



Best Practice in Franchising

Rules

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Franchise Association of New Zealand Inc 399 Khyber Pass Rd. Level 1
Telephone 649 523 4452 Facsimile 649 523 4446 Email contact@franchise.org.nz www.franchiseassociation.org.nz

CONTENTS

1.	RULES OF THE ASSOCIATION	3
2.	OBJECTS OF THE ASSOCIATION	3
3.	DEFINITIONS AND INTERPRETATION	4
4.	REGISTERED OFFICE	8
5.	MEMBERSHIP	8
6.	CATEGORIES OF MEMBERSHIP	9
7.	PRIVILEGES OBLIGATIONS AND RESTRICTIONS OF MEMBERSHIP	13
8.	SUBSCRIPTION PAYABLE BY MEMBERS	15
9.	CESSATION OF MEMBERSHIP	15
10.	REPRESENTATIVES	16
11.	THE BOARD AND OFFICE BEARERS	17
12.	PROCEEDINGS OF THE BOARD	24
13.	COMMITTEES AND SUB-COMMITTEES	26
14.	POWERS OF THE ASSOCIATION	26
15.	POWERS AND DUTIES OF THE BOARD	27
16.	GENERAL MEETINGS	29
17.	PROCEEDINGS AT MEETINGS	31
18.	VOTES FOR MEMBERS	32
19.	FUNDS	33
20.	MINUTES AND NOTICES	34
21.	REGISTER OF MEMBERS	35
22.	SECRETARY	35
23.	FINANCIAL STATEMENTS, AUDITOR AND AUDIT	35
24.	CONDUCT AND DISCIPLINARY PROCEDURES	36
25.	USE OF NAME AND LOGO	36
26.	PRIVILEGED COMMUNICATIONS AND INDEMNITY	36
27.	ALTERATION OF RULES	37
28.	CODE OF ETHICS AND CODE OF PRACTICE	37
29.	BY-LAWS	38
30.	SEAL	38
31.	WINDING UP	38
32.	PAYMENT TO MEMBERS	38

FRANCHISE ASSOCIATION OF NEW ZEALAND INCORPORATED

RULES

1. RULES OF THE ASSOCIATION

- 1.1 The following are the rules of the Franchise Association of New Zealand Incorporated (“the Association”).

2. OBJECTS OF THE ASSOCIATION

- 2.1 The objects for which the Association is established are:
- 2.1.1 To promote advance and protect franchising as a method of doing business and the interests and welfare of those involved in franchising including franchisors, franchisees and their advisers and service providers.
 - 2.1.2 To encourage best practice in franchising.
 - 2.1.3 To promote a high standard of training and education in franchising.
 - 2.1.4 To uphold and maintain the just claims of members of the Association individually and collectively in such manner as the Association shall think fit.
 - 2.1.5 To endeavour to protect both the public and members of the Association against dishonest, fraudulent and corrupt practices.
 - 2.1.6 To increase the confidence of the public in franchising and in reputable parties engaged in or involved with franchising.
 - 2.1.7 To promote make submissions regarding and, where appropriate, oppose bills, legislation, all forms of subordinate legislation and other measures affecting the interests of members.
 - 2.1.8 To use the funds of the Association as the Association may consider necessary or proper in payment of the costs and expenses and furthering or carrying out the objects of the Association or any of them including the employment of counsel solicitors

agents officers and employees as shall appear necessary or expedient.

- 2.1.9 To purchase, take on lease or in exchange or hire or otherwise acquire any real or personal property and any rights or privileges which the Association shall think necessary or expedient for the purposes of attaining the objects of the Association or any of them or promoting the interests of the Association or its members and to sell, exchange, mortgage, let on bail or lease with or without option of purchase or in any manner dispose of any such property rights or privileges as aforesaid.
- 2.1.10 To construct, improve, alter or maintain any building or works necessary or convenient for the purposes of the Association.
- 2.1.11 To solicit and accept donations and gifts and transfers or conveyances of real or personal property whether subject to any trust or not for the advancement of any one or more of the objects of the Association.
- 2.1.12 To establish, promote, co-operate with, associate with, or assist in establishing and promoting and to subscribe to or become a member of any other association whether incorporated or not and whether established within or outside of New Zealand whose objects are wholly or in part similar to those of the Association, or whose establishment or promotion may be beneficial to the Association, or to the franchising community and to form or establish any branch of the Association within or outside of New Zealand.
- 2.1.13 To do all such things as are incidental or conducive to the attainment of the above objects or any of them and to promote any other activity not repugnant to these objects.

3. DEFINITIONS AND INTERPRETATION

3.1 Definitions

Except where the context otherwise requires, the following expressions shall have the following meanings:

- 3.1.1 "Accredited Franchised Brand" means a franchise system operated in accordance with Rule 3.1.12

where the system complies with the Association's Code of Practice and has been approved by the Board.

- 3.1.2 “Advisers” means persons, firms or associations holding themselves out to be advisers about aspects of franchising and will specifically include persons or firms providing legal and accounting advice, marketing and management consulting services, brokerage and business services.
- 3.1.3 “Authorised Representative” means the representative of a member authorised in accordance with Rules 10.1 and 10.2.
- 3.1.4 “Board” means the Board of the Association.
- 3.1.5 “Code of Ethics” means the Code of Ethics of the Association and any amended versions of that Code adopted by the Association from time to time.
- 3.1.6 “Code of Practice” means the Franchising Code of Practice of the Association and any amended versions of that code adopted by the Association from time to time.
- 3.1.7 “Disclosure Document” means a document of the type required and referred to as a “Disclosure Document” in the Code of Practice.
- 3.1.8 “Franchise” means the method of conducting business under which the right to engage in the offering, selling or distributing of goods or services within New Zealand includes or is subject to at least the following features:
- the grant by a Franchisor to a Franchisee of the right to the use of a Mark, in such a manner that the business carried on by the Franchisee is or is capable of being identified by the public as being substantially associated with a Mark identifying, commonly connected with or controlled by the Franchisor; and
 - the requirement that the Franchisee conducts the business, or that part of the business subject to the Franchise Agreement, in accordance with the marketing, business or technical plan or system specified by the Franchisor; and

- the provision by the Franchisor of ongoing marketing, business or technical assistance during the term of the Franchise Agreement.
- 3.1.9 “Franchise Agreement” means a contract, agreement or arrangement, whether express or implied, whether written or oral, between two or more persons by which one party to the agreement (“the Franchisor”) grants, authorises or permits the other party to the agreement (“the Franchisee”) the right to operate a Franchise. Any contract, agreement or arrangement which purports to be a Franchise Agreement shall be deemed to be a Franchise Agreement for the purposes of this definition, notwithstanding that it may lack any or all of the requirements or attributes referred to in the definition of “Franchise”.
- 3.1.10 “Franchise Advisory Council” means a grouping of Franchisees being representative of all Franchisees within a particular Franchise System.
- 3.1.11 “Franchisor” means a person granting a franchise as defined above and also includes a Master Franchisee and a Sub-Franchisor and any other person fulfilling a similar role.
- 3.1.12 “Franchisor, Multi Brand” has the same meaning as Franchisor with the addition that the Franchisor owns, operates or controls two or more Accredited Franchised Brands, directly or indirectly”
- 3.1.13 “Franchisee” means a person to whom a franchise has been granted who is not a Master Franchisee or a Sub-Franchisor.
- 3.1.14 “Franchise System” means and includes a business system comprising a Franchisor and one or more Franchisees who have a Franchise Agreement with the Franchisor.
- 3.1.15 “Individual” means a natural person.
- 3.1.16 “Legal trading entities” includes sole proprietors, companies, partnerships and trusts.
- 3.1.17 “Mark” includes a name, symbol, logo, design, device, brand, music, heading, label, ticket, electronic identity, signature, word, letter or any combination of these, whether registered or not, and any other form of comparable intellectual property.

