disrepute or acted or is about to act in a way which is contrary to the best interests of the Association.
- 9.2 The Board shall determine the procedure to be followed when exercising its powers under Rule 9.1 provided that in doing so it applies the principles of natural justice.
- 9.3 Notwithstanding Rule 9.2, there shall be no appeal against the Board's decision under either Rule 9.1 or 9.2, and any expelled Member shall only be entitled to re-apply for membership under Rule 7 with leave of the National Council.

10. THE NATIONAL COUNCIL

- 10.1 There shall be a National Council to represent the views and interests of the Associations members. The National Council will be comprised of Guardian Members only and will act as the forum in which the Association's strategic direction can be discussed and determined, and if necessary the National Council will exercise whatever level of control and oversight that is required to protect the Principal Purpose of the Association.
- 10.2 The National Council shall be comprised of the President and Vice President if there is one (as ex officio members), and not less than two and not more than eight National Councillors.
- 10.3 The National Council shall:
- (a) Appoint and dismiss Board Members.
 - (b) Approve Major Transactions as defined in Rule 19.10.
 - (c) Ensure that appropriate means and procedures are established to enable the views and opinions of Associate Members appertaining to the affairs of the Association are able to be put to the National Council and/or the Board for consideration in developing policy.
- 10.4 Each National Councillor shall hold office following their election for a period of two years at which time they will retire by rotation.
- 10.5 National Councillors retiring by rotation may be nominated for re-election for further terms.

11. NOMINATION AND ELECTION OF NATIONAL COUNCILLORS

- 11.1 Only Guardian Members are eligible to be nominated for the position of National Councillor and shall be elected at the Annual General Meeting of the Association.
- 11.2 An election for the position of National Councillor(s) will only be conducted at the expiration of the term of office of an incumbent National Councillor(s) or in the event of any vacancy arising for whatever reason.
- 11.3 A request for nomination for the positions of National Councillors shall be sent out by the Secretary no more than three months and no later than two months prior to the Annual General Meeting. The request shall include a list of continuing National Councillors and incumbent nominees referred to in Rule 11.4, and must state the requirements for a valid nomination and the date by which nominations must be received (“**Closing Date**”) which shall be on or about 28 days after the date the request is sent.
- 11.4 Any National Councillor retiring by rotation who has not advised the Secretary at least 14 days prior to the request for nominations referred to in Rule 11.3 that he or she does not wish to stand for re-election shall be included in the list of incumbent nominees to be sent out with the request.
- 11.5 A nomination shall only be valid if:
- (a) the proposer is a Guardian Member; and,
 - (b) it is in writing; and,
 - (c) it is received by the Secretary on the correct form by the closing date; and
 - (d) the nominee is a Guardian Member; and would not be disqualified from holding office under section 16(2) of the Charities Act 2005.
- 11.6 The Secretary shall give the Guardian Members at least 14 days notice listing the nominees for the position of National Councillor and information about those nominees if it has been provided.
- 11.7 If the number of valid nominees is equal to or less than the number of vacancies for the position of National Councillors at the Annual General Meeting, the person presiding at the meeting in accordance with Rule 30.3 shall declare the valid nominees duly elected.
- 11.8 If the number of valid nominees is greater than the number of vacancies for the position of National Councillor then an election shall be required and must be conducted in accordance with the Election Procedure prescribed in Rule 24.

12. MEETINGS OF THE NATIONAL COUNCIL

- 12.1 The National Council shall meet at a time and place decided by the National Council from time to time.
- 12.2 An Annual National Council Meeting shall be held on or about the date of the Annual General Meeting or at another time to be decided by the National Council.
- 12.3 Any special meetings of the National Council may be convened by the President or shall be convened upon the request of two National Councillors and will be held at a date, time and place to be fixed by the President, giving at least 14 days notice to each National Councillor.
- 12.4 The President, or in his or her absence the Vice President, shall preside at all meetings of the National Council. If the President and the Vice President are absent from the meeting, or the President is absent and there is no Vice President, the National Councillors present shall elect one of their number to preside.
- 12.5 A meeting of the National Council may be held either:
- (a) by a number of National Councillors sufficient to form a quorum, being assembled together at the date, time and place appointed for the meeting; or
 - (b) by means of audio, video or other electronic communication, by which all the National Councillors participating in the meeting and constituting a quorum, can simultaneously hear each other throughout the meeting.
 - (c) by a combination of National Councillors being assembled together at the place, date and time appointed for the meeting and National Councillors participating by means of audio, video or other electronic communication. Where a meeting of the National Council is held in accordance with this clause 12.5(c), the number of National Councillors present for the purposes of constituting a quorum will be the number of National Councillors physically assembled together with the number of National Councillors participating by way of electronic communication.
- 12.6 Where a meeting of the National Council is held pursuant to Rule 12.5(b), at the commencement of the meeting each National Councillor participating must acknowledge his or her presence to all the other National Councillors participating and will be deemed to be present at the meeting. A National Councillor may not leave the meeting by disconnecting his or her means of communication unless he or she has previously obtained the express consent of the person presiding at the meeting in accordance with Rule 12.4.

- 12.7 The quorum at all meetings of the National Council shall be a majority of sitting National Councillors. Where the National Council is made up of an odd number of National Councillors the quorum is to be rounded up to the nearest whole number.
- 12.8 In the event of a National Councillor (excluding the President) being unable to attend any meeting of the National Council, the National Councillor may subject to the National Council's prior approval (which may be given on such reasonable terms and conditions as the National Council decides) appoint a proxy to take his or her place on the National Council at any such meeting, in which case the proxy shall be deemed to be the National Councillor for the purposes of that meeting.

