[144N-QLD: As at amalgamation on 1 March 2014 in matter D2013/120]

I CERTIFY under section 161 of Schedule 1 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 22 both inclusive contain a true and correct copy of the registered rules of the Queensland Branch of the Australian Property Services Association.

 DELEGATE OF THE GENERAL MANGER

 FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any office of the Fair Work Commission.]

CONSTITUTION AND RULES

Property Sales Association of Queensland, Union of Employees

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 **Definitions**

“Act” means the relevant industrial legislation.

"Branch" shall mean a Branch of the Association established by the Committee of Management of the Association.

“Financial Member” means a Member who is not an Unfinancial Member within the meaning of sub-rule 4.11, or having become Unfinancial in accordance with that sub-rule, has paid all monies prescribed by that sub-rule to be reinstated to Financial Membership.

“Member” means a person admitted to Membership in accordance with those Rules, and whose Membership has not been terminated in accordance with these Rules, or by operation of law.

“Officer” shall bear the same meaning as defined in the Act.

“Official” shall mean any Officer as defined herein and any person appointed or elected to the position of Organiser, Industrial Officer, and the holder of any similar position from time to time within the Association.

"Plural/Singular" – every reference in these Rules to the singular shall include the plural and vice versa.

# Rule 1 Name and Office

## 1.1 Name

### 1.1.1 The registered name of the industrial organisation shall be “Property Sales Association of Queensland, Union of Employees” (Association).

## 1.2 Office

### 1.2.1 The registered office and ordinary place of business of the Association shall be 9 Deputor Street, Rochedale South, Queensland, 4123, or such place as may be determined by the Committee of Management from time to time, provided that the Secretary shall promptly inform the Industrial Registrar of any change of the location of the registered office.

# Rule 2 Eligibility

## 2.1 Eligibility

### 2.1.1 The persons eligible for Membership of the Association shall be Property Salespeople and/or Real Estate Salespeople who are employed in that capacity in the State of Queensland, and any person so employed may apply for Membership of the Association.

### 2.1.2 Provided that persons appearing from the records of the Association to be Members as at the date of adoption of these Rules shall be deemed to be Members of the Association.

### 2.1.3 Persons principally engaged in a Clerical capacity and eligible to join the Australian Municipal Administrative Clerical and Services Union (ASU), shall not be eligible to join the Association.

# Rule 3 Objects and Powers

## 3.1 Objects

### 3.1.1 The Objects of the Association shall be:

#### (a) Upholding the rights of a combination of labour, by improving, fostering and protecting the work interests of Members and affording protection from oppression.

#### (b) Addressing the questions of hours of work, fair remuneration and industrial conditions by amicable means such as arbitration, conciliation, or establishment of permanent boards or committees.

#### (c) Assisting Members or their families in distress.

#### (d) Formulating and activating schemes for the industrial, social, recreational, educational and general advancement of Members.

#### (e) Taking steps to ensure adequate compensation is provided for Members involved in accidents where employers are liable.

#### (f) Making affiliations with other organisations of employees or groups of organisations of employees, for the purpose of giving effect to any or all of the before mentioned Objects.

#### (g) Federating or amalgamating with any union.

#### (h) Creating a fund for mutual assistance and support in carrying out the foregoing Objects.

#### (i) To organise, promote, and subsidise suitable schemes of training and/or education for Members and office holders of the Association.

## 3.2 Powers

### 3.2.1 The Powers of the Committee of Management in pursuing and implementing the Objects shall be:

#### (a) To open or close any account permitted or required by law or by these Rules, with or at any bank, credit union or building society;

#### (b) To borrow, draw down or raise any loan, advance or credit facility or engage in any other means of obtaining financial accommodation from such bank, credit union or building society;

#### (c) To purchase, sell, lease, occupy or permit to be occupied any property, both real and personal, and to deal in any manner with such property in the advancement of the interests of the Association;

#### (d) To employ and/or retain such staff, consultants and advisers as may be necessary to properly conduct the affairs of the Association;

#### (e) To spend, advance or lend any money or other property of the Association subject to these Rules, in the advancement of the interests and Objects of the Association;

#### (f) To do any act which is necessary for, or ancillary to, the attainment and/or the advancement of the Objects of the Association.