- 3.1.18 “Master Franchise” means a Franchise in which the Franchisor grants another person (called the Master Franchisee or Sub-Franchisor) the rights to sub-franchise to other persons (“the Franchisees”) the Marks and Franchise System of the Franchisor.
- 3.1.19 “Master Franchisee” means a person to whom a Master Franchise has been granted by a Franchisor.
- 3.1.20 “Member” means any person who is at the time a duly admitted member of the Association.
- 3.1.21 “Ordinary Resolution” means a resolution of the members of the Association which has been passed by a majority of the valid votes cast on the resolution by those members entitled to vote and voting on the resolution and whether voting in person or by proxy.
- 3.1.22 “Person” or “persons” means and includes natural persons, corporations, partnerships, associations, firms, joint ventures and trusts.
- 3.1.23 “Rules” means the Rules of the Association as determined in general meeting from time to time and, (where not inconsistent with the context), shall also extend to and include the Code of Ethics, the Code of Practice and all regulations and by-laws of the Association.
- 3.1.24 “The seal” means the common seal of the Association.
- 3.1.25 “Secretary” means such person, if any, appointed by the Board to carry out the function of Secretary of the Association.
- 3.1.26 “Special Meeting” and “Special General Meeting” shall mean any meeting (except the Annual General Meeting) at which members of the Association will have put to them an Ordinary Resolution or a Special Resolution.
- 3.1.27 “Special Resolution” means a resolution of the members of the Association which has been passed by a majority of not less than three fourths of the valid votes cast on the resolution by those members entitled to vote who voted on the resolution and whether voting in person or by proxy.

3.1.28 “Sub-Franchisor” has the same meaning as Master Franchisee.

3.1.29 “In writing” and “written” includes printing, lithography, telex, facsimile, E-mail, telecopier and other modes of representing or reproducing words in a visible or electronic form.

3.2 Interpretation

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

3.2.2 Words importing any one gender shall include all other genders.

4. REGISTERED OFFICE

4.1 The Registered Office of the Association shall be situated in such place in New Zealand as the Board may from time to time determine.

5. MEMBERSHIP

5.1 The categories of membership are Franchisor Member; Franchisor Multi Brand Member; Franchisee Member, Group Franchisee Member; Affiliate Member; Associate Member, Honorary Life Member; Individual Member; Student Member and Provisional Member.

5.2 All prospective members for every membership category must sign an undertaking to abide by these Rules of the Association and the Code of Practice and the Code of Ethics.

5.3 The process for approval of members shall be as determined from time to time for the purpose by the Board and may include the use of an independent scrutineer. It shall be for the Board to accept or decline any application for membership and the Board’s decision shall be final.

5.4 Every member of the Association (and every applicant for membership) agrees not to bring any legal action against the Association, its Board, its membership committee or any sub-committees and/or against its members over the acceptance or otherwise of a particular member or the expulsion of any particular member from the Association and agrees not to bring such legal action before, during, or after suspension or cessation of Membership.

- 5.5 The Association shall provide a list of all its members (which list may be made available to any member upon request) and each member of the Association agrees as a condition of its membership to waive any rights it might otherwise have in terms of the Privacy Act 1993 and other laws in relation to the publication or use of the list.

6. CATEGORIES OF MEMBERSHIP

6.1 Franchisor Member

- 6.1.1 Franchisor Membership is available to all Franchisor legal trading entities but not to individuals representing those trading entities.
- 6.1.2 An applicant for Franchisor Membership may be accepted and may continue as a full member of the Association if such applicant:
- (a) Currently has a written franchise agreement, and a disclosure document, and
 - (b) Certifies to the Board that it is financially sound and has the appropriate authority or authorities to franchise (in terms of product/service/region etc.); and
 - (c) Provides the Board with such documentary verification as the Board may require from time to time to support an applicant's application for membership and such verification is to the satisfaction of the Board in all respects.

6.2 Franchisor, Multi Brand Member

- 6.2.1 Franchisor, Multi Brand Membership is available to all Franchisor legal trading entities, but not to individuals representing those legal trading entities, subject to the requirement that the Member brings into Membership all the Accredited Franchise Brands under its control. An applicant for Franchisor, Multi Brand Membership may be accepted and may continue as a full Member of the Association if such applicant:
- (a) Currently has a written franchise agreement, and a disclosure document, and for each Accredited Franchised Brand

- (b) Certifies to the Board that it is financially sound and has the appropriate authority or authorities to franchise (in terms of product/service/region etc.); and
- (c) Provides the Board with such documentary verification as the Board may require from time to time to support an applicant's application for membership and such verification is to the satisfaction of the Board in all respects.

6.3 Franchisee Members

- 6.3.1 Franchisee Membership is available to all Franchisee legal trading entities but not to individuals representing those trading entities.
- 6.3.2 An applicant may be accepted and may continue as a Franchisee Member of the Association if such applicant:
 - (a) Is currently a Franchisee; and
 - (b) Certifies to the Board that it is financially sound and has the appropriate authority or authorities to franchise (in terms of product/service/region etc); and

6.4 Group Franchisee Member

- 6.4.1 Group Franchisee Membership is available to all Franchisee legal trading entities but not to individuals representing those trading entities.
- 6.4.2 A Franchisee may be accepted and may continue as a Group Franchisee Member of the Association if such Franchisee:
 - (a) Is currently a Franchisee; and
 - (b) The Franchisor of the applicant is a Franchisor Member at the time of the application; and
 - (c) Either the Franchisee applies for Group Franchisee Membership or the Franchisor does so on the Franchisee's behalf; and

- (d) The Franchisee meet such criteria as the Board may require.

6.5 **Affiliate Member**

6.5.1 An applicant may be accepted and may continue as an Affiliate Member if the applicant:

- (a) Does not qualify for Franchisor, Franchisee, or other forms of membership; and
- (b) Is a legal trading entity; and
- (c) Certifies that it is financially sound; and
- (d) Is prepared to and does disclose reasonable details of its systems and/or services in connection with franchising if called upon to do so by the Board; and
- (e) Is either within one or more of the following categories:

- Accounting
- Business Broker
- Banking
- Consulting
- Educational Body
- Franchise Consulting
- Legal
- Other Service provider

or is within such other category as may from time to time be determined by the Board; and

- (f) Is able to provide evidence to satisfy the Board that the applicant has sufficient knowledge and expertise in order to be able to professionally advise clients with respect to franchising.