13. VOTING AT MEETINGS OF THE NATIONAL COUNCIL

- 13.1 Every National Councillor present at a meeting of the National Council shall have one vote. The person presiding at the meeting in accordance with Rule 16.4 shall in all cases have a deliberative vote and in case of equality of voting shall also have a casting vote.
- 13.2 All questions put to the National Council at any meeting shall be determined by a majority of the votes of the National Councillors who are present at the meeting and entitled to vote. Voting shall be on the voices or in a manner as the person presiding at the meeting in accordance with Rule 12.4 may decide.
- 13.3 A National Councillor may not vote in respect of any matter in which the National Councillor is interested (as defined in Rule 26.1). However, he or she will be entitled to table a submission and speak to the matter before a vote. It is at the discretion of the person presiding at the meeting in accordance with Rule 12.4 whether the National Councillor remains in the meeting while the vote is conducted.

14. RESIGNATIONS AND SUBSTITUTIONS OF NATIONAL COUNCILLOR'S

- 14.1 A National Councillor wishing to resign from the National Council must give written notification of his or her resignation to the Secretary. The resignation shall be effective immediately as of the date such notice has been received by the Secretary.
- 14.2 Notwithstanding anything in Rule 11, and subject to Rule 10.2, if a National Councillor resigns, dies or is disqualified under Rule 27 then the National Council may appoint another Guardian Member as a replacement provided that they meet the requirements of Rules 11.5 (b) and 11.5 (c). A National Council Member so appointed holds office only until the next Annual General Meeting, but is eligible for re-election at that meeting.

- 14.3 The National Council must notify the Secretary in writing of the appointment of a replacement National Councillor. The replacement shall be deemed to have been duly appointed as of the date such notice has been received by the Secretary.

15. PRESIDENT AND VICE PRESIDENT

- 15.1 The President shall be the Titular Head of the Association and, with all Officers, shall be charged with ensuring the Association pursues the Association's purposes as defined under Rules 4.1 and 5.1. The Association may operate without a Vice President.

- 15.2 The President and the Vice President (where there is a Vice President) will sit as ex officio members of the National Council and the Board.

- 15.3 In addition to the particular duties set out in these Rules, the President shall, under the guidance of the National Council be responsible for:

- (a) communicating with National Councillors and/or members from time to time;
- (b) representing the Association on such bodies as the National Council may request;
- (c) representing the Association at such meetings, working groups or conferences of other groups where the interests of the Members could be affected; and
- (d) promoting the interests of the Association,

while always acting within the President's Terms of Reference as defined by the National Council from time to time.

- 15.4 The Vice President (where there is a Vice President) shall support the President in such a way as the President and National Council may request from time to time to the extent that, should the President be unable to discharge all or any of the Presidential duties, then the Vice President shall step into and fulfil that role on such terms and for such duration as the President and National Council may agree.

- 15.5 In the event that the President is temporarily unable to discharge his or her duties the Vice President shall act as President. In the event that, the Vice President is unavailable, or there is no Vice President, the National Council may appoint one of the National Councillors to act as President. Such acting President shall be entitled to exercise all the functions and powers of the President until the return of the President or Vice President as the case may be when the appointment of the acting President shall lapse.

- 15.6 The President and Vice President shall hold office following their election for a period of two years at which time they will retire by rotation.

15.7 A President or Vice President retiring by rotation may be nominated for re-election for further terms, except that no person shall hold office as President or Vice President for more than four consecutive two year terms.

16. NOMINATION AND ELECTION OF PRESIDENT AND VICE PRESIDENT

16.1 Only Guardian Members are eligible to be nominated for the positions of President and Vice President and shall be elected at the Annual General Meeting of the Association.

16.2 An election for the position of President and/or Vice President will only be conducted at the expiration of the term of office of an incumbent President or Vice President, or in the event of a vacancy arising for whatever reason.

16.3 A request for nomination for the positions of President and/or Vice President shall be sent out no more than three months and no later than two months prior to the Annual General Meeting. The request shall include a list of continuing National Councillors and incumbent nominees referred to in Rule 16.4, and must state the requirements for a valid nomination and the date by which nominations must be received ("**Closing Date**") which shall be on or about 28 days after the date the request is sent.

16.4 A President or Vice President retiring by rotation, who has not advised the Secretary at least 14 days prior to the request for nominations referred to in Rule 16.3 that he or she does not wish to stand for re-election, shall be listed as an incumbent nominee on a notice to be sent out with the request.

16.5 A nomination shall only be valid if:

- (a) the proposer is a Guardian Member; and,
- (b) it is in writing; and,
- (c) it is received by the Secretary on the correct form by the closing date; and,
- (d) the nominee is a Guardian Member; and would not be disqualified from holding office under section 16(2) of the Charities Act 2005; and,
- (e) has served on the Board or National Council for at least one complete year within the previous five years.

16.6 The Secretary shall give the Guardian Members at least 14 days notice listing the nominees for the position of President and/or Vice President and information about those nominees if it has been provided.

16.7 If there is only one valid nominee for a vacant position of President or Vice President then at the Annual General Meeting, the person presiding at the meeting in accordance with Rule 30.3 shall declare the valid nominee duly elected.

16.8 If there is more than one valid nominee for the vacant position of President or Vice President then an election shall be required and must be conducted in accordance with the Election Procedure prescribed in Rule 24.

17. RESIGNATION AND SUBSTITUTION OF PRESIDENT AND VICE PRESIDENT

17.1 If the President or Vice President wishes to resign their office they must give written notification of their resignation to the Secretary. The resignation shall be effective immediately as of the date such notice has been received by the Secretary.

17.2 Notwithstanding anything in Rule 16, if the President or Vice President resigns, dies or is disqualified under Rule 27 then the National Council may appoint one of its number as a replacement provided that they meet the requirements of Rule 16.5. A President or Vice President so appointed holds office only until the next Annual General Meeting, but is eligible for re-election at that meeting.

17.3 The National Council must notify the Secretary in writing of the appointment of a replacement National Councillor. The replacement shall be deemed to have been duly appointed as of the date such notice has been received by the Secretary.

18. SECRETARY AND TREASURER

18.1 The Secretary and the Treasurer shall be appointed and removed by the Board from time to time. For the avoidance of doubt, the positions of Secretary and Treasurer may be held by non-members that are professionally qualified for the role or by a National Councillor or Board Member, and may be held by the same person.

