

## **Constitution – NZRise**

### **1. NAME**

The Society shall be known as: NZRise Incorporated.

### **2. OBJECTS**

NZRise Incorporated ("the Society") is a non-profit common interest Society to increase the size, effectiveness, profile, and skill-base of the New Zealand-owned Information Technology (IT) industry. The Society's objects are:

2.1 To promote awareness of the importance of the IT industry to New Zealand's economy and society

2.2 To significantly increase the contributions the sector makes to NZ economic wealth and in particular exports

2.3 To encourage New Zealanders and New Zealand residents to consider employment in indigenous IT companies

2.4 To build the skills and capabilities of New Zealand people make better use of IT and to suit them for a career in IT

2.5 To offer advice to government about policies which can benefit New Zealand people's access to and employment in New Zealand IT businesses and thereby promote the economic and social well-being of New Zealand

2.6 To encourage entrepreneurial behaviour in IT by New Zealand people

2.7 To liaise with other organisations and the general public for coordination, collaboration, and education in effecting the above objects.

### **3. MEMBERSHIP**

3.1 The Society shall have members.

3.2 Any company, incorporated society or other lawful organisation may apply to become a member, provided that its primary objects involve using or developing IT materials, and that it is majority owned in New Zealand.

3.3 Application for membership shall be made to the Board in writing or in such electronic form as the Board shall decide. Every application for membership shall be accompanied by payment of the appropriate subscription, and a membership becomes active upon receipt by the Society of the membership subscription and the acceptance of the application by the Board, whichever is later.

3.4 Members must agree to abide by the rules of the Society, including this constitution and any by-laws passed by the Board.

3.5 Members may hold only one membership in the Society. Companies which are related companies (as defined by the Companies legislation in force at the time) may only have one membership between them.

3.6 If a Member is acquired or has other significant change of ownership or has a significant change of its objects it must notify the Society forthwith.

3.7 Each member carries the right of one vote in General Meetings of the Society.

3.8 Each member shall nominate a contact person to the Society, and shall provide a working email address and a postal address for that person. These will be the Member's formal contract addresses for the Society. It is a Member's obligation to ensure that any change in the contact person or their email address e-mail address will be notified to the Society immediately. In case of e-mail failure, the Board shall have the discretion and authority to use other means of communication so that a Member is not prevented from participation or voting.

3.9 The Society shall be entitled to consider a communication from the contact person to represent views of the Member.

#### 4. TERMINATION OF MEMBERSHIP

4.1 A member may resign its membership. A Member wishing to resign from the Society must give notice of resignation to the office in writing or in such electronic form as the Board shall decide. All membership rights will terminate on receipt by the Society of the written resignation. No refund of subscriptions will be given.

4.2 Membership of the Society may be terminated by the Society under the following circumstances:

4.2.1 If a member's actions are in serious conflict with the rules or objects of the Society, the Board is empowered to terminate the membership of that member. Any termination of membership pursuant to this section must follow the process laid out in Schedule 1.

4.2.2 If a member's ownership or business objects change so that it is no longer qualified for membership of the Society in the opinion of the Board, its membership will be terminated.

4.2.3 If a member is wound up, enter liquidation or receivership or is subject to statutory management its membership will be terminated.

#### 5. TERM OF MEMBERSHIP

5.1 The membership year for all classes of membership is 1 April until 31 March. Persons joining the Society after 1 January but before 1 April will be granted a full year's membership from 1 April, as well as whatever term of membership occurs before the 1 April membership anniversary.

5.2 During the period covered by the subscription the Member is a financial Member.

5.3 Members will ordinarily be invoiced for the year, in advance, with a due date of 1 April (the "due date") which is the start of the membership year.

5.4 Failure to pay a subscription by the due date will cause the Member to become non-financial and lose all membership rights in the Society (including, but not limited to, standing for elected office, voting, nominating, seconding and petitioning).

5.5 If the overdue subscription is paid within three months following the due date, the Member shall be deemed to have maintained continuous membership but membership rights and benefits are not retroactive covering the unfinancial period, and cannot be exercised during that period.

5.6 If the subscription remains unpaid three months after the due date, the membership terminates and a new application for membership will have to be made if the Member wishes to rejoin the Society.

## 6. THE BOARD

6.1 The affairs of the Society shall be conducted by the Board of the Society in accordance with this Constitution and the resolutions of Members of the Society in General Meeting. The Board shall conduct its affairs using a set of Bylaws.

