



Art Deco Trust Incorporated Constitution

Contents

1.	Definitions and interpretation	2
2.	Details of Art Deco Trust Incorporated	4
3.	Purpose and powers	4
4.	Members	5
5.	General Meetings	7
6.	Board	10
7.	Board Meetings	15
8.	Officers' Duties	16
9.	Interests	17
10.	Patron	18
11.	General Manager	18
12.	Indemnity and Insurance	18
13.	Finances	18
14.	Method of contracting	19
15.	Amendments	19
16.	Bylaws	20
17.	Dispute resolution	20
18.	Liquidation and removal	23
19.	Matters not provided for	23
20.	Transition	24

Art Deco Trust Incorporated
Constitution

1. Definitions and interpretation

Definitions

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

Act means the Incorporated Societies Act 2022, including any amendments, and any regulations made under that Act.

AGM or Annual General Meeting means a meeting of the Members of Art Deco Trust Incorporated held once a year convened under this Constitution.

Application means an application for membership as set out in clause 4.1.

Appointment Panel has the meaning given to it in clause 6.5.

Board means Art Deco Trust Incorporated's governing body.

Board Meeting means a meeting of the Board.

Board Member means a member of the Board, including the Chair.

Bylaws means any bylaws, policies, regulations and codes of Art Deco Trust Incorporated made under clause 16.1.

Casual Vacancy is a vacancy which arises on the Board when a Board Member does not serve their full term of office.

Chair means the Board Member appointed as Chair of Art Deco Trust Incorporated under this Constitution.

Constitution means this Constitution, including any amendments and any schedules to this Constitution.

Contact Details means those details located at www.artdeconaier.com/contact-us

Contact Person means a person holding the position of contact person for Art Deco Trust Incorporated being the person the Registrar of Incorporated Societies can contact when needed.

General Manager means the person in the highest-ranking management position in Art Deco Trust Incorporated.

General Meeting means an AGM or SGM of Art Deco Trust Incorporated.

Individual Member means an individual that meets the requirement for individual membership.

Interests Register means the register of interest disclosures made by Officers kept under this Constitution.

Matter means:

- (a) Art Deco Trust Incorporated's performance of its activities or exercise of its powers; or
- (b) an arrangement, an agreement or a contract made or entered (or proposed to be made or entered) into by Art Deco Trust Incorporated.

Member means each person who for the time being is a member of Art Deco Trust Incorporated and includes all categories of members of Art Deco Trust Incorporated described in clause 4.3.

Member Register means the register of Members kept under this Constitution.

Officer means a Board Member and any natural person occupying a position in Art Deco Trust Incorporated that allows the person to exercise significant influence over the management or administration of Art Deco Trust Incorporated.

Ordinary Resolution means a resolution passed by a majority of votes cast.

Patron means a person who has agreed to be associated with Art Deco Trust Incorporated as a patron to show their support for Art Deco Trust Incorporated and to help establish or maintain public credibility of Art Deco Trust Incorporated.

Purposes means the purposes of Art Deco Trust Incorporated described in clause 3.1.

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

Special Resolution means a resolution passed by a 75% majority of votes cast.

Working Day has the meaning given to that term under the Legislation Act 2019 and excludes the day observed as the anniversary in Hawkes Bay.

Interpretation

1.2 Unless the context otherwise requires:

- (a) Words referring to the singular include the plural and vice versa.
- (b) Clause headings are for reference only.
- (c) Expressions referring to writing include references to words visibly represented, copied, or reproduced, including by email.
- (d) Reference to a person includes any other entity or association recognised by law and vice versa and any reference to a particular entity includes a reference to that entity's successors.
- (e) A reference to any legislation includes any secondary legislation, statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.
- (f) All periods of time or notice exclude the days on which they are given.

Notices

1.3 Subject to any other notice provision in this Constitution, any notice or other communication given under this Constitution must be in writing and will be given to:

- (a) a Member to the address set out in their Contact Details;

- (b) Art Deco Trust Incorporated to office@artdeconapier.com or by post to Art Deco Trust Incorporated's registered office set out on the Register of Incorporated Societies.

1.4 A notice is deemed to have been received:

- (a) if given by post, when left at the address of a person or five Working Days after being put in the post; or
- (b) if given by email, upon production of a physical copy of the email detailing the time and the date the email was sent (provided that the sender does not receive any "out of office" auto-reply or other indication of non-receipt),

provided that any notice or communication received or deemed received after 5pm on a Working Day, or on a day which is not a Working Day, will be deemed not to have been received until the next Working Day.

2. **Details of Art Deco Trust Incorporated**

Name

- 2.1 The name of the society is Art Deco Trust Incorporated (**Art Deco Trust**).

Charitable status

- 2.2 Art Deco Trust Incorporated is already registered as a charitable entity under the Charities Act 2005.

Registered office

- 2.3 The registered office of Art Deco Trust Incorporated is at the place in New Zealand/Aotearoa as the Board decides.

Contact person

- 2.4 At its first meeting following an AGM, the Board must appoint or reappoint at least one, and a maximum of three, persons to be the Contact Person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of Incorporated Societies of any change in the Contact Person or that person's Contact Details.