6.5.2 Where an applicant meets the criteria and requirements of Rules 6.5.1(a) to (e) but does not satisfy Rule 6.5.1(f) and wishes to participate in the franchising sector to increase the applicant's knowledge of franchising that applicant may be accepted and may continue as a Provisional Affiliate Member (subject to such time limits, if any, as the Board may impose at its discretion at any time).

6.6 **Associate Member**

6.6.1 An applicant may be accepted by the vote of a majority of not less than three fourths of the valid votes cast by the Board members voting on the resolution and may continue subject to annual review by the Board (at its discretion) if the applicant:

- (a) Is either a franchise association or other form of organisation of similar type with similar aims and whether established provincially, regionally, nationally or internationally or on some other basis; or
- (b) Is, in the opinion of the Board an association or other form of organisation whose membership of the Association could benefit the Association.

6.7 **Honorary Life Member**

6.7.1 The Board may, in its absolute discretion, confer or revoke Honorary Life Membership upon individuals or organisations who or which, in the opinion of the Board, warrant such appointment.

6.7.2 Membership of this category shall be by invitation of the Board only.

6.8 **Individual Member**

An individual applicant may be accepted and may continue as an Individual Member if the applicant, in the opinion of the Board, warrants membership.

6.9 **Student Member**

An applicant may be accepted and may continue as a Student Member if the applicant:

- (a) Is attending a recognised full time course of education or study; or
- (b) Is attending a recognised part-time course of education or study which is either wholly or significantly relating to the study of franchising; and, in either case
- (c) The Board does not consider that membership of the particular applicant in this

category would be adverse to the interests of the Association.

6.10 Change of Membership Category

6.10.1 A member in one category must apply at any time that the Member's category changes to become a member in another category of membership in substitution for membership in the original category and may do so at any other appropriate time.

6.10.2 The application shall be processed in the same way as if it were an initial application for membership and all the provisions of Rule 5 and the relevant provisions of Rule 6 shall apply accordingly.

6.11 Provisional Membership

Provisional membership is available to applicants for each category of membership who are unable initially to meet the full requirements for membership but who do meet minimum requirements as determined from time to time by the Board in relation to that category (or, where appropriate, subcategory) of membership. Provisional Membership in the relevant category is available for such period as the Board may in its discretion determine in relation to each category, (or each subcategory) and to each individual application and for such period as the Board may initially determine. This period may from time to time be extended by the Board, whether generally or in respect of individual members and provisional membership may also terminate in such other circumstances as the Board may in its discretion from time to time decide and circumstances which the Board may in its discretion from time to time vary.

7. PRIVILEGES OBLIGATIONS AND RESTRICTIONS OF MEMBERSHIP

7.1 Every member shall receive a Certificate of membership and while remaining a member, be entitled to retain the Certificate. Every Certificate of membership shall be in such form as the Board may from time to time prescribe, shall remain the property of the Association and in the event of cessation of membership shall be returned to the Association unless the Board shall consent to its remaining in the possession of the former member.

7.2 Every member shall be entitled to use such designation as the Board may from time to time prescribe to describe and denote their membership. A member acting jointly with or

practising in partnership with another member, or practising through an incorporated body, may use such designation as the Board may from time to time prescribe following the joint name or title of the firm or incorporated body.

- 7.3 Every member shall, as a continuing term and obligation, undertake to strictly observe and perform the members' obligations including (without limiting the foregoing):
- 7.3.1 As contained or implied in the Rules; and
 - 7.3.2 As contained or implied in the Code of Ethics and the Code of Practice; and
 - 7.3.3 As contained or implied in all regulations and by-laws of the Association; and
 - 7.3.4 Paying, as and when due, all contributions, fees, levies, subscriptions and other payments for which the member may become liable; and
 - 7.3.5 Supplying to the Association all such renewed, updated or additional particulars, references, documents and other information as may be required as a condition of obtaining or continuing membership or otherwise in accordance with the Rules or the Code of Ethics or the Code of Practice or any regulations or by-laws; and
 - 7.3.6 Without limiting the foregoing supplying to the Association the member's full name, a brief description of the nature of the member's business and addresses (including electronic) and promptly advising of any changes to any of them.
- 7.4 Provisional Franchisor Members and Provisional Affiliate Members, Group Franchisee Members and Student Members shall have no speaking or voting rights at meetings of the Association or on ballots or in any other circumstance where a member might otherwise be entitled to speak or vote (and notwithstanding any provisions to the contrary that might otherwise be contained or implied in the Rules or elsewhere).
- 7.5 Individual Members shall have no voting rights at meetings of the Association or on ballots or in any other circumstance where a member might otherwise be entitled to vote (and notwithstanding any provisions to the contrary that might otherwise be contained or implied in these Rules or elsewhere).

- 7.6 Individual Members and Student Members shall not be entitled to use the Logo of the Association.

8. SUBSCRIPTION PAYABLE BY MEMBERS

- 8.1 Every member of the Association shall be required to pay an annual subscription to the Association at a rate to be determined for each year by the Board and subscriptions shall become due and payable in advance on the 1st day of July in every year or on such other date or dates as the Board may from time to time prescribe.
- 8.2 Every applicant for membership of the Association shall be required to pay such application and related fees as are from time to time determined by the Board to be required for the purpose.
- 8.3 Every member of the Association shall also be required to pay such other fees and levies and other payments as are from time to time reasonably required by the Board or otherwise become due and payable in accordance with the Rules.
- 8.4 Any member which has failed to pay its subscription or other fees or levies or payments within three (3) months of the date fixed for payment by the Board may be excluded from membership and its name may be removed from the register. That member shall nevertheless remain liable to the Association for the amount due and the Association may promote the removal of the member.
- 8.5 The Board may amend or adjust subscription requirements in special cases as it may determine, and do so either generally or specifically.

9. CESSATION OF MEMBERSHIP

- 9.1 Any member wishing to resign from the Association shall give notice in writing to the Board to that effect and shall pay all subscriptions and levies due up to the end of the financial year of their membership. The Board shall have absolute discretion whether or not to accept the resignation from any Member against whom a complaint has been registered under Rule 13 of the Code of Practice..
- 9.2 The Board shall have power to remove from the Register of members:
- 9.2.1 Any member whose subscription or other fees or levies or payments are six months in arrears; such

power to be exercised only after a resolution to that effect has been passed by the Board at a duly constituted meeting.

9.2.2 Any member for non-compliance with the Code of Ethics or the Code of Practice.

9.2.3 Members for any other breach of the provisions of the Rules.

In each case the procedure to be followed shall be the procedure for membership removal for non-compliance with the Code of Practice as set out in the Code of Practice.

