

The Incorporated Societies Act 2022
Constitution and Rules
of
Vegetables New Zealand Incorporated

1. Definitions

1.1 In these rules unless the context otherwise requires:

“**Act**” means the Incorporated Societies Act 2022;

“**AGM**” means the annual general meeting of VNZ Inc;

“**Board**” means the committee of Directors of VNZ Inc and the VNZ Inc Chair constituted in terms of clause 6;

“**CAG Chair**” means a person appointed by the Directors to hold office as Chair of a CAG, pursuant to clause 13.1;

“**Chief Executive**” means the person employed to manage the day-to-day operations of VNZ Inc (by whatever job title known);

“**Crop Advisory Group**” or “**CAG**” means a crop-specific subcommittee established by the Board from time to time, and includes at the date of adoption of these rules the CAGs listed in clause 13.1;

“**Director**” means a person elected or appointed as Director of the Board pursuant to these rules;

“**Fresh Vegetables**” means the crops listed in Schedule 1 to these rules, as that Schedule may be amended from time to time;

“**general meeting**” means any meeting of Members;

“**HortNZ**” means Horticulture New Zealand Incorporated;

“**Levy**” means a levy in respect of the growing of Fresh Vegetables pursuant to the Commodity Levies (Vegetables and Fruit) Order 2013 (“the Order”) or such

order made in substitution for the Order pursuant to the Commodity Levies Act 1990, or pursuant to any voluntary levy agreed to be paid by commercial growers of Fresh Vegetables;

“**Member**” means a person who has qualified for, and been accepted as, a Grower Member or as a Non-Grower Member of VNZ Inc, as set out in clauses 4.1 or 4.2 includes both corporate and unincorporated bodies;

“**month**” means a calendar month;

“**person**” includes an individual, firm, company, corporation, partnership, incorporated or unincorporated body of persons, joint venture (incorporated or unincorporated), Māori incorporation, incorporated charitable trust board, Māori Trust Board, any public, territorial or regional authority, any government, and any agency of any government or of any such authority;

“**Registrar**” means the Registrar of Incorporated Societies;

“**rules**” means these rules as they may be amended from time to time;

“**VNZ Inc**” means the incorporated society governed by these rules and known as Vegetables New Zealand Incorporated or by such other name as VNZ Inc adopts from time to time;

“**VNZ Inc Chair**” or “**Chair**” means the chairperson of VNZ Inc from time to time elected as set out in clause 6.3(a);

“**VNZ Inc Vice Chair**” or “**Vice Chair**” means the deputy chairperson of VNZ Inc from time to time elected as set out in clause 6.3(b); and

“**writing**” or “**in writing**” includes reference to an electronic communication as that term is defined in Part 4 of the Contracts and Commercial Law Act 2017.

2. Name and Registered Office

- 2.1 The name of the society is Vegetables New Zealand Incorporated (“VNZ Inc”).
- 2.2 The registered office of VNZ Inc is at Level 4, Co-operative Bank House, 20 Ballance Street, Wellington or at such other place as the Board may decide from time to time. Notice of any change of situation of the registered office must be sent to the Registrar.
- 2.3 **For** the purposes of the Act, the contact person of VNZ Inc shall be the Chief Executive.

3. Objects

- 3.1 The principal object for which VNZ Inc is established is to promote the profile of the New Zealand Fresh Vegetable industry and the maintenance of a business environment in which New Zealand Fresh Vegetable producers can thrive and grow.
- 3.2 In order to attain the principal object, VNZ Inc may:
- (a) Promote to public policy makers, the media and the general public the Fresh Vegetable industry as a sector of ongoing social and economic significance in New Zealand;
 - (b) Communicate, on behalf of Members, the nutritional and economic value of New Zealand-produced Fresh Vegetable products to the industry's customers and consumers;
 - (c) Establish and maintain in New Zealand an association of producers of Fresh Vegetables for the mutual benefit and assistance of Members, and to act as a forum for the exchange of information and for the discussion of matters of common concern amongst Fresh h Vegetable producers;
 - (d) Provide sound information on economic, environmental, regulatory, marketing, technical, human resource management and other matters affecting the Fresh Vegetable industry to assist decision making by Members in their individual enterprises;
 - (e) Foster collaboration amongst Members and other industry stakeholders where potential collective benefits exist from activities such as reducing compliance and production costs or exploring new markets;
 - (f) Represent the common views of VNZ Inc on issues concerning the sector to HortNZ, public policy makers, the media and the general public;
 - (g) Support any practical initiative to increase the development or profitability of export markets;
 - (h) Provide and raise funds for the purpose of VNZ Inc by levies, borrowing, subscriptions, annual or otherwise, or by any other means;
 - (i) Affiliate, take shares in, become members of, or otherwise co-operate with any other person, body or organisation having similar objects and contribute to the funds of any such body or organisation;
 - (j) Generally do all such things and take all such initiatives as VNZ Inc may from time to time consider beneficial to its Members in order to attain the above mentioned objects or any of them.

- 3.3 For the avoidance of doubt, but without limiting the objects of VNZ Inc:
- (a) VNZ Inc may carry out the objects of HortNZ insofar as they relate to the interests of growers of Fresh Vegetables as a sector of the New Zealand horticulture industry; and
 - (b) VNZ Inc will apply for affiliated membership with HortNZ.