3. **Purpose and powers**

Purpose

- 3.1 The charitable purposes of Art Deco Trust Incorporated are to:

- (a) To ensure Napier continues as "The Art Deco City" by engaging with the community to encourage the retention, preservation, restoration and enhancement of Napier's buildings in the Art Deco and related styles and to encourage their use as viable commercial properties or as city landmarks.
- (b) To undertake research and promotion, and provide public information and education through increasing and appreciation and understanding of Art Deco and related styles and the Art Deco era heritage;

- (c) To have Napier as an acknowledged world leader in Art Deco era heritage and to encourage sympathetic design in the Art Deco quarter and throughout Napier city;
- (d) To provide Art Deco leadership, networking and coordination within the Hawkes Bay Region;
- (e) To deliver initiatives that support tourism and economic benefits to Napier and Hawkes Bay by acting as a tourism operator, retailer, publisher and event organizer;
- (f) To do any action or thing incidental or conducive to ensuring organizational capability and financial viability to achieve the foregoing purposes;
- (g) To work collaboratively and co-operatively with other bodies and organisations concerned with Art Deco heritage in New Zealand.

Capacity and powers

- 3.2 Art Deco Trust Incorporated has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter into any transaction, subject to this Constitution, the Act, any other legislation, and the general law.

4. Members

Member application

- 4.1 An application to become a Member (**Application**) must be in the form required by Art Deco Trust Incorporated. All Applications are decided a delegated person which may accept or decline an Application in their absolute discretion. A person becomes a Member when their Application has been accepted and they have paid the required membership fees and satisfied any other preconditions.

Member consent

- 4.2 A person or entity consents to become a Member by submitting an Application to the organisation and paying the required membership fees, unless otherwise specified in this Constitution.

Member categories

- 4.3 The Members of Art Deco Trust Incorporated are:
- (a) Individual Members and
 - (b) any other categories of member as the Board determines.

Members

Individual Members

- 4.4 Any individual person admitted to membership under clause 4.1 and who has not ceased to be a member under any other clause.

Life Members

- 4.5 Life Membership may be granted in recognition and appreciation of outstanding service by an individual to Art Deco Trust Incorporated. Any Member may nominate an individual to become a Life Member by giving notice to the Board setting out the grounds for the nomination. The Board must then determine whether the nomination should be approved. A person consents to becoming a Life Member on acceptance of their life membership.
- 4.6 Life Members have such rights and benefits as determined by the Board.

Member rights and obligations

- 4.7 Members acknowledge and agree that:
- (a) they are bound by, and will comply with, this Constitution and the Bylaws;
 - (b) they are entitled to all rights and entitlements granted by this Constitution or as determined by the Board;
 - (c) to receive, or continue to receive or exercise member rights, they must meet all the member requirements set out in this Constitution and the Bylaws or as otherwise set by the Board, including payment of any membership or other fees within the required time period;
 - (d) if they fail to comply with sub-clause (c) the Board may terminate their membership;
 - (e) they do not have any rights of ownership of, or the automatic right to use, the property of Art Deco Trust Incorporated; and
 - (f) they will promote the interests and Purposes of Art Deco Trust Incorporated and must not do anything to bring Art Deco Trust Incorporated into disrepute.

Suspension of a Member

- 4.8 If a Member is, or may be, in breach under clause 4.7, and the Board believes it is in the best interests of Art Deco Trust Incorporated to do so, the Board may suspend the Member until final determination of the matter under the dispute resolution process applicable to the matter. Before imposing any such suspension, the Member must be given notice of the suspension.
- 4.9 Unless otherwise determined by the Board, while a Member is suspended the Member is:
- (a) not entitled to attend, speak or vote at a General Meeting;
 - (b) not entitled to any other rights or entitlements as a Member;
 - (c) in the case of an Individual Member, not entitled to continue to hold office in any position within Art Deco Trust Incorporated; and
- until such time as the alleged breach is resolved or determined.

Ceasing to be a Member

- 4.10 A Member ceases to be a Member:
- (a) if an individual on death, or if a body corporate on liquidation;
 - (b) by giving notice to the Board of their resignation;

- (c) if their membership is terminated under clause 4.7(d);
- (d) if their membership is terminated following a dispute resolution process or such other process set out or referred to in this Constitution.

4.11 A Member who ceases to be a Member:

- (a) remains responsible to pay all their outstanding membership and other fees to Art Deco Trust Incorporated;
- (b) must return all property of Art Deco Trust Incorporated if required;
- (c) ceases to be entitled to any rights of a Member, but continues to be bound by the obligations of a Member under this Constitution if required by the Board.

Membership fees

- 4.12 The Board will decide any membership and other fees payable by Members and the due date for those fees. The Board may determine different levels of membership fees and other fees for different types of Members.

Member Register

- 4.13 The Board will ensure an up-to-date Member Register is kept and the register must include:

- (a) each Member's name;
- (b) each Member's Contact Details;
- (c) the date each person became a Member.

A Member must provide notice to Art Deco Trust Incorporated of any change to their Contact Details. The Member Register will be updated as soon as practicable after the Board becomes aware of changes of the information recorded in the Member Register.

- 4.14 The Board will keep a record of the name of each person who has ceased to be a member of Art Deco Trust Incorporated within the previous 7 years and the date on which they ceased to be a member.