# Rule 4 Membership

## 4.1 Application for Membership

### 4.1.1 Applications for Membership of the Association shall be in writing in the form provided by the Association, or in a form materially similar to the prescribed form and containing all prescribed, particulars. The Application must be signed by the Applicant and must be accompanied by the appropriate fee as prescribed in sub-rule 4.4 unless the Applicant elects to pay their subscription by payroll deduction, in which case the authority referred to in sub-rule 4.5 must be lodged with the employer prior to consideration of the Application.

## 4.2 Entitlement to Membership

### 4.2.1 Any Applicant who has paid the appropriate fee or lodged the required payroll deduction authority, and who, by the nature of their occupation or employment engages in a calling that is a registered calling of the Association, and has the qualifications required by sub-rule 2.1, and is not of general bad character, is entitled to be admitted to Membership of the Association and to remain a Member thereof, and enjoy all the advantages of Membership, for so long as the person complies with the Rules of the Association.

## 4.3 Information for Applicant

### 4.3.1 The Secretary shall cause the Applicant to be informed by notice in writing of all financial obligations arising from Membership of the Association, and the circumstances and the manner in which a Member may resign from the Association.

## 4.4 Subscription Fees – Amount and How Determined

### 4.4.1 Membership Subscription Fees shall set by the Committee of Management, upon the recommendation of the Executive.

## 4.5 Payment of Subscriptions

### 4.5.1 Subscriptions shall become due each year on the anniversary of Membership commencing.

### 4.5.2 A Member shall pay to the Association either an annual subscription or a payroll deduction Subscription in agreed instalments totalling not less than the annual Subscription.

### 4.5.3 Payment of Subscriptions by payroll deduction may be made when a Member has authorised an employer to deduct the Subscription from the Member's remuneration and the employer has agreed to make such deduction and regularly submit the Subscription to the Association.

## 4.6 Processing of Application

### 4.6.1 Any Application for Membership shall be immediately forwarded to the Secretary.

### 4.6.2 The Secretary shall determine as soon as is practicable whether the Application complies with the provisions of these Rules, and whether the Applicant is eligible for Membership of the Association. If the Secretary determines that the Application should be accepted in accordance with these Rules, the Secretary shall accept the same, and signify such acceptance by initialling the Application.

## 4.7 Refusal of Application

### 4.7.1 If the Secretary determines that the Application should be refused for any reason, the Secretary shall not reject the Application, but rather the Application shall be referred forthwith to the Committee of Management, which shall determine whether the Application should be accepted.

### 4.7.2 If the Committee of Management decide that the Application should be refused, the applicant shall be informed of the Committee of Management’s decision by the Secretary in writing, and the Applicant shall be given an opportunity to revise the Application.

### 4.7.3 If the Secretary determines that the revised Application should be refused for any reason, the Secretary shall not reject the Application, but rather the Application shall be referred forthwith to the Committee of Management, which shall determine whether the Application should be accepted.

### 4.7.4 Subject to any provisions of the relevant industrial legislation, the decision of the Committee of Management shall be final and binding for the purposes of these Rules.

## 4.8 Procedure upon Acceptance – Register

### 4.8.1 Forthwith upon the Secretary or the Committee of Management determining that the Application should be accepted, the Secretary shall cause the following particulars to be entered in the Register of Members pursuant to sub-rule 4.15:

#### (a) Name;

#### (b) Ordinary place of residence;

#### (c) Present place of residence (if different from sub-rule 4.8.1(b));

#### (d) Date of commencement of Membership (as per sub-rule 4.9);

#### (e) Date of entry on Register;

#### (f) Date on which the person ceases to be a Member.

## 4.9 Commencement of Membership

### 4.9.1 Upon acceptance of an Application for Membership, the Applicant shall be deemed to be a Member of the Association from the date of the receipt of the Application by the Secretary in accordance with sub-rule 4.6 and shall, upon request, receive free of charge a copy of the current registered Rules of the Association.

