

Constitution of the National Kitchen & Bathroom Association (NZ) Incorporated ("NKBA")

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Constitution of the National Kitchen & Bathroom Association (NZ) Incorporated ("NKBA")

1. Name

The name of the Association shall be the National Kitchen & Bathroom Association (NZ) Incorporated.

2. Definitions

In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

'Act' means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time), and any regulations made under the Act or under any Act which replaces it.

'Annual General Meeting' (AGM) means a meeting of the Members of the Association held once per year which, among other things, will receive and consider reports on the Association activities and finances.

'Association' means the National Kitchen and Bathroom Association (NZ) Incorporated. Also referred to as 'NKBA'.

'Board' or **'Executive Board'** means the governing body of the Association constituted in accordance with Rule 10.

"Board Member" or **"Board members"** means those Board Members for the time being and anyone who is elected or appointed as a Board Member of the Association in accordance with clause 10 of this Constitution.

'Chairperson' means the Board Member responsible for chairing meetings, and who provides leadership for the Association. NKBA's President also holds the office of Chairperson.

'Code of Conduct' means the NKBA Code of Conduct (as subsequently modified or replaced).

'Code of Ethics and Professional Standards and Professional Standards' means the NKBA Code of Ethics and Professional Standards and Professional Standards (as subsequently modified or replaced).

'Committee' refers to a Sub-committee or Regional Branch Committee.

'Constitution' means the rules in this document.

'Days' means the number of calendar days which may or may not be a working day.

'Fellow' means an individual whom the Executive Board deem eligible for acknowledgement in line with the current criteria for eligibility.

'Financial Member' means an organisation or company who has paid the annual Subscription and any other levies due to the Association in full or has reached an agreed arrangement with the Association for such payment.

'Financial Year' means the period beginning on the 1st day of January in any year and ending on the 31st day of December of that year.

'General Meeting' means either an Annual General Meeting or a Special General Meeting of the Members of the Association.

'Head Office' means the registered national headquarters of NKBA.

'Independent Representative' means a non-Member of the Association.

'Industry' means the kitchen and bathroom design and manufacturing industry.

'Intellectual Property' means all and any logos, trademarks (whether registered or not), symbols and designs of the Association.

‘Interests Register’ means the register of interests of officers.

‘Life Member’ means an individual granted life Membership status in accordance with Rule 8.2.

‘Matter’ means:

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

‘Member’ means a person who has consented to become a Member of the Association and has been properly admitted to the Association who has not ceased to be a Member of the Association.

‘Non-financial Member’ means a Member who has not paid the Subscription and levies due within the period prescribed under Rule 8.6.3 and on whom notice of termination of Membership under Rule 8.7d has not been served.

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

‘Officer’ means the Board Members for the time being and any other natural persons who are an officer in accordance with section 5(a)(ii) of the Act, being a natural person occupying a position in the Association that allows the person to exercise significant influence over the management or administration of the Association.

‘Regional Branch’ means a geographical regional area defined by the Association to which Members belong. Also referred to as ‘Region’ or ‘Branch’.

‘Register of Members’ means the register of Members.

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

‘Subscription’ means the annual Membership fee payable by each Member pursuant to Rule 8.6.

3. Purpose

3.1 NKBA is not and does not intend to be registered as a charitable entity under the Charities Act 2005.

3.2 NKBA is a not-for-profit organisation that operates without the intention of generating profit or offering personal gain to its members, leaders, or any other individuals. Instead, any revenue it earns is reinvested to support and promote the organisation's objectives. All funds are allocated to sustain its activities, maintain operations, and achieve our mission.

Our mission is to enhance Member success and excellence by promoting professionalism and ethical business practises, and providing leadership, direction, and education for the kitchen and bathroom industry.

3.3. The purpose of NKBA is to:

- i. Celebrate, facilitate and advocate excellence, while also setting industry standards that provide consumers with the utmost confidence when choosing an NKBA designer, manufacturer, retailer, or product supplier.
- ii. To educate and inform by providing training programmes for those connected with, or wishing to become affiliated to, the industry.
- iii. Foster strong relationships, collaboration and sense of community within the industry New Zealand-wide through national and local regional representation.

4. Act and Regulations

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

5. Powers

5.1 The Association has full capacity, powers and privileges, as set out in Section 18 of the Act.

6. Registered Office

3c Kennedys Bush Road
Halswell
Christchurch 8025

7. Contact Person

A contact person can be appointed by the Board or elected by the Members at a General Meeting.