5. General Meetings

AGM

- 5.1 Art Deco Trust Incorporated must hold an AGM once a year at the time, date and place as the Board decides, but not more than 6 months after the balance date of Art Deco Trust Incorporated and not more than 15 months after the previous AGM.
- 5.2 The Members must be given at least 15 working days notice of the AGM. Notice to Members of an AGM may be given by posting on Art Deco Trust Incorporated's website and social media accounts.

Business of AGM

- 5.3 The following business will be discussed at the AGM:
- (a) confirmation of the minutes of the previous AGM;

- (b) the Board's presentation of the following information during the most recently completed accounting period:
 - (i) the annual report;
 - (ii) the annual financial statements;
 - (iii) the auditor's report to members on the financial statements audited by a qualified auditor;
 - (iv) notice of any disclosures of conflicts of interest made by Officers (including a brief summary of the Matters, or types of Matters, to which those disclosures relate);
 - (c) the election of any Board Members;
 - (d) the appointment or announcement of any Appointed Board Members
 - (e) consideration of any motions proposing to amend this Constitution that have been properly submitted for consideration at the AGM;
 - (f) consideration of any other items of business that have been properly submitted for consideration at the AGM.
- 5.4 Members must give notice of any proposed motions and other items of business to the Art Deco Trust Incorporated at least 10 working days before the date of the AGM.
- 5.5 Notice of the agenda containing the business to be discussed at the AGM must be sent to all persons entitled to attend the AGM at least five working days before the date of the AGM. No additional items of business can be voted on other than those set out in the agenda, but the Members present may, at the discretion of the Chair, discuss any other items.

SGM

- 5.6 The Board must call a SGM if it receives a written request stating the purpose of the SGM from:
- (a) the Board itself; or
 - (b) by 75% of Members.
- 5.7 Members must be given at least seven working days notice of the SGM unless the Board, in its discretion, decides that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members.
- 5.8 A SGM may only consider and deal with the business specified in the request for the SGM.

Quorum

- 5.9 No business is to be transacted at any General Meeting unless a quorum is present at the time when the meeting is due to start. The quorum for a General Meeting is twenty five Members who are entitled to vote. The quorum must always be present during the General Meeting.
- 5.10 If a quorum is not reached within 30 minutes of the scheduled start time of an AGM, the AGM is adjourned to a day, time and place determined by the chair of the AGM. If no quorum is achieved at the further AGM, the Members present, in person or through audio,

audio visual link or other electronic communication, 15 minutes after the scheduled start time of that further AGM are deemed to constitute a valid quorum.

- 5.11 If a quorum is not reached within 30 minutes of the scheduled start time of the SGM, the SGM is cancelled.

Control of General Meetings

- 5.12 The Chair of Art Deco Trust Incorporated chairs General Meetings. If the Chair is unavailable, the Vice-Chair will preside. In the absence of both of those persons, the Members present will elect a person to chair the General Meeting.

Attendance and voting

- 5.13 The following persons are eligible to attend and speak at General Meetings:

- (a) Individual Members and
- (b) any other persons invited by the Board.

- 5.14 The voting entitlement for each Member eligible to vote is 1 vote per Member.

Method of voting

- 5.15 Voting is conducted by voices or a show of hands as determined by the Chair of the meeting, unless a secret ballot is called for by a minimum of six members and approved by the Chair or as otherwise required under this Constitution.
- 5.16 Elections of the Elected Board Members at an AGM must be undertaken by secret ballot. Two scrutineers must be appointed at the General Meeting to count the votes.
- 5.17 An Ordinary Resolution of Members at a General Meeting is sufficient to pass a resolution, except as specified in the Act or this Constitution.
- 5.18 Voting by electronic means is permitted if the AGM takes place electronically. At all other times, electronic voting is not permitted.

Minutes

- 5.19 Full minutes must be kept of all General Meetings.

Omissions and irregularities

- 5.20 The General Meeting and its business will not be invalidated simply because one or more Members do not receive notice of the General Meeting.
- 5.21 The General Meeting and its business will not be invalidated by an irregularity, error or omission in notices, agendas and relevant papers of the General Meeting or the omission to give notice within the required time frame or the omission to give notice to all Members and any other error in the organisation of the General Meeting if:
- (a) the Chair in their discretion determines that it is still appropriate for the General Meeting to proceed despite the irregularity, error, or omission; and
 - (b) a motion to proceed is put to the General Meeting and a majority, of two-thirds of votes cast, is obtained in favour of the motion to proceed.

Resolution passed in lieu of meeting

- 5.22 A resolution in writing signed or consented to by email or other electronic means by a 75% majority of Members is valid as if it had been passed at a General Meeting provided the requirements under sections 89 to 92 of the Act are complied with. Any resolution may consist of several documents in the same form each signed by one or more Members.

6. Board

Functions and powers

- 6.1 Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution:
- (a) the Board must manage, direct or supervise the operation and affairs of Art Deco Trust Incorporated; and
 - (b) the Board has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of Art Deco Trust Incorporated; and
 - (c) the Board may co-opt any person to the Board for a specific purpose, or for a limited period or generally until the next AGM; and
 - (d) the Board may appoint subcommittees consisting of such persons (whether or not Members) and for such purposes as it thinks fit.

