

No. of Incorporation: AK435511

The Incorporated Societies Act 1908

CONSTITUTION

Dated 16 August 2006 as amended 27 August 2009 and 14 June 2011

**THE RETIREMENT VILLAGES ASSOCIATION
OF NEW ZEALAND INCORPORATED**



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of

THE RETIREMENT VILLAGES ASSOCIATION OF NEW ZEALAND INCORPORATED

1 INTERPRETATION AND DEFINITIONS

1.1 In these Rules:

“Accredited Member” means a Member as set out in clause 9.1.1.

“Accredited Member’s Representative” means the individual appointed by an Accredited Member in accordance with these Rules to exercise the rights of that Accredited Member at a meeting.

“Accredited Retirement Village” means a Retirement Village approved as such by the Executive in accordance with such criteria as the Executive may determine from time to time.

“Associate Member” means a Member as set out in clause 9.1.3.

“Association” means The Retirement Villages Association of New Zealand Incorporated.

“Code of Practice” means the Association’s code of practice as set by the Executive in accordance with clause 7.1.4.

“Disciplinary Authority” means that entity constituted by clause 13.

“Executive” means the body of persons elected to the Executive as set out in clause 6.1.

“Executive Director” means the person appointed to hold the position of executive director of the Association pursuant to clause 4.1.3.

“Executive Member” means any Member of the Executive elected or appointed in accordance with clause 6.

“Financial Year” means the period from 1 April in one year to 31 March in the following year.

“Industry” means the industry of Retirement Village planning, construction, marketing and administration, operation and all associated activities.

“Law” includes common or customary law and any statute, legislation, regulation or other legislative measure affecting the Industry from time to time.

“Legislative Code” means any code of practice or conduct applicable to Retirement Villages or the Industry or regulating the activities of and setting compliance standards for Operators, which is promulgated pursuant to the Retirement Villages Act 2003 or any other Law from time to time.

“Member” and “Members” means a Member of the Association in accordance with these Rules and includes Accredited Members, Associate Members, Provisional Members and Life Members.

“New Zealand Stock Exchange” means the registered securities trading exchange, incorporated as NZX Limited, or its successor.

“Operator” means an individual, partnership, company, body corporate, trust or other legal entity which is or will be principally liable to fulfill all or any of the obligations to Residents in that Retirement Village.

“President” means the person for the time being holding the office of president of the Association pursuant to the Rules.

“Provisional Member” means a Member as set out in clause 9.1.2.

“Registered Office” means the registered office of the Association set up in accordance with clause 19.

“Resident” and “Residents” means a person or persons entitled to occupy residential premises in a Retirement Village.

“Retirement Village” means a Resident funded complex capable of accreditation with the Association that is run by an Operator (which may be an Operator in respect of other Retirement Villages) where mature aged persons purchase, subscribe for or otherwise acquire the right to accommodation (whether by way of proprietary interest in land or otherwise) which may be associated with a right to care and support services and includes a right to share community facilities (if any) and any similar arrangement or scheme, whether run as a profit or non-profit village.

“Rules” means this Constitution of the Association as amended from time to time.

“Serviced Apartments” means a dwelling that may or may not be independent but whose residents receive care and support services and assistance (e.g. meals and cleaning) and are therefore semi or fully dependent.

“Standards” means the standards of the Association as set by the Executive in accordance with clause 7.1.4 from time to time.

“Unit” means an independent dwelling either stand alone or grouped together for Residents which has all services commensurate with independent living (eg. kitchen, bathroom, bedroom, laundry and lounge) and includes apartments, and Serviced Apartments.

“Vice President” means the person for the time being holding the office of vice president of the Association pursuant to the Rules.

“Working Day” means a day other than a Saturday, Sunday or statutory holiday in Wellington, New Zealand. A Working Day shall be deemed to commence at 8.30am and end at 5.00pm.

1.2 In these Rules unless the context otherwise requires:

- 1.2.1 These Rules include any schedules and annexures to these Rules;
- 1.2.2 Reference to any party includes that party’s executors, administrators, successors and/or permitted assigns (as the case may be);
- 1.2.3 Headings, marginal notes and the table of contents (if any) are for convenience only and shall not affect interpretation;
- 1.2.4 The singular includes the plural and vice versa;
- 1.2.5 Words importing one gender include all genders and words importing persons include all bodies, associations, corporate or unincorporated and vice versa;
- 1.2.6 References to a month or year are to a calendar month or year as the case may be;
- 1.2.7 Reference to clauses, sub clauses, schedules and annexures are to the clauses, subclauses, schedules and annexures of these Rules;
- 1.2.8 Any covenant not to do anything shall also constitute an obligation not to suffer, permit, cause or assist any other person to do that thing.

2 NAME

- 2.1 The name of the Association is **THE RETIREMENT VILLAGES ASSOCIATION OF NEW ZEALAND INCORPORATED** unless and until such name is changed by resolution of the Executive.

3 OBJECTS

- 3.1 The objects for which the Association is established are as follows:
- 3.1.1 To establish, promote and maintain standards for all participants in the Industry within New Zealand;
 - 3.1.2 To provide advice and direction to all tiers of government, statutory authorities, organisations, commissions and sponsors of the Industry on design criteria, securing of Residents' tenure (by way of proprietary interest in land or otherwise) and rights, provision of appropriate care/support services to Residents, continuing management, compliance issues and all other facets of the Industry;
 - 3.1.3 To represent all Members in matters for the general benefit of the Industry;
 - 3.1.4 To promote the interests and good reputation of Members throughout New Zealand and if appropriate internationally;
 - 3.1.5 To safeguard and support the interests of the Members and others entitled to benefit from the activities of the Association and to impart information on any subject relating to the Industry as and when the Association sees fit;
 - 3.1.6 To advise and assist Members with regard to any matters, procedures, questions or other things arising and relating to the Retirement Villages and otherwise to act for the mutual benefit and advancement of Members as set out in these Rules including the recognition of the contribution to the industry of Members or other persons or legal entities;
 - 3.1.7 To establish and maintain dispute resolution processes and procedures as appropriate from time to time, to deal with the complaints, issues and any other matters raised by Residents, Operators and other interested parties from time to time;
 - 3.1.8 To establish and maintain a Disciplinary Authority on the terms set out in clause 13 or otherwise;
 - 3.1.9 To petition Parliament or any authority on any matter for the general benefit of the Industry including the suggestion of amendments to laws affecting Members' interests and to promote and/or oppose any current or proposed legislation,

regulation or requirement that in any way affects the interests of Members and to take such steps for this purpose as the Executive determines;