9.3 Any member who has resigned or been removed pursuant to these Rules shall forthwith return to the Association any documents, certificates, papers, pamphlets, advertising material including all intellectual property and logos which that member may have acquired as a right or privilege of membership and also any property belonging to the Association and shall forthwith cease to use or display the logos or to associate itself (nor allow itself to be associated) in any way with the Association.

10. REPRESENTATIVES

10.1 Any legal trading entity and any other form of organisation which is a member shall appoint one or more persons as its Authorised Representative to attend all meetings of the Association and to exercise all voting and other rights vested in such member including the right to stand for election to the Association's Board or any other office. Where more than one person is appointed only one person at a time shall be entitled to exercise the rights of the member whose Authorised Representatives they are, such person being either:-

10.1.1 The first person appointed and still holding office as Authorised Representative; or

10.1.2 Such other person nominated by the member as being the most senior (and if there are more than two the member shall notify the order of seniority of them all); or

10.1.3 In the event of any dispute or question arising such of the Authorised Representatives, if any, as the chairperson of the meeting (or, if there is none, as the

Chairman of the Association) may in his or her absolute discretion determine for the purpose.

- 10.2 Any member who has appointed an Authorized Representative shall promptly give notice in writing to the Association of any changes to its Authorized Representatives and substitute or additional Authorized Representatives shall not be entitled to act until notice has been given.
- 10.3 Notwithstanding the provisions of subclause 10.1 and 10.2 any member may invite to attend any meeting or conference or function of the Association any employee or associate of such member or any other interested person provided however that this clause shall not apply in relation to General Meetings of the Association and the Chairperson, and the Chairperson of the meeting or function or other person in charge shall have the right at their absolute discretion to exclude such person (and without being obliged to give any reason or explanation).

11. THE BOARD AND OFFICE BEARERS

11.1 Board to be Constituted

The Board shall be constituted pursuant to the provision of this Rule for the purpose of exercising the powers and duties referred to in the Rules.

11.2 Composition of the Board

11.2.1 The membership of the Board shall comprise:

- (a) Seven (7) elected Board members, all of whom shall hold office for such periods as may be provided for in these Rules or until they sooner retire, are removed or cease to be eligible to remain (whichever first occurs); and
- (b) Such additional persons (if any) as may from time to time be co-opted by the Board for the purpose who shall hold office as co-opted Board members until the next Annual General Meeting or sooner retire, are removed or cease to be eligible to remain (whichever first occurs).

11.2.2 The composition of the Board shall desirably reflect Franchisor Members, Franchisee Members and Affiliate Members provided however that the number

of Franchisee Members shall not exceed three (3) at any time and the lack of election of members to the Board in one or other of these categories shall not disqualify the election or the operation of the Board in any way.

11.3 Eligibility to be a Board member

11.3.1 No person shall be appointed as or hold office as an elected member of the Board who is not either personally a member of the Association or is an Authorised Representative of a member of the Association.

11.3.2 Any person who is an elected member of the Board shall cease to be eligible to remain as a member of the Board from the times and in the circumstances referred to in Rule 11.9 or if the person otherwise ceases to be a member of the Board in accordance with the provisions of these Rules.

11.3.3 No person who was removed from office as a member of the Board at any time at or after the preceding Annual General Meeting or who, if elected would immediately be disqualified from remaining as a member of the Board shall be eligible for election as a member of the Board and any election of such a person shall be void.

11.4 Election of Officers and Terms of Office

11.4.1 An election shall be held every year for membership of the Board. The election shall be held prior to each Annual General Meeting of the Association. Newly elected Board members shall hold office from the end of the Annual General Meeting.

11.4.2 The Association shall also have a Chairperson and Vice-Chairperson who shall be the persons elected for the purpose by the members of the Board at the first Board meeting following the election of the Board and from time to time thereafter as may be necessary to fill any vacancy arising and following due process for each such election both initial, and additional. Each such officer shall hold office until the first Board meeting following the next Annual General Meeting unless sooner retiring, or removed by the Board or in accordance with the Rules.

- 11.4.3 No person may continue as Chairperson for more than three consecutive years.
- 11.4.4 The term of office of elected Board members expires when required to retire in rotation in accordance with Rule 11.8, or on their earlier resignation, removal, or ceasing to be eligible to hold office.
- 11.4.5 The term of office of any other Board member expires as provided in these Rules or on their earlier resignation, removal, or ceasing to be eligible to hold office.

11.5 Notice and Nomination for Election to the Board

- 11.5.1 Not later than two (2) months prior to the date set by the Board each year for the holding of the Annual General Meeting the Association shall circulate notice to voting members advising of the place and time for the holding of the Annual General Meeting and calling for nominations for election to the Board.
- 11.5.2 Any person who is either a member or is the Authorised Representative of a member and who is eligible to hold office as a member of the Board may be nominated as a candidate for election to the Board provided that a nomination paper signed by the prospective candidate himself or herself and supported by two (2) other members of the Association is lodged with the Association not earlier than two (2) months before and not later than twenty-eight (28) days before the date of the election. A candidate may withdraw his or her nomination by giving the Board notice in writing to that effect at any time prior to being elected.
- 11.5.3 Candidates for election as Board members may if they wish supply a brief written presentation not exceeding three hundred and fifty (350) words in length and a photograph for circulation to Members with the ballot papers by the Association. Candidates shall not otherwise distribute or allow the distribution of other electioneering materials to the Members.
- 11.5.4 If in any year the number of candidates validly nominated for election to the Board does not exceed the number of vacancies which exist then the persons so nominated shall, as from the end of the next Annual General Meeting of the Association, be deemed to be duly elected to the Board.

11.6 **Postal Ballot**

11.6.1 If the number of candidates validly nominated for election as elected members of the Board in any year exceeds the number of vacancies then a postal ballot shall be held for election to the Board.

11.6.2 The procedure for any such ballot shall be as follows:

- (a) From among the members of the Association the Chairperson shall appoint two scrutineers neither of whom shall be Board members or candidates for election.
- (b) Two scrutineers shall form a quorum.
- (c) The Association shall, at least twenty-one (21) days before the date fixed for the Annual General Meeting of the Association, forward a voting paper to every member who shall be requested to complete and return the voting paper to the Association at least seven (7) days before the date fixed for the next Annual General Meeting.
- (d) A member's vote shall be invalid if the member either votes for more candidates than there are vacancies to be filled or the vote is received by the Association less than seven (7) days before the date fixed for the Annual General Meeting .
- (e) A member's vote shall be invalid if the member does not include his her or its name and address on the outer envelope or otherwise identify the voting paper so as to enable the scrutineers to confirm the member's current financial status and eligibility.
- (f) The results of the ballot shall be declared at the Annual General Meeting.

11.6.3 The election of any Board member shall not be invalidated merely because of any procedural defects in the nomination of the candidate or the calling or holding of the election, whether or not a postal ballot was required.