Composition

- 6.2 The Board consists of a minimum of five but no more than eight members made up of:
- (a) up to three persons elected at the AGM under [clause **Error! Reference source not found.**] (**Elected Board Members**); and
 - (b) up to four persons appointed under [clause 6.4] (**Appointed Board Members**); and
 - (c) one person appointed by the Napier City Council

This Constitution expressly provides for the majority of the Board to be made up of Officers who are not Members.

Election of Board Members

- 6.3 Elected Board Members are elected as follows:
- (a) the Board must call for nominations for any Board Member positions that are to be vacated at an AGM by a date set by the Board and if no date is set, at least 60 days before the AGM;
 - (b) nominations are made in the form decided by the Board and must be received by the date set by the Board and if no date is set, at least 30 days before the AGM;
 - (c) the Board must give notice of the nominations to all Members at least 21 days before the AGM;
 - (d) at the AGM, if there are more nominees than number of positions available, the election is by secret ballot;

- (e) those nominees who have the highest number of votes in their favour to fit the number of vacant positions are declared elected;
- (f) if the number of votes for one or more nominees is equal to another nominee, a further vote will be held between the tied nominees;
- (g) if there is only one nominee for a vacant position, that person is declared to be elected without the need for a vote.

Appointment of Board Members

6.4 Appointed Board Members are appointed as follows:

- (a) The Appointment Panel must call for applications for any vacant Board Member positions by a date set by the Board and if no date is set, at least 90 days before the AGM.
- (b) Applications are made in the form decided by the Appointment Panel and must be received by the Appointment Panel by the date set by the Board and if no date is set, at least 60 days before the AGM.
- (c) The Appointment Panel must undertake its responsibilities as set out in clause 6.9.
- (d) At least 30 days prior to the AGM, the Appointment Panel must notify the Board of the Appointed Board Member(s) who are to assume office. In turn, at least 21 days before the AGM, the Board must notify the Members of the Appointment Panel's decision regarding any Appointed Board Members it has appointed.

Appointment Panel

6.5 There will be a Board Appointment Panel (**Appointment Panel**) comprising of the following people (each a **Panel Member**):

- (a) the Chair, or if the Chair is not eligible or willing to serve on the Appointment Panel or is seeking reappointment or re-election to the Board, then another Board Member who is eligible to serve on the Appointment Panel and is not seeking re-appointment or re-election to the Board as determined by the Board;
- (b) the General Manager of Art Deco Trust Incorporated;
- (c) a nominee who is independent of the Board and has an interest and understanding of Art Deco Trust Incorporated in New Zealand, as determined by the Board,

6.6 A person will not be eligible to be a Panel Member or remain as a Panel Member if any of the circumstances listed in clause 6.19 apply to that person.

6.7 The convenor of the Appointment Panel is the Chair.

6.8 Panel Members remain in office for the period necessary to fulfil their responsibilities in relation to each vacancy of a Board Member for which the Appointment Panel was established.

6.9 The Appointment Panel is independent of the Board and is responsible for:

- (a) advertising, identifying and inviting suitable candidates to apply for appointment as an Appointed Board Member;

- (b) receiving and assessing applications from candidates for appointment as Appointed Board Members, including undertaking such enquiries and holding interviews and meetings as it sees fit;
 - (c) deciding the candidates to be appointed as Appointed Board Members;
 - (d) receiving and assessing applications from candidates for election as Elected Board Members at an AGM, including undertaking such enquiries and holding interviews and meetings as it sees fit;
 - (e) recommending to the Members at, or prior to, an AGM at which any vacancy in the positions of Elected Board Member arises, the applicant(s) whom the Appointment Panel considers would best suit the positions.
- 6.10 In determining the Appointed Board Members, and recommending persons to be Elected Board Members the Appointment Panel will do so based on merit and will consider the following factors about the candidate and the Board as a whole:
- (a) prior experience as a director, trustee, officer or experience in any other governance role;
 - (b) knowledge of, and experience in not for profit organisations generally;
 - (c) understanding of the legal, regulatory, fiduciary and ethical obligations of Board Members;
 - (d) the desire for conflicts of interest on the Board to be minimised;
 - (e) the desire for a wide range of knowledge, skills, and experience on the Board; and
 - (f) the desire for diversity and inclusion on the Board.
- 6.11 Unless otherwise set out in this Constitution, the Appointment Panel may decide its own process.
- 6.12 The quorum for a meeting of the Appointment Panel is 2 Panel Members.
- 6.13 Any decision of the Appointment Panel regarding the appointment of Appointed Board Members and the persons to be recommended as Elected Board Members must be unanimous.
- 6.14 All information received by the Appointment Panel and its discussions must be kept confidential except to the extent required by law. Panel Members must notify the convenor of any potential conflict of interest in considering any candidate. If the convenor considers it appropriate to do so, they may require that Panel Member to vacate their position. If the convenor considers they may have a potential conflict of interest, they must notify the other Panel Members and the Board. If the Board considers it appropriate to do so, it may require that convenor to vacate their position.
- 6.15 The Board may remove any Panel Member if the Board considers, in its sole discretion, that:
- (a) that Panel Member has a conflict of interest which has not been satisfactorily resolved to the satisfaction of the Board; or
 - (b) there are circumstances which may give rise to a question of actual or apparent bias in the Appointment Panel's composition and/or process.