- 3.1.10 To communicate, advise and broadcast the opinion of the Executive to any tier of Government by letter, deputation, conference or otherwise;
- 3.1.11 To establish and accept trusts that are consistent with the objects of the Association including:
 - (a) The promotion and general welfare/care and benefit of Residents; and
 - (b) The promotion of the general interests of the Industry;
- 3.1.12 To promote the objects of the Association by way of conferences, exhibitions, classes, meetings and any other similar methods including the establishment of education programmes for the Industry, Operators and/or Retirement Villages and arranging seminars to inform Members and other interested persons of any aspects of the Industry;
- 3.1.13 To establish forums where persons with an interest in the Industry can meet to discuss and exchange ideas for the general benefit of Members and/or the Industry;
- 3.1.14 To establish and/or promote business opportunities such as insurance and funding schemes for the benefit of Residents and Members;
- 3.1.15 To foster the free exchange of ideas and co-operation between Members;
- 3.1.16 To improve the conditions of the Industry in every proper and lawful manner;
- 3.1.17 To accept affiliation with any association having like interests as determined by the Executive;
- 3.1.18 To collect, assimilate and record information on the Industry and where appropriate to print, circulate and publish papers, articles, books, magazines, circulars by print and by way of electronic media;
- 3.1.19 To do all such lawful and proper acts and things as are incidental to or conducive to the achievement or attainment of the above objects of the Association.

4 POWERS OF ASSOCIATION

- 4.1 Subject to the provisions of clause 5, the Association may exercise such powers and do all such lawful and proper acts as are incidental to or conducive to the achievement or attainment of the objects of the Association set out in clause 3, including, but without

limiting the forgoing general power, the following specific powers, but only in the furtherance of its objects as set out in clause 3:

- 4.1.1 To purchase, to take on lease or by exchange, hire or otherwise acquire, any real or personal property and any rights or privileges that the Association thinks necessary or expedient for the purpose of attaining any of the objects of the Association or promoting the interests of the Association or its Members and to sell, exchange, let, bail or lease with or without option of purchase or in any manner dispose of the Association's property rights or privileges;
- 4.1.2 To use the funds of the Association as the Association or the Executive considers necessary, expedient or proper in payment of the costs and expenses in furthering or carrying out the objects of the Association including the employment of solicitors, auditors, officers, agents, consultants and employees;
- 4.1.3 To employ all employees and other persons as may be required for the purposes of the Association and to appoint a person to the position of Executive Director (who need not be an Executive Member) with such duties as may be prescribed by the Executive from time to time;
- 4.1.4 To delegate jobs, offices and powers to any Member or Executive Member for the purposes of carrying out the objects of the Association;
- 4.1.5 To collect and receive from the Members application fees and other subscriptions or fees that are determined from time to time by the Association or by the Executive;
- 4.1.6 To work in the best interests of the Association, in good faith and within the mandate of the Association;
- 4.1.7 To promote the objects of the Association both nationally and internationally and to form, acquire, promote or affiliate with any other organisation or body having objects similar to the objects of the Association;
- 4.1.8 To draw up or make, and from time to time supplement, repeal or vary any by-laws, regulations or these Rules for regulating the business affairs of the Association (as long as not inconsistent with the Incorporated Societies Act 1908);
- 4.1.9 To pay any expenses or fees incurred in connection with the formation, promotion and further development of the Association, or to contract with any person, firm or company to pay the same as and when requested;

- 4.1.10 To enter into contractual business relationships with other companies, consultants, associations, insurers, government departments or agencies or any other person;
- 4.1.11 To borrow or raise money from time to time, by the issue of debentures, bonds, mortgages or any other security based on all or any of the property and/or rights of the Association and either with or without security. The borrowing may be upon such terms as to priority and otherwise as the Association thinks fit (however this power shall only be exercised pursuant to a resolution of the Association passed at a general meeting);
- 4.1.12 To take out indemnity insurance for members of the Executive for such cover and on such terms as the Executive thinks fit and arrange for the reasonable cost of premiums to be paid by the Association;
- 4.1.13 To make any and all arrangements considered by the Executive as appropriate to advance the interests of the Association and its members from time to time including, but without limitation, to negotiate bulk buying opportunities and similar benefits for members.

5 PROVISOS TO POWER

- 5.1 Where the Association takes or holds any property that is subject to any trust, the Association shall, in dealing with the property have full regard to, and comply with, the terms of such trust and any other relevant or applicable law.
- 5.2 Nothing in these Rules shall prevent the Association paying in good faith:
 - 5.2.1 reasonable and proper remuneration to any Member or Executive Member of the Association for any services rendered to the Association at the discretion of the Executive;
 - 5.2.2 interest on money lent to the Association by any Member, Executive Member or the Executive;
 - 5.2.3 reasonable and proper rent for premises, which may be demised or let by a Member or Executive Member to the Association;
 - 5.2.4 out-of-pocket expenses of any Executive Member.

6 EXECUTIVE

- 6.1 At every annual general meeting, the Accredited Members shall elect, from the persons nominated in accordance with clause 6.2, an Executive comprising not less than five and not more than ten persons to conduct and manage the business and affairs of the

Association. The Executive shall then elect from among themselves a President and Vice President and any other officers as it sees fit.