18.2 Any person appointed to the positions of Secretary or Treasurer must not be disqualified from holding office under section 16(2) of the Charities Act 2005.

18.3 The Secretary shall have charge of all books and papers belonging to the Association, shall issue all notices and other circulars as directed, shall keep correct minutes of the proceedings at all meetings of the National Council, Board and Members, and shall perform such other duties as the National Council may require.

18.4 Subject to Rule 18.2 the Board may at any time appoint a temporary substitute for the Secretary in case of his or her illness or absence and such substitute shall, during the period of his or her appointment, be deemed the Secretary.

- 18.5 The Treasurer shall receive all moneys receivable or payable to the Association and shall issue receipts if required for the same. The Treasurer shall keep a full, true and accurate account of all moneys received and disbursed by him or her and shall at the Annual General Meeting submit financial statements showing in detail the year's transactions and the year-end financial position. Subject to Rule 29, the Treasurer may, out of the funds of the Association, make all payments authorised or ratified by the Board in respect of costs and expenses of and incidental to the management and carrying on of the Association and its affairs and the carrying out of its objects and the recovery or attempted recovery of all or any moneys payable to the Association.
- 18.6 Subject to Rule 18.2 the Board may at any time appoint a temporary substitute for the Treasurer in case of his or her illness or absence and such substitute shall, during the period of his or her appointment, be deemed the Treasurer.

19. THE BOARD

- 19.1 The number of Board Members shall be not less than four and not more than ten. The Board shall consist of the President (as an ex officio member) with the balance of the Board Members being elected by the National Council at an Annual or special National Council Meeting.
- 19.2 In addition to the President, no more than two other National Councillors can be members of the Board at any one time.
- 19.3 The President shall retire as an ex officio member of the Board and be replaced as and when he or she ceases to hold that office. The other members of the Board shall be subject to retirement by rotation every two years. Those retiring may offer themselves for re-election.
- 19.4 The Board will elect a Chairperson from the Board Members. Ex officio members of the Board are excluded from holding the position of Chairperson.
- 19.5 All monies and funds of the Association shall be kept in the name of the Association and shall be invested as directed from time to time by the Board. The Association's bank accounts shall be operated by such persons authorised in writing by the Board, from time to time.
- 19.6 Subject to any express restrictions in these Rules, the Board shall be responsible for the good governance of the Association and shall have and may exercise all the powers necessary to do so, except to the extent that these Rules expressly require those powers to be exercised by the National Council.

- 19.7 Where any question arises that is not provided for in these Rules, or any doubt arises as to the interpretation of any of these Rules the matter shall be decided by the Board and its decision shall be binding on all members of the Association until such time as it is revoked by a meeting-based or postal or online ballot of all Guardian Members.
- 19.8 In order to protect the interests of the Association and the attainment of the Association's purposes the Board shall:
- (a) Undertake good governance of the Association including; setting the strategic and commercial direction, ensuring that sound policies and procedures are developed and implemented in accordance with best business practice and are reviewed from time to time, and monitoring the strategic and commercial performance of the Association.
 - (b) Prepare and communicate strategic plans and budgets.
 - (c) Appoint and supervise a Chief Executive who shall be part of the management team.
 - (d) Act in good faith and in the best interests of the Association when exercising powers or performing duties.
 - (e) Appoint and remove a Secretary and Treasurer of the Association.
 - (f) Be responsible for identifying areas of significant risk to the Association and ensure arrangements are in place to adequately manage those risks.
 - (g) Use reasonable endeavours to ensure that the Association meets its legal and regulatory obligations and performs to high ethical standards.
 - (h) Prepare quarterly reports on the business affairs of the Association accompanied by appropriate financial information.
 - (i) Receive and approve the Association's annual accounts and the President's report prior to each Annual General Meeting of the Association.
 - (j) Approve any major business strategies which represent a significant departure from the previously approved strategic plan.
 - (k) Approve any proposal that materially affects Members by way of changes to the subscription and/or entrance fees.
 - (l) Delegate such powers duties and obligations to the Chief Executive as it considers desirable from time to time.

- 19.9 In order to further the interests of the Association and facilitate the attainment of the Association's purposes the Board may, at its sole and absolute discretion;
- (a) Establish any trust, incorporate any society or company, or promote any company in order to facilitate the attainment of the Association's purposes or to protect the financial position of the Association; and
 - (b) Subject to Rule 19.10, acquire, lease, improve, manage, develop, exchange, sell or dispose of, turn to account or otherwise deal with all or in part of any property real or personal, erect buildings and invest, borrow or raise money by the issue of debentures or upon mortgage or charge or any other form of security of or over any real or personal property (both present and future) of the Association or without giving security; and
 - (c) Lend or advance Association funds in such a manner as may from time to time be authorised in accordance with these Rules; and
 - (d) Do all such other things as are incidental or conducive to the attainment of the Association's purposes and the exercise of the powers of the Association.

- 19.10 The Board may not procure or permit the Association to enter into a Major Transaction unless the transaction is approved by the National Council or made contingent on approval by the National Council.

For the purposes of this Rule, Major Transaction means:

- (a) the acquisition of, or an agreement to acquire, whether contingent or not, assets the value of which is more than half the value of the Association's assets before the acquisition; or
 - (b) the disposition of, or an agreement to dispose of, whether contingent or not, assets of the Association the value of which is more than half of the value of the Association's assets before the disposition; or
 - (c) a transaction that has or is likely to have the effect of the Association acquiring rights or interests or incurring obligations or liabilities, including contingent liabilities, the value of which is more than half the value of the Association's assets before the transaction.
- 19.11 The Board must not make decisions or take action that may lead to a departure from the Association's purposes without the approval from the National Council.
- 19.12 The Board may from time to time appoint members of the Board to form standing or special committees and may delegate to any such committee any of the powers and duties

of the Board. The Chairperson of the Board shall be a Member (ex officio) of any such committees and along with any two other appointed Board Members shall form a quorum at any meeting thereof.