- 6.16 Before removing any Panel Member, the Board must:
- (a) notify that Panel Member of its proposal to remove them;
 - (b) give that Panel Member and the other Panel Members the opportunity to make submissions on the proposed removal and the opportunity to be heard.
- 6.17 Any vacancy in the Appointment Panel will be replaced by the person or organisation that appointed the Panel Member for which the vacancy arises.

Qualification

- 6.18 Every Board Member must, in writing:
- (a) consent to be a Board Member; and
 - (b) certify that they are not disqualified from being elected, appointed or holding office as a Board Member by this Constitution or under section 47 of the Act or under the Charities Act 2005.

Disqualification

- 6.19 The following persons are disqualified from being elected, appointed or holding office as a Board Member:
- (a) A person who is an employee of, or contractor to Art Deco Trust Incorporated.
 - (b) A person who is disqualified from being elected, appointed or holding office as a Board Member under section 47 of Act or under section 36B of the Charities Act 2005.
 - (c) A person who has been removed as a Board Member following a process under this Constitution or any Bylaw.
- 6.20 If an existing Board Member becomes or holds any position in clauses 6.19(a) or **Error! Reference source not found.** then upon appointment to such a position, that Board Member is deemed to have vacated their office as a Board Member.
- 6.21 If any of the circumstances listed in clause 6.19(b) occur to an existing Board Member, that Board Member is deemed to have vacated their office upon the relevant authority making an order or finding against the Board Member of any of those circumstances.

Term of office

- 6.22 The term of office for Board Members is three years, expiring at the end of the relevant AGM. A Board Member may be [e-elected or reappointed to the Board for a maximum of three consecutive terms of office. Prior to each AGM, the Board will advise the Appointment Panel of the schedule of rotation and the vacancies arising in Board Member positions at the AGM.
- 6.23 The term of any period served to fill a Casual Vacancy is disregarded for the purposes of calculating the total terms served.

Vacancies

- 6.24 If there is a Casual Vacancy on the Board of an Appointed Board Member and:
- (a) the Casual Vacancy arose six (6) months or more after the last AGM, the remaining Board Members may:

- (i) refer the appointment to the Appointment Panel to fill under clause 6.4 with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable;
 - (ii) appoint a person of their choice to fill the Casual Vacancy; or
 - (iii) leave the Casual Vacancy unfilled until the next AGM;
 - (b) the Casual Vacancy arose less than six (6) months after the last AGM, the remaining Board Members must refer the appointment to the Appointment Panel to fill under clause 6.4 with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable
- 6.25 A person appointed to fill a Casual Vacancy of an Appointed Board Member continues until the expiry of the term of the person they replace.
- 6.26 If there is a Casual Vacancy on the Board of an Elected Board Member, the remaining Board Members may:
- (a) appoint a person of their choice to fill the Casual Vacancy until the expiry of the term of the person they replace;
 - (b) appoint a person of their choice to fill the Casual Vacancy only until the next AGM, at which a person is elected under clause **Error! Reference source not found.** to fill the remainder of the term of the Casual Vacancy;
 - (c) may leave the Casual Vacancy unfilled until the next AGM, at which a person is elected under clause **Error! Reference source not found.** to fill the remainder of the term of the Casual Vacancy.

Suspension of Board Member

- 6.27 If a Board Member is or may be the subject of an allegation or notice relating to a matter described under clause 6.19 or any other circumstances arise in relation to a Board Member which are or may be of concern to the Board, the remaining Board Members may, by Special Resolution, suspend the Board Member from the Board and set conditions it requires pending the final determination of the allegation, notice or circumstances. Before imposing any suspension, the Board Member must be given notice of the suspension.

Removal of Board Member

- 6.28 The Board may, by Special Resolution, remove a Board Member from the Board before the expiry of their term of office if the Board considers the Board Member concerned:
- (a) has seriously breached duties under this Constitution or the Act; or
 - (b) is no longer a suitable person to be a Board Member; or
 - (c) is involved with, interested in, or otherwise closely connected to a person or activity which has or may bring Art Deco Trust Incorporated into disrepute or which may be prejudicial to the Purposes or the interests of Art Deco Trust Incorporated if they remain as a Board Member.

The Board Member who is the subject of the motion is counted for the purpose of reaching a quorum but will not participate in the vote on the motion.

- 6.29 Before considering a motion for removal, the Board Member who is the subject of the motion must be given:
- (a) notice that a Board Meeting is to be held to discuss the motion to remove the Board Member; and
 - (b) adequate time to prepare a response; and
 - (c) the opportunity prior to the Board Meeting to make written submissions; and
 - (d) the opportunity to be heard at the Board Meeting.

Board Member ceasing to hold office

- 6.30 A person ceases to be a Board Member if:
- (a) their term expires;
 - (b) the person resigns by delivering a signed notice of resignation to the Board;
 - (c) the person is removed from office under this Constitution;
 - (d) the person becomes disqualified from being an officer under section 47(3) of the Act;
 - (e) the person becomes disqualified from being an officer under section 36B of the Charities Act 2005;
 - (f) the person dies; or

7. Board Meetings

- 7.1 Board Meetings may be called at any time by the Chair or by five Board Members, but generally the Board meets monthly.
- 7.2 Except to the extent specified in the Act or this Constitution, the Board may regulate its own procedure.