- 6.2 Any Accredited Member may nominate a person to stand for election to the Executive by written notice to the Executive Director not less than 21 days before the annual general meeting at which the election shall take place. The notice of nomination must set out the key biographical details of the nominee, including his or her Industry expertise (if any).
- 6.3 The Executive Director shall ensure that details of those persons nominated for election to the Executive pursuant to clause 6.2 are provided to Members prior to the relevant meeting.
- 6.4 In addition to the elected Executive Members, the immediate past President shall hold office as an Executive Member immediately after his or her retirement from the office of President (unless he or she declines to hold such office). The immediate past President shall have all rights and obligations of Executive Members (including the right to vote at meetings of the Executive) and shall be subject to the same requirements and conditions in respect of his or her term of office as other Executive Members except for the requirement to be elected.
- 6.5 Where a new immediate past President:
 - 6.5.1 is deemed to be appointed as an Executive Member in accordance with clause 6.4 and does not decline that appointment, the appointment of the person then holding the position of Executive Member in accordance with clause 6.4 is contemporaneously terminated.
 - 6.5.2 declines to be appointed as Executive Member in accordance with clause 6.4, the incumbent past President may continue to hold the office of Executive Member.
- 6.6 The position of immediate past President will remain vacant if the person holding that position chooses to retire or otherwise ceases to be an Executive Member during his or her term of office.
- 6.7 Subject to clause 6.8, an Executive Member shall hold office for one year, after which the Executive Member shall retire from office but shall be eligible for re-election.
- 6.8 An Executive Member's appointment to the Executive may be terminated as follows:
 - 6.8.1 if the Executive Member is not re-elected at an annual general meeting;
 - 6.8.2 by removal from office pursuant to a special resolution at a general meeting;

- 6.8.3 upon the death or other incapacity of the Executive Member;
 - 6.8.4 if an Executive Member becomes bankrupt or makes any arrangement for the composition of his or her creditors;
 - 6.8.5 if the Executive Member becomes mentally ill or whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - 6.8.6 if the Executive Member resigns his or her office by notice in writing to the Association;
 - 6.8.7 if the Executive Member is absent without leave from all meetings of the Executive held within a six month period.
- 6.9 The Executive shall have power to appoint any person to fill any casual vacancy on the Executive until the next annual general meeting and any person so appointed shall:
- 6.9.1 be entitled to vote; and
 - 6.9.2 retire at the next annual general meeting but at that meeting shall be eligible for re-election.
- 6.10 The Executive shall have power to appoint any relevant person or professional (for example secretary, lawyer, accountant, auditor or consultant) to the Executive in addition to the Executive Members until the next annual general meeting but such person shall not be entitled to vote on Executive business.
- 6.11 The Executive may appoint such sub-committees to consider and attend to such business of the Executive or the Association as it sees fit and may determine the terms of reference and rules of procedure and conduct of any such sub-committee from time to time in its absolute discretion.
- 6.12 If any case, circumstance or matter should arise which in the opinion of the Executive is not provided for in these Rules it shall be decided by the Executive whose decision shall be final.

7 DUTIES AND RESPONSIBILITIES OF EXECUTIVE

- 7.1 The duties and responsibilities of the Executive shall include to:
- 7.1.1 conduct and manage the business and affairs of the Association in accordance with these Rules and all legislative and other requirements and to keep usual, up to date and accurate accounting and other records of the finances and business of the Association;

- 7.1.2 notify Members of intended meetings and the business to be transacted at such meetings;
 - 7.1.3 prepare and submit to the annual general meeting a report describing the activities of the Association for the preceding Financial Year and any other matters the executive determine as appropriate, and audited Statements of Financial Position and Financial Performance for the preceding Financial Year;
 - 7.1.4 prepare and update as necessary a Code of Practice and Standards of the Association as the Executive shall determine from time to time and to comment, and advise any relevant authority, on any Legislative Code, Law or proposed Law;
 - 7.1.5 require and determine compliance with and certification of the Code of Practice and Standards of the Association and any Law or Legislative Code;
 - 7.1.6 organise meetings and conferences for Members;
 - 7.1.7 administer the admission of new Members;
 - 7.1.8 carry out any of the powers of the Association as set out in clause 4 provided that such powers are consistent with the objects of the Association as set out in clause 3;
 - 7.1.9 ensure compliance with these Rules;
 - 7.1.10 protect (insofar as reasonably practicable) the interests of the Association as a whole and the interests of the Members;
 - 7.1.11 generally to administer complaints and refer appropriate matters to the Disciplinary Authority in accordance with clause 13 and;
 - 7.1.12 determine subscription fees and their manner of payment;
 - 7.1.13 determine any benefits to be provided to Members or a particular class of Members.
- 7.2 The Executive may levy Members for any amounts, in such proportions as it sees fit, for the cost of any special objectives to be lawfully carried out by the Association, provided that the levy is approved by special resolution at any general meeting. In the event of any levy not being paid then the powers available to the Executive in respect of unpaid subscriptions contained in clauses 11.5 and 12.3.2 shall apply.

7.3 The Executive Members shall not be personally liable for any action or inaction and shall be indemnified by the Association against any losses or damages incurred in carrying out their role as Executive Member provided that the Executive Member has:

7.3.1 acted at all times in good faith and not dishonestly;

7.3.2 not deliberately acted outside the instructions or authority given to that Executive Member.

For the above purposes, the Association shall arrange for Executive Members to be insured in accordance with the provisions of the Incorporated Societies Act 1908.

8 MEETINGS OF THE EXECUTIVE

8.1 Meetings of the Executive may be convened by notice at the times and places and in the manner that the President, or in the case of his or her absence or inability to act, the Vice President may appoint or determine. Meetings may be held by means of audio or audio-visual communication by which all participating Executive Members can simultaneously hear each other throughout the meeting.

8.2 At the request of three Executive Members, the President or Vice President shall summon a meeting of the Executive.

8.3 A quorum for a meeting of the Executive shall be a majority of Executive Members, provided that such majority comprises not less than four Executive Members.

8.4 Resolutions of the Executive shall be decided by a majority of votes of those present, each Executive Member having one vote only. If on any resolution there is no majority in favour of passing the resolution, the resolution shall not pass, and for the avoidance of doubt no person shall have a casting vote even in such circumstances.