11.7 Casual Vacancies

- 11.7.1 Subject to Rule 11.7.3 the Board may fill any elective position on the Board left vacant at the conclusion of the Annual General Meeting by appointing an eligible person to fill the position. The term of office of any appointed Board member shall expire at the next following Annual General Meeting.
- 11.7.2 Subject to Rule 11.7.3 the Board may fill any subsequent casual vacancy occurring in elective positions on the Board by appointing an eligible person to fill each vacant position. The term of office of each such appointed Board member shall expire at the next following Annual General Meeting.
- 11.7.3 If the number of the members of the Board who were elected at the last election falls to below four (4) within six (6) months of the date of the last Annual General Meeting the Association shall call for an election and for the holding of a Special General Meeting of the Association to take place on a date not less than two (2) nor more than three (3) months after the date on which the number of members of the Board fell below four (4). The election shall be for the whole Board and shall be conducted by postal ballot in the same manner as is provided in Rule 11.6 as if the Special General Meeting were the Annual General Meeting of the Association. The purpose of the meeting shall be to announce results of the election and to deal with any other matters arising as a consequence of the vacancies. The holding of such election shall not be in substitution for the holding of elections in the ordinary course at the next Annual General Meeting of the Association.
- 11.7.4 The Board shall fill from among its members any casual vacancy in the office of Chairperson, Vice Chairperson or Treasurer arising prior to expiry of the normal term of office. Such appointment shall be held until the expiry of the normal term in which the vacancy occurred unless sooner terminated in accordance with the Rules.

11.8 Retirement of Board members in Rotation

- 11.8.1 In every even year elections shall be held for not less than four (4) of the seven (7) elective places on the Board. Every odd year elections shall be held for not less than three (3) of the seven (7) elective places.

- 11.8.2 In the event that less than three (3) elected Board members either retire or cease to hold office prior to the calling of the election or will have ceased to do so with effect from the ensuing Annual General Meeting in any odd year or less than four (4) in any even year then such a number of additional elected Board members shall retire so as to bring the number of vacancies among elected Board members up to three (3) or four (4) (as the case may be.) The elected Board members required to retire for the purpose (but subject to Rule 11.8.3), shall only be so many of those who have been longest in office as elected Board members as are required to create the necessary vacancies. As between individuals who have been in office for the same period of time, where only some but not all of them are required to retire so as to create the required number of vacancies, then those to retire shall, unless they otherwise agree amongst themselves, be determined by lot.
- 11.8.3 Where the Board member who is the Chairperson at the closing date for nominations for election of Board members would otherwise be required to retire in rotation in accordance with Rule 11.8.2 then he or she will not be required to retire at that election and may continue in office for one further term as a Board member (whether or not re-elected as Chairperson).
- 11.8.4 Where an elected member of the Board has retired (whether in accordance with Rule 11.8.2 or otherwise) and subsequently has been re-elected to the Board then for the purpose of determining the length of his or her tenure for the purposes of the provisions of Rule 11.8.2 after re-election his or her term of office shall be deemed to have commenced on the date when he or she resumed office as a Board member following re-election.

11.9 **Termination and Removal from Office**

- 11.9.1 A person shall cease to be a member of the Board upon the happening of any one of the following events:
- (a) If he or she ceases to be a member of the Association (or the Authorised Representative of a member) or if he or she (or the member whose Authorised Representative he or she

is) is suspended or excluded for any period from membership of the Association.

- (b) If he or she resigns his or her seat on the Board.
- (c) If he or she is absent from three (3) consecutive meetings of the Board without the consent of the Board. A register of attendance shall be kept by the executive officer.
- (d) If he or she becomes bankrupt or insolvent or makes any assignment for the benefit of his or her creditors or takes or attempts to take the benefit of any statutory provision for the liquidation of his or her affairs and fails to satisfy the Board when required that the inability to pay his or her debts arose from misfortune and that no discreditable conduct can be imputed to him or her in such connection.
- (e) If he or she becomes of unsound mind or infirm.
- (f) If, at a meeting of the Board especially convened for the purpose at which not less than 70% of the members of the Board are present, or in accordance with Rule 12.8, a resolution is passed by a majority of not less than five (5) of those present and entitled to vote removing such person from office.
- (g) If the person is convicted by a competent tribunal of an offence which, in the opinion of the Board, renders the person unfit to be a member of the Board.
- (h) If at a general meeting of the Association the Notice of which contains the motion for the proposed removal of the person as a member of the Board a resolution to remove that person is passed as a Special Resolution.
- (i) If the person becomes a paid employee of the Association.

11.9.2 The removal of a person from office as a member of the Board in accordance with any of the provisions of Rule 11.9 shall occur as follows:-

- (a) In the circumstances referred to in Rules 11.9.1(c), 11.9.1(d), 11.9.1(e) and 11.9.1(g) upon the passing of a resolution by the Board to the effect that the relevant conditions are satisfied, such meeting being held in compliance with the provisions of Rule 11.9.1(f),
- (b) In all other cases, upon the occurrence of the relevant event.

11.9.3 When any meeting of the Board is held for the purpose of considering a resolution for the removal of a member of the Board the person in question shall be entitled to be present and to respond to the claims made but shall not form part of the quorum and shall not be entitled to vote on the resolution.

11.9.4 The Chairperson, and/or the Vice-Chairperson may be removed at any time if at a meeting of the Board, specially convened for the purpose, at which not less than four (4) members of the Board are present, a resolution is passed on the affirmative vote of not less than four of those present and voting to remove the relevant person or persons from the office. The provisions of Rule 11.9.3 shall also apply in such a case. The holding of such office shall also cease automatically in the event that the office-holder ceases to be a member of the Board.

12. PROCEEDINGS OF THE BOARD

12.1 The Board may meet, adjourn and otherwise regulate its meetings as the Board shall think fit. The Board shall meet at least seven (7) times per year. Four (4) members or all the remaining Board members if a lesser number are in office shall form a quorum. The Board may continue to act notwithstanding any vacancy in its membership so long as there is a quorum provided that if the number of elected members on the Board falls at any time to less than four (4) then the Board shall forthwith act to fill the vacancies in accordance with Rule 11.7.2.

12.2 A meeting of the Board shall be convened at any time upon the request of any of the Chairperson, Vice-Chairperson, or of

such number of the Board members as is sufficient to form a quorum.

- 12.3 Advance notice of the time date and place for the holding of every Board meeting shall be sent to each Board member and may be given by post, delivery, facsimile, email, or other recognised form of written communication. Notice shall be sent at least 14 days in advance of the intended of the meeting or such lesser period as is reasonably adequate in the circumstances or appropriate in cases of urgency and shall be given to such address as the Board member may from time to time notify the Association in writing for the purpose.
- 12.4 Questions arising at any meetings of the Board shall be decided by the majority of the votes recorded and each member present personally or by proxy shall have one vote. Board members voting by proxy shall nominate as a proxy only a person who is a member of the Board. Where there is an equality of voting the chairperson of the meeting shall have a second or casting vote.
- 12.5 At all meetings of the Board the Chairperson shall preside as chairperson, and in his or her absence the Vice-Chairperson shall preside as chairperson. In the absence of them both a chairperson shall be elected from among the Board members then present.
- 12.6 A meeting of the Board for the time being at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in the Board by any means whatsoever.
- 12.7 A resolution in writing signed by three-fourths of the members of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted. A copy of any resolution so made shall be forwarded to each member of the Board as soon as practicable thereafter.
- 12.8 The Board may conduct its meetings wholly or partly by telephone or by teleconference, electronic or other suitable means **PROVIDED HOWEVER** that all members of the Board present or otherwise attending in terms of this Rule shall be in simultaneous contact or communication with one another throughout the entirety of the meeting unless permission is sought by and given to a Board member wishing to retire from the meeting at any stage.