6.2 The Board of the Society shall consist of Officers, Elected Board Members and any Co-opted Board Members. The total number of Officers and Elected Board members shall be 6, with the number of Elected Board Members varying as necessary to maintain this number.

6.3 The Board may co-opt additional members up to a total Board membership of 10 persons. A person must be nominated for co-option by a Financial Member. Co-option can take place only by unanimous decision of the Board. Co-opted Board Members have the same rights and responsibilities as Elected Board Members. Co-option lasts until the next AGM when Co-opted members' board seats are vacated.

6.4 The Society shall seek nominations for Elected Board Members and Officers annually. Any financial member may nominate any individual provided only that the individual is not disqualified in law from holding a directorship. If more nominations received than there are vacancies there shall be an election, with each financial member holding one vote. Elections will be carried out using first past the post, i.e. the candidate(s) with the most votes are elected.

6.5 Officers and Elected Board Members are elected for two year terms, until the AGM in the year their term expires. In 2011 only, one of the officers and half the remaining Elected Board Members will be elected for one year terms, the others for two year terms. Those receiving the most votes will have the two year terms, or if this does not give a clear result lots will be cast.

6.6 Board Members may be removed by the Financial Member that nominated them. If this happens to an Elected Board Member, or if an Elected Board Member resigns, the Financial Member will nominate someone to take their place.

6.7 Should a Financial Member that has nominated a serving Board Member or Officer become no longer a Financial Member for any reason, the Board Member or Officer concerned

will continue until the following AGM when their position will be filled by election whether or not their full term has been served.

6.8 Any Board Member having missed three consecutive ordinary meetings of Board shall be deemed to have vacated their position at the conclusion of third meeting, unless the Board votes to reinstate the Board member in their position. Board may grant a Board member leave of absence in advance (for example, for overseas travel, health or family circumstances), in which case the Board Member is not subject to this requirement for the duration of their leave.

6.9 Any vacancy among elected Board Members or Officers shall be filled by the membership voting through an electronic ballot, unless the vacancy occurs within the three months before an annual general meeting in which case Board has discretion not to hold such a ballot. The replacement shall serve the remainder of the term for that position.

6.10 A Board Member or Officer may be dismissed by resolution of a General Meeting of the Society, provided that:

6.10.1 such resolution must show just cause of such dismissal, and must have been delivered in writing to the Board Member or Officer concerned at least twenty-one days before the General Meeting, and

6.10.2 such resolution must be passed by at least a two-thirds majority of those voting.

6.11 The business of the Board may be carried out using electronic communication, face to face meetings or other means as the Board sees fit.

## 7. OFFICERS OF THE SOCIETY

### 7.1 The President

The President shall chair Board meetings and General Meetings, and oversee the business of the Society.

### 7.2. The Vice-President

The Vice-President shall assist the President in his or her duties and deputise for the President as required.

7.3 No person shall hold concurrently more than one Office of the Society.

7.4 Officers remain in their positions for their terms unless they resign or are disqualified under section 8 or 6.9. If this happens there will be a by-election to replace them.

7.5 No person shall be eligible to be elected to a particular Office for more than two consecutive terms.

7.6 Any elected Member of Board who is elected as an Officer shall be deemed to have resigned as an elected Member of Board.

7.7 The Board shall from time to time appoint a Returning Officer, whose main role is to conduct Society elections and to perform the duties set out in this Constitution, as well as related duties established by the Board. The Returning Officer is not a Board Member or an

Officer as defined above. The Returning Officer continues in their position until someone else is appointed as Returning Officer.

#### 8. Eligibility of Officers and Board Members

The following persons are disqualified from being Officers or Board Members of the Society:

8.1 an individual who is an undischarged bankrupt.

8.2 an individual who is under the age of 16 years.

8.3 an individual who has been convicted of a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961) and has been sentenced for that crime within the last 7 years.

8.4 an individual who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Securities Act 1978, the Securities Markets Act 1988, or the Takeovers Act 1993.

8.5 an individual who is disqualified from being an officer of a charitable entity under section 31(4) of the Charities Act 2005.

8.6 an individual who is subject to a property order made under the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act.