8.5 A resolution in writing (whether by electronic or other means) by each member of the Executive entitled to vote on any resolution, shall be as valid and effective for all purposes as any resolution passed at any meeting of the Executive. Such a resolution may comprise more than one duplicated documents or electronic records.

8.6 Minutes shall be kept of all proceedings of the Executive and minutes signed correct by the chairperson of the meeting at the succeeding meeting shall be prima facie evidence of the proceedings.

8.7 Except as provided in these Rules, a meeting of the Executive may regulate its own procedure.

9 MEMBERSHIP CATEGORIES / VOTING RIGHTS

9.1 Members shall be classified as Accredited Members, Provisional Members, Associate Members or Life Members as follows:

9.1.1 **Accredited Members:** An Accredited Member is an Operator in respect of an Accredited Retirement Village that complies with the criteria set out in clause 10.7 and that has been accepted as an Accredited Member of the Association by the Executive pursuant to these Rules. Accredited Members shall be entitled to vote in accordance with clauses 15.6 and 15.7 and shall have the right to advertise themselves as Accredited Members of the Association.

9.1.2 **Provisional Members:** A Provisional Member is an Operator in respect of a retirement village (whether or not that Operator is an Accredited Member) that complies with the criteria set out in clause 10.8 and that has been accepted as a Provisional Member of the Association by the Executive pursuant to these Rules. An appointment as a Provisional Member shall last for a period of twelve months (or for such other period as is determined by the Executive in its sole discretion). Provisional Members have no voting rights and may only advertise themselves as Provisional Members of the Association.

9.1.3 **Associate Members:** An Associate Member is a person, partnership, company, body corporate, trust or other legal entity (other than an Operator) who shares a common interest or who has knowledge or experience relevant to the Industry and who complies with the criteria set out in clause 10.8 and has been accepted as an Associate Member of the Association by the Executive pursuant to these Rules. Associate Members have no voting rights and may only advertise themselves as Associate Members of the Association.

9.1.4 **Life Members:** A life member is a person who has been nominated and approved as a life member of the Association in accordance with clause 10.9. Life Members shall have one vote at meetings of the Association and are entitled to one free registration at each of the Association's annual conferences and any other benefits determined by the Executive from time to time.

10 ADMISSION TO MEMBERSHIP

10.1 Any person who wishes to become a Member of the Association shall apply for membership to the Executive Director at the Registered Office or at such other address as may be prescribed by the Executive Director from time to time.

- 10.2 An application for membership shall be made in the form prescribed by the Executive for the applicable class of membership from time to time.
- 10.3 Any application to become an Accredited Member must also:
- 10.3.1 be made in respect of a specific nominated Accredited Retirement Village;
 - 10.3.2 disclose, and give particulars of, any known material financial interest for the purpose of clause 10.11; and
 - 10.3.3 contain an undertaking that the Operator will conform with and abide by the Code of Practice and Standards of the Association, these Rules, any Law, Legislative Code and any other relevant by-laws, rules and regulations that may from time be in force relating to the Industry from the date of admission as an Accredited Member.
- 10.4 Any application to become a Provisional Member must:
- 10.4.1 be made in respect of a specific nominated Retirement Village;
 - 10.4.2 disclose, and give particulars of, any known material financial interest for the purpose of clause 10.11; and
 - 10.4.3 contain an undertaking that the Operator will conform with and abide by the Code of Practice and Standards of the Association, these Rules, any Law, Legislative Code and any other relevant by-laws, rules and regulations that may from time be in force relating to the Industry as soon as and to the extent practicable after admission as a Provisional Member.
- 10.5 An Accredited Member must be an Accredited Member in relation to a specific Accredited Retirement Village owned by that Member. The following rules shall apply if any Accredited Member owns or acquires more than one Retirement Village:
- 10.5.1 If an Accredited Member has or acquires more than one Accredited Retirement Village the Member must be an Accredited Member in relation to each Accredited Retirement Village owned by that member.
 - 10.5.2 If an Accredited Member acquires a Retirement Village that is not accredited, that Accredited Member must take such steps as may be necessary to gain accreditation for that village and apply for that Retirement Village to become an Accredited Retirement Village. Until that Retirement Village is accepted as an Accredited Retirement Village pursuant to these Rules, the Accredited Member shall be treated as a Provisional Member in relation to that Retirement Village on the terms applicable to Provisional Membership.

- 10.6 The Executive shall have the power, if, in their absolute discretion, they consider it necessary, to transfer a Member to a class of membership other than that to which Member may originally, or at any time have been approved, appointed or transferred.
- 10.7 The Executive may admit and register any Operator as an Accredited Member in respect of an Accredited Retirement Village(s) provided that the Operator has:
 - 10.7.1 signed the correct application form for admission containing the information and undertakings set out in this clause 10;
 - 10.7.2 satisfied a majority of the Executive as to that applicant's suitability for membership (both generally and in accordance with the membership criteria set out in clause 9 or otherwise specified by the Executive from time to time); and
 - 10.7.3 paid the fees from time to time prescribed by these Rules or in accordance with the powers conferred by these Rules; and
 - 10.7.4 in the case of the nominated Accredited Retirement Village demonstrated a sufficient level of competence in the management of that nominated Accredited Retirement Village.
- 10.8 The Executive may admit and register any Provisional Member or Associate Member to the Association who has:
 - 10.8.1 signed the correct application form for admission containing the information and undertakings set out in this clause 10; and
 - 10.8.2 fulfilled any other requirements for admission specified by the Executive from time to time.
- 10.9 The Executive may admit and register any person as a Life Member to the Association who:
 - 10.9.1 has been nominated and seconded for such an admission by Accredited Members of the Association (not being the nominee);
 - 10.9.2 in the opinion of the Executive is a fit, proper and suitable candidate for admission as a Life Member; and
 - 10.9.3 meets the other requirements for admission as a Life Member specified by the Executive from time to time.
- 10.10 The determination as to whether an applicant has fulfilled the criteria for membership of any class of Member and the decisions to approve or reject the admission to the

Association of any class of Member and to designate an applicant to any class of membership (including by variation of a Member's class of membership) shall be at the sole discretion of the Executive (whose decision shall be final and binding). The Executive shall be under no obligation to give reasons for the refusal to admit any person to any class of membership.