8. Membership

8.1 The Association shall maintain the minimum number of Members required by the Act. Any reputable person or persons or company or incorporated Association approved by the Board shall be eligible for Membership of the Association. The general qualifications for Membership shall be:

8.1.1 The person or company or incorporated Association applying for Membership shall have requisite Industry experience.

8.1.2 The applicant must commit on joining to accepted standards of design and production.

8.1.3 A Member involved in the manufacture of equipment and/or allied products shall provide evidence of quality of product, after sales service and such other standards as the Board may determine from time to time.

8.2 Life Membership

A Life Member is a person honoured for highly valued services to the Association elected as a Life Member by resolution of a General Meeting passed by a simple majority of those Members present and voting.

A Life Member shall have all the rights and privileges of a Member and shall be subject to all the same duties as a Member except for payment of subscriptions and levies.

For the avoidance of doubt, Life Membership is a personal honour granted to an individual only and is not transferable. Any business, entity, partnership, trust, or company owned by, employing or contracting a Life Member is not entitled to any privileges of Life Membership and remains subject to all applicable membership subscriptions, levies, and fees. Life Membership does not extend to, nor confer any exemption upon, any employees, contractors, or associates of that Life Member or their business.

8.3 Becoming a Member: consent and process

8.3.1 Every applicant for Membership must consent in writing to becoming a Member. The consent of a body corporate must be given on the body corporate's behalf in writing by a person acting on the body corporate's express or implied authority.

8.3.2 An applicant for Membership must complete and sign any 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.

8.3.3 The Board may accept or decline an application for Membership at its sole discretion. The applicant must be advised of the Board's decision.

8.3.4 The signed written consent of every Member to become an Association Member shall be retained in the Association's Membership records.

- 8.3.5 Continuation of Membership shall depend on payment of subscriptions within the required timeframe as set out in the agreed terms and conditions.

8.4 Members' Obligations and Rights

- 8.4.1 Every Member shall provide the Association in writing with that Member's name and contact details (namely, physical or email address and a telephone number) and promptly advise the Association in writing of any changes to those details.
- 8.4.2 Every Member must immediately notify NKBA Head Office of any material change of control or ownership of their business.
- 8.4.2.1 Any material change of control or ownership of an existing Member's business shall deem the end of the existing Membership and require the new owner/ director to apply for Membership in their own right.
- 8.4.3 All Members shall promote the interests and purposes of the Association and shall do nothing to bring the Association into disrepute.
- 8.4.4 A Member is only entitled to exercise the rights of Membership (including attending and voting at General Meetings, accessing or using the Association's premises, facilities, equipment and other property, and participating in Association activities) if all subscriptions and any other fees have been paid to the Association by their respective due dates, but no Member or Life Member is liable for an obligation of the Association by reason only of being a Member.
- 8.4.5 A Members' employees, including contractors whose engagement is analogous to that of an employee, may, with the consent of the Member, attend and participate in the Association's events but they shall not have any rights or voting rights independent of the employer or contacting Member. A Member may advise and update the Association from time to time, the details of its employees who may participate in the Associations events.
- 8.4.6 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 Association, and to participate in Association activities, including any conditions of and fees for such access, use or involvement.

8.5 Membership Rules

- 8.5.1 NKBA requires its members to conduct all activities they undertake as a member of NKBA in compliance with the Association's Code of Ethics and Professional Standards, Code of Conduct, and NKBA policies and their subsequent amendments.

Each member has an obligation to always behave with honesty and integrity.

8.6 Subscriptions and Fees

- 8.6.1 The Financial Year for the Association shall be 1 January to 31 December.
- 8.6.2 The annual subscription and any other fees 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).
- 8.6.3 Any Member failing to pay the annual subscription (including any periodic payment), any levy, or any capitation fees, within three (3) calendar months of the date the same was due for payment shall be considered as unfinancial and shall (without being released from the obligation of payment) have no Membership rights and shall not be entitled to participate in any Association activity or to access or use the Association's premises, facilities, equipment and other property until all the arrears are paid. If such arrears are not paid within four (4) calendar months of the due date for payment of the subscription, any other fees, or levy the Association may terminate the Member's Membership (without being required to give prior notice to that Member).