4. Membership and Classes of Members

Classes of Membership

- 4.1 **Grower Members:** A person will be eligible to become a Grower Member if that person is actively engaged in the commercial production of Fresh Vegetables in New Zealand for domestic sale or export and who, in the preceding 12 month period (or part thereof), has paid a Levy, other than a person who grows Fresh Vegetables for commercial processing by way of artificial drying, evaporating, freezing, canning, bottling, juice extraction or preserving.
- 4.2 **Non-Grower Members:** The Board may accept for membership persons who do not qualify as Grower Members, but who have an in the commercial production of Fresh Vegetables in New Zealand, who shall be Non-Grower Members. Non-Grower Members shall have no voting rights on matters relating to the Levy.
- 4.3 **Life Members:** The Board may award life memberships to those Members who have served on the Board as determined from time to time by the Board (including service to the board of the Fresh Vegetables Product Group of HortNZ) and who have also served as Chair. Life Members shall not have voting rights unless the Life Member remains a Grower Member or a Non-Grower Member.
- 4.4 The Board may also grant:
- (a) Awards of merit, to Members who have served on the Board (including service to the Fresh Vegetables Product Group of HortNZ); and
 - (b) Lifetime achievement awards, to persons (who need not have been Members) who have provided outstanding service to the Fresh Vegetable industry.
- 4.5 (a) **VNZ** Inc shall keep a register of its members, in accordance with the Act, which shall contain:
- (i) the name of each Member;
 - (ii) the Member's membership class;
 - (iii) the last known contact details of each Member;

- (iv) the date on which each person became a Member;
 - (v) the name of each person who has ceased to be a Member of VNZ Inc within the previous 7 years and the date on which each person ceased to be a Member; and
 - (vi) any other information required by the Act.
- (b) A Member shall notify VNZ Inc in writing of any changes to the information recorded on the register in relation to that Member.
 - (c) VNZ Inc must ensure that the register of members is updated as soon as practicable after becoming aware of changes to the information recorded on the register.
 - (d) VNZ Inc may delegate its duties under this clause to the Chief Executive.

Application for Membership

- 4.6 Any person who wishes to become a Member of VNZ Inc must complete the official VNZ Inc membership application form for the relevant class of membership, which shall include the consent of the applicant to becoming a Member, as required by the Act, and shall pay any joining fee and the subscription then current (if any) for that class of membership. On payment of such amounts, and acceptance of membership by the Board, the applicant will become a Member of VNZ Inc.

Ceasing to be a Member and changing class of membership

- 4.7 Any Member may resign from membership by notice to the Chief Executive and every such notice shall unless otherwise expressed take effect from the end of the then current financial year.
- 4.8 If any Member is convicted of an indictable offence or is adjudged a bankrupt or makes a composition with creditors or if any effective resolution or order of court is passed or made for the winding up or dissolution of any company or other body corporate which is a member, then that Member shall without release from any prior liability to VNZ Inc forthwith cease to be a Member, but VNZ Inc may in its discretion reinstate the Member.
- 4.9 A person will cease to be a Grower Member if:
- (a) in the reasonable opinion of the Board, the person has ceased to be a commercial grower of 'Fresh Vegetables' in accordance with clause 4.1;
- or

- (b) the person has not, in the 12 month period preceding the relevant date, paid a Levy.

4.10 Expulsion

- (a) Subject to clause 4.10(b), the Board may at any time by letter invite any Member within a specified time to retire for breach of these rules, or any regulations or by-laws made by VNZ Inc, and, in default of retirement, the Board may within three calendar months from the date of the letter expel the Member from membership of VNZ Inc.
- (b) The Board will not invite a Member to retire or expel a Member without first complying with the Dispute Resolution procedures in Schedule 2.

5. Subscriptions/Fees/Levies

5.1 Each year the Board may recommend:

- (a) A fee to be paid by new Members as a joining fee; and
- (b) A subscription charge payable by any Member in respect of each of VNZ Inc's financial years; and
- (c) Any special charge or levy (other than a Levy).

5.2 The recommendations of the Board for the fees, subscriptions, charges or levies noted above shall be considered by Members at each AGM and approved or varied by the AGM, as Members think fit. The decision of the AGM as to the amounts of joining fees, subscriptions, charges or levies for the then current financial year shall be final and binding on all Members provided that no joining fee, subscription, charge or levy shall be less than the amount recommended by the Board.

5.3 Any Member failing to pay the appropriate amount within one month of its due date may be liable to have that Member's name removed from the register of Members and membership terminated.

5.4 The Board shall have the power to reduce pro rata any amounts for Members joining in the second half of any financial year.

6. Board of Directors of VNZ Inc

6.1 The Board of VNZ Inc shall comprise:

- (a) **Directors:** Between 6 and 10 individuals holding office from time to time as the Directors. Between 6 and 8 Directors are elected by Members as

set out in clause 6.2. The Board may appoint up to 2 persons as independent Directors from time to time, and

- (b) **VNZ Inc Chair:** The VNZ Inc Chair, elected on an annual basis as set out in clause 6.3.