- 19.13 The Board may by resolution from time to time appoint advisors and/or subject matter experts (SME), who may or may not be Members of the Association, to attend meetings of the Board and/or any standing or special committee(s). Such advisors and/or SME's may attend and take part at such meetings, but are not permitted to vote on any matters put to the meeting by way of resolution.

20. NOMINATION AND ELECTION OF BOARD MEMBERS BY NATIONAL COUNCIL

- 20.1 Nominations for the elected positions on the Board may be made at any time prior to the closing date for such nominations, which shall be on or about 14 days before the National Council meeting at which the nominations will be considered, as advised by the Secretary.

- 20.2 A nomination shall only be valid if:

- (a) the proposer is a Guardian Member; and,
- (b) it is in writing; and,
- (c) it is signed by a National Councillor and the nominee; and,
- (d) it is received by the Secretary by the final date; and
- (e) the nominee is a Guardian Member and would not be disqualified from holding office under section 16(2) of the Charities Act 2005.

- 20.3 The National Council shall, at a National Council Meeting, elect from the nominations, members to the Board. Each Board Member shall hold office (subject to these Rules) from the time of the election.

- 20.4 If the number of valid nominees is equal to or less than the number of vacancies on the Board then at a National Council Meeting, the person presiding at the meeting in accordance with Rule 30.3 shall declare the valid nominees duly elected.

- 20.5 If the number of valid nominees is greater than the number of vacancies on the Board then an election shall be required and must be conducted in accordance with the Election Procedure prescribed in Rule 24.

21. RESIGNATIONS AND SUBSTITUTIONS OF BOARD MEMBERS

- 21.1 A Board Member wishing to resign from the Board must give written notification of his or her resignation to the Secretary. The resignation shall be effective immediately as of the date such notice has been received by the Secretary.
- 21.2 Notwithstanding anything in Rule 20, and subject to Rule 19.1, if a Board Member resigns, dies or is disqualified under Rule 27 then the Board may appoint another Guardian Member as a replacement provided that they meet the requirements of Rule 20.2. A Board Member so appointed holds office only until the next National Council Meeting, but is eligible for re-election at that meeting.
- 21.3 The Board must notify the Secretary in writing of the appointment of a replacement Board Member. The replacement shall be deemed to have been duly appointed as of the date such notice has been received by the Secretary.

22. MEETINGS OF THE BOARD

- 22.1 The Chairperson shall chair all meetings that he or she attends. In the Chairperson's absence, the Board shall elect a person to preside for that meeting provided that the acting Chairperson is not an ex officio member of the Board.
- 22.2 The Board shall meet at a time and place decided by the Board from time to time. A special meeting of the Board may be convened by the Chairperson or upon the request of at least two Board Members, including ex officio members, and will be held on a date, time and place to be fixed by the Chairperson.
- 22.3 A meeting of the Board may be held either:
- (a) by a number of Board Members sufficient to form a quorum, being assembled together at the place, date, and time appointed for the meeting; or
 - (b) by means of audio, video or other electronic communication, by which all the Board Members participating in the meeting and constituting a quorum, can simultaneously hear each other throughout the meeting; or
 - (c) by a combination of Board Members being assembled together at the place, date and time appointed for the meeting and Board Members participating by means of audio, video or other electronic communication. Where a meeting of the Board is held in accordance with this clause 22.3(c), the number of Board Members present for the purposes of constituting a quorum will be the number of Board Members physically assembled together with the number of Board Members participating by way of electronic communication.

- 22.4 Where a meeting of the Board is held pursuant to Rule 22.3(b), at the commencement of the meeting each Board Member participating must acknowledge his or her presence to all the other Board Members participating and will be deemed to be present at the meeting. A Board Member may not leave the meeting by disconnecting his or her means of communication unless he or she has previously obtained the express consent of the Chairperson (or acting Chairperson).
- 22.5 Not less than five working days notice of any meeting of the Board shall be given to every Board Member. The notice must include the date, time and place of the meeting and the matters to be discussed.
- 22.6 A quorum for a meeting of the Board shall be a majority of the Board Members. No business may be transacted at a Board meeting if a quorum is not present. If for any reason the number of Board Members falls to less than the minimum of four, the remaining Board Members or Member, may not conduct any business or pass any resolutions except the Board Members or Member may pass a resolution to appoint only the number of Board Members required to restore the board back to the minimum number of four Board Members. Board Members so appointed must meet the criteria in clause 20.2(e) and hold office only until the next National Council Meeting, but are eligible for re-election at that meeting.
- 22.7 The Board must ensure that full and accurate minutes are kept of all proceedings at the meetings of the Board. Minutes which have been signed correct by the Chairperson (or acting Chairperson) are prima facie evidence of the proceedings.

23. VOTING AT MEETINGS OF THE BOARD

- 23.1 Every member of the Board present at a meeting of the Board shall have one vote. The Chairperson (or acting Chairperson) shall in all cases have a deliberative vote and in case of equality of voting shall also have a casting vote.
- 23.2 All questions put to the Board at any meeting shall be determined by a majority of the votes of the Board Members who are present at the meeting and entitled to vote. Voting shall be on the voices or in a manner as the Chairperson (or acting Chairperson) may decide.
- 23.3 A Board Member may not vote in respect of any matter in which the member is interested (as defined in Rule 26.1). However, he or she will be entitled to table a submission and speak to the matter before a vote. It is at the Chairperson's discretion whether the member remains in the meeting while the vote is conducted.

24. ELECTION PROCEDURE

24.1 If an election is required at the Annual General Meeting under Rules 11.8 and 16.8, or at the Annual National Council Meeting under Rule 20.5, it shall be in accordance with the following procedure:

- (a) At the meeting voting forms upon which the names of the nominees have been printed shall be handed to the Guardian Members present and the election shall take place by secret ballot at the same meeting.
- (b) Voting papers shall be prepared by the Secretary who shall issue them to those persons entitled to vote.
- (c) Guardian Members shall strike out the names of candidates for whom they do not desire to vote. A vote for more candidates than there are vacancies shall be invalid.
- (d) The ballot box shall be open at the place of meeting 30 minutes prior to the time of the meeting as stated in the notice convening the meeting and shall remain open until 15 minutes after the meeting has been declared open for business by the person presiding at the meeting in accordance with Rule 30.3. The person presiding at the meeting in accordance with Rule 30.3 shall thereupon announce the closing of the ballot box.