8.7 Ceasing to be a Member

A Member ceases to be a Member:

- a. by resignation by written notice signed by that Member to Head Office, or
- b. on termination of a Member's Membership following a dispute resolution process under this Constitution, or
- c. if a Member, being a company, has a material change of control or ownership as per Rule 8.4.2.1, or
- d. if a Member has failed to pay a subscription, fee or other amount due to the Association as per Rule 8.6.3, or
- e. if a Member, being a company, goes into liquidation, has a receiver or administrator appointed, a meeting is called for the purpose of considering the appointment of a liquidator or becomes insolvent, or
- f. if a Member, being a natural person, commits any act of bankruptcy or has a receiver or manager appointed over any of his or her property, or
- g. on death or in the case of a body corporate on dissolution. The cessation of their membership is effective from the date of death or dissolution, or
- h. by resolution of the Board where in the opinion of the Board the Member has brought the Association into disrepute, or
- i. in the reasonable opinion of the Board, the member has breached NKBA's Constitution, Code of Ethics and Professional Standards, Code of Conduct or other Association policy.
- j. if a Member ceases to engage in the kitchen and/or bathroom industry for three months, unless otherwise approved by the Board.

Cessation of Membership shall take effect from:

- a. the date of receipt of the Member's notice of resignation by Head Office, or
- b. the date of termination of the Member's Membership under this Constitution, or
- c. the date of material changes of control or ownership, or
- d. the date of death of the Member
- e. the date specified in a resolution of the Board.

When a Member's Membership has been terminated Head Office shall promptly notify the former Member in writing.

8.8 Obligations once Membership has ceased

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

- a. remains liable to pay all subscriptions and other fees due at the date of the cessation of membership,
- b. shall cease to hold themselves out as a Member of the Association,
- c. shall return to the Association all material provided to Members by the Association (including any Membership certificate, badges, handbooks and manuals),
- d. shall destroy or permanently remove from any property owned or controlled by that former Member, all signs which incorporate any NKBA Intellectual Property in part or in full,
- e. shall cease to be entitled to any of the rights of a Member,
- f. Where a Member resigns their membership in good standing, that former Member may truthfully state and disclose their prior association with the NKBA, including the period of membership and any honours or awards personally bestowed during that time, provided that such disclosure does not imply current membership, endorsement, accreditation, or any ongoing association with the NKBA.

- g. No form of association with the NKBA may be used or implied by any person acting as a shareholder, officer, or holding any other ultimate beneficial interest in the business of a terminated Member or an insolvent entity. This restriction does not apply to employees who do not hold such ownership, governance, or beneficial interests.

If in the reasonable opinion of the Board the obligations referred to in Rule 8.8 above have not been complied with by a former Member then the Board shall be entitled to publish in any publication a notice stating that the former Member is no longer a Member of the Association, and the Board shall be entitled to give such notice to such of the customers of that former Member as it sees fit. Neither the Board nor the Association shall be liable for any loss of any kind which the former Member may suffer because of any notice being given pursuant to this Rule 8.8.

8.9 Becoming a Member again

Any former Member may apply for re-admission in the manner prescribed for new applicants and may be re-admitted only by the approval of the Board provided that:

- i. No application shall be entertained from any entity or person who was an owner, director or shareholder associated with an insolvent entity or person following an insolvency without Board approval.
- ii. This applies to all persons associated at any time with an insolvent member as a shareholder, officer or having any other ultimate beneficial interest in the insolvent entity.
- iii. Unless there are exceptional circumstances, the Board will not approve any such application during the period of an insolvency of a former member.
- iv. For the avoidance of doubt, this does not prevent any person from becoming an employee or contractor of another member not associated with an insolvency.

8.10 Misrepresentation as a Member

If a person or company misrepresents themselves as a member then the Board shall be entitled to publish in any publication a notice stating that the person or company is not a Member of the Association, and the Board shall be entitled to give such notice to such of the customers of that entity as it sees fit. Neither the Board nor the Association shall be liable for any loss of any kind which this entity may suffer because of any notice being given pursuant to this Rule.

9. General Meetings and Voting

An Annual General Meeting shall be held once a year on a date and at a location and/or using any electronic communication 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.

The Annual General Meeting must be held no later than the earlier of the following:

- a. Not later than 6 months after the balance date;
- b. Not later than 15 months after the previous Annual General Meeting.