#### 8. COMMUNICATION WITH MEMBERS

8.1 Every communication with a Member shall generally be by electronic message directed to the email address of the Member as recorded in the records of the Society. Communications may also be sent by post, facsimile, courier or hand delivery as the Board sees fit. Such messages will be acceptable for the conduct of the business of the Society unless the Returning Officer shall advise that any specific business or meeting shall be conducted at a meeting at which Members are required to be physically present.

8.2 The Society will provide an email address for communications which will be displayed on its website at [nzrise.org](http://nzrise.org).

#### 9. MEETING OPTIONS

9.1 All meetings of the Society may be held using an appropriate Web-based tool.

#### 10. GENERAL MEETINGS

10.1 A General Meeting of the Society is a meeting of the members that may be a meeting at which those taking part are physically present or in attendance via the Internet, or a Teleconference Meeting, or an electronic meeting as laid out in section 10.4.

#### 10.2 Annual General Meetings

10.2.1 The Annual General Meeting of the Society shall be held within the four months following the end of the financial year of the Society each year, on a date to be decided by the Board.

10.2.2 If the AGM has been notified as incorporating attendance via the Internet, members must be issued in advance with a secure means to identify their entitlement to vote. Such electronic attendance may take place during the fourteen days prior to the actual date of the AGM with regard to pre-notified elections and constitutional amendments.

10.2.3 The business to be conducted at the Annual General Meeting will be:

10.2.3.1 To receive from the Board an annual report, the financial statements for the immediately preceding financial year, and the auditor's report on those statements.

10.2.3.2 To approve a business plan and budget of income and expenditure for the current financial year and receive from the Board recommendations for levels of subscription for members. The meeting may by resolution the subscription level.

10.2.3.3 To elect Officers and Members of Board. For the purposes of this requirement only, candidates are deemed to be elected in sequence from the candidate receiving the highest number of votes to the candidate receiving the lowest number of votes.

10.2.3.4 Nominations for Officers and Board Members shall open eight weeks prior to the AGM and close 21 days prior to the AGM. These nominations will be forwarded to the membership not less than 14 days prior to the AGM. Each nomination must be proposed by a Financial Member of the Society and agreed to by the nominee.

10.2.3.6 The elections for Officers shall be conducted at the AGM prior to the election for ordinary Board Members

10.2.3.7 To appoint an auditor. The auditor must be a member of the Institute of Chartered Accountants of New Zealand (ICANZ).

10.2.3.8 To consider such other business as any Member properly brings before the meeting. Matters of substance requiring a Member vote to be brought before the meeting must be notified to the Returning Officer not less than 30 days prior to the meeting and must include properly formed resolutions to be put to the meeting. A properly formed resolution is one that names the mover of the motion and names the seconder, both of whom must be Financial Members of the Society, and contains the precise wording making up the substance of the motion. No amendments to such motions can be raised from the floor of the AGM. Matters cannot be raised from the floor of the meeting that require resolutions being put to Member vote.

10.2.4 A copy of the annual report and financial statements must be forwarded to each Member at least fourteen days prior to the Annual General Meeting.

10.2.5 At least thirty days notice of the Annual General Meeting must be given to each Member. The notice of AGM must indicate whether attendance via the Internet as allowed in Section 9 will be permitted.

10.2.6 New Members who join the Society in the three month period before an AGM will not be permitted to vote at that AGM.

### 10.3 Special General Meetings

10.3.1 A Special General Meeting may be called at any time:

10.3.1.1 By the President or by resolution of the Board.

10.3.1.2 On the request of twenty Financial Members, or half of the total number of Financial Members (whichever is smaller), in which case the request must state the motions which will be moved at the meeting.

10.3.2 A Special General Meeting shall be called by the Board or the President on a date not earlier than fourteen days and not later than forty days following the receipt of a request for such a meeting under 10.3.1.2.

10.3.3 The motions to be moved at the Special General Meeting must be notified to every Member of the Society at least fourteen days before the date of the meeting. The notice of SGM must indicate whether attendance via the Internet will be permitted.

10.3.4 Voting procedures at an SGM are the same as those at an AGM.

### 10.4 Electronic General meetings (e-GM)

10.4.1 An e-GM can be called by the President, the Board, or 50% or 20 financial Members whichever is the smaller supporting a motion to that effect.

10.4.2 The Returning Officer shall issue the notice of the e-GM as noted in section 10.4.5 below, and the e-GM shall be conducted in accordance with the Electronic Meeting Guidelines, as adopted by Board.