24.2 Two or more scrutineers shall be appointed by the person presiding at the meeting in accordance with Rule 30.3 to examine the voting papers and report to the person presiding at the meeting in accordance with Rule 30.3 the name or names of the candidate or candidates who shall have pooled the greatest number of votes and the person presiding at the meeting in accordance with Rule 30.3 shall thereupon declare the said candidate or candidates duly elected.

24.3 In the case of an election, where any two or more candidates receive the same number of valid votes the person presiding at the meeting in accordance with Rule 30.3 shall determine by lot which of the candidates shall be elected.

25. UNANIMOUS RESOLUTIONS

25.1 A resolution in writing, signed or assented to by all members of the Board or the National Council then entitled to receive notice of a Board or National Council meeting, is as valid and effective as if it had been passed at a meeting of the Board or National Council, as the case may be, duly convened and held. A copy of any such resolution must be entered in the minute book of Board or National Council proceedings as applicable.

- 25.2 A copy of any such resolution may consist of several documents (including facsimile, electronic or other means of communication) in like form each signed or assented to by one or more members.

26. INTERESTED OFFICERS

- 26.1 An Officer is considered to be interested in a matter upon which the Board or National Council is to vote if:

- (a) the Officer has a direct or indirect material interest or a direct or indirect personal involvement in a matter; or
- (b) the Officer is a trustee, member, director, officer, beneficiary, parent, child, sibling, spouse, civil union partner or de facto partner of a person or organization with such an interest or involvement.

- 26.2 An Officer must, forthwith after becoming aware of the fact that he or she is interested under Rule 26.1, cause to be entered in the Interests Register, and disclose to the Board or National Council as applicable:

- (a) if the monetary value of the interest is able to be quantified, the nature and monetary value of that interest, or
- (b) if the monetary value of the interest cannot be quantified, the nature and extent of that interest.

- 26.3 An Officer is not required to comply with Rule 26.1 if:

- (a) the transaction or proposed transaction is between the Officer and the Association; and
- (b) the matter is part of the ordinary course of the Association's business and on usual terms and conditions.

27. DISQUALIFICATION OF OFFICERS

- 27.1 A person will be disqualified from holding any office of the Association (President, Vice President, National Councillor, Board Member, Chief Executive, Secretary or Treasurer) if he or she:

- (a) ceases to be a Member (where applicable); or

- (b) behaves in a manner which in the opinion of a majority of the members of the National Council has brought or may bring the Association into disrepute or in a manner which is contrary to the purposes of the Association; or
- (c) fails or neglects to attend three consecutive meetings of the National Council or Board as the case may be without leave of absence, unless it appears to the other members at their first meeting after the last of such absences there is a proper reason in each instance for such non-attendance; or
- (d) ceases to qualify as an officer under section 16(2) of the Charities Act 2005.

27.2 The Officer concerned shall cease to hold office:

- (a) where Rules 27.1(a) and 27.1(d) apply, from the date of the event mentioned; or
- (b) where Rule 27.1(b) applies from the date the National Council gives notice to the Officer of such conclusion reached by a majority of the members of the National Council; or
- (c) where Rule 27.1(c) applies from the date of the first meeting of the National Council or Board Members as the case may be after the Officer's third consecutive absence without leave.

28. MANAGEMENT TEAM

28.1 The Board shall appoint a Chief Executive to conduct the operational affairs and manage the Association in accordance with the objectives set out in the approved strategic plan. The conditions of employment of the Chief Executive shall be as determined by the Board from time to time.

28.2 The Board may pay the Chief Executive salaries and benefits consistent with normal and usual market rates as determined by external benchmarking or independent professional advice.

28.3 The Chief Executive or person(s) designated by him may engage and employ on a full or part time basis and upon such terms and conditions as deemed appropriate such number of persons by way of staff as considered necessary to provide the appropriate level of governance and the efficient conduct of the affairs and activities of the Association.

All persons so employed shall:

- (a) qualify as an officer under section 16 of the Charities Act 2005; and,

- (b) be paid such salaries and benefits consistent with normal and usual market rates as determined by external benchmarking or independent professional advice; and,
- (c) be under the supervision and control of the Chief Executive; and,
- (d) carry out the functions and duties duly assigned to them.

28.4 The staff appointed under clause 28.3 of this subsection shall have the powers and duties that maybe delegated to them as provided for in the Rules of the Association or as otherwise expressly provided for by the terms and conditions of employment.

29. INCOME, BENEFIT OR ADVANTAGE TO BE APPLIED TO CHARITABLE PURPOSES

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

29.2 No private pecuniary profit may be made by any Officer, Member or Associated Person from the Association, except that:

- (a) Any person may receive full reimbursement for all expenses properly incurred by that person in connection with the affairs of the Association with the authority of the Board.
- (b) Any officer or servant of the Association (whether an Officer or not) may receive reasonable remuneration in return for services actually rendered to the Association (including attendances at meetings).
- (c) Any Officer may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Officer or by any firm or entity of which that Officer is a member, employee or associate in connection with the affairs of the Association.
- (d) Any Officer may retain any remuneration properly payable to that Officer by any company or undertaking with which the Association may be in any way concerned or involved for which that Officer has acted in any capacity whatever, notwithstanding that the Officer's connection with the company or undertaking is in any way attributable to that Officer's connection with the Association.

29.3 Notwithstanding anything contained or implied in these Rules, no Officer or Associated Person shall (whether directly or indirectly) determine, or materially influence in any way the determination of the nature or the amount of any benefit or advantage or income or the circumstances in which it is to be received, gained, afforded or derived by that person.