6.2 The Directors of VNZ Inc shall be elected as follows:

- (a) Each Director shall hold office for a term of 3 years, or any earlier date of retirement or death subject to the rotation rules set out below.
- (b) Retiring Directors are eligible for re-election, and there is no maximum number of terms that an individual can be reappointed as a Director. However, no more than 3 Directors shall be required to retire by rotation in any particular year, and if more than 3 such Directors wish to stand for re-election then the Board shall determine by majority vote which 3 of the Directors shall be required to retire by rotation. Any Director who the Board determines by vote not to be required to retire by rotation may continue in office for up to a further 1-year period and then retire at the conclusion of the next AGM (and be eligible for re-election).
- (c) The above clause 6.2(b) does not apply to independent Directors. For the avoidance of doubt, independent Directors are not eligible for re-election and may only hold office for one term of up to 3 years.
- (d) Retiring Directors shall be deemed to be re-elected if there is no opposing candidate for election.
- (e) A Director must retire if they cease to be qualified to hold office as set out in clauses 6.4 or 6.6.
- (f) In each year, the Chief Executive will organise for a vote to take place to elect a new Director to fill an upcoming vacancy, due to expiry of the 3 year terms or otherwise. The Chief Executive will first call for nominations for the position of Director, with the nomination period opening in each year at least 28 days prior to the date fixed for the AGM and closing at least 14 days prior to the date fixed for the AGM.
- (g) Voting forms will be included with the notice of meeting for the AGM, and the vote shall be completed at least 7 days prior to the date for holding the AGM of VNZ Inc so that the result is available at the AGM.
- (h) All Members entitled to receive a notice of meeting for the AGM are entitled to participate in the vote for the Director.

6.3 The VNZ Inc Chair and Vice Chair shall be elected as follows:

- (a) At the first Board meeting held following the AGM, the Directors will elect from amongst the Directors the VNZ Inc Chair, to hold office from the conclusion of the Board meeting at which they are elected until the conclusion of the Board meeting held following the next AGM, subject to these rules.
- (b) At the first Board meeting held following the AGM, the Directors will elect from amongst the Directors the VNZ Inc Vice Chair, to hold office from the conclusion of the Board meeting at which they are elected until the conclusion of the Board meeting held following the next AGM, subject to these rules.
- (c) An independent Director may hold office as VNZ Inc Chair or Vice Chair but only for one term, for a maximum of 3 years provided that, at the Board's discretion the independent Director's term may be extended for a maximum period of 1 year.
- (d) A retiring Chair is eligible for re-election, and there is no maximum number of terms that an individual can be re-elected as a VNZ Inc Chair, subject to clause 6.3(c).
- (e) A retiring Vice Chair is eligible for re-election, and there is no maximum number of terms that an individual can be re-elected as a VNZ Inc Vice Chair, subject to clause 6.3(c).

6.4 The following persons shall be eligible for election as Directors pursuant to clause 6.2:

- (a) Any Member who is a natural person; or
- (b) Any director or shareholder of a Member that is a company; or
- (c) Any partner, employee or nominated representative of a Member that is a partnership or joint venture (whether incorporated or not); or
- (d) Any member of a committee of management of a Member that is a Māori Incorporation; or
- (e) Any trustee of a Member that is a trust (including a Māori Trust Board); or
- (f) Any employee of a Member;

being the person nominated as the principal representative of that Member in respect of dealings with VNZ Inc. For the avoidance of doubt, these eligibility

requirements shall not apply to the independent Directors appointed by the Board pursuant to clause 6.16.1(a).

- 6.5 Each person nominated for election as Director, or appointed or co-opted by the Board, must consent to becoming a Director and must certify that they are not disqualified from holding office as a Director.
- 6.6 The office of Director or of VNZ Inc Chair shall be vacated:
- (a) If the person is absent from two consecutive Board meetings without special leave; or
 - (b) If the person is or becomes bankrupt or suspends payment or compounds with his or her creditors; or
 - (c) If the person dies or loses mental capacity;
 - (d) If he or she ceases to be a Member (unless the Director or VNZ Inc Chair is an independent Director); or
 - (e) If the person is disqualified from holding office as a Director by virtue of the Act.
- 6.7 If the Chair shall resign from office, die, become bankrupt, or in some other way become incapable of carrying out his or her duties as Chair for a period of more than 6 weeks then the Vice Chair shall assume the position of Chair and have all powers, functions and duties of the VNZ Inc Chair until the conclusion of the next AGM.
- 6.8 Any casual vacancy in the Board may be filled by the remaining Directors appointing a duly qualified person to fill such vacancy and the person so appointed shall hold office until the next AGM. The existence of a vacancy shall not affect the validity of any acts or decisions on the part of the Board, provided that there continues to be a quorum present.
- 6.9 A Director or the VNZ Inc Chair may be removed by an ordinary resolution of the Members at any general meeting of which notice specifying the intention to propose the resolution has been duly given, and the Board may suspend any Director (or VNZ Inc Chair) who persists in any conduct injurious to VNZ Inc.
- 6.10 All acts done by any Director, the VNZ Inc Chair, or by a committee of the Board or by any person acting as a member of such committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Director, VNZ Inc Chair, or of the persons acting as aforesaid or that they or any of them were disqualified, be as valid as if every person had been duly appointed and was qualified to be a Director or VNZ Inc Chair or committee member.

6.11 Notwithstanding anything to the contrary in these rules, the Board shall be entitled to call upon the services of any person whom it may think desirable to add to its Directors on account of any special skill in any field of the production, marketing, packaging, processing or distribution of vegetables as a co-opted member of the Board but no such co-opted member shall be entitled to vote ~~on~~ Board matters.

7. Powers of the Board

7.1 Management and control of the affairs and business of VNZ Inc shall be vested in its Board.

7.2 The general functions and powers of the Board shall be:

- (a) To control, administer and manage the property and affairs of VNZ Inc;
- (b) To carry out, effect and perform the objects of VNZ Inc according to these rules.