9.1 The business of the Annual General Meeting shall be to:

- a. confirm the minutes of the last Annual General Meeting and any Special General Meeting(s) held since the last Annual General Meeting,
- b. adopt the annual report on the operations and affairs of the Association,
- c. adopt the financial report on the finances of the Association, and the annual financial statements,
- d. set any subscriptions for the current financial year,

- e. confirming the minutes of any Special General Meetings that have been held during the year,
- f. approve the election of the Executive Board and other honorary officers of the Association.
- g. consider any motions of which prior notice has been given to Members with notice of the Meeting,
- h. To present notice of any disclosures of conflicts of interest made by the Officers during that period (including a brief summary of the matters, or types of matters, to which those disclosures relate), and
- i. consider any general business.

9.2 The Board must, at each Annual General Meeting, present the following information:

- i. an annual report on the operation and affairs of the Association during the most recently completed accounting period,
- ii. the annual financial statements for that period, and
- iii. 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).

9.3 All General Meetings other than Annual General Meetings shall be Special General Meetings.

- a. Special General Meetings may be called at any time by the Board by resolution.
- b. The Board must call a Special General Meeting if it receives a written request requisitioned by at least 10 Financial Members whose representatives may be Board Members.
- c. Any resolution or written request must state the business that the Special General Meeting is to deal with.
- d. 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.

9.4 Meetings of the Association shall be regulated in accordance with the provisions of Schedule 1 of this Constitution.

9.5 Minutes of meeting shall be kept for all Annual General Meetings and Special General meetings.

10. Executive Board

10.1 Composition

The Executive Board shall be composed of a minimum of three (3) and a maximum of seven (7) Board Members. The majority of Board Members must be either Members of the Association, or representatives of a Financial Member of the Association. Each Board Member shall:

- a. certify that they are not disqualified to be elected or appointed under section 47 of the Act; and
- b. shall have full voting rights.
- c. shall not have:
 - a direct or indirect financial interest, or
 - non-financial or personal interest, or

- competing loyalties between an organisation they owe a primary duty to or some other person or entity, or both, which has not been declared and accepted by the Board; and

10.1.1 The Board Members will be comprised of:

- a. The President, who shall also be Chairperson
- b. The Vice-President
- c. Up to Five (5) Industry representatives (at least two of whom must be a Designers of NKBA Member or a representative of a corporate Designer's of NKBA Member).

10.1.2 The Board may elect an independent representative (who is not a Member of the Association) to be on the Board as required for a one year term, in addition to the maximum number of Board Members set out in 10.1.1, with full voting rights.

10.1.3 At its discretion, the Board may appoint up to four (4) Secondes for one-year terms, who:

- a. may be invited to attend Board meetings as and when required.
- b. may participate in the Board meeting discussions.
- c. are not Board Members; and
- d. do not have voting rights at Board meetings; and
- e. who consent in writing to becoming an Officer and certify that they are not disqualified from being an being appointed under this Constitution or section 47(3) of the Act.

10.2 Functions of the Board

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

10.3 Powers of the Board

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

10.3.2 The Board shall have a discretionary power to declare vacant the seat of any Member of the Board who is absent from three consecutive Board meetings (whether held in person or via telephone or internet conference) without leave of absence.

10.3.3 The Board shall have full power to fill by co-option any vacancies in its own number and in any of its offices which may occur from time to time. The term of a co-opted Board member will end at the next election or in the case of a Board member suspended under the disputes resolution provisions, once that Board member is reinstated.

10.3.4 The Board shall have full power to set policies and procedures for NKBA.

10.4 Sub Committees

10.4.1 The Board may appoint sub-committees consisting of such persons (whether or not Members of the Association) and for such purposes as it thinks fit. Unless otherwise resolved by the Board:

- a. the quorum of every sub-committee is half the Members of the sub-committee but not less than 2,
- b. no sub-committee shall have power to co-opt additional Members,
- c. a sub-committee must not commit the Association to any financial expenditure without express authority from the Board, and

- d. A sub-committee may delegate any of its powers and/or functions (not being a duty imposed on the Board by these Rules) and may revoke any delegation at any time.
- e. A sub-committee may meet and adjourn as it thinks proper.

10.5 Board and Committees

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.

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

10.6 Board Meetings

10.6.1 The quorum for Board meetings is at least two-thirds the number of Members of the Board.

10.6.2 A meeting of the Board may be held either:

- a. 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
- b. by means of audio, or audio and visual, communication by which all Members of the Board participating and constituting a quorum can simultaneously hear each other.

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 Member on the Board shall have one vote.

10.6.3 The Members of the Board shall elect one of their number as President/chairperson of the Board. If at a meeting of the Board, neither the President/chairperson nor the Vice-President is present, the Members of the Board present may choose one of their number to be chairperson of the meeting. The chairperson has a casting vote in the event of a tied vote on any resolution of the Board.