## 4.10 Rejection of Application

### 4.10.1 Upon rejection of an Application by the Committee of Management, the Secretary shall forthwith refund to the Applicant any monies paid to the Association by the Applicant by way of fees or subscriptions.

## 4.11 Unfinancial Members

### 4.11.1 A Member shall be deemed to be Unfinancial if at any time the Member shall be in arrears of payment of any fees or levies payable in accordance with these Rules for a period in excess of two calendar months. Provided that notwithstanding the foregoing, any Member who has elected to pay their subscription by payroll deduction shall be deemed to be Unfinancial fourteen (14) days after the Member's authority to deduct such subscriptions for their salary is withdrawn, unless the Member has undertaken payment of subscriptions by an alternative means under sub-rule 4.5 before the expiry of that period.

### 4.11.2 Upon becoming Unfinancial in accordance with this Rule, a Member shall only be reinstated to Financial Membership for the purposes of those Rules if the Member pays all fees and levies outstanding at that date together with such fees in advance as would be required to be paid by the Member if they had not become Unfinancial.

## 4.12 Waiver of Arrears

### 4.12.1 Notwithstanding sub-rule 4.11, if a Member becomes Unfinancial by reason of financial hardship caused by extended unemployment or other similar circumstances, the Committee of Management may waive all or any part of any arrears of fees or levies upon application made by the Member.

### 4.12.2 Upon the Committee of Management deciding to waive any such arrears, the Member shall be entitled to be reinstated to Financial Membership on such date as the Committee of Management determines, to the same effect for the purpose of these Rules as if all such fees or levies had been paid when they fell due.

## 4.13 Resignation of Membership

### 4.13.1 A Member may resign from Membership by written notice, including by email communication, addressed and delivered to the Secretary.

### 4.13.2 A notice of resignation from Membership takes effect:

#### (a) where the Member ceases to be eligible to become a Member:

##### (i) on the day on which the notice is received by the Association; or

##### (ii) on the day specified in the notice, which is a day not earlier than the day when the Member ceases to be eligible to become a Member;

### whichever is later; or

#### (b) in any other case:

##### (i) at the end of two (2) weeks, or such shorter period as is specified in these Rules, after the notice is received by the Association; or

##### (ii) on the day specified in the notice;

### whichever is later.

### 4.13.3 Any dues payable but not paid by a former Member, in relation to a period before the Member’s resignation from the Association took effect, may be sued for and recovered in the name of the Association, in a court of competent jurisdiction, as a debt due to the Association.

### 4.13.4 A notice delivered to the person mentioned in sub-rule 4.13.1 is taken to have been received by the Association when it was delivered.

### 4.13.5 A notice of resignation that has been received by the Association is not invalid because it was not addressed and delivered in accordance with sub-rule 4.13.1.

### 4.13.6 A resignation from Membership is valid even if it is not effected in accordance with this Rule if the Member is informed in writing by or on behalf of the Association that the resignation has been accepted.

## 4.14 Recovery of Arrears

### 4.14.1 Legal proceedings for the recovery of an amount payable by a person in relation to the person’s Membership must not be commenced after the end of the period of twelve (12) months starting on the day on which the amount became payable.

### 4.14.2 The amount ceases to be payable at the end of the period if legal proceedings to recover the amount have not been commenced by then.

## 4.15 Membership Records

### 4.15.1 The Association shall keep a Register of Members and a Register of Officers which shall contain all such matters and particulars as are prescribed under the relevant industrial legislation, together with the further particulars prescribed by sub-rules 4.8 and 4.16.

### 4.15.2 The Association shall issue each Financial Member with a written acknowledgement of Membership containing the name of the Member, and any other particulars determined from time to time by the Committee of Management.

### 4.15.3 The Association shall keep a record of all acknowledgements of Membership issued during the preceding twelve (12) months.