10.4.3 An e-GM consisting purely of online discussion and voting can be held to discuss and vote on proposals put forward by the Board or Members

10.4.4 An e-GM will only vote on the proposed resolutions which form part of the meeting notice.

10.4.5 The Returning Officer shall be charged with confirming that the motion requesting an e-GM has been correctly put and approved. The proposed resolutions forming the subject of the e-GM shall be e-mailed to all members and be open to discussion for a period of seven days, closing at 11:59:59 on the seventh day following the posting of the official notice of announcement, on the member's mailing list and other fora as appropriate. After seven days members will have a ballot made available with votes being open for three working days. A resolution passed at an e-GM shall be as valid as one passed at a physical General Meeting. All times are New Zealand standard time, allowing for daylight savings if appropriate.

## 10.5 Quorum

10.5.1 A quorum for every General Meeting is 20 Financial Members or one third of Financial Members of the Society, whichever is the fewer. In the event that a quorum is not reached at an e-GM, the resolutions forming the call for an e-GM will be deemed to have failed. A quorum is not less than five members regardless of the above.

10.5.2 If for a non-Electronic General Meeting a quorum is not present within thirty minutes of the appointed time, the person chairing the meeting shall adjourn the meeting. Unless those present at the meeting shall determine a date for the adjourned meeting (not earlier than five days from the date of the meeting) the adjournment shall be for a meeting at the same time and place, providing that the venue will be available, one week from that day.

10.5.3 Notice of the adjourned meeting shall be given to all Members. At such an adjourned meeting the number of persons attending shall constitute a valid quorum.

## 10.6 Chairing General Meetings

10.6.1 The President of the Society or the Vice-President in the absence or incapacity of the President will chair every Annual, Special, or electronic General Meeting.

10.6.2 If the President and Vice-President are absent then a person elected by a majority vote of those present shall chair the meeting.

## 11. VOTING

11.1 At every General Meeting each Financial Member shall have one vote, except that the person chairing the General Meeting shall have a deliberative vote as well as a casting vote.

11.2 Voting at physical General Meetings or a meeting of the Board of the Society shall be by voice, show of hands or ballot at the discretion of the person chairing the meeting. At duly authorised meetings voting may take place via the Internet by the use of a secure means of identification. Voting by proxy shall be allowed at General Meetings only.

11.3 In the event of an equality of votes for or against a motion or amendment at a General Meeting or a meeting of the Board of the Society, the person chairing the meeting shall exercise a casting vote.

11.4 In all elections a simple first past the post voting system will be used.

11.4.1 In the event of an equality of votes in an election for candidates for the same position, there shall be a second ballot and then if still tied the person chairing the meeting shall determine the winner by a random means.

11.5 There are no proxies available for any Society activities, as all substantive questions are decided by electronic means that allow all members to participate.

## 12. FINANCE

### 12.1 Annual Subscription



Each Member's annual subscription shall be payable in full on joining the Society, and at yearly intervals thereafter. A change to subscription levels made by resolution of an Annual General Meeting shall have effect for all membership renewals until a further such resolution is passed by a subsequent Annual General Meeting. Such a resolution shall have no effect upon the amount payable by members whose subscriptions fell due prior to the Annual General Meeting at which the resolution was passed.

#### 12.2 Financial Year

The financial year of the Society shall be from 1 April to 31 March.

#### 12.3 Power to Borrow Money

The Society may borrow money only in accordance with a resolution of the members in General Meeting.

#### 12.4 Audit

The annual financial statements of the Society must be audited at the end of each financial year and before the Annual General Meeting by a member ICANZ. The Board shall determine the remuneration of the auditor, and shall have authority to fill any casual vacancy of the position of auditor.

#### 12.5 Control and investment of Society's Funds

The Board is responsible for the control and prudent investment of the Society's funds, and for making such payments as may be necessary from time to time. The Board is responsible for ensuring that monies owing to the Society are collected and that proper financial records are kept. The Society's cheque book or electronic banking equivalent will be held by the President, and payments may be made only with the paper or electronic signatures of two Board Members one of whom shall be the President or Vice President.

### 13. THE COMMON SEAL

The Common Seal of the Society shall be in the custody of the President. The Common Seal shall be affixed to any instrument only pursuant to a resolution of the Board and witnessed by two Board members one of whom shall be the President or Vice-President.

### 14. RULES

14.1 These Articles are the Constitution of the Society under the terms of the Incorporated Societies Act 1908 (as amended).