- 12.9 Decisions of the Board shall not be invalidated merely because of procedural defects in the calling or holding of the meeting of the Board at which the decision was made.

13. COMMITTEES AND SUB-COMMITTEES

- 13.1 The Board may from time to time establish any committees or sub-committees it sees fit to exercise such powers as may be delegated by the Board. The members of such committees or sub-committees shall be appointed or approved by the Board and may be members of the Board, members of the Association, Authorised Representatives or other interested persons.
- 13.2 The Board may delegate any of its powers to committees and sub-committees and may make rules for regulating the proceedings of committees. The following further provisions shall apply to committees:
- 13.2.1 The Chairperson shall be ex-officio a member of all such committees.
- 13.2.2 The Board may determine the composition and quorum for meetings of all committees.

14. POWERS OF THE ASSOCIATION

14.1 General Powers

- 14.1.1 The Association shall have all powers generally exercisable by and/or available to an incorporated society under the laws of New Zealand including without limiting the foregoing all powers necessary or desirable for the attainment of its objects.

14.2 Power to Borrow and give Security

- 14.2.1 The Association shall in addition to the other powers vested in it have power to borrow or raise money from time to time both with and without security and including by the issue of debentures, bonds, mortgages, or any other security founded or based on all or any of the property and/or rights of the Association and in such manner (including by way of bank overdraft) and upon such terms as to interest, repayment, priority and otherwise as the Association shall think fit and the powers contained in this clause shall be exercised by the Board.

15. POWERS AND DUTIES OF THE BOARD

- 15.1 The governance, management and control of the activities of the Association, and of its funds, shall be vested in the Board but subject to Rule 15.7. In addition to the powers and authorities expressly conferred on it by these Rules the Board may exercise all such powers and do all such things as may be exercised and done by the Association and which are not expressly directed or required by the Rules to be exercised or done by the Association in general meeting.
- 15.2 The Board may delegate such management of the activities of the Association as it sees fit to a duly appointed executive officer.
- 15.3 The funds, properties and assets of the Association shall be under the control of the Board which shall have full power to rent, lease, furnish and deal with buildings, land and other property of the Association as the Board may think fit without reference to a general meeting of members except in the case of the winding up of the Association.
- 15.4 All legacies, endowments, donations or gifts of money or other real or personal property unless given to the Association for any specific object shall be dealt with by the Board as the Board may think fit for the general purposes of the Association.
- 15.5 Any money of the Association may be invested by the Board in such manner as it may from time to time determine.
- 15.6 Without limiting the generality of the powers referred to in these Rules the Board may do any of the following:
- 15.6.1 Establish branches or other local organisations at such place in New Zealand as the Board may from time to time determine and delegate to branches of local organisations such of its powers and duties as it thinks proper.
- 15.6.2 Provide a written Code of Ethics and Code of Practice.
- 15.6.3 Appoint, remove or suspend such officers, staff and contractors for or from such permanent, temporary or special services as the Board may from time to time think fit and determine their duties and fix their salaries or emoluments and other terms of engagement.

- 15.6.4 Appoint from time to time the bankers and legal advisers of the Association.
- 15.6.5 Take cognisance of anything affecting the Association or the conduct of members and the Board shall have power to bring before the Association in general meetings any matters which it considers material to the Association or to be in the interests of franchising and may make any recommendation in relation thereto.
- 15.6.6 Purchase, lease, rent, hold and/or furnish any building or premises for the use of members of the Association and from time to time dispose of all or any part thereof.
- 15.6.7 Organise lectures and by other means promote and advance the study of matters relevant to the objects of the Association.
- 15.6.8 Publish or approve and superintend the publication of journals, books and papers and utilise any other means of communications either by the Association or by one of its branches or other local organisations.
- 15.6.9 Negotiate, enter into and conduct such promotional agreements and arrangements with such sponsors and enter into agreements relating to the use and development of any intellectual property rights which the Association may own in each case on such terms as the Board may from time to time think fit.
- 15.6.10 Establish and maintain such processes for mediation and alternative dispute resolution for the assistance of members and others involved in franchising upon and subject to such terms as the Board may from time to time think fit.
- 15.6.11 Institute, conduct, defend, compound or abandon any legal proceedings by and against the Association or its officers or otherwise concerning the affairs of the Association and also may compound and allow a time for payment or satisfaction of any debts due or of any claim or demand by or against the Association.
- 15.6.12 Make and from time to time amend, enlarge or revoke regulations ancillary to but not inconsistent with these Rules whether the same be expressed among its powers or not, and from time to time

prescribe all forms which it may consider necessary or expedient for the purpose of carrying out its duties.

15.6.13 Invest and deal with any moneys of the Association upon such security and in such manner as it thinks fit, and from time to time vary such investments as it thinks fit.

15.6.14 Make and give receipts, releases and other discharges for moneys payable to the Association and for the claims and demands of the Association.

15.6.15 Insofar as the Board has funds to invest other than by lodgement to a bank account, it may appoint a trustee or trustees either from its own officers, Board members, members or otherwise and including, if it deems fit, a corporate body to acquire and hold upon trust for the Association at the Board's discretion the securities or other property, real or personal, which the Board may decide should be the subject of investment of such funds.

15.6.16 Borrow or raise money by bank overdraft or any other securities founded or based upon all or any of the property and rights of the Association or without any such security and upon such terms as to interest repayment priority and otherwise as the Board shall think fit.

15.6.17 In each year print a copy of the accounts (as audited if auditing is required in accordance with Rule 23.3), a report of the proceedings of the Association during the preceding year, a report of the proceedings of the last Annual General Meeting, a revised register of members and such other information as the Board may deem of interest, and circulate the same amongst the members of the Association and, should it see fit, to the general public.

15.7 Between meetings of the Board the Chairperson personally may exercise the powers contained in Rule 15.3. Any action taken by the Chairperson under that Rule shall however be subject to ratification by the Board and shall be submitted to the Board by the Chairperson at the first available opportunity.

16. GENERAL MEETINGS

16.1 Meetings of members of the Association for the transaction of business and the consideration of matters relating to the direction and management of the affairs of the Association

shall be undertaken by way of Annual General Meetings or Special General Meetings.