## 4.16 Change of Address or Employment

### 4.16.1 A Member who changes private address or place of employment shall notify the Association of any such change within a period of one (1) month thereof.

## 4.17 Duties of Members

### 4.17.1 It shall be the duty and responsibility of each Member to:

#### (a) protect at all times the interests of the Association and of the Members thereof, in so far as they relate to the Association affairs and the Objects of the Association;

#### (b) act at all times with complete honesty in relation to the funds and property belonging to the Association, and to account promptly to the Association for any money or other property of the Association which may pass into their possession for any reason whatsoever;

#### (c) refrain from any act which is intended or is likely to bring the Association into disrepute or disgrace;

#### (d) comply with all lawful resolutions, decisions or directions of any Official, the Executive and/or Committee of Management, in relation to matters concerning the Association's affairs;

#### (e) comply strictly at all times with these Rules, including any variation thereof from time to time;

#### (f) notify the Association as soon as practicable of any occurrence, matter or thing which may give rise to an industrial dispute involving Members of the Association or which may affect the industrial interest of Members;

#### (g) deal with all other Members of the Association with honesty and respect in relation to the affairs of the Association, and without limiting the generality.

## 4.18 Discipline of Members

### 4.18.1 If a Member is found by the Committee of Management to have contravened any of the Rules of the Association, the Committee may discipline that Member by any of the following means:

#### (a) imposing a fine in a sum not exceeding one year's subscription for the current year; and/or

#### (b) suspending the Membership of the Member for a period not exceeding six (6) months; or

#### (c) expelling the Member from the Association.

## 4.19 Disciplinary Procedure

### 4.19.1 If any Financial Member (the "Complainant") believes that grounds exist for disciplining another Member in accordance with sub-rule 4.18, the Complainant may deliver to the Secretary a notice in writing containing the following particulars (hereafter called "the Complaint”):

#### (a) Name of Complainant;

#### (b) Name of accused Member;

#### (c) Facts and circumstances alleged by the Complainant to exist and which constitute grounds for dealing with the Member under sub-rule 4.18, including the specific Rule alleged to have been contravened by the Member;

#### (d) A request that the Committee of Management hear the Complaint and determine whether the Member should be dealt with under sub-rule 4.18.

### 4.19.2 Forthwith upon receiving such Notice, the Complaint shall be dealt with (including any Appeal) in accordance with the procedure prescribed in sub-rule 8.7, with all necessary adaptations for the purposes of hearing a Complaint under this Rule.

## 4.20 Effect of Suspension

### 4.20.1 A Member who is suspended from Membership of the Association in accordance with this Rule, shall be liable to pay all subscriptions, fines and levies which become payable by such Member during the period of suspension, but shall not be entitled to any rights or privileges of Membership during that time, to the effect as if the Membership of the Member had been terminated during that period.

## 4.21 Cessation of Membership

### 4.21.1 The Membership of a Member shall cease (other than by resignation) once any one of the following occurs:

#### (a) the Member remains Unfinancial for a continuous period of one (1) year;

#### (b) the Member is expelled in accordance with sub-rule 4.18;

#### (c) the death of the Member.

## 4.22 Effect of Cessation of Membership

### 4.22.1 If the Membership of a Member is terminated on the grounds of sub-rule 4.21.1(a) or sub-rule 4.21.1(b), the Member shall not be entitled to any refund of any fees or contributions paid in advance, and shall remain liable for the payment of any fees, contributions or levies which were payable at the date of cessation of Membership, to the same effect as if the Member had resigned from the Association under these Rules.

## 4.23 Purging the Register

### 4.23.1 It shall be the duty of the Secretary to regularly (at least at six (6) monthly intervals) review the register of Members kept in accordance with these Rules and the relevant industrial legislation, and to ensure Members thereon who have resigned or whose Membership has ceased for any other reason, are removed forthwith from the register, or alternatively, that the register is clearly marked with an indication that such person is no longer a Member of the Association.