7.3 The Board may employ such employees or contractors either honorary or otherwise upon such terms and conditions and remuneration as the Board thinks fit and may from time to time remove and replace any person so appointed.

7.4 The borrowing powers of VNZ Inc shall be vested in the Board.

7.5 Proper minutes shall be kept of all meetings of VNZ Inc and the Board and the minutes of all meetings of the Board shall be open to inspection by all Members.

8. Duties of Directors

8.1 In exercising powers or performing duties as a Director, each Director shall:

- (a) act in good faith and in what the Director believes to be the best interests of VNZ Inc;
- (b) exercise a power as a Director for a proper purpose;
- (c) act, or agree to VNZ Inc acting, in a manner that contravenes the Act or these rules;
- (d) exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances considering (without limitation);
 - (i) the nature of VNZ Inc;
 - (ii) the nature of the decision; and

- (iii) the position of the Director and and the nature of the responsibilities undertaken by them.

8.2 A Director must not:

- (a) agree to the activities of VNZ Inc being carried on in a manner likely to create a substantial risk of serious loss to VNZ Inc's creditors;
- (b) cause or allow the activities of VNZ Inc to be carried on in a manner likely to create a substantial risk of serious loss to VNZ Inc's creditors; or
- (c) agree to VNZ Inc incurring an obligation unless the Director believes at that time on reasonable grounds that VNZ Inc will be able to perform the obligation when it is required to do.

9. **Insurance and Indemnities**

9.1 VNZ Inc may in accordance with subpart 6 of the Act, indemnify a Director, Member or an employee of VNZ Inc for:

- (a) liability to any person other than VNZ Inc for any act or omission in their capacity as a Director, Member or an employee of VNZ Inc (not being a liability specified in paragraph 9.2;
- (b) subject to paragraph 9.3, costs incurred by the Director, Member or employee in defending or settling any claim or proceeding relating to that liability.

9.2 The liabilities for which VNZ Inc may not indemnify a Director, Member or an employee of VNZ Inc are:

- (a) criminal liability; and
- (b) liability that arises out of a failure to act in good faith and in what the Director, Member or employee believes to be the best interests of VNZ Inc when acting in their capacity as a Director, Member or an employee of VNZ Inc.

9.3 VNZ Inc may indemnify a Director, Member or an employee of VNZ Inc for any costs incurred by them in defending or settling a proceeding that relates to liability of a kind referred to in paragraph 9.1(a) if:

- (a) judgment is given in their favour or if they are acquitted; or
- (b) the proceeding is discontinued.

- 9.4 VNZ Inc may, with the prior approval of the Board, effect insurance for a Director, Member or an employee of VNZ Inc in respect of:
- (a) liability (other than criminal liability) of a kind referred to in section 94 of the Act; or
 - (b) costs incurred by the Director, Member or employee in defending or settling any claim or proceeding relating to that liability; or
 - (c) costs incurred by the Director, Member or employee in defending any criminal proceedings:
 - (i) that have been brought against the Director, Member or employee in relation to any alleged act or omission in their capacity as a Director, Member or employee; and
 - (ii) in which they are acquitted.
- 9.5 The Directors who vote in favour of authorising the insurance under paragraph 9.4 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to VNZ Inc.
- 9.6 For the purposes of section 98 of the Act, VNZ Inc is expressly authorised to indemnify a Director, Member or employee, or to effect insurance for a Director, Member or employee, for the following matters:
- (a) liability (other than criminal liability) for a failure to comply with:
 - (i) a duty under sections 54 to 61 of the Act (officers' duties); or
 - (ii) any other duty imposed on the Director, the Member or employee in their capacity as an officer (as that term is defined in the Act); and
 - (b) costs incurred by the Director, Member or employee for any claim or proceeding relating to that liability.

10. Board Meetings

- 10.1 The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings and procedures as they may think fit.
- 10.2 The Board shall where appropriate preserve the confidentiality of information provided to them and the Board may formulate appropriate guidelines and undertakings to protect such confidential information.

- 10.3 Any Director shall have the right to appoint an alternate to attend a meeting of the Board in his or her stead by notifying the VNZ Inc Chair or Chief Executive prior to the commencement of that Board meeting. Such alternate shall for all purposes have the power of the appointor and be deemed to be a Director for the duration of the meeting.
- 10.4 **Four** Directors who are Grower Members or who are related to Grower members in the same way as set out in clause 6.4, together with the VNZ Inc Chair (or Vice Chair) present or represented by an alternative shall constitute a quorum.
- 10.5 Voting at meetings of the Board will be on the basis of one vote per Director. Subject to clause 10.9, the VNZ Inc Chair shall be entitled to a casting as well as a deliberative vote unless the vote relates to the Levy.
- 10.6 A resolution in writing signed by all Directors and by the VNZ Inc Chair shall be as valid and effectual as if it had been passed at a meeting duly constituted and held.
- 10.7 The use of telephones or other means of communication of a quorum of Directors and the VNZ Inc Chair whether or not any one or more of the Directors or the VNZ Inc Chair is out of New Zealand shall be deemed to constitute a meeting of the Board and all the provisions in these rules as to meetings of the Board shall apply to such meetings provided that:
- (a) All persons entitled to receive notice of meeting are notified by telephone or other means of communication and are linked by telephone or such other means for the duration of the meeting; and
 - (b) At the commencement of the meeting each of the persons taking part in the meeting acknowledges that they are able to hear each of the other persons taking part.
- 10.8 At any meeting of the Board there may be present by direction or invitation such employees, contractors or other persons as the Board decides.
- 10.9 The VNZ Inc Chair shall preside at every meeting of the Board unless absent from that meeting. In the VNZ Inc Chair's absence the Vice Chair may chair the meeting and have all powers, functions and duties of the VNZ Inc Chair **for** the duration of that meeting except for the right to have a casting vote.