10.6.4 Except as otherwise provided in this Constitution, the Board may regulate its own procedure.

10.7 Frequency

10.7.1 The Board shall meet at such times and places and in such manner as it may determine and otherwise where and as convened by the Chairperson.

10.7.2 The Executive Officer, or other Officer nominated by the Board, shall give to all Board Members not less than 7 days' notice of Board meetings, but in cases of urgency a shorter period of notice shall suffice.

10.7.3 Where half (1/2) or more of the Board Members present at the meeting are not eligible to vote on a matter because they are interested in the matter in accordance with the Act, the remaining Board Members may vote on the matter. Where only one (1) Board Member remains, a Special General Meeting of the Association must be called to determine the matter.

11. Officers and Board Members

11.1 Qualification of Officers

11.1.1 Every Officer must be a natural person who has:

- a. prior to election or appointment consented in writing to be an Officer, and
- b. certified in writing that they are not disqualified from being elected or appointed or otherwise holding office as an Officer of the Association either by this Constitution or under Section 47 of the Act.

11.2 Election or Appointment of Board Members

11.2.1 Board Members shall be elected by remote ballot in accordance with the procedures for giving Notice:

- a. At least 90 days prior to the proposed Election Date, the Board shall:
 - i. Set the Election Date for elections to the Board, and
 - ii. Appoint a Returning Board Member for those elections to the Board.
- b. Within 7 days of determining the Election Date the Association shall give notice to all Financial Members calling for nominations for Board positions requiring to be filled, and such Notice shall include a nomination form and shall specify the date such nominations must be in the hands of the Returning Board Member appointed under sub-paragraph (a)(ii) above, such date being not less than 21 days prior to the Election Date.
- c. A candidate's written nomination shall be accompanied by the written consent of the nominee with a certificate that the nominee is not disqualified from being appointed or holding office as a Board Member (as described in the 'Qualification of Officers' rule above) and may be accompanied by a signed biography not exceeding one A4 page.
- d. At least 14 days prior to the Election Date the Executive Officer shall give notice to all Financial Members of the nominations received for Board positions and, if there are a greater number than required for specific positions, forwarding a voting paper accompanied by the biographies of the candidates for election. Such voting paper shall specify the latest date (not less than 3 days prior to the Election Date) it must be in the hands of the Returning Board Member appointed by the Board to be counted as a valid vote.
- e. In the event of a ballot being required under sub-paragraph (d) above the candidate/s polling the highest number of votes of Financial Members shall be declared elected by the Association or the Returning Board Member.
- f. The failure for any reason of any Financial Member to receive such notice shall not invalidate the election.
- g. In the event of any vote being tied the tie shall be resolved by the incoming Board (excluding those in respect of whom the votes are tied).
- h. In addition to Board Members elected under the foregoing provisions of this rule, the Board may appoint other Board Members for a specific purpose, or for a limited period, or generally until the next Annual General Meeting. Unless otherwise specified by the Board any person so appointed shall have full speaking and voting rights as a Board Member of the Association. Any such appointee must, before appointment, supply a signed consent to appointment and a certificate that the nominee is not disqualified from being appointed or holding office as a Board Member (as described in the 'Qualification of Officers' rule above).

11.2.2 The position of President/Chairperson shall be filled by the incumbent Vice-President.

11.2.3 Should the natural successor not be able to fill the position of President, the position shall, where possible, be filled by a Member of the Board having served at least one prior year on the Board.

11.2.4 The position of Vice-President shall, where possible, be filled by a Member of the Board having served at least one prior year on the Board.

11.3 Term

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

- 11.3.1. No Board Member shall serve for more than two consecutive terms unless approved by a majority consent of the Executive Board.

11.4 Duties

At all times each Officer:

- a. shall act in good faith and in what he or she believes to be the best interests of the Association,
- b. must exercise all powers for a proper purpose,
- c. must not act, or agree to the Association acting, in a manner that contravenes the Act or this Constitution,
- d. 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 considering, but without limitation:
 - the nature of the Association,
 - the nature of the decision, and
 - the position of the Officer and the nature of the responsibilities undertaken by them
- e. must not agree to the activities of the Association being carried on in a manner likely to create a substantial risk of serious loss to the Association or to the Association's creditors, or cause or allow the activities of the Association to be carried on in a manner likely to create a substantial risk of serious loss to the Association or to the Association's creditors, and
- f. must not agree to the Association incurring an obligation unless he or she believes at that time on reasonable grounds that the Association will be able to perform the obligation when it is required to do so.