- 29.4 For the avoidance of doubt if the Association is accepted for registration under the Charities Act 2005 and so registers, then:
- (a) Any income, benefit or advantage must be used to advance the charitable purposes of the Association;
 - (b) Notwithstanding anything contained or implied in these Rules, no Officer or Associated Person shall (whether directly or indirectly) determine, or materially influence in any way the determination of the nature or the amount of any benefit or advantage or income or the circumstances in which it is to be received, gained, afforded or derived by that person.
 - (c) Any payments made to any person, Officer, Member or Associated Person must be for goods or services must be reasonable and relative to payments that would be made between unrelated parties.
- 29.5 Entrenchment; the provisions and effect of this rule (Rule 29) shall not be removed from this document and shall be included and implied into any document replacing this document.

30. GENERAL MEETINGS OF THE ASSOCIATION

- 30.1 The Annual General Meeting of the Members shall be held on or about July each year at a time and place as may be decided by the Board. The business of the Annual General Meeting of the Association shall be to receive the Annual Report and financial statements, to conduct an election for National Councillors in accordance with the rules set out hereunder, to appoint an Auditor, and to transact any other business of which due notice has been given or which these Rules otherwise provide for.
- 30.2 At least two months notice of an Annual General Meeting and 14 days notice of a Special General Meeting of the Association shall be given, and at the sole discretion of the Board, the notification will be either by advertisement in the Members' section of the Association's website and/or by email or, in the absence of an email address, by notice posted to Members at their last known address. The notice shall specify the object or objects of the meeting. The accidental omission to give any notice to or the non-receipt of any notice by, any Member shall not invalidate the proceedings at any meeting.
- 30.3 All General Meetings shall be chaired by the President of the Association and, in the absence of the President, by the Vice President. If both the President and the Vice President are absent the Guardian Members present at the General Meeting shall choose one of their number from among themselves to chair the meeting.

- (a) In the case of an Annual General Meeting where an election for the President and/or the Vice President is to take place the meeting shall be chaired by the incumbent President, Vice President or Guardian Member as per Rule 30.3 until the election result is declared at which time the newly elected President or Vice President, if present, will assume the chair, otherwise the appointed Guardian Member will continue as chair the meeting.
- 30.4 A notice of motion to be put to a General Meeting of the Association shall be in writing and received by the Secretary not less than 28 days prior to the General Meeting at which the motion is to be considered.
- 30.5 The quorum at all General Meetings of the Association shall be 100 Guardian Members or 20% of Guardian Members listed on the Membership Register as at the date of the meeting (whichever is less) present in person or represented by proxy.
- 30.6 A Special General Meeting of the Members may only be called by direction of the National Council.
- 30.7 The National Council;
- (a) may at any time, and of its own volition, call a Special General Meeting; or,
- (b) shall call a Special General Meeting when requested in writing to do so by Board; or,
- (c) shall, when requested in writing by the lesser of 100 Guardian Members or 20% of the Guardian Members listed on the Membership Register as of that date, consider whether or not the requisition warrants the calling of a Special General Meeting (as opposed to leaving the issue to be raised at the next Annual General Meeting).
- (d) Any such requisition made in accordance with either Rule 30.7(b) and 30.7(c) shall specify the nature of the business to be transacted, and specify the text of any resolution to be put to the proposed Special General Meeting.
- (e) In the event the National Council decides to call a Special General Meeting it shall fix the date, time and place for holding the meeting and no business shall be transacted at that meeting other than that which is specified in the notice issued by the National Council calling that meeting.

31. VOTING AT ASSOCIATION MEETINGS

- 31.1 Subject to Rule 7.8(a), at all General Meetings of the Association every Guardian Member present in person is entitled to one vote or if a Guardian Member is unable to attend that

Member may by written notice, on the form prescribed and personally signed by that Member, appoint a proxy to attend and vote on that Member's behalf.

- 31.2 Subject to Rule 7.8(b) Associate Members are entitled to attend any General Meeting of the Association and will be permitted to speak to any question put to the meeting but will not be entitled to vote.
- 31.3 Subject to Rules 35.1 and 40.1, all questions put to a General Meeting of the Association shall be determined by a majority of the votes of those entitled to vote.
- 31.4 All questions put to a General Meeting of the Association shall be decided on the voices or on a show of hands. A secret ballot shall be taken only if demanded by a majority of those Guardian Members present and entitled to vote, or by the Chairperson. Such a secret ballot shall conform to the procedure outlined in Rule 36 and subject to a disputes procedure as set out under Rule 37.
- 31.5 The Member presiding over a General Meeting of the Association at the time of voting shall in the case of equality of voting have a casting vote in addition to a deliberative vote.
- 31.6 The Board shall prescribe the form of proxy to be used at a General Meeting of the Association and the Secretary shall cause the same to be available for Guardian Members upon request. The form of proxy shall be numbered consecutively, may contain all or any of the motions to be determined at the General Meeting (dependent upon whether the Guardian Member intends to appoint a general or a specific proxy), and may contain a provision directing the proxy as to the manner of voting on all or any of the motions. Proxies must be completed on the prescribed form, and received by the Secretary not less than 48 hours before any General Meeting at which that proxy is intended to be used.

32. CONDUCT OF ALL MEETINGS

- 32.1 The rules contained in the current edition of *Robert's Rules of Order Newly Revised Edition 10* shall govern all meetings of the Association. Where there is inconsistency between these Rules, *Robert's Rules of Order Newly Revised* or any other special rules adopted by the Association then the Rules or special rules will prevail.

33. FINANCIAL YEAR

- 33.1 The financial year of the Association shall commence on the first day of April of each year and close on the last day of March of the following year.

34. AUDITOR

34.1 Once at least in every year the accounts of the Association shall be examined by the Auditor and the correctness or otherwise of the same shall be ascertained by an audit and shall be reported to the Association. The Auditor shall at all reasonable times have access to all books and accounts and relative documents and shall be entitled to require from the officers or employees of the Association such information and explanation as may be deemed necessary for the performance of those duties.

35. ALTERATION OF RULES

35.1 No new Rules shall be made and none of the Rules contained herein, shall be amended, altered or rescinded except by a resolution passed by a majority of two-thirds of the Guardian Members present in person or by proxy at an Annual or Special General Meeting of the Association or by two-thirds of the votes cast by Guardian Members in a postal or online ballot.