- 16.2 The Annual General Meetings shall be held once each year in the months of May or June or July or August on a date set by the Board and the Board shall unless impractical to do so set the date not less than three (3) months beforehand.
- 16.3 The business of the Annual General Meeting shall be to receive and consider:
 - 16.3.1 The report of the Board on the affairs of the Association for the previous year.
 - 16.3.2 The financial statements of the Association made up to the previous 31 March (which financial statements shall be signed by a Board member). If there is in place with respect to the accounting period in question a requirement that the financial statements be audited then the financial statements presented shall be audited accordingly and accompanied by the Auditor's certificate.
 - 16.3.3 The results of the annual election of Board members.
 - 16.3.4 Confirmation of the appointment, by the Board, of any Honorary Officers for the following calendar year.
- 16.4 A member wishing to bring any motion before the meeting shall give written notice to the Secretary or to the Chairperson on or before sixty (60) days prior to the date of the meeting and no such motion shall come before the meeting unless notice has been so given. No other business shall be considered unless the same is specified in the notice convening the meeting. However, where no such notice has been given, business may be considered where it is deemed a matter of extreme urgency by a majority of the members assembled or is expressly authorised by the Rules.
- 16.5 Any general meeting of the Association, whether annual or special, shall be held at such times and at such places as the Board shall from time to time determine. Not less than fourteen (14) days' notice of any general meetings and not less than twenty-one (21) days' notice of any special meetings specifying the day, hour and place of the meetings and the general nature of the business to be dealt with shall be given to members in the prescribed manner. In computing the fourteen (14) day period of notice or the twenty-one (21) day period of notice, whichever may be the case, the date of

posting the notice and the date of holding the meeting shall be excluded.

- 16.6 The Board shall within twenty-one (21) days of the receipt of a requisition signed by not less than thirty (30) members of the Association proceed to convene a special general meeting of the Association to be held within sixty (60) days of the date of receipt of the requisition. Every such requisition and the corresponding notice calling the meeting shall specify the purpose for which such meeting is requisitioned or called. No other business shall be considered at such meeting.
- 16.7 Decisions of the Association, whether in General Meeting or by ballot (and including the elections of Board members and other officers) shall not be invalidated merely because of procedural defects in the calling and holding of the General Meeting or other meeting or the conduct of the postal ballot at or by which the decision was made, including without limiting the foregoing, because of any defects in the issue of the requisite notices.

17. PROCEEDINGS AT MEETINGS

- 17.1 At every annual or special general meeting thirteen members personally present and entitled to vote shall form a quorum. If at any such meeting a quorum is not present within half an hour of the time appointed for holding the meeting, the meeting if convened upon the requisition of members shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place or to such other day not being more than fourteen (14) days after such meeting at such time and place as the chairperson of the meeting may appoint. If at such adjourned meeting a quorum is not present, those members who are present shall form a quorum and may transact the business for which the meeting was called.
- 17.2 The Chairperson, or in his or her absence the Vice-Chairperson shall take the chair at every general meeting of the Association. In the absence of the Chairperson and Vice-Chairperson a Board member shall be chosen to take the chair. If at any meeting no person entitled to take the chair shall be present within fifteen (15) minutes after the time appointed for holding such meetings, or if all such persons present decline to take the chair, then members present shall choose one of their number to be chairperson.
- 17.3 The chairperson of a general meeting may with the consent of the meeting adjourn the same from time to time and from place to place. No business shall be transacted at any

adjourned meeting other than business unfinished at the meeting at which the adjournment took place.

- 17.4 Each motion submitted to a meeting shall be decided in the first instance on the voices, or, if demanded, by a show of hands, and in the case of an equality of votes the chairperson shall both on a show of hands and at a poll have a casting vote in addition to the vote to which he or she may be entitled as a member.
- 17.5 At any time, unless a poll is demanded by at least ten (10) members present personally and entitled to vote at the meeting, a declaration by the chairperson that a resolution has been carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the books of proceedings of the Association shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 17.6 If a poll is demanded pursuant to Rule 17.5 it shall be taken in such a manner and at such time and place as the chairperson of the meeting directs, either at once or after an adjournment or otherwise. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll shall not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded. The demand for a poll may be withdrawn only by consent of the meeting. Any poll demanded on the election of a chairperson of a meeting or on any question of adjournment shall be taken at the meeting and without adjournment.

18. VOTES FOR MEMBERS

- 18.1 Every member shall have one vote (except where the membership is in a category which the Rules provide shall have no vote).
- 18.2 Votes may be given either personally or by proxy. The instrument appointing a proxy shall be in the following form:

I.....of.....being a member of the Franchise Association of New Zealand Incorporated hereby appoint.....of.....or failing him/herof.....as my proxy to vote for me on my behalf at the annual (or special) general meeting of the Association, to be held on the..... day of.....(year) and at any

adjournment thereof. My proxy is hereby authorised to vote *in favour of/against the resolution.

Signed this.....day
of.....(year)

NOTE: In the event of the member desiring to vote for or against any resolution he/she shall instruct his proxy accordingly Unless otherwise instructed, the proxy may vote as he/she thinks fit.

*Delete whichever is not desired.

A proxy form may not be used at an election held by postal ballot.

- 18.3 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 18.4 The proxy form must be lodged with the Secretary not less than forty-eight (48) hours before the commencement of the meeting.
- 18.5 The proxy may vote at any subsequent meeting being an adjourned meeting of the original meeting and should the member who appointed the proxy be able to attend an adjourned meeting to vote personally then if that member so wishes he/she may cancel the authority conferred by the proxy instrument.
- 18.6 No member shall be entitled to be present or vote at any meetings while he/she is under any pecuniary liability to the Association which shall have existed for more than three (3) months.

19. FUNDS

- 19.1 All monies received on account of the Association shall be paid into the account of the Association with its bankers forthwith after receipt. The Board may make and give receipts, releases and discharges for moneys payable to the Association and for the claims and demands of the Association.
- 19.2 The Board may pay to or on behalf of its branches, centres, divisions or agencies such amounts as it may from time to time determine and generally it may pay or authorise its officers to pay or deal with all funds under its control in such manner and in all respects as it may from time to time decide.
- 19.3 All cheques drawn upon the bankers of the Association shall be signed in such manner and by such persons as the Board shall from time to time determine. Cheques or other negotiable instruments paid or payable to the bankers of the

Association for collection requiring the endorsement of the Association may be endorsed by such person or persons as the Board shall from time to time appoint.

- 19.4 The Board shall keep, or cause to be kept, a proper account of the income and expenditure of the Association, and of the matters in respect of which such income and expenditure arises and takes place respectively and of the property, credits and liabilities of the Association, and shall produce accounting records, properly maintained when required by the Board.

20. MINUTES AND NOTICES

- 20.1 Minutes shall be kept of all resolutions and proceeding of:
- 20.1.1 General meetings of the Association;
 - 20.1.2 Meetings of the Board;
 - 20.1.3 Meetings of any committees;
 - 20.1.4 Meetings of members constituting authorised branches of the Association.
- 20.2 A notice may be served by the Association upon any member either personally or by sending it through the post in a prepaid letter, envelope or wrapper or by email addressed in each case to the appropriate address form of the address of the member shown on the register of members. References in this Rule to "post" include references to any generally accepted alternative form of postal service or courier service or other means of conveyance or communication.
- 20.3 Any notice sent by post to a member of the Association shall be deemed to have been served on the day following that on which the letter, envelope or wrapper containing the same is posted. In proving service of the notice it shall be sufficient to prove that the letter, envelope or wrapper containing the notice was properly addressed and posted. A certificate in writing signed by an officer of the Association that the letter, envelope or wrapper containing the notice was so addressed and posted shall be conclusive evidence.
- 20.4 Notice may also be given by facsimile transmission to the facsimile number of the member in which case it shall be deemed to have been received on the day following transmission provided that a transmission report is produced by the machine from which the facsimile was sent which

indicates that the facsimile was sent in its entirety to the facsimile number of the member or the recipient confirms by telephone email or other means receipt of the transmission.