11.5 Limitation of Liability

- 11.5.1 No Officer shall be held personally liable to the Association or any Member, customer or any other person for any loss (whether direct or indirect, consequential or incidental) caused as a result of any action or inaction taken in accordance with the Rules of this Constitution if that act or omission is not attributable to the Officer's own dishonesty.
- 11.5.2 Each Officer and a person acting on behalf of an Officer shall be completely indemnified out of the Association's funds for any liability they may incur arising in any way out of or in connection with acting or purporting to act as an Officer provided such liability is not attributable to his or her own dishonesty or to the wilful commission or omission by him or her of an act known by him or her to be a breach of the Rules of this Constitution.

11.6 Removal of Board Members

A Board Member shall be removed as a Board Member by resolution of the Board or the Association where in the majority opinion of the other Board Members of the Board:

- a. The Board Member has been absent from three Board meetings without leave of absence from the Board as per Rule 10.3.2.
- b. The Board Member has brought the Association into disrepute.
- c. The Board Member has failed to disclose a conflict of material interest.
- d. The Board passes a vote of no confidence in the Board Member.

11.7 Ceasing to Hold Office

A Board Member ceases to hold office when they:

- a. resign (by notice in writing to the Board),

- b. are removed,
- c. no longer qualify to be an Officer in accordance with the Constitution (e.g. if they are no longer a Financial Member),
- d. die,
- e. or otherwise vacate office in accordance with section 50(1) of the Act.

11.7.1 Each Board Member shall within 7 days of submitting a resignation or ceasing to hold office, deliver to the Board or Executive Officer all books, papers and other property of the Association held by such former Board Member.

12. Records

12.1 Register of Members

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

- i. Their name, and
- ii. 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
- iii. Their contact details, including:
 - a. a physical address or an electronic address,
 - b. a telephone number,
 - c. a postal address,
 - d. subscriptions and levies paid (if any); and
 - e. whether the Member is financial or unfinancial.

12.1.1 Every current Member shall promptly advise the Association of any change of the Member's contact details.

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

- i. The former Member's name, and
- ii. The date the former Member ceased to be a Member.

12.2 Access to Information for Members

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

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

12.2.1 If the Association 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 14 days after receiving notification of the charge, the Member informs the Association:

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

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

13. Finances

13.1 Control and management

13.1.1 The funds and property of the Association shall be:

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

13.1.2 The Board shall maintain bank accounts in the name of the Association.

13.1.3 All payments shall be made by direction of the Board by direct payment signed by any two authorised Account Authorities.

13.1.4 The Board must record the transactions of the Association, and

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

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

13.1.6 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 Association.

13.2 Balance Date

The Association's financial year shall commence on 01 January of each year and end on 31 December (the latter date being the Association's balance date).

13.3 Independent Review

At the discretion of the Board, an independent and suitably qualified person may be appointed to provide a Review report of the Association's annual accounts.

14. Dispute Resolution

14.1 Meanings of dispute and complaint

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

The disagreement or conflict may be between any of the following persons:

- a. 2 or more Members
- b. 1 or more Members and the Association
- c. 1 or more Members and 1 or more Officers
- d. 2 or more Officers
- e. 1 or more Officers and the Association
- f. 1 or more Members or Officers and the Association.

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

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

All Members (including the Board, or complaints sub-committee) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the Association's activities.

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

14.2 Complaint process

The process for how a complaint is made and investigated is outlined in Schedule 2.

15. Liquidation and Removal from the Register

15.1 Resolving to put the Association into liquidation

- 15.1.1 The Association may be liquidated in accordance with the provisions of Part 5 of the Act.
- 15.1.2 The Board shall give 30 days' written Notice to all Members of the proposed resolution to put the Association into liquidation.
- 15.1.3 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.
- 15.1.4 Any resolution to put the Association into liquidation must be passed by a simple majority of all Members present and voting.

15.2 Resolving to apply for Removal from the Register

- 15.2.1 The Association may be removed from the Register of Incorporated Societies in accordance with the provisions of Part 5 of the Act.
- 15.2.2 The Board shall give 30 days' written Notice to all Members of the proposed resolution to remove the Association from the Register of Incorporated Societies.
- 15.2.3 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.
- 15.2.4 Any resolution to remove the Association from the Register of Incorporated Societies must be passed by a simple majority of all Members present and voting.