## 4.24 Participation in Ballots

### 4.24.1 Every Financial Member of the Association has the right to vote in any ballot taken for the purpose of submitting a matter to a vote of Members of the Association.

# Rule 5 Elections

## 5.1 Returning Officer

### 5.1.1 The Committee of Management shall appoint a Returning Officer who shall not be an employee or Member or officer in the Association to conduct any election or plebiscite required by these Rules. It shall be the duty of the Returning Officer so appointed to conduct the election or plebiscite in accordance with these Rules. In the event that a circumstance arises in the conduct of an election or plebiscite which is not provided for in these Rules, the Returning Officer shall take such steps as are deemed necessary to ensure, as far as practicable, that no irregularities can occur in relation to an election or plebiscite.

### 5.1.2 Subject to sub-rule 5.1.4 the Committee of Management shall appoint the relevant Electoral Commission as Returning Officer in the case of any election required under these Rules for the filling of any office or other position in the Association.

### 5.1.3 In the case of any other ballot or plebiscite, the Committee of Management may appoint any Financial Member of the Association as Returning Officer.

### 5.1.4 The Returning Officer shall not use his/her influence in favour of or against a candidate or questions submitted to Members by the ballot.

## 5.2 Nominations

### 5.2.1 Candidates for election to any position on the Committee of Management must be Financial Members, of at least twelve (12) continuous months standing, of the Association, or Branch as the case day be, at the date on which nominations close.

### 5.2.2 The Returning Officer shall call nominations for the positions to be filled at the election on the first Monday in March in the year an election is to be held and this shall be at least forty-five (45) days prior to the opening date of a postal ballot.

### 5.2.3 Nominations shall close at 5.00 PM on the day which is twenty-one (21) days prior to the opening date of a postal ballot.

### 5.2.4 Advertising for Nominations:

#### (a) The Returning Officer shall advertise for nominations in the official publication of the Association and on workplace notice boards (if possible) and in a daily newspaper or newspapers circulating in the area in which Members of the Association, Branch or sub-Branch, as the case may be, reside.

Provided that, should an official publication not be available, the Returning officer shall advertise in such regional newspapers as the Returning Officer deems necessary.

#### (b) All advertisements calling for nomination shall include a note in the following term or to like effect:

*"Each candidate may submit to the Returning Officer, by no later that closing time for the receipt of nominations, the following information (in no more than 200 words), which details shall be printed by the Returning Officer and included, as "Candidate Information", in the election material sent to each person entitled to vote in this election:*

##### *(i) Full name (including any nicknames or familiar names);*

##### *(ii) Work history in summary form;*

##### *(iii) History with the Association or any other Association (including length of Membership and positions held).*

### 5.2.5 Candidates shall be nominated in writing by at least two (2) other Members of the Association or Branch, as the case may be, who must be Financial at the date on which nominations close. All nomination papers must be signed by and contain the addresses of those making the nomination and be countersigned by the person nominated and be lodged with the Returning Officer on or before the date fixed for the closing of nominations. Should the nomination be for an office representing a regional area or an employment grouping then the candidate and respective nominators must be Financial Members of the same region or employment grouping as the case may be.

### 5.2.6 If the Returning Officer finds a nomination to be defective the Returning Officer shall, before rejecting the nomination, notify the person nominated of the defect and, where practicable to do so, allow them an opportunity to remedy the defect within a period of time no later than within seven (7) days after being so notified.

### 5.2.7 No nomination paper shall be rejected for any formal defect or error therein if the Returning Officer is satisfied that the provisions of the Rules have been substantially complied with.

### 5.2.8 If at the close of nominations there are no more eligible candidates that are required to fill the positions advertised, the Returning Officer shall declare the nominated candidate or candidates duly elected and the elected candidate shall take office from the next ordinary meeting of the Committee of Management.

### 5.2.9 If the number of persons who are duly nominated as candidates exceed the number to be elected, then a secret postal ballot shall be taken in the manner herein provided.