14.2 These Articles may be altered, added to or rescinded only in accordance with the following procedure:

14.3 Any proposal to amend the pecuniary profit section (section 15) or winding up section (section 16) must include a note that any amendment may effect the status of the Society in terms of its ability to obtain or retain charitable status.

14.4 A proposal to amend this Constitution may be submitted by any member to the Returning Officer of the Society who must, within seven days after receipt of the proposal, forward it to all members.

14.5 No motion proposing any amendment to this Constitution at a general meeting shall be deemed to have been passed unless two-thirds of the votes cast on the motion were in favour.

14.6 Any such motion shall be put to the next General Meeting, which shall be held not earlier than fourteen or later than forty days from the forwarding of the proposal to members.

14.7 The Returning Officer shall notify the Registrar of Incorporated Societies, and the Charities Commission if the Society has gained charitable status, of all alterations, additions or revocations of these rules. This notification shall take such form as the Registrar and Charities Commission if appropriate may require.

#### 15. PECUNIARY PROFIT

No shareholder or employee of a Financial Member or Associated Person shall derive any income, benefit, or advantage from the Society where that person can materially influence the payment of the income, benefit or advantage except where the income, benefit or advantage is derived from:

15.1 Professional services to the Society rendered in the course of business charged at no greater rate than current market rates; or

15.2 Interest on money lent at no greater rate than current market rates.

For the purposes of this section, 'Associated Person' means:

a) Any director of a company or other entity owned or controlled by the Society; or

b) Any spouse, civil union partner, common law or de facto partner; or

c) Any person connected by blood relationship within the second degree of relationship; or

d) Any adopted child or of the adopted child of a first degree relative; or

e) Any company, partnership, trust or other entity in which a person described in this subsection is financially interested whether as a shareholder, partner, director, beneficiary or otherwise.

#### 16. WINDING UP

16.1 The Society may be wound up only under the terms of section 24 of the Incorporated Societies Act 1908 (as amended).

16.2 The Society may be wound up voluntarily if, at a general meeting of its members, it passes a resolution requiring it to be wound up, and the resolution is confirmed at a subsequent general meeting called for that purpose and held not earlier than thirty days after the date on which the resolution so to be confirmed was passed.

16.3 A resolution requiring the Society to be wound up, and the confirmation of such a resolution, shall have been passed by a general meeting if a majority of votes cast on the resolution are in favour.

16.4 If the confirming resolutions are passed the Members shall appoint one or more liquidators to wind up the affairs of the Society. Upon a winding up of the Society, its assets, after payment of its debts and liabilities, will be donated to a charitable organisation with similar objectives.

#### SCHEDULE 1

1. A Financial Member may make a complaint to the President of the Society asking for expulsion of a Member.
2. The formal complaint must be made within 30 days of the offending action.
3. The President will by e-mail to the last known e-mail address notify the contact person for the Member against whom the complaint has been made within 72 hours of receiving the complaint.
4. Any Officer or Board member who may have a conflict of interest with the case must recuse themselves from any involvement with the following process.
5. The Officers shall confer within 14 days to consider whether there is sufficient substance to the complaint to warrant a further hearing.
6. If the Officers find insufficient substance to the complaint the matter will not be taken further and both the Member who is the subject of the complaint and the Member that made the complaint will be notified accordingly.
7. If the complaint is upheld by the Officers they will prepare a formal complaint notice.
8. On receipt of a formal complaint notice the Board shall, within 7 days, appoint a panel to hear the complaint. The panel shall consist of two Financial Members and a Board Member .
9. The panel shall convene within 7 to 14 days in a face-to-face meeting to hear submissions.
10. The Member subject to the complaint shall have a right to make a submission to the panel. The hearing shall be confidential.
11. On completion of their deliberations the panel shall make recommendation to Board which shall include a summary of the facts of the case and the hearing.
12. The Board shall consider the panel's recommendation and within four weeks of receipt of the recommendation shall either vote to accept the recommendation or send it back to the panel for further consideration.
13. The Member subject to the complaint shall have no action taken against them until the completion of the process, except in an extreme case when Board may suspend a membership until the process is completed.

14. If a Member is terminated under these procedures any period of membership remaining in the year will be calculated and a pro-rata of subscription dues will be paid back to the person by the Society.

15. Any Members subject to these procedures and having their membership terminated will normally not be permitted to re-apply for membership of the Society for a minimum of one year following the notice of termination.