35.2 An amendment to the Rules may be proposed by any Member, the Board or by the National Council. Such an amendment may be proposed in the form of a general policy proposal or specific details of the desired amendment.

- (a) A Member may propose an amendment to the Rules by way of a written remit to the Board.
- (b) The National Council, of its own volition and at a meeting held in accordance with Rule 12, or unanimous resolution in accordance with Rule 25 may propose an amendment to the Rules by way of a written remit to the Board.
- (c) Proposed amendments to the Rules shall be put to a meeting of the Board for consideration.
- (d) If the proposed amendment has merit and the majority support of the Board meeting that considers it, the Board shall refer the proposal to a person authorised by the Board to draft any amendments required by the proposal. Such a person is to be skilled and experienced in drafting and to have sufficient legal knowledge to prepare such a draft.
- (e) The Board will, at its sole and absolute discretions, seek legal and any other advice as it sees fit to ensure that the proposed amendment is in order and will not lead to a departure from the Principal Purpose or impact on the charitable status of the Association.

- (f) Any draft rule change's shall then be considered by the Board at its earliest convenience and be confirmed as complying with the original proposal or sent back to the approved person to be redrafted as required.
- (g) When any draft rule change has been confirmed and accepted by the Board, the Secretary shall, at the sole and absolute discretion of the Board, make arrangements to put the amendment(s) of the Rules to a General Meeting of the Association or conduct a ballot of the members as provided under these Rules to determine if the Guardian Members are in favour of any amendment(s) to the Rules as drafted.
 - (i) If the amendments are to be put to a General Meeting, the Secretary shall before the date fixed for the Annual General Meeting, or for a Special General Meeting specially called for that purpose, send or give notice to Members by one of the methods outlined in Rule 30.2 of any proposed new rules, amendments, alterations and/or rescissions.
 - (ii) If the amendments are to be put to the members by way of a postal or online ballot the Secretary shall do so in accordance with the provisions of Rule 36.
- (h) Notwithstanding anything in these Rules, where there is a two-thirds vote in favour of the draft amendment the Rules shall be deemed to be duly amended.

35.3 The Secretary shall send such amendment to the Registrar of Incorporated Societies. The amendment is to be in writing, signed in duplicate by at least three financial members of the Association, and accompanied by a statutory declaration by a solicitor or at least one financial Guardian Member of the Association to the effect that the said amendment has been made in accordance with the Rules of the Association.

35.4 The rules may not be in any way altered, revoked or replaced in a manner which would negate the charitable purpose of the Association or result in the Association no longer being charitable according to the laws of New Zealand. In the event that any alterations, revocations or replacements to the Rules negate the charitable status of the Association, such alterations, revocations or replacements shall be null and void.

36. BALLOT PROCEDURE

36.1 Any ballot required to be held under these Rules shall be held in accordance with the procedure in this Rule.

36.2 When a ballot is required to be held the Secretary shall:

- (a) Appoint a Returning Officer who shall be responsible for the conduct of the ballot; and,
 - (b) In the case of a postal ballot or online ballot, advise the Returning Officer in writing of the question to be decided.
- 36.3 The Board and any Guardian Member directly concerned with the result of any ballot may each appoint a scrutineer to oversee the conduct of the ballot and the counting of votes, and the Returning Officer shall afford each scrutineer all reasonable opportunity to carry out such function.
- 36.4 The Returning Officer shall:
- (a) In the case of a ballot held at a meeting distribute and collect ballot papers; or
 - (b) In the case of a postal ballot, post to each member entitled to vote a ballot paper and two envelopes of which: -
 - (i) one envelope shall be marked "ballot paper"; and
 - (ii) one envelope shall be stamped and addressed with the address of the Association and have a space on the back marked "sender's name".
 - (c) In the case of an online ballot, email to each member such voting information and voting instructions as allow the ballot to be conducted in a manner not inconsistent with the procedures herein, and in Appendix II, for the conduct of a postal ballot. Note: A ballot on any issue may be conducted by both post and online to ensure access to the opportunity for members to vote is maintained.
 - (d) Where any ballots are held concurrently, the Returning Officer may mark on the envelope specified in Sub-rule 36.4(b) (i) and 36.4(b) (ii) of this Rule the name of the ballot or election to which the envelope relates.
 - (e) The ballot paper used in a postal ballot shall be in the form set out in Appendix II of these Rules.
 - (f) Upon collecting the ballot papers at a meeting, or as soon as practicable after the expiry of the time for returning postal ballot papers or an online ballot, the Returning Officer shall set aside any informal votes and count the remaining votes and:
 - (i) Declare the state of the voting, and the question shall be deemed to be carried or lost according to the number of valid votes required under these Rules. The declaration shall be made in writing to the Secretary who shall

advise the Board which shall, in a timely fashion, inform the members of the result.

- (g) All ballot papers, envelopes, lists and other documents used in connection with or relevant to any ballot conducted by the Association shall be preserved and kept at the registered office of the Association for a minimum period of one year after the completion of the ballot.

37. DISPUTED BALLOTS

37.1 Where there is any claim that there has been an irregularity in or in connection with any ballot such claim shall, in the first instance, be made in writing to the Board. On receipt of any such claim the following procedure shall apply:

- (a) A Ballot Review Committee shall be formed including one nominee of the Board, who shall be the Chairman of the Committee, one nominee of the complainant, and a third person agreed on between the two nominees.
- (b) The Ballot Review Committee shall meet at its earliest convenience, consider the complaint and gather any evidence and interview any person it deems appropriate.
- (c) The Ballot Review Committee, when it has reached a decision in relation to the complaint, shall inform the Board and the complainant of its decision and such decision shall be binding on the Board and the complainant.

38. COMMON SEAL

38.1 The common Seal of the Association shall be kept by the Chairperson of the Board. The Seal shall only be affixed pursuant to a resolution of the Board. Every affixing of the Seal shall be attested by two members of the Board.