### 5.2.10 A candidate may withdraw their consent to their nomination at any time before 12.00 midday on the date fixed for the closing of nominations by delivering to the Returning Officer a notice in writing to that effect and thereupon and thereby the nomination shall be cancelled.

### 5.2.11 After the closing date for nominations, and after the Returning Officer has checked the eligibility of all candidates and nominators the Returning Officer shall supply a summary of nominations to all candidates.

### 5.2.12 Any candidate who wishes to challenge the accuracy of any information contained in the "Candidate Information", may object by notice in writing to the Returning Officer within seven (7) days of receiving such information.

### 5.2.13 The Returning Officer shall rule upon any such objection as expeditiously as possible, after giving the candidate whose information is challenged a proper opportunity to be heard. The decision of the Returning Officer as to the content of the candidate information shall be final, and no appeal shall lie in relation to such decision.

## 5.3 Voters’ Roll

### 5.3.1 For the purpose of every election it shall be the duty of the Assistant Secretary, at the written request of the Returning Officer, to compile a voters' roll for the Association, Branch or sub-Branch of the Association as the case may be, and in doing so the Assistant Secretary shall observe the following:

#### (a) The voters' roll shall consist of the full names of all Financial Members of the Association entered on the Membership register of the Association, Branch or sub-Branch, as the case may be, thirty (30) days before nominations for the election open.

#### (b) Where the voters' roll is to be compiled in respect of workplace, district, employment groupings or other categories of ballot areas:

##### (i) Part A of the voters' roll shall consist of an alphabetical order of full names and addresses of eligible Members within the relevant order of the ballot areas or groupings as the case may be.

##### (ii) Part B of the voters' roll shall consist of an overall alphabetical roll showing the full names and addresses of those eligible Members referred to in the preceding paragraph.

#### (c) Where the voters' roll consists of the names of all Financial Members of the Association, the voters' roll shall be a correct alphabetical roll showing in Part A thereof the full names and address of all the eligible Members, such names to be in alphabetical order.

#### (d) Voters who are Unfinancial Members of the Association as at the date set in sub-rule 5.3.1(a) shall be ineligible to vote, and their names shall not appear on the voters' roll.

### 5.3.2 For the purpose of enabling the Assistant Secretary, at the written request of the Returning Officer, to compile the voters' roll, the Secretary of the Association, Branch or sub-Branch, as the case may be, shall provide to the Assistant Secretary all information as directed in writing by the Returning Officer in order for the Assistant Secretary to compile the voters' roll in the manner mentioned in sub-rule 5.3.1(b) herein, such information to be provided within seven (7) clear days of a request being made andcertified by the Secretary as correct.

### 5.3.3 The Assistant Secretary shall have full access to any and all records of the Association or Branch, as the case may be, which discloses information for compiling or verifying the voters' roll.

### 5.3.4 The Returning Officer shall make such checks of the records of the Association or Branch as are necessary to verify the voters' roll.

### 5.3.5 The Returning Officer shall:

#### (a) at all times during which the office of the Association or the Branch, as the case may be, is open for business keep open for inspection by any person, a copy of the voters' roll (with current deletions and supplementary roll); and

#### (b) furnish copies of such rolls to any person requiring them.

### 5.3.6 A candidate or a member of the Association has the right, up to thirty (30) days after the declaration of the result of the election, free of charge:

#### (a) to inspect the list or roll of persons eligible to vote in the ballot at the organisation’s registered office when it is open for business; and

#### (b) to be given a copy of the whole or a stated part of the list or roll.

### 5.3.7 Any person who claims to be entitled to a vote and whose name does not appear on the voters' roll may apply to the Returning Officer to have their name included on the voters' roll. An applicant under this rule shall complete a declaration in FORM 1:

**[FORM 1]**

**DECLARATION OF PERSON WHO CLAIMS ENTITLED TO VOTE**

I, (insert name in full) of (insert residential address) declare:

#### (a) My name is not on the voters' roll of The Property Sales Association of Queensland, Union of Employees;

#### (b) I am a Member of The Property Sales Association of Queensland, Union of Employees and am currently Financial;

#### (c) My name was omitted from the voters' roll through no fault of my own and I had no knowledge thereof;

and I therefore claim a vote at this election.