- 10.11 Where the Executive determines that a new or existing Member is part of a group of incorporated or unincorporated entities (for example, but without limitation, partnerships, trusts, joint ventures) and/or related companies or a subsidiary of a holding company (as defined in the Companies Act 1993) or an incorporated or unincorporated entity, the Executive may, as a condition of approval of any application for membership, or as a condition of continuation of membership, require that one or more other entities (whether incorporated or unincorporated) within the group and/or the holding company or one or more other related companies (as the case may be) make an application for membership of the Association in accordance with these Rules.
- 10.12 The Executive shall send a notice of admission or readmission, refusal of admission or change of class of membership, to each person whose application for admission or change of membership has been determined or considered by the Executive.
- 10.13 Where an application for membership is approved, the Executive shall arrange for the new Member to be invoiced for the membership fee determined in accordance with clause 11.

11 FEES AND SUBSCRIPTIONS

- 11.1 Membership fees and annual subscription fees for Members for each Financial Year and the timing and manner of payment shall be determined by the Executive in its sole discretion.
- 11.2 Every person seeking admission as a Member shall pay a membership fee to the Association upon application for membership.
- 11.3 Every Member shall pay an annual subscription fee on the date and in the manner determined by the Executive.
- 11.4 The Executive may discount and/or waive annual subscription fees as it sees fit.
- 11.5 If any Member fails to pay that Member's annual subscription fee in full within sixty days of the due date for payment, the Executive may take action to recover the amount of the subscription as a debt owing to the Association together with all legal costs associated with the recovery of the debt.

12 TERMINATION OF MEMBERSHIP

- 12.1 Provided that a Member has paid its annual subscription fee, any Member may resign from membership by giving to the Executive Director notice in writing to that effect and every such notice, unless a later date is stated, shall take effect as from the date received by the Executive Director or delivered to the Registered Office.
- 12.2 Upon the termination of a Member's membership, the Member shall be removed from the Register of Members and the Executive may, in its discretion, publish a notice that the Member's membership has terminated in such publications as the Executive sees fit which shall include a newspaper circulating in the area where that Member carries on its business.
- 12.3 The Executive may terminate a Member's membership where that Member:
- 12.3.1 having paid the then current years' and all previous years' subscriptions, by notice in writing to the Association resigns its membership in accordance with clause 12.1;
 - 12.3.2 fails to pay the annual subscription fee or any other payment due to the Association within 90 days of the date appointed for payment of that amount, and where the termination is approved by the Executive;
 - 12.3.3 fails to comply with the time frames set down by clause 12.4 of these Rules;
 - 12.3.4 fails to comply with any order or determination of the Disciplinary Authority;
 - 12.3.5 is convicted of any indictable offence;
 - 12.3.6 is adjudicated bankrupt;
 - 12.3.7 makes a compromise with its creditors;
 - 12.3.8 is wound up or passes an effective resolution for the winding up or dissolution of the Member or an order of the court is passed for the winding up or dissolution of the Member; or
 - 12.3.9 is a company or body corporate and a receiver or liquidator is appointed in respect of the whole or any part of its assets.
- 12.4 Where, in the sole opinion of the Executive, a Member fails to comply with any provisions of the Code of Practice and Standards of the Association, these Rules, any Law, Legislative Code and any other relevant by-laws, rules and regulations that may from time be in force relating to the Industry, fails to act in a manner which is consistent with well established and recognised Industry "best practice" (as determined by the Executive

from time to time) or the Member has acted in a manner which has, or is likely to, bring the Industry into disrepute, the Executive may advise that Member by notice in writing of its opinion in this regard and:

12.4.1 invite such Member to comply with the notice within one month from the date of that notice; and/or

12.4.2 submit the matter to the Disciplinary Authority for final determination pursuant to clause 13.

12.5 Termination of membership shall not release any Member from any liability to the Association arising prior to the date of termination nor affect the Member's obligations under these Rules including the disciplinary provisions.

13 DISCIPLINARY AUTHORITY

13.1 The Association shall establish, maintain and administer a Disciplinary Authority, whose constitution, jurisdiction and proceedings shall be governed and regulated by these Rules.

13.2 The Disciplinary Authority shall make decisions on matters referred to it by the Executive under clause 12.4.2 and on complaints received by the Executive from the Association's auditing agency, members of the public, Residents, other Members of the Association and any other person from time to time, and then referred to it by the Executive in accordance with clause 13.4.

13.3 The Disciplinary Authority shall have jurisdiction in respect of:

13.3.1 any failure of a Member to comply with the Code of Practice and Standards of the Association, these Rules, any Law, Legislative Code and any other relevant by-laws, rules and regulations that may from time be in force relating to the Industry; or

13.3.2 any failure of a Member to act in a manner which in the opinion of the Executive is consistent with well established and recognised Industry "best practice" (as determined by the Executive from time to time); or

13.3.3 if, in the opinion of the Executive, the Member has acted in a manner which has, or is likely to, bring the Industry into disrepute.

13.4 Complaints will be referred to the Disciplinary Authority in the following manner:

13.4.1 a complaint is made about the Member to the Association by the Association's auditing agency, a member or members of the public, Residents, other Members of the Association and any other person;