11. Conflicts of Interest

- 11.1 Where a Director is interested (as defined in the Act) in a matter relating to VNZ Inc, the Director must, as soon as practicable after the Director becomes aware that they are interested in the matter, disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified):

- (a) To the Board; and
- (b) In the interests register kept by VNZ Inc.

11.2 A Director who has a conflict of interest:

- (a) must not vote or take part in a decision of the Board relating to the matter; and
- (b) must not sign any document relating to the entry into a transaction or the initiation of the matter; but
- (c) may take part in any discussion of the Board relating to the matter and be present at the time of the decision of the Board (unless the Board decides otherwise).

11.3 A Director who is prevented from voting on a matter under the Act and these rules may still be counted for the purpose of determining whether there is a quorum at any meeting at which the matter is considered.

11.4 Clauses 11.2(a) and 11.2(b) do not apply to a Director if all Directors who are not interested in the matter consent to the Director so acting.

11.5 If 50% or more of the Directors are prevented from voting on the matter under clause 11.2(a), a Special General Meeting of VNZ Inc must be called to consider and determine the matter.

11.6 No member of VNZ Inc or any person associated with a Member shall participate or materially influence any decision made by VNZ Inc, in respect of the payment to or on behalf of that Member or associated person of any income, benefit or advantage whatsoever. Any such income shall be reasonable and relative to that which would be paid in an arm's length transaction (being open market value).

12. Sub-Committees and Advisory Groups

12.1 The Board may from time to time confer upon Members or sub-committees of Members such powers of the Board under these rules as they see fit and shall determine the duties those Members or sub-committees are required to perform and may as the Board deems expedient withdraw, revoke or vary such powers or duties.


12.2 Any sub-committee shall in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed upon it by the Board.

12.3 The meetings and proceedings of any sub-committee shall be governed by the same rules as apply to the regulation of meetings and proceedings for the Board,

as far as they are applicable and are not superseded by any other regulations made under these rules.

- 12.4 Any Director or representative appointed to chair a sub-committee will be responsible for reporting in writing to the Board on items or activities from those meetings.

13. Crop Advisory Groups (CAG)

- 13.1 The Board will, from time to time, form crop-specific subcommittees known as “*Crop Advisory Groups*” (CAGs). 

- 13.2 Meetings of the CAGs will generally be held by way of conference calls prior to the scheduled meetings of the Board and once per year at the AGM. CAGs may meet from time to time in order to further pursue aims and objectives specific to that CAG.

- 13.3 In order to keep the members of each CAG informed, interested and involved, CAG members will be sent copies of each Board meeting agenda in advance of each Board meeting. The CAG Chairs will then engage with their respective CAG members via conference call and bring any discussion back to the Board meetings.

- 13.4 If any member of a CAG is unable to attend any CAG meeting, that representative may appoint a substitute with full power to attend, speak and vote at the CAG meeting.

14. Remuneration of Committees

- 14.1 Members, the Board and any CAGs or other sub-committees may be paid such remuneration by way of honorarium as may be determined by VNZ Inc at the AGM.

- 14.2 The persons described in clause 14.1 may also be paid travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Board, a CAG or any sub-committee or any general meetings of VNZ Inc or in connection with the business of the VNZ Inc and in addition may be paid such sum as may be determined by the Board (by prior resolution) in respect of any extra service performed by any such person within New Zealand or elsewhere either in respect of attendance at any such meeting or in respect of any special exertions in travelling abroad or otherwise for any of the purposes of the VNZ Inc.

15. Commodity Levy

- 15.1 Any decision in relation to the imposition of a Levy will require approval by Grower Members by way of a referendum. In order for approval to be granted for imposition or variation of a Levy, both the following conditions must be met:
- (a) the votes in favour of imposition or variation of the Levy (ie the “YES” votes) must represent more than 50% of all votes cast from all Grower Members (on a one Grower Member one vote basis); and
 - (b) those votes in favour must represent more than 50% of the gross proceeds of sale (before deduction of costs and charges) of Fresh Vegetables sold by Grower Members who voted in the referendum, during the 12 month period prior to the Levy referendum.
- 15.2 Should any proposal be made as to change or expenditure of the Levy, such matters must be referred to the Grower Members at a general meeting. Only Grower Members who pay a Levy may vote on matters relating to the Levy. On such matters each Grower Member shall have a dual vote. In order for any proposal to change the Levy rate or in respect of the expenditure of the Levy to be approved the specific decision will require both a majority of votes by number of Grower Members and a majority by weighted vote. For the weighted voting part of this process each Grower Member will be entitled to 1 vote for every \$100 (or part thereof) of Levy paid. The weighting of each Grower Member’s vote will be based on the dollar value of Levy paid, directly or indirectly, during the Grower Member’s previous full financial year prior to the notice of meeting for the relevant meeting being given. In order to be entitled to a weighted vote, each Grower Member must complete and return to the Chief Executive within 7 days of the date of the meeting a declaration setting out the amount of Levy paid in the Grower Member’s previous full financial year prior to the relevant notice. Such declaration may be subject to audit and/or a requirement to provide a statutory declaration before being accepted.
- 15.3 Any person who pays a Levy but who is not a Member of VNZ Inc (for example because of a conscientious objection) may attend the general meeting and will have speaking rights only in respect of the rate of the Levy and expenditure of the Levy by VNZ Inc.