Dated this ………… day of ……………………………………… 20 ……

*NOTE: Proof of Membership in the Association may be required.*

### 5.3.8 Upon receipt of a duly completed declaration in FORM 1, the Returning Officer, if satisfied the person was a Member and was Financial on the date referred to in sub-rule 5.3.1(a), shall include the Member's name on a supplementary voters' roll and the Member so enrolled shall be entitled to vote at the election.

## 5.4 Voting by Postal Ballot

### 5.4.1 The Returning Officer shall:

#### (a) transmit by post to every voter entitled to vote a printed ballot paper on which shall appear the Returning Officer's initials or a facsimile of those initials, together with the printed candidate Information (if any) compiled by the Returning Officer pursuant to sub-rule 5.2.4(b);

#### (b) ensure that a roll number is marked against the name of every voter on the voters' roll, or supplementary roll as the case may be, to whom the Returning Officer has posted a ballot paper. Such roll numbers shall be in numeric sequence beginning with a number chosen at random by the Returning Officer;

#### (c) post the ballot papers on the last working day immediately preceding the date set for the opening of the ballot.

#### (d) if a Member will be absent from their residential address during a ballot they may advise the Returning Officer of an alternative address to which the Returning Officer shall post ballot material.

### 5.4.2 Every ballot paper so transmitted to a voter shall be accompanied by:

#### (a) an unsealed reply paid envelope addressed to the Returning Officer at a post office box number designated by the Returning Officer. The Returning Officer shall ensure that the designated post office box is adequately secured;

#### (b) a remittance style envelope with a tear-off declaration slip containing all of the prescribed information. The tear-off declaration slip shall be numbered with a roll number, and the Returning Officer shall transmit to the respective voter the declaration envelope which contains the same roll number on the tear-off declaration as the roll number marked against the respective voter's name on the voters' roll or supplementary roll as the case may be.

### 5.4.3 Each and every ballot paper shall:

#### (a) be of such material and opacity as, when folded once, to effectively conceal the manner in which the same shall have been marked in voting;

#### (b) be distinguished by a complex security pattern and a different colour of paper from the ballot papers used at any preceding two (2) elections;

#### (c) contain a printed list of the names of all candidates for the office or positions to be filled at the election with each name inserted once only with the surname first, followed by the first name and middle name(s), and arranged in the order of surnames determined by lot (as drawn by the Returning Officer), and with the name of no other person appearing;

#### (d) where two (2) or more candidates have the same surname, first name and middle name(s), have distinguished on those ballot papers those candidates by the addition, relative to their names as listed on those ballot papers, of their residences, occupations or other matter, if any, necessary to distinguish them; and

#### (e) have an instruction to the voter to complete and sign the declaration on the envelope provided in accordance with sub-rule 5.4.7 or their vote will not be counted.

### 5.4.4 The method of voting shall be the "first past the post" method.

### 5.4.5 In the case of a "first past the post" method of voting, the ballot paper shall be in accordance with FORM 2. In any other case, the ballot paper shall be as near to the form of FORM 2 as the circumstances permit.

**[FORM 2]**

**BALLOT PAPER**

(Name of Association, Branch or Sub-Branch)

Record your vote by placing an X in the square opposite the name of the candidate for whom you wish to vote.

*President Secretary*

[ ] BROWN, John [ ] DOE, Helen

[ ] GREEN, Charles [ ] ROE, Richard

*Committee of Management*

[ ] BLUE, Shirley [ ] MASON, Leslie

[ ] SMITH, Henry [ ] CLARKE, Esme

### 5.4.6 After posting the ballot papers, the Returning Officer shall provide a locked ballot box or sealed container, of which the Returning Officer only shall keep the key, and the Returning Officer shall forthwith place such ballot box or sealed container in a safe and secure place.