- 13.4.2 the Executive Director notes the substance of the complaint and refers it to the Complaints Committee of the Executive for consideration;
 - 13.4.3 upon examination of the complaint, the Complaints Committee may, having regard to the nature and substance of the complaint and any other matters it considers relevant, recommend to the Executive that the matter be referred to the Disciplinary Authority for consideration;
 - 13.4.4 the Executive shall then consider such recommendation and determine whether the matter should be referred to the Disciplinary Authority and if so, make such referral;
 - 13.4.5 on receipt of a referral from the Executive, the Disciplinary Authority will consider the complaint, make a determination in due course and impose such of the sanctions available to it as referred to in clause 13.9 as it considers appropriate in all the circumstances.
 - 13.4.6 The Disciplinary Authority's determination and the sanctions imposed (if any) shall be conveyed to the Executive, which shall be tasked with enforcement of such sanctions.
- 13.5 The Disciplinary Authority for a particular matter shall comprise:
- 13.5.1 an independent chairperson appointed by the Executive (such person being a person who holds or has held a practising certificate as a Solicitor and/or Barrister of the High Court of New Zealand for a period of not less than 7 years); and
 - 13.5.2 two persons selected by the independent chairperson from the Disciplinary Authority pool of persons selected pursuant to clause 13.6.
- 13.6 The Disciplinary Authority pool shall comprise six to eight persons selected by the Executive in accordance with its selection policy as adopted from time to time.
- 13.7 In selecting two persons from the pool pursuant to clause 13.5.2 the independent chairperson shall have regard to such matters as he or she determines relevant in the circumstances and shall be on such terms as he or she determines in each case but, in particular, shall have regard to the possibility of conflicts of interest arising from the particular circumstances of each complaint or matter.
- 13.8 The Disciplinary Authority shall conduct its affairs in private and shall follow the rules of natural justice. All parties before the Disciplinary Authority shall have the right to either legal representation or alternatively one support person. The Disciplinary Authority may otherwise conduct its affairs entirely as it sees fit.

13.9 Decisions of the Disciplinary Authority shall be by majority.

13.10 The Disciplinary Authority shall, without limitation, have jurisdiction to make such orders, recommendations or requests relating to any action or inaction (including ceasing any action) by any Member in respect of any matter, dispute or complaint referred to the Disciplinary Authority by the Executive as it determines appropriate in its absolute discretion.

13.11 The Disciplinary Authority may order at its discretion, any or all of the following sanctions:

13.11.1 suspension or termination of a Member's membership of the Association;

13.11.2 a re-audit of the Member against the Code of Practice and/or Standards;

13.11.3 a fine or censure of the Member, provided that such fine shall not exceed \$15,000 plus GST if any; and/or

13.11.4 an order for costs not exceeding \$15,000 plus GST if any (in addition to any fine),

or may dismiss the complaint.

13.12 In making any order, recommendation or request under clauses 13.10 or 13.11 the Disciplinary Authority shall have regard to the effect of the order, recommendation or request on the Residents of the Retirement Village which is the subject of the order, recommendation or request and such other matters as the Disciplinary Authority may, from time to time, be obliged to take into account whether under any Code of Practice, Law, Legislative Code or otherwise.

13.13 Members of the Association acknowledge and agree that:

13.13.1 Any order of the Disciplinary Authority shall be final and binding on the Executive and Members and no appeal shall lie from the Disciplinary Authority to any court of law or other forum except on a point of law;

13.13.2 An order directing the payment of a fine or costs against a Member is deemed and accepted as an acknowledgement of debt by that Member and may be recovered as such;

13.13.3 An order directing a Member to carry out or cease certain actions shall be deemed to be and accepted as an acknowledgement by that Member that it can and will perform or refrain from those actions.

- 13.14 A dismissed Member may apply to the Executive for reinstatement. The Executive will refer any such application to the Disciplinary Authority for consideration. The Disciplinary Authority may in its sole discretion decide whether or not the dismissed Member shall be reinstated. Any order for reinstatement may include such conditions as the Disciplinary Authority determines including, without limitation, a requirement that the Member pays such costs for reinstatement as the Disciplinary Authority determines.
- 13.15 All decisions of the Disciplinary Authority shall be made publicly available although the Disciplinary Authority will, on receipt of a written request to do so from a Member or other interested party, suppress identifying information if it considers that it is appropriate in all the circumstances to do so.
- 13.16 The Association shall pay the members of the Disciplinary Authority appropriate remuneration as determined by the Executive for their services pursuant to this clause and shall reimburse members of the Disciplinary Authority for any out of pocket expenses reasonably incurred by them in performing their duties under this clause.

14 GENERAL MEETINGS

- 14.1 The Association shall hold an annual general meeting and such meeting shall be held at a date, time and place to be fixed by the Executive but no later than five months following the end of each Financial Year.
- 14.2 The annual general meeting shall be held for the following purposes:
- 14.2.1 to receive from the Executive an annual report, balance sheet and audited financial statements for the preceding Financial Year and an estimate of the receipts and expenditure of the current Financial Year;
 - 14.2.2 to elect auditors for the next Financial Year;
 - 14.2.3 to fill vacancies in the Executive and to re-elect Executive Members who make themselves eligible for re-election;
 - 14.2.4 to consider any business of which notice has been given in accordance with clause 14.5.
- 14.3 All general meetings of the Association other than annual general meetings shall be called special general meetings. Special general meetings may be called by the Executive or on the written request of Accredited Members of the Association entitled to not less than one-third of the votes of the current Members of the Association. No business may be considered at a special general meeting other than any business in respect of which notice has been given in accordance with clause 14.6.

- 14.4 Any current legal or financial advisers of the Association are entitled to attend and speak at all general meetings.
- 14.5 At least 14 days notice of the business to be transacted at an annual general meeting and the date, time and place of the meeting shall be given to each Member. A copy of the annual report and the audited Statements of Financial Position and Financial Performance of the Association are to be provided to each Member within a reasonable time prior to the annual general meeting.
- 14.6 At least 14 days notice of the business to be transacted at a special general meeting and the date, time and place of the meeting shall be given to each Member.
- 14.7 Any irregularity in a notice of a meeting is waived if all Members entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity or if all Members agree to the waiver.
- 14.8 The accidental omission to give notice of a meeting to any person or the failure to receive notice of a meeting by any person does not invalidate the proceedings at that meeting.