16. General Meetings

- 16.1 Any Member shall be entitled to attend and speak at a general meeting of VNZ Inc.
- 16.2 The VNZ Inc Chair shall serve as chairperson of the general meeting. If the VNZ Inc Chair is absent, the Vice Chair shall serve as chairperson of the general meeting. In the absence of both persons, the Members present shall elect one of the Directors present as chairperson of the meeting.

16.3 Voting at general meetings shall be as follows:

- (a) **Entitlement to vote:** Voting entitlements will be determined at 5.00pm on the date 28 days prior to the date fixed for the general meeting. Persons whose name and address are recorded in the membership lists of VNZ Inc at that time will be the only persons entitled to vote at the general meeting.
- (b) **Voting:** Unless otherwise provided by these rules, voting at a general meeting shall be by show of hands on the basis of one vote per Member present in person or represented by proxy. A poll may be directed by the meeting chairperson, if demanded by not less than 10 Members present at the meeting. On any poll, each Member present or represented by proxy will have one vote. The VNZ Inc Chair shall have a casting as well as a deliberative vote.
- (c) **Proxies:** If any Member is unable to attend at any general meeting, that Member may by notice in writing delivered to the Chief Executive no later than 48 hours prior to the time fixed for such general meeting appoint any other person entitled to attend any such general meeting to be the proxy of that Member and any proxy so appointed shall be entitled to exercise the vote available to that Member under these rules.
- (d) **Exclusion from attendance:** Members present at a general meeting may by resolution duly passed by a majority of not less than two-thirds of the Members present and voting, exclude from attendances at and participation in a general meeting any person who, in the opinion of the Members, is or has been guilty of wilful disobedience of the rules or of any by-laws made under those rules or of conduct inconsistent with the character and interests of VNZ Inc, or of conduct repugnant to the objects of VNZ Inc or of its Members.
- (e) **Quorum:** Fifteen (15) Members personally present or represented by proxy shall form a quorum at all general meetings of VNZ Inc.

Annual General Meetings

16.4 A meeting of all Members of VNZ Inc, called the "AGM", shall be held once in each financial year, on such date as is determined by the Board. All Members have the right to attend the AGM.

16.5 Twenty-eight (28) days written notice shall be given to Members of the AGM.

16.6 The agenda of the AGM shall include the following:

- (a) Receiving and considering a report from the VNZ Inc Chair;

- (b) Consideration and if appropriate approval of VNZ Inc's financial statements for the preceding financial year;
- (c) Appointment of an auditor;
- (d) Setting the subscription (if any) payable for membership;
- (e) Confirming the election of Directors;
- (f) Generally reviewing VNZ Inc's operations in the preceding financial year;
- (g) Considering any remits initiated by Members by written notice to the Chief Executive in the manner set out in clauses 16.7 to 16.9;
- (h) Conducting such other general business as the Members think fit (by majority approval of Members present at the AGM, provided that such business shall not be put to a resolution).

16.7 **Remits:** In the event that a Member of the VNZ Inc wishes to have a certain matter considered at an AGM pursuant to clause 13.6(g) of these rules, then the relevant person ("the Proposer") shall give notice in writing to the VNZ Inc Chair and the Chief Executive of the remit not less than 21 days prior to the date fixed for the AGM.

16.8 **Notice of remit:** If the notice referred to in clause 16.7 of these Rules is received by the VNZ Inc Chair and the Chief Executive not less than 21 days prior to the date fixed for the AGM, the Chief Executive must give notice of the Remit and the text of any proposed resolution to all Members entitled to receive notice of the AGM not less than 14 days prior to the date fixed for the AGM, provided that the VNZ Inc Chair has the right to exclude the notice of a remit or statement prepared by a proposer which the VNZ Inc Board considers to be defamatory, frivolous or vexatious.

16.9 **Written proposals:** If the Board intends that Members may vote on a remit, it must give the Proposer the right to include in or with the notice referred to in 16.7 a statement of not more than 1,000 words prepared by the Proposer in support of the remit, together with the name and address of the Proposer.

Special General Meetings

16.10 Twenty (20) Members may by requisition addressed to the VNZ Inc Chair and the Chief Executive demand that a special general meeting of VNZ Inc shall be called to consider any matter set out in such requisition and upon receipt of such requisition the Chief Executive shall proceed to call such a meeting with not less than 21 days' notice to Members entitled to attend the same. The Board may also be able to call such a special general meeting by giving the same notice to Members.

16.11 All provisions relating to operation of general meetings contained in these rules shall, to the fullest extent possible, apply to any special general meeting called pursuant to clause 16.10.

16.12 A Member, or the Member's proxy or representative, may participate in a general meeting by means of audio, audio and visual, or electronic communication if:

- (a) the Board approves those means; and
- (b) the Member, proxy, or representative complies with any conditions imposed by the Board in relation to the use of those means (including, for example, conditions relating to the identity of the Member, proxy, or representative and that person's approval or authentication (including electronic authentication) of the information communicated by electronic means). To avoid doubt, participation in a meeting includes participation in any manner specified in these rules.