Quorum

- 7.3 The quorum for a Board Meeting is four Board Members.
- 7.4 Any Board Member may be counted for the purposes of a quorum, participate in any Board Meeting and vote on any proposed resolution at a meeting without being physically present. This may only occur at Board Meetings by audio or audio-visual link or other electronic communication provided that all persons participating in the Board Meeting can hear each other effectively and simultaneously.

Chair

- 7.5 At its first meeting following an AGM, the Board must elect a Chair.
- 7.6 The role of the Chair is to chair meetings of the Board. If the Chair is unavailable, another Board Member must be appointed by the Board to undertake the Chair's role during the period of unavailability.

Voting

- 7.7 Each Board Member has one vote. Voting is by voices or on request of any Board Member by a show of hands or by a ballot. Proxy and postal votes are not permitted. Voting by electronic means is permitted.
- 7.8 The Chair does not have a casting vote.

Resolution in writing

- 7.9 A resolution in writing signed or consented to by email or other electronic means by the required majority of Board Members is valid as if it had been passed at a meeting of the Board. Any resolution may consist of several documents in the same form each signed by one or more Board Members.

8. Officers' Duties

- 8.1 An Officer:
- (a) when exercising powers or performing duties as an Officer, must act in good faith and in what the Officer believes to be the best interests of Art Deco Trust Incorporated;
 - (b) must exercise a power as an Officer for a proper purpose;
 - (c) must not act, or agree to Art Deco Trust Incorporated acting, in a manner that contravenes the Act or this Constitution;
 - (d) when exercising powers or performing duties as an Officer, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances, taking into account, but without limitation the nature of Art Deco Trust Incorporated, the nature of the decision and the position of the Officer and the nature of the responsibilities undertaken by them;
 - (e) must not agree to the activities of Art Deco Trust Incorporated being carried on in a manner likely to create a substantial risk of serious loss to Art Deco Trust Incorporated's creditors or cause or allow the activities of Art Deco Trust Incorporated to be carried on in a manner likely to create a substantial risk of serious loss to Art Deco Trust Incorporated's creditors;
 - (f) must not agree to Art Deco Trust Incorporated incurring an obligation unless the Officer believes at that time on reasonable grounds that Art Deco Trust Incorporated will be able to perform the obligation when it is required to do so; and
 - (g) when exercising powers or performing duties as an Officer, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - (i) an employee whom the Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (ii) a professional adviser or expert in relation to matters that the officer believes on reasonable grounds to be within the person's professional or expert competence; or

- (iii) any other Officer or subcommittee of Officers on which the Officer did not serve in relation to matters within the Officer's or subcommittee's designated authority,

if the Officer, acts in good faith, makes proper inquiry where the need for inquiry is indicated by the circumstances, and has no knowledge that the reliance is unwarranted.

9. **Interests**

9.1 An Officer is **Interested** in a Matter if the Officer:

- (a) may obtain a financial benefit from the Matter; or
- (b) is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, sibling, nephew, niece, uncle, aunt, or first cousin of a person who may obtain a financial benefit from the Matter; or
- (c) may have a financial interest in a person to whom the Matter relates; or
- (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the Matter relates,

but an Officer is not interested in a Matter:

- (e) merely because the Officer receives an indemnity, insurance cover, remuneration, or other benefits authorised under the Act; or
- (f) if the Officer's interest is the same or substantially the same as the benefit or interest of all or most other Members of Art Deco Trust Incorporated due to the membership of those members; or
- (g) if the Officer's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Officer in carrying out their responsibilities under the Act or this Constitution.

9.2 The Board must keep an Interests Register.

9.3 An Officer who is Interested in a Matter relating to Art Deco Trust Incorporated must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) to the Board, as soon as practicable after the officer becomes aware that they are interested in the Matter and include it in the Interests Register.

9.4 A Board Member who is Interested in a Matter:

- (a) must not vote or take part in a decision of the Board relating to the Matter, unless all non-interested Board Members consent;
- (b) must not sign any document relating to the entry into a transaction or the initiation of the Matter, unless all non-interested Board Members consent;
- (c) must not take part in any Board discussion relating to the Matter or be present at the time of the Board decision, unless all non-interested Board Members consent;

- (d) may be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered.

9.5 Despite clause 9.4, if 50% or more Board Members are Interested in a Matter, an SGM must be called to consider and determine the Matter.

9.6 The Board must notify Members of a failure to comply with section 63 or 64 of the Act, and of any transactions affected, as soon as practicable after becoming aware of the failure in the manner set out in the Regulations.

10. **Patron**

10.1 A Patron may be invited by the Board to be the Patron. The Patron is entitled to attend and speak at General Meetings but has no right to vote.

11. **General Manager**

11.1 A Board may engage a General Manager.

11.2 The General Manager is under the direction of the Board and is responsible for the day-to-day management of the affairs of Art Deco Trust Incorporated under this Constitution and the Bylaws and within any delegated authority from the Board.

11.3 The General Manager may attend Board Meetings on and when required by the Board but has no voting rights.

12. **Indemnity and Insurance**

12.1 Art Deco Trust Incorporated indemnifies its current and former Officers, Members and employees as permitted by section 96 of the Act.

12.2 With the prior approval of its Board, Art Deco Trust Incorporated may effect insurance for its current and former Officers, Members and employees as permitted by section 97 of the Act.