15 PROCEEDINGS AT GENERAL MEETINGS

- 15.1 The President shall chair all general meetings of the Association. However, if the President is not present at any general meeting within 15 minutes of the time appointed for the commencement of the meeting, then the Vice President or such other person as is appointed by the Executive shall chair the meeting. In the absence of an Executive Member, the Accredited Members present in person or by Accredited Member's Representative may choose one of their number to be chairperson of the meeting.
- 15.2 No business may be transacted at a general meeting if a quorum is not present at the time when the meeting proceeds to business.
- 15.3 A quorum is present at any meeting if there are in attendance 10 Accredited Members (either in person or by Accredited Member's Representatives) who, in aggregate, represent not less than 15% of the total number of the Accredited Retirement Villages.
- 15.4 If a quorum is not present within 30 minutes after the time appointed for the meeting the meeting shall be adjourned to the day 14 days following that date at the same time and place. If at the end of the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Accredited Members present (in person or by Accredited Member's Representative) shall be a quorum provided that 5 Accredited Members are present (in person or by Accredited Member's Representative) in aggregate representing not less than 5% of the total number of Accredited Retirement Villages and, if not, the meeting shall be dissolved.

- 15.5 Subject to clause 15.9, resolutions of the Association at general meetings shall be decided by a simple majority of votes of those Accredited Members:
 - 15.5.1 present at the meeting in person or by Accredited Member's Representative;
 - 15.5.2 that have paid all fees and subscriptions up to date; and
 - 15.5.3 that have registered the name of their Accredited Member's Representative (if any) with the Executive Director of the Association at least 48 hours prior to the meeting as referred to in clause 15.21.
- 15.6 On any ballot or poll, the number of votes of each Accredited Member shall be based on the number of completed Units existing in each Accredited Retirement Village:
 - 15.6.1 owned by any newly admitted Accredited Member at the time of admission to the Association; or
 - 15.6.2 owned by any Accredited Member at the commencement of the Financial Year in which the vote takes place.
- 15.7 On any ballot or poll, numbers of votes shall be determined by reference to each Accredited Retirement Village falling within clause 15.6 and shall be allocated as follows:
 - 15.7.1 an Accredited Member shall have one vote for each Accredited Retirement Village which has up to and including 99 Units;
 - 15.7.2 an Accredited Member shall have two votes for each Accredited Retirement Village which has 100 Units or more.
- 15.8 A special resolution shall be a resolution passed by a majority of three-quarters of the votes of those Accredited Members:
 - 15.8.1 present at the meeting, (in person or by Accredited Member's Representative);
 - 15.8.2 that have paid all fees and subscriptions up to date; and
 - 15.8.3 that have registered the name of their Accredited Member's Representative with the Executive Director of the Association at least 48 hours prior to the meeting as referred to in clause 15.21.
- 15.9 The following matters shall be decided by special resolution at a general meeting:
 - 15.9.1 any alteration to these Rules as set out in clause 18.1;
 - 15.9.2 any borrowing by the Association;

- 15.9.3 removal of any Executive Member from office as set out in clause 6.8.2;
 - 15.9.4 approval of a levy as set out in clause 7.2
 - 15.9.5 the winding up of the Association as set out in clause 21.1.
- 15.10 In the case of a general meeting, unless a poll is demanded, voting at the general meeting shall be by ballot unless the Accredited Members present (in person or by Accredited Member's Representative) vote in favour of voting by show of hands. On a show of hands each Accredited Member's Representative shall have one vote.
- 15.11 A declaration by the chairperson that a resolution is carried by the requisite majority is conclusive evidence of that fact, unless a poll is demanded in accordance with clause 15.13.
- 15.12 In the case of an equality of votes, the chairperson of a general meeting shall not be entitled to a second or casting vote.
- 15.13 At a general meeting a poll may be demanded by:
- 15.13.1 The chairperson; or
 - 15.13.2 Accredited Members who:
 - (a) are present at the meeting, (in person or by Accredited Member's Representative);
 - (b) have paid all fees and subscriptions up to date; and
 - (c) have registered the name of their Accredited Member's Representative with the Executive Director of the Association at least 48 hours prior to the meeting as referred to in clause 15.21,
- and together represent not less than 30% of the total voting rights of Accredited Members having the right to vote at the meeting.
- 15.14 A poll may be demanded either before or after the vote is taken on a resolution.
- 15.15 The demand for a poll may be withdrawn.
- 15.16 If a poll is duly demanded it shall be taken in the manner that the chairperson directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 15.17 The poll demanded on the election of a chairperson or on the question of the adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at that meeting at such time as the chairperson or other chairperson of the

meeting directs and any business other than that upon which a poll has been demanded may be proceeded with pending taking of the poll.

- 15.18 For the purposes of this clause 15, the instrument appointing an Accredited Member's Representative to vote for an Accredited Member at a meeting confers authority to demand or join in demanding a poll and a demand by a person appointed by an Accredited Member in accordance with this clause 15 has the same effect as a demand by the Accredited Member.
- 15.19 An Accredited Member's Representative is entitled to attend and be heard at a meeting as if the Accredited Member's Representative were the Accredited Member.
- 15.20 Each Accredited Member may appoint an Accredited Member's Representative in respect of each of that Accredited Member's Accredited Retirement Villages. An Accredited Member's Representative may be appointed in respect of one or more Accredited Retirement Villages.
- 15.21 No appointment of an Accredited Member's Representative is effective in relation to a meeting unless a copy of the notice of appointment is delivered to the Executive Director at least 48 hours prior to the start of the meeting.
- 15.22 The notice appointing an Accredited Member's Representative must be in or substantially in the form set out in the First Schedule, state whether the appointment is for a particular meeting or a continuing appointment and identify the Accredited Retirement Villages for which it is made.
- 15.23 Except as provided in these Rules, any meeting may regulate its own procedure.
- 15.24 The Executive must ensure that minutes are kept of all proceedings at meetings and kept at the Registered Office. Minutes which have been signed correct by the chairperson of a meeting are prima facie evidence of the proceedings.

16 POSTAL OR ELECTRONIC BALLOTS

- 16.1 Any resolution or special resolution of Accredited Members able to be passed at a meeting may instead be passed by postal or electronic ballot (a ballot) conducted in accordance with these Rules.
- 16.2 The Executive may determine that any resolution or special resolution be put to Accredited Members by way of ballot and, if so, the Executive is to be responsible for conducting the ballot, for supervising the conduct of each ballot and for determining whether the votes have been properly cast.