39. REGISTERED OFFICE

39.1 The Registered office of the Association shall be at such place as may be decided upon from time to time by the Board.

40. WINDING UP

40.1 The Association shall not be wound up voluntarily except by a resolution passed by a majority of two-thirds of the Members present in person or by proxy at an Annual or Special General Meeting of the Association and duly confirmed in accordance with the provisions of Section 24 of the Incorporated Societies Act 1908.

40.2 Upon the winding up of the Association its surplus assets and property shall, after payment and discharge of all debts and liabilities, be disposed of, transferred to or applied towards any other organisation that is operated for charitable purposes and registered under the Charities Act 2005 and which has similar purposes and activities to those of the Association and in such manner and upon such conditions as the Members in the Annual or Special General Meeting may determine. If at the time of the winding up of the Association there is not in existence any organisation that is registered under the Charities Act 2005 and having similar purposes to those of the Association then the surplus assets and property of the Association shall be applied towards such other organisation that is registered under the Charities Act 2005 as the Members in Special General Meeting may determine PROVIDED HOWEVER that neither the said Annual or Special General Meeting nor any other meeting of the Association shall have the power to determine that any assets of the Association shall be distributed to any Members nor shall any assets of the Association be distributed to any Members in any other way whatsoever. If the Members in the Annual or General are unable to make such determination, such property shall be disposed of in accordance with the directions of a Judge of the High Court pursuant to section 27 of the Incorporated Societies Act 1908 on the application of any Guardian Member.

41. INDEMNITY

41.1 Every Officer and employee of the Association shall be entitled to be indemnified out of the assets of the Association against all losses or liabilities which he or she may incur in or about the execution of the duties of his or her office or otherwise not attributable to his or her own dishonesty, wilful commission or omission of an act known by him or her to be a breach of the Rules and no Officer or employee shall be liable for any loss, damage, or other misfortune which may happen to or be incurred by the Association in the execution of the duties of his or her office or otherwise not attributable to his or her own dishonesty, wilful commission or omission of an act known by him or her to be a breach of the Rules, but this Rule shall only have effect insofar as its provisions are not voided by any of the Statutes of New Zealand. Nothing within this Rule shall be deemed to create a right for an Officer to receive payment for lost commercial or financial opportunities while serving as an Officer.

41.2 The Board shall procure Officers and Employers liability insurance on behalf of the Association if it determines such insurance is in the best interests of the Association.

42. DISPUTES RESOLUTION

42.1 Where a Member or Officer or any other person has a dispute (“**Dispute**”) concerning the interpretation of these Rules or any other matter arising under or in connection with the

Rules of the Association, he or she may not commence any court proceedings relating to the Dispute unless he or she has complied with the following paragraphs of this rule except where the party seeks urgent interlocutory relief.

- 42.2 If a Board Member is not a party to the Dispute, the person claiming that the Dispute has arisen must notify the Board as to the nature of the Dispute. On receipt of that notice by the Board, the Board must endeavour in good faith to promptly resolve the Dispute.
- 42.3 If a Board Member is a party to the dispute or if the Board does not resolve the Dispute within 14 days of receiving notice of the Dispute, the parties must mediate the Dispute in accordance with the procedures of LEADR New Zealand, and the Chair of the New Zealand Chapter of LEADR (or the Chair's nominee) will select the mediator and determine the mediator's remuneration, such remuneration and other costs to be shared equally by the parties unless otherwise determined by the mediator.
- 42.4 If a binding agreement has not been reached as a result of that mediation process, then the Dispute shall be referred to a single arbitrator in the case the parties can agree upon one within seven days of the completion of the foregoing mediation. Failing that agreement, the arbitrator shall be a person appointed on application of any party by the then present President of Auckland District Law Society Incorporated or his or her nominee. Such arbitration shall be completed in accordance with and subject to the provisions of the Arbitration Act 1996. The decision of the arbitrator (including any decision as to which party shall bear the costs of the arbitration) shall be final and binding on the parties.

43. COMMENCEMENT OF THESE RULES

- 43.1 These Rules rescind all previous rules of the Association and come into force on the 28th day of February, 2012.

APPENDIX I

Schedule of Founding Members:

1. CHAMBERS, David
2. CRESTANI, Peter Gregory
3. EVANS, Melissa Jane
4. FOX, Michael John
5. GRAY, John Raymond
6. GRIMMOND, Dean
7. KEVANY, Kevin John Herold
8. KIELY, Paul Damian
9. LESQUEREUX, Jonathan Mark
10. LEVIE, Roger Henry
11. LINDGREEN, Michael
12. MANAGH, Maurice Gregory
13. MARGAN, Ian Noel
14. PAWSON, Janet Marie
15. SHEPHERD, Michael David

APPENDIX II

Postal Ballot Papers

Every postal ballot paper shall be set out in the following manner:

1. The question to be voted on must be set out.
2. Voting information must be provided as follows:
 - (a) The completed detached portion of the ballot paper must be sealed inside the envelope marked "ballot paper", and if more than one ballot is being conducted the completed paper must be sealed inside the envelope marked "ballot paper" and which carries the name of the ballot concerned.
 - (b) The sealed envelope containing the completed ballot paper must be sealed inside the reply paid, addressed envelope. The sender's name must be printed legibly on the back of the reply paid addressed envelope before the envelope is forwarded to the Returning Officer. Failure to mark that envelope means that the sender cannot be recorded as having voted and the fact that the sender is entitled to vote cannot be verified, so the ballot paper will be deemed to be informal.
 - (c) On receipt of the envelope, the Returning Officer will record the name of the sender as having voted, and discard the outer reply paid addressed envelope. The envelope marked "ballot paper" will be retained along with the other documents used in connection with the ballot.
3. The address to which the ballot papers are to be sent must be stated (i.e. the address of the Returning Officer).
4. The last date on which the ballot papers will be received must be stated. (NOTE: the Rules provide that midday on the stated date is the last time for receiving ballots).
5. There must be a detachable portion setting out the question to be voted on together with instructions concerning the manner of indicating the preferred answer.



HOBANZ[®]

Home Owners & Buyers Association

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