12.3 Art Deco Trust Incorporated is authorised to indemnify an Officer under section 96 of the Act or effect insurance for an Officer under section 97 of the Act for the following matters:

- (a) liability (other than criminal liability) for a failure to comply with a duty under sections 54 to 61 of the Act or any other duty imposed on the Officer in their capacity as an Officer; and
- (b) costs incurred by the Officer for any claim or proceeding relating to that liability.

13. **Finances**

13.1 The funds and property of Art Deco Trust Incorporated are:

- (a) controlled, invested and disposed of by the Board, subject to this Constitution; and
- (b) devoted solely to the promotion of the Purposes.

- 13.2 Art Deco Trust Incorporated's balance date is 31 August or on the date as the Board decides.
- 13.3 Art Deco Trust Incorporated's financial statements must be audited each year and the audited financial statements must be submitted to the AGM. The auditor will be appointed by the Board.

No personal benefit

- 13.4 The Officers and Members may not receive any distributions of profit or income from Art Deco Trust Incorporated. This does not prevent Officers or Members:
- (a) receiving reimbursement of actual and reasonable expenses incurred, or
 - (b) entering into any transactions with the organisation for goods or services supplied to or from them, which are at arms' length, relative to what would occur between unrelated parties,
- provided no Officer or Member is allowed to influence any such decision made by Art Deco Trust Incorporated in respect of payments or transactions between it and them, their direct family or any associated entity.

14. Method of contracting

- 14.1 A contract or other enforceable obligation may be entered into by Art Deco Trust Incorporated:
- (a) by deed by:
 - (i) 2 or more Officers; or
 - (ii) an Officer, or other person or class of persons, whose signature or signatures must be witnessed; or
 - (b) by agreement by a person acting under Art Deco Trust Incorporated's express or implied authority.

15. Amendments

Amendment

- 15.1 This Constitution may only be amended or replaced by Special Resolution at a General Meeting.
- 15.2 No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals.
- 15.3 If an amendment to this Constitution would have no more than a minor effect or is to correct errors or makes similar technical alterations, the Board may give notice of the amendment to every Member stating the text of the amendment and the right of Members to object to the amendment. If the Board does not receive any objections from Members within 20 Working Days after the date on which the notice is sent, or any longer period of time that the Board decides, the Board may make that amendment. If it does receive an objection, the Board may not make the amendment.

16. **Bylaws**

- 16.1 The Board may make and amend Bylaws for the conduct and control of Art Deco Trust Incorporated's activities and codes of conduct applicable to Members. Any Bylaw must be consistent with this Constitution, the Purposes, the Act and any other laws. All Bylaws are binding on Art Deco Trust Incorporated and the Members.
- 16.2 The making, amendment, revocation, or replacement of a Bylaw is not an amendment of this Constitution.

17. **Dispute resolution**

Definitions

17.1 In this clause 17:

- (a) **Dispute** means a disagreement or conflict between and among any one or more Members, any one or more Officers and Art Deco Trust Incorporated, that relates to an allegation that:
- (i) a Member or an Officer has engaged in misconduct; or
 - (ii) a Member or an Officer has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (iii) Art Deco Trust Incorporated has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (iv) a Member's rights or interests as a member have been damaged or Members' rights or interests generally have been damaged;
- (b) **Disputes Procedure** means the procedure for resolving a Dispute set out in clauses 17.6 to 17.18;
- (c) a **Member** is a reference to a Member acting in their capacity as a Member;
- (d) an **Officer** is a reference to an Officer acting in their capacity as an Officer.

Application of other legislation to a Dispute

- 17.2 The Disputes Procedure will not apply to a Dispute to the extent that other legislation requires the Dispute to be dealt with in a different way. The Disputes Procedure will have no effect to the extent that it contravenes, or is inconsistent with, that legislation.

Application of other procedures under this Constitution or in a Bylaw

- 17.3 If the Dispute is dealt with by a separate procedure under this Constitution or in a Bylaw (**Other Procedure**), that Other Procedure applies to the exclusion of the Disputes Procedure. If any part of the Other Procedure is inconsistent with the rules of natural justice, that part will not apply, but the remainder of the Other Procedure will continue to apply together with adjustments as determined by the Board in its discretion so that the Other Procedure is consistent with the rules of natural justice.

- 17.4 If the conduct, incident, event or issue does not meet the definition of a Dispute and is managed by any Other Procedure, that Other Procedure applies to the exclusion of the Disputes Procedure.

Application of the Disputes Procedure

- 17.5 If the Dispute is not required by other legislation to be dealt with in a different way and it is not dealt with by any Other Procedure, the Disputes Procedure applies to the Dispute.

Disputes Procedure

Raising a complaint

- 17.6 A Member or an Officer may start the Disputes Procedure (a **Complaint**) by giving written notice to the Board setting out:
- (a) the allegation to which the dispute relates and who the allegation is against; and
 - (b) any other information reasonably required by Art Deco Trust Incorporated.
- 17.7 Art Deco Trust Incorporated may make a Complaint involving an allegation against a Member or an Officer by giving notice to the person concerned setting out the allegation to which the Dispute relates.
- 17.8 The information given must be enough to ensure a person against whom the Complaint is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

Investigating and determining Disputes

- 17.9 Unless otherwise provided, Art Deco Trust Incorporated must as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure the Dispute is investigated and determined.
- 17.10 Disputes must be dealt with in a fair, efficient, and effective manner.