- 16.3 The ballot paper for, and other papers relating to, any ballot are to be in the form determined by the Executive from time to time, but in each case must:
- 16.3.1 specify the resolution proposed to be put for the consideration of Accredited Members;
 - 16.3.2 include an explanatory memorandum, setting out the general effect of the resolution; and
 - 16.3.3 state the time and date on which the ballot is to close.
- 16.4 On any ballot numbers of votes for each Accredited Member shall be determined in accordance with Rules 15.6 and 15.7.
- 16.5 The accidental omission to forward papers relating to a ballot to any Accredited Member entitled to vote shall not invalidate that ballot.
- 16.6 The Executive shall ensure that the Executive Director shall, as soon as reasonably practicable after the counting of the votes in any ballot, advise Members of the result of the ballot.
- 16.7 The result of any ballot shall be as effective and binding on Members as a resolution passed at a meeting.

17 ADMINISTRATION

- 17.1 All membership fees and subscription fees and other levies shall be paid into the Association general account set up by the Executive for the purpose of receiving the fees and paying any administration expenses.
- 17.2 All cheques or withdrawal slips, automatic payments or internet or telephone banking transactions drawn on the Association bank account shall be either:
- 17.2.1 signed or authorised by the Executive Director and counter-signed or counter-authorised (as the case may be) by any member of the Executive nominated by the Executive from time to time: or
 - 17.2.2 signed by any two Members as determined by the Executive from time to time.
- 17.3 The common seal of the Association shall be kept by the President who shall be responsible for its safe custody and control.
- 17.4 Whenever the common seal of the Association is required to be affixed to any deed, document, writing or other instrument, the seal shall be affixed pursuant to a resolution of the Executive of the Association by the President and any one other Member of the

Executive authorised to affix the seal, and the persons who affix the seal shall at the same time sign the document to which the seal is affixed.

18 ALTERATION OF RULES

These Rules may be altered, rescinded, or substituted either wholly or in part (such process generally being called alteration) by resolution passed by a special resolution of the Accredited Members.

19 REGISTERED OFFICE

19.1 The Registered Office of the Association shall be situated at such place as is decided by the Executive.

19.2 Notice of every change of situation of the Registered Office shall be duly sent to the Registrar of Incorporated Societies.

20 QUESTIONS ARISING

20.1 If at any time any matter should arise that is not provided for in these Rules or in any of the rules and regulations of the Association or in the case of any doubt as to their interpretation, the matter shall (subject to the Code of Practice and Standards of the Association, by-laws, rules or regulations that may be in existence at that time) be determined by the Executive whose decision shall be final.

21 WINDING UP

21.1 The Association may be wound up following a special resolution. The Association shall be wound up in accordance with the Incorporated Societies Act 1908.

21.2 In the event of the Association being wound up, after payment of the Association's liabilities and the expenses of winding up, the surplus assets (if any) shall be divided equally between the Accredited Members.

22 INSURANCE

22.1 In addition to the insurance of Executive Members arranged pursuant to clause 7.3, the Association may insure any person holding any office with the Association or employee (including managers) against liability for acts, omissions and or costs incurred in connection with the Association on terms that it sees fit and in accordance with the provisions of the Incorporated Societies Act 1908.

23 NOTICES

- 23.1 A notice may be served on any Member, Executive Member, or the Executive Director personally:
- 23.1.1 if the recipient is a company by posting it in a prepaid envelope or package addressed to the recipient at its registered office or by delivery to the registered office of the recipient; or
 - 23.1.2 if the recipient is a natural person by posting it in a prepaid envelope or package addressed to the recipient at his or her last known address; or
 - 23.1.3 by delivery to a document exchange; or
 - 23.1.4 by facsimile to the facsimile telephone number of the recipient at the most recent facsimile telephone number advised to the Association by the recipient from time to time.
 - 23.1.5 by email to the email address of the recipient at the most recent email address advised to the Association by the recipient from time to time.
- 23.2 A notice sent by post or delivered to a document exchange shall be deemed to have been served:
- 23.2.1 in the case of a person whose last known address is in New Zealand or a company whose registered office is in New Zealand at the expiration of forty eight (48) hours after the envelope or package containing the notice was duly posted or delivered in New Zealand;
 - 23.2.2 in the case of a person whose last known address is outside New Zealand or a company whose registered office is outside New Zealand at the expiration of five (5) Working Days after the envelope or package containing the notice was duly posted in New Zealand.
- 23.3 A notice served by facsimile (provided the sending facsimile machine produces a printout of the time, date and uninterrupted transmission of the message) shall be deemed to have been served at the time of completion of transmission.
- 23.4 A notice served by email (provided the sending computer does not produce a message stating that such email was undelivered or undeliverable) shall be deemed to have been served at the time of completion of transmission.
- 23.5 In proving service by delivery or post or to a document exchange it shall be sufficient to prove that the envelope or package containing the notice was properly addressed and posted or delivered with all attached postal or delivery charges paid. In proving service

by facsimile, it shall be sufficient to prove that the document was properly addressed, sent by facsimile and that the sending machine has produced a printout of the time, date and uninterrupted transmission of the message. In proving service by email, it shall be sufficient to prove that the document was properly addressed, sent by email and that the sending computer registered transmission of the message without any corresponding error message being received.

FIRST SCHEDULE

Form of Appointment

APPOINTMENT OF ACCREDITED MEMBER'S REPRESENTATIVE

(Name of Accredited Member)

Hereby appoints _____ *(Name of Accredited Member's Representative)*

as its nominee (or failing him/her) _____ *(Name of substitute)*

to represent _____ *(Name of Accredited Member)*

in respect of the Accredited Retirement Villages listed below:

(Delete one)

at the meeting of the Association to be held on the [] day
of [] and any adjournment thereof;

at all meetings of the Association until further written notice.

Signed _____ 200

Director/Individual

Director

Name of Approved Retirement Village(s)

[]

Note: This form has to be with the Executive Director at least 48 hours before any meeting at which it is to be operative.