- 20.5 All members must maintain and advise the Association of their email address for the purpose of sending notices and all notices sent by the Association to the most recent email address advised to it for the purpose by the member in writing shall be deemed to have been duly received by that member at the time of transmission. Any member with no access to email may request communications by post or fax until such time as they have email access.
- 20.6 Notices and communications for Group Franchisee members sent to their Franchisor shall be deemed to have been sufficiently given or supplied.

21. REGISTER OF MEMBERS

- 21.1 The Association shall keep a register of all members.

22. SECRETARY

- 22.1 The Board may appoint a Secretary who does not have to be either a member of the Board or member of the Association or representative of a member and such person if not a member of the Board shall not have any right to vote at Board meetings.

23. FINANCIAL STATEMENTS, AUDITOR AND AUDIT

- 23.1 The Association's financial year shall end on the 31st day of March in each year and all financial statements shall be promptly made up to that date.
- 23.2 Copies of the financial statements shall be supplied to each member of the Board no later than one month prior to the Annual General Meeting next following.
- 23.3 There is no mandatory requirement that the Association's financial statements are audited. If however the members of the Association should decide by way of Ordinary Resolution that financial statements are required to be audited either generally or with respect to one particular year then the financial statements shall be audited and the auditor shall be a member of the Institute of Chartered Accountants of New Zealand who is the holder of a Certificate of Public Practice. If the Resolution specifies a particular auditor, and that auditor is prepared to undertake the audit then it shall be conducted by the auditor specified. If no auditor is specified

or if the specified auditor declines or fails to undertake the audit, then it shall be conducted by an auditor approved by the Board.

24. CONDUCT AND DISCIPLINARY PROCEDURES

- 24.1 Every member as a term and obligation of membership agrees to strictly observe the standards of conduct required by the Code of Ethics and the Code of Practice.
- 24.2 The Board shall establish and maintain suitable processes to carry out all disciplinary matters as may be necessary, which may provide for suitable remedial action by and penalties upon offending members.

25. USE OF NAME AND LOGO

- 25.1 The Association's name and Logo are valuable parts of its intellectual property and intimately associated with the work and reputation of the Association.
- 25.2 Members are entitled and encouraged to use and display the Association's Logo appropriately but subject to such terms and conditions as may be laid down by the Board at any time. Individual Members and Student Members shall not be entitled to use the Association's Logo. Provisional Franchisor Members and Provisional Affiliate Members must, if required, by the Board, use a form of logo endorsed with the words "Provisional" in the manner required by the Board.

26. PRIVILEGED COMMUNICATIONS AND INDEMNITY

- 26.1 All communications, correspondence, reports, minutes and other papers and documents relevant to any application to the Board, or to the admission or advancement of members including the reports of the scrutineers, or to the suspension or forfeiture of membership of any member including papers of any Board Committee, shall be privileged and confidential and shall not be passed out of the custody of the proper officer of the Association nor shall any of the contents of the same be disclosed outside of the Board except on the express authority of the Board. Such decision shall require the authority of the Board to be confirmed by resolution, the resolution to be recorded by Minute, except where disclosure is required by law or is impractical in the particular circumstances. In either of these two cases, the Board should then be notified and required to ratify at the next following Board meeting.

- 26.2 The Board members and other officers of the Association shall be indemnified by the Association from all losses, costs, claims and expenses incurred by them in the discharge of their duties including any negligent acts but excluding any losses which occurring through their own dishonesty.
- 26.3 No Board members or other officer of the Association shall be liable for the acts or defaults of any other Board member or other officer, or for any loss or expense happening to the Association unless the same happens from his or her wilful default.

27. ALTERATION OF RULES

- 27.1 These rules may be altered, added to or rescinded or otherwise amended by a resolution passed by a three-fourths majority of those present at a general meeting of which at least thirty (30) days' notice has been given provided that no addition or alteration or rescission of the Rules shall be approved if it affects the personal benefit clause or the winding up clause.
- 27.2 Every such notice shall set forth the purpose of the proposed alteration, addition, rescission or other amendment.
- 27.3 Duplicate copies of every such alteration, addition, rescission or amendment shall forthwith be delivered to the Registrar of Incorporated Societies in accordance with the provisions of the Incorporated Societies Act 1908 or any Act in substitution of it.

28. CODE OF ETHICS AND CODE OF PRACTICE

- 28.1 The Association shall at all times maintain a Code of Ethics and a Code of Practice.
- 28.2 The current Codes shall be in the form produced with the Rules.
- 28.3 The Codes may from time to time be amended by the Board as it thinks proper, provided that amendments made shall not become effective until after the issue of notice of amendment to the members generally. The Codes may also be amended by Special Resolution of the members.
- 28.4 The Board may establish a Code of Ethics and a Code of Practice for such categories and sub-categories of Affiliate Members (as referred to in Rule 6.4) and such other categories for membership as it may consider is appropriate and such Codes may from time to time be amended by the

Board as it thinks proper provided that amendments made shall not become effective until after the issue of a notice of amendment to the members generally. The Codes referred to in this Rule may also be amended by a Special Resolution of the members.

29. BY-LAWS

29.1 The Association may from time to time by resolution at a general meeting make, amend or rescind by-laws not inconsistent with these rules governing procedure at these meetings and the publication of reports. The Board may also make, amend or rescind by-laws, standing orders and regulations for the internal management of the Association.

30. SEAL

30.1 The Association shall have a common seal which shall remain in the custody of the Secretary or of the Chairperson from time to time or at such other secure location as approved by the Board and shall only be affixed to any document pursuant to a resolution of the Board and the affixing witnessed by such Board members as the Board may direct.

31. WINDING UP

31.1 If upon the winding up or dissolution of the Association and after satisfaction of all its debts and liabilities there remains any property whatsoever then such property shall not be paid or distributed among the members of the Association but shall be given or transferred to some other association having objects similar to the objects of the Association and having in its constitution a similar prohibition on the division of surplus income or assets among its members.

32. PAYMENT TO MEMBERS

32.1 No member of the Association or any person associated with a member shall participate in or materially influence any decision made by the Association in respect of the payment to, or on behalf of that member or associated person of any income, benefit or advantage whatsoever.

32.2 Any such income paid shall be reasonable and relative to that which would be paid in an arms length transaction (being the open market value). The provisions and effect of this clause shall not be removed from these Rules and shall be included and implied into any rules replacing these Rules.