Decision to not proceed with a matter

- 17.11 Despite the contents of the Disputes Procedure, Art Deco Trust Incorporated may decide not to proceed with a matter if:
- (a) the Complaint is trivial; or
 - (b) the Complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct; or
 - (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act; or
 - (iii) any material damage to a Member's rights or interests or Members' rights or interests generally; 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 this Constitution; or
- (f) there has been an undue delay in making the Complaint; or

Complaint may be referred

17.12 Art Deco Trust Incorporated may refer a Complaint to:

- (a) a hearing body or person authorised, delegated or appointed by the Board to hear and resolve Disputes, and includes an arbitral tribunal (**Hearing Body**); or
- (b) a subcommittee or an external person to investigate and report; or
- (c) any type of consensual dispute resolution with the consent of all parties to the Complaint.

Hearing Body

17.13 The Board may determine the composition, jurisdiction, functions and procedures of, and any sanctions which can be imposed by, any Hearing Body. Each Hearing Body has delegated authority by the Board to resolve, or assist to resolve, Complaints.

Bias

17.14 An individual may not be part of a Hearing Body in relation to a Complaint if two or more members of the Board or of the Hearing Body consider there are reasonable grounds to believe that the individual may not be:

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

Complainant's right to be heard

17.15 The Member or Officer has a right to be heard before the Complaint is resolved or any outcome is determined. If Art Deco Trust Incorporated makes a Complaint, Art Deco Trust Incorporated has a right to be heard before the Complaint is resolved or any outcome is determined, and a Board Member may exercise that right on behalf of Art Deco Trust Incorporated.

17.16 A Member or Officer or Art Deco Trust Incorporated must be taken to have been given the right if:

- (a) the Member or Officer or Art Deco Trust Incorporated has 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 Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and
- (c) an oral hearing, if any, is held before the Hearing Body; and
- (d) the Member's or Officer's or Art Deco Trust Incorporated's written statement or submission, if any, are considered by the Hearing Body.

Respondent's right to be heard

17.17 The Member or Officer who, or Art Deco Trust Incorporated which, is the subject of the Complaint (**Respondent**) has a right to be heard before the Complaint is resolved or any

outcome is determined. If the Respondent is Art Deco Trust Incorporated, a Board Member may exercise the right on behalf of Art Deco Trust Incorporated. 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 to be held; and
- (c) an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and
- (d) an oral hearing, if any, is held before the Hearing Body; and
- (e) the Respondent's written statement or submissions, if any, are considered by the Hearing Body.

Appeals

17.18 There is no right of appeal or right of review of a decision unless specified.

18. Liquidation and removal

- 18.1 The Board must give notice to all Members at least 20 Working Days of a proposed motion:
- (a) to appoint a liquidator;
 - (b) to remove Art Deco Trust Incorporated from the Register of Incorporated Societies; or
 - (c) for the distribution of Art Deco Trust Incorporated's surplus assets.
- 18.2 The notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.
- 18.3 Any resolution for a motion set out in clauses 18.1(a) to (c) must be passed by Special Resolution of Members.
- 18.4 The surplus assets of Art Deco Trust Incorporated, after the payment of all costs, debts and liabilities, must be disposed of to [insert not-for-profit entity(ies) name(s)] or any other not-for-profit entity that shares similar purposes to Art Deco Trust Incorporated.
- 18.5 The surplus assets of Art Deco Trust Incorporated, after the payment of all costs, debts and liabilities, must be disposed of to [insert organisation(s) with charitable status] or any other not-for-profit entity or entities in New Zealand which are exclusively charitable and which share similar purposes to Art Deco Trust Incorporated.

19. Matters not provided for

- 19.1 If any matter arises that, in the opinion of the Board, is not provided for in this Constitution or any Bylaws, or if any dispute arises out of the interpretation of this Constitution or the Bylaws, the matter or dispute will be determined by the Board.

20. **Transition**

20.1 This clause 20 applies to facilitate transition of Art Deco Trust Incorporated from the previous rules to this Constitution. If this clause is inconsistent with any other clause in this Constitution, this clause applies to the extent of the inconsistency and the other clause will not.

20.2 Subject to the Act, the Board may amend any requirement for and/or the date by which this Constitution requires anything to be done. This clause applies for a period of eighteen months and is solely to enable flexibility in the transition of Art Deco Trust Incorporated from the previous rules to this Constitution and to correct any unintended consequences occurring through different wording being used.

Transition of Board Members

20.3 All Board Members elected or appointed under the previous rules will continue

20.4 All terms served under the previous rules count towards any maximum number of terms stipulated in this Constitution.

Transition of Members

20.5 Subject to this Constitution, every Member which was a member of Art Deco Trust Incorporated and recorded on the Member Register immediately prior to the commencement of this Constitution, continues as a Member.

Transition of Bylaws

20.6 All bylaws, policies, regulations of Art Deco Trust Incorporated which were in force immediately prior to this Constitution or any previous [rules/constitution] coming into force continue in force, until such time as they are revoked by the Board. If any of those bylaws, policies, regulations are inconsistent with this Constitution (whether in whole or in part), the Board will determine the matter as it sees fit, to the extent of any such inconsistency.