17. Records

17.1 The Board shall ensure that:

- (a) A record is kept of all proceedings of VNZ Inc and the Board;
- (b) A record is kept of all Members, their addresses, qualification for membership detail and the date on which they became Members of VNZ Inc;
- (c) All correspondence, records and reports connected with VNZ Inc are kept for a reasonable period;
- (d) A record of monies due to VNZ Inc, or payments made by VNZ Inc is kept in a correct record of such receipts and payments; and
- (e) A register of all interests (as defined by the Act) disclosed by Directors in a matter relating to VNZ Inc, including details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified).

18. Balance Date

18.1 The balance date for VNZ Inc shall be 31 March each year or such other date as the Board may determine.

19. Auditor

- 19.1 An auditor, being a person who is not a member, but who is a current member of the Institute of Chartered Accountants of New Zealand shall be appointed by the Board, and such appointment shall be confirmed by the members at the AGM.
- 19.2 It shall be the duty of the auditor to examine and check the financial records of VNZ Inc and see they are properly kept and balanced and also to audit the annual financial statements of VNZ Inc.

20. Common Seal

- 20.1 The common seal of VNZ Inc shall be affixed by the Board who shall be responsible for the safe custody and control of the seal.
- 20.2 Whenever the common seal of VNZ Inc is required to be affixed to any document, the seal shall be affixed to a resolution of the Board or of VNZ Inc by two members of the Board and the persons affixing the seal shall at the same time sign the document to which the seal is affixed.

21. VNZ Inc Funds

- 21.1 All moneys received by or on behalf of VNZ Inc shall forthwith be paid to the credit of VNZ Inc in a bank account nominated by the Board, and all payments and withdrawals made on the account shall be authorised by two people appointed for that purpose by the Board.
- 21.2 VNZ Inc may from time to time without restriction invest and reinvest with or without security and upon such terms as the Board thinks fit the whole or any part of its funds not required for the immediate business of VNZ Inc.
- 21.3 No member or any person associated with a member shall participate in or materially influence any decision made by VNZ Inc or the Board in respect of any payment to or on behalf of that members or associated person of any income, benefit or advantage whatsoever.
- 21.4 Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value). The provisions and effect of this clause 21.4 shall not be removed from these rules and shall be included and applied into any document replacing this clause 18.4.

22. Borrowing

- 22.1 VNZ Inc may in addition to the other powers vested in it borrow or raise money from time to time 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 VNZ Inc or

without any security and upon such terms as to priority and otherwise as VNZ Inc thinks fit.

23. Resolution of Disputes

- 23.1 If a dispute arises (as defined by the Act), the Dispute Procedures at Schedule 2 shall apply.

24. Winding Up

- 24.1 VNZ Inc may be wound up voluntarily if VNZ Inc, at a general meeting of its Members, passes a simple majority resolution requiring VNZ Inc to be wound up, and that resolution is confirmed by a simple majority resolution at a subsequent special general meeting called for that purpose and held not earlier than thirty days after the date on which the original resolution to be confirmed was passed.
- 24.2 If VNZ Inc is wound up, any surplus assets after payment of VNZ Inc's liabilities and the expenses of the winding-up shall be transferred to an organisation with similar objectives determined by the Board or to some other charitable organisation or purpose within New Zealand.

25. Rules and Regulations

- 25.1 These rules may be altered, added to, rescinded or otherwise amended by a resolution passed by a majority of not less than two-thirds of the Members present in person or by proxy at a general meeting of which 21 days' notice has been given. No alteration shall be made to the rules that would enable the income or other funds of VNZ Inc to be used for or be available for the private pecuniary profit of any Member.
- 25.2 No addition to or alteration of the non-profit aims, personal benefit clause or the winding up clause shall be approved. The provisions and effect of this clause shall not be removed from this document and shall be included and implied into any document replacing this document.
- 25.3 Every notice given in terms of clause 25.1 shall set out the wording and purpose of the proposed alteration, addition, rescission or other amendment to these rules.
- 25.4 Copies of every alteration, addition, rescission or amendment to these rules shall forthwith be delivered to the Registrar in accordance with the requirements of the Act.
- 25.5 The Board may from time to time make, amend or rescind regulations or by-laws not inconsistent with these rules governing the affairs of VNZ Inc and the procedures at its meetings.

25.6 The decision of the Board on the interpretation of these rules or any matter or thing not contained in these rules and which pertains to VNZ Inc shall be conclusive and binding on all Members unless revoked at an AGM or special general meeting.