15.3 Surplus Assets

- 15.3.1 If the Association is liquidated or removed from the Register of Incorporated Societies, no distribution shall be made to any Member.

On the liquidation or removal from the Register of Incorporated Societies of the Association, its surplus assets — after payment of all debts, costs and liabilities — shall be vested in another not-for-profit entity appointed at any time by the Executive Board.

16. Amendments to this Constitution

16.1 All amendments to this Constitution must be made in writing.

16.2 All amendments must be made in accordance with this Constitution.

16.3 The Association may amend or replace this Constitution at an Annual General Meeting by a simple majority of those Members entitled to vote who are present and voting PROVIDED THAT no amendment of the Association's Constitution is made which would allow personal pecuniary profits to any individuals. The effect of this clause cannot be removed from this document and will be included and implied in any document replacing this document.

16.4 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.

16.5 Notwithstanding the above, the Board may amend the terms of this Constitution by a unanimous resolution of the Board if the amendment:

16.5.1 has no more than a minor effect; or

16.5.2 corrects errors or makes similar technical alterations,

PROVIDED THAT the Board provides written Notice of the amendment to every Member of the Association, with the Notice stating:

a. the text of the amendment; and

b. the right of the Member to object to the amendment.

16.5.3 If no Member objects within twenty (20) Working Days after the date on which the Notice is sent, the Board may make the amendment.

16.5.4 If a Member objects to the amendment made under this clause 16.5 within twenty (20) Working Days after the date on which the Notice is sent, the Association may not make the amendment under this clause.

17. Inspection of this Constitution

17.1 This Constitution shall be available for inspection by any Financial Member via the NKBA website. A copy of this Constitution shall be supplied to any Financial Member on request free of charge.

18. Common Seal

18.1 The Common Seal of the Association shall be in the custody of the Executive Officer and shall be affixed pursuant to the resolutions of the Executive Board to any documents as the Executive Board may from time to time direct and must be countersigned by two of the following; the President, Vice-President and Executive Officer.

19. Indemnity and Insurance

19.1 The Association may, with the authority of the Board, indemnify and/or obtain insurance for an Officer for:

19.1.1 liability (other than criminal liability) for a failure to comply with:

19.1.1.1 a duty under section 54 to 61 of the Act (officers' duties); or

19.1.1.2 any other duty imposed on an officer in their capacity as an officer of the Association; and/or

19.1.2 costs incurred by the officer for any claim or proceeding related to a liability under clause 19.1.1.

19.2 The Association may indemnify or obtain insurance for an Officer, Member or employee in accordance with the Act.

Schedule 1

Procedures for all General Meetings

1. Notice

The Board shall give all Members at least 30 days' written Notice of any General Meeting and of the business to be conducted at that General Meeting.

That Notice will be addressed to the Member at the contact address notified to the Association and recorded in the Association'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.

2. Attendance

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.

Only Financial Members may attend, speak and vote at General Meetings— in person, or 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 Board before the commencement of the General Meeting. No other proxy voting shall be permitted.

No General Meeting may be held unless at least ten (10) eligible Financial Members attend (in person, by electronic means or by proxy in accordance with clause 2 of Schedule 1 of this Constitution) throughout the meeting, and this will constitute a quorum.

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 Association (which, for the avoidance of doubt, can be the Annual General Meeting), 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.

3. Voting

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, by show of hands, by electronic means or, on demand of the chairperson or of 2 or more Members present, by secret ballot.

Unless otherwise required by this Constitution, all questions shall be decided by a simple majority of those in attendance in person or by proxy (in accordance with clause 2 of Schedule 1) and voting at a General Meeting, or

- i. voting by remote ballot, or
- ii. attending by electronic means (in accordance with clause 2 of Schedule 1) and voting electronically.

Any decisions made when a quorum is not present are not valid.

The Association may pass a written resolution in lieu of a General Meeting, and a written resolution is as valid for the purposes of the Act and this Constitution as if it had been passed at a General Meeting if it is approved by no less than 75 percent of Members who are entitled to vote on the resolution. A written resolution may consist of 1 or more documents in similar form (including letters, electronic mail, or other similar means of communication) each proposed by or on behalf of 1 or more Members. A Member may give their approval to a written resolution by signing the resolution or giving approval to the resolution in any other manner permitted by the Constitution (for example, by electronic means).

4. Procedure

All General Meetings shall be chaired by the Chairperson. If the Chairperson is absent, the Vice-Chair shall chair that meeting.