Schedule 1

| Definition of Fresh Vegetables — Growers of the following vegetables and their hybrids for sale on the fresh domestic market or for fresh export, and who pay a levy, are eligible for membership of VNZ Inc. | |
|--|---|
| Artichokes (Globe & Jerusalem) | Kumara |
| Asian Vegetables | Leeks |
| Asparagus | Lettuce |
| Beans (excluding field dried beans) | Marrows |
| Beetroot | Melons (including water, green netted, honey dew, bitter, rock, white, musk and prince) |
| Box Thorn | Okra |
| Broad beans (including sora mame) | Parsnips |
| Broccoflower | Peas |
| Broccoli | Puha |
| Broccolini | Pumpkins |
| Brussels Sprouts | Purslane |
| Burdock | Radicchio |
| Butternut squash | Radishes (incl: Chinese radish & daikon) |
| Cabbage | Rakkyo |
| Capsicums | Rhubarb |
| Carrots | Salad Leaves |
| Cauliflower | Salsify |
| Celeriac | Scallopini |
| Celery | Scorzonera |
| Chilli Peppers | Shallots |
| Chokos | Silverbeet |
| Courgettes or Zucchini | Spinach (including water spinach) |
| Cucumbers | Spring Onions |
| Eda Mame (Green soy beans) | Squash (excluding buttercup squash for export from NZ) |
| Eggplant (or Aubergine) | Sprouted Beans and Seeds |
| Florence Fennel | Swedes |
| Garland chrysanthemum | Sweet corn (including baby sweet corn) |
| Garlic | Taro |
| Gherkins | Turnips |
| Ginger | Ulluco |
| Herbs (including basil, bay, borage, caraway, chervil, chives, coriander, dill, fennel, horseradish, lemon balm, marigold, marjoram, mint, nasturtium, | Watercress |

| | |
|--|--------------------------------|
| oregano, parsley, rosemary, sage, savory, sorrel, tarragon, thyme) | |
| Indian Vegetables | Witloof (or Chicory or Endive) |
| Kale and cavolo nero | Yakon |
| Kohl Rabi | Yams |

Schedule 2

Dispute Procedures

1 Overview of this schedule

This Schedule sets out the procedures to be followed relating to Disputes (as defined in section 38 of the Act).

2 How Complaint is made

2.1 A Member or a Director may make a Complaint by giving to the Board (or a complaints subcommittee, if the Board has established one) a notice in writing that:

- (a) states that the Member or Director is starting a procedure for resolving a Dispute in accordance with these rules; and
- (b) sets out the allegation to which the Dispute relates and whom the allegation is against; and
- (c) sets out any other information reasonably required by VNZ Inc.

2.2 VNZ Inc may make a Complaint involving an allegation against a Member or a Director by giving to the Member or Director a notice in writing that:

- (a) states that VNZ Inc is starting a procedure for resolving a Dispute in accordance with these rules; and
- (b) sets out the allegation to which the Dispute relates.

2.3 The information given under clause 2.1(b) or clause 2.2(b) must be enough to ensure that a person against whom an allegation is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

3 Person who makes Complaint has right to be heard

3.1 A Member or a Director who makes a Complaint has a right to be heard before the Complaint is resolved or any outcome is determined.

3.2 If VNZ Inc makes a Complaint:

- (a) VNZ Inc has a right to be heard before the Complaint is resolved or any outcome is determined; and
- (b) a Director may exercise that right on behalf of VNZ Inc.

- 3.3 Without limiting the manner in which the Member, Director, or VNZ Inc may be given the right to be heard, they must be taken to have been given the right if:
- (a) they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - (b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (c) an oral hearing (if any) is held before the decision maker; and
 - (d) the Member's, Director's, or VNZ Inc's written statement or submissions (if any) are considered by the decision maker.

4 **Person who is subject of Complaint has right to be heard**

- 4.1 This clause applies if a Complaint involves an allegation that a Member, a Director, or VNZ Inc (the **respondent**)—
- (a) has engaged in misconduct; or
 - (b) has breached, or is likely to breach, a duty under these rules or the Act; or
 - (c) has damaged the rights or interests of a Member or the rights or interests of Members generally.
- 4.2 The respondent has a right to be heard before the Complaint is resolved or any outcome is determined.
- 4.3 If the respondent is VNZ Inc, a Director may exercise the right on behalf of VNZ Inc.
- 4.4 Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if:
- (a) the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
 - (b) the respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - (c) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (d) an oral hearing (if any) is held before the decision maker; and

- (e) the respondent's written statement or submissions (if any) are considered by the decision maker.

5 Investigating and determining Dispute

5.1 VNZ Inc must, as soon as is reasonably practicable after receiving or becoming aware of a Complaint made in accordance with these rules, ensure that the Dispute is investigated and determined.

5.2 Disputes must be dealt with under these rules in a fair, efficient, and effective manner.

6 VNZ Inc may decide not to proceed further with a Complaint

6.1 Despite clause 5, VNZ Inc may decide not to proceed further with a Complaint if:

- (a) the Complaint is trivial; or
- (b) the Complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) that a Member or a Director has engaged in material misconduct;
 - (ii) that a member, a Director, or VNZ Inc has materially breached, or is likely to materially breach, a duty under these rules or the Act; or
 - (iii) that a Member's rights or interests or Members' rights or interests generally have been materially damaged; or
- (c) the Complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the Complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under these Rules; or
- (f) there has been an undue delay in making the Complaint.

7 VNZ Inc may refer matter

7.1 VNZ Inc may refer a Complaint to:

- (a) a subcommittee or an external person to investigate and report; or

- (b) a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision

7.2 VNZ Inc may, with the consent of all parties to a Complaint, refer the Complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).

8 **Decision makers**

A person may not act as a decision maker in relation to a Complaint if 2 or more Directors or (if there is a complaints subcommittee) 2 or more members of the complaints subcommittee consider that there are reasonable grounds to believe that the person may not be:

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

9 **Time periods and other matters**

Except as set out in this Schedule 2, the Board, or any complaints subcommittee, shall determine the timetable to be followed in any investigation, including the dates by which any submissions are due, any hearings will be held and any determination will be made.