Any person chairing a General Meeting has a deliberative and, in the event of a tied vote, a casting vote.

Any person chairing a General Meeting may —

- With the consent of a simple majority of Members present at any General Meeting adjourn the General Meeting from time to time and from place to place but no business shall be transacted at any adjourned General Meeting other than the business left unfinished at the meeting from which the adjournment took place.
- Direct that any person not entitled to be present at the General Meeting, or obstructing the business of the General Meeting, or behaving in a disorderly manner, or being abusive, or failing to abide by the directions of the chairperson be removed from the General Meeting, and
- In the absence of a quorum or in the case of emergency, adjourn the General Meeting or declare it closed.

The Board may propose motions for the Association to vote on ('Board Motions'), which shall be notified to Members with the notice of the General Meeting.

Any Member may request that a motion be voted on ('Member's Motion') at a General Meeting, by giving notice to the Board or Executive Officer at least fourteen (14) 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 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.

If notice of a Member's Motion is received by the Board after written Notice of the General Meeting is provided to Members, Members will be notified of the Member's Motion at the General Meeting.

Schedule 2

Disputes and Complaints Process

1. How complaint is made

- 1) A Member or an Officer may make a complaint by giving to the Board (or a complaints sub-committee) a notice in writing that:
 - a. states that the Member or Officer is starting a procedure for resolving a dispute in accordance with the Association's Constitution; and
 - b. sets out the allegation or allegations to which the dispute relates and whom the allegation is against; and
 - c. sets out any other information reasonably required by the Association.
- 2) The Association may make a complaint involving an allegation or allegations against a Member or an Officer by giving to the Member or Officer a notice in writing that:
 - a. states that the Association is starting a procedure for resolving a dispute in accordance with the Association's Constitution; and
 - b. sets out the allegation to which the dispute relates.
- 3) The information given must be sufficient to ensure that a person against whom an allegation is made is fairly advised of the allegation or allegations concerning them, with sufficient details given to enable that person to prepare a response.
- 4) A complaint may be made in any other reasonable manner permitted by the Association's Constitution.

2. Person who makes complaint has the right to be heard

- 1) 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.
- 2) If the Association makes a complaint:
 - a. the Association has a right to be heard before the complaint is resolved or any outcome is determined; and
 - b. an Officer may exercise that right on behalf of the Association.
- 3) Without limiting the manner in which the Member, Officer, or Association may be given the right to be heard, they must be taken to have been given the right if:
 - a. they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - b. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - c. an oral hearing (if any) is held before the decision maker; and
 - d. the Member's, Officer's, or Association's written or verbal statement or submissions (if any) are considered by the decision maker.

3. The person who is subject of complaint has the right to be heard.

- 1) This clause applies if a complaint involves an allegation that a Member, an Officer, or the Association (the 'respondent'):
 - a. has engaged in misconduct; or
 - b. has breached, or is likely to breach, a duty under the Association's Constitution or bylaws or this Act; or
 - c. has damaged the rights or interests of a Member or the rights or interests of Members generally.

- 2) The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
 - 3) If the respondent is the Association, an Officer may exercise the right on behalf of the Association.
 - 4) Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if —
 - a. the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
 - b. the respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - c. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - d. an oral hearing (if any) is held before the decision maker; and
 - e. the respondent's written statement or submissions (if any) are considered by the decision maker.
4. Investigating and determining dispute
- 1) The Association 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.
 - 2) Disputes must be dealt with under the Constitution in a fair, efficient, and effective manner and in accordance with the provisions of the Act.
 - 3) Depending on the nature and/or severity of the complaint, the alleged offender:
 - a. Being a member of the Association, may immediately have their membership suspended pending the outcome of the investigation.
 - b. Being an Officer of the Association, may immediately be stood down from office pending the outcome of the investigation.

5. Association may decide not to proceed further with complaint

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

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

6. Association determines Misconduct

If, after considering all relevant information the Association concludes misconduct is substantiated, the Association may:

- 1) Issue a written warning, or
- 2) Suspended membership for any period, or
- 3) Terminate membership.

7. Association may refer complaint

- 1) The Association may refer a complaint to:
 - a. a sub-committee or an external person to investigate and report; an/or
 - b. a sub-committee, an arbitral tribunal, or an external person to investigate and decide on behalf of the Association.
- 2) The Association may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).

8. Decision makers

A person may not act as a decision maker in relation to a complaint if two or more Members of the Board or a complaints sub-committee consider that there are reasonable grounds to believe that the person may not be:

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