### 5.4.7 The voter shall mark the ballot paper as prescribed by sub-rule 5.4.5 and fold the ballot paper so as to conceal the manner in which it was marked. The voter shall then place the folded ballot paper in the declaration style envelope provided and shall seal this envelope. The voter shall complete and sign the form of declaration on the envelope and place the envelope in the reply paid envelope addressed to the Returning Officer and shall seal the reply paid envelope and post it so as to reach the Returning Officer by the time specified for the closing the poll.

### 5.4.8 The Returning Officer shall have deposited in the ballot box or sealed container referred to in sub-rule 5.4.6 every envelope addressed to him/her that is received through the post until 10.00 AM on the day appointed for closing the poll.

### 5.4.9 Any eligible voter who has not received ballot material or who has in their possession spoilt ballot material, may make an application to the Returning Officer for duplicate ballot material. In such an event the Returning Officer may provide duplicate ballot material to a voter only if the Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused. In the case of a damaged or misused ballot paper such duplicate ballot material may only be issued on receipt by the Returning Officer of the damaged or misused ballot paper. Duplicate ballot material may only be issued by the Returning Officer if the eligible voter requests such duplicate ballot material in writing at least (3) days before closing the poll.

### 5.4.10 All envelopes containing ballot papers that have been received after 10.00 AM on the day appointed for closing the poll and which the Returning Officer has on that account refused to accept shall be endorsed to that effect by the Returning Officer and set aside for separate custody.

### 5.4.11 A postal ballot:

#### (a) shall open on the first Friday in May in the year an election is to be held.

#### (b) shall close on the first Friday in June in the year an election is to be held.

## 5.5 Scrutiny

### 5.5.1 For the purposes of every election, the Returning Officer shall appoint a place at which the votes shall be examined and the result of the election ascertained.

### 5.5.2 Scrutineers:

#### (a) Each candidate may, by advice in writing to the Returning Officer, appoint one scrutineer for each counting station to be present at any stage of the election.

#### (b) Scrutineers shall be advised that the absence of a scrutineer will not delay any step in the election.

#### (c) Scrutineers must produce a letter of authority or suitable identification on their initial introduction to the Returning Officer.

#### (d) All scrutineers shall in the case of a ballot be entitled to observe the admission and the counting of votes, the conduct of and the determination of the election and the declaration of the poll.

#### (e) In every case a scrutineer shall observe the directions of the Returning Officer who shall take all reasonable steps to enable each scrutineer to exercise their rights. No election shall be vitiated should a scrutineer not exercise any or all such rights having had reasonable opportunity to do so.

### 5.5.3 Examination of Votes:

#### (a) As soon as practicable after 10.00 AM on the day appointed for closing the poll, the Returning Officer shall forthwith convey the ballot box or security container to the place appointed under sub-rule 5.5.1 and shall then and there in the presence of such of the candidates and scrutineers as may attend deal with the declaration style envelopes as provided in this rule.

#### (b) Without separating the declarations from the other part of the envelopes the Returning Officer shall:

##### (i) examine the declaration attached to each envelope and mark off the voter's name upon the marked voters' roll;

##### (ii) check the roll number on the tear-off declaration against the roll number marked against the voter's name on the voters' roll;

##### (iii) conduct a random check of signatures appearing on the tear-off declarations against voters' signatures contained on Association Membership Applications held by the Association, Branch or sub-Branch, as the case may be.

##### (iv) Such random check shall initially be of ten (10) percent of the ballot papers returned, but the Returning Officer may, if he/she thinks fit, examine a greater percentage.

### 5.5.4 For the purpose of making the random check of signatures under sub-rule 5.5.3(b)(iii), the Returning Officer may, if he/she thinks fit, engage the services of a person skilled in the comparison of signatures to assist in decisions relating to signatures, and the Returning Officer shall be the final judge as to whether a ballot paper should be admitted to the count on the basis of signature comparison.

### 5.5.5 If the Returning Officer is not satisfied on examination that the signature on the declaration form is the same as the signature on the Association’s Membership Application form, the Returning Officer shall exclude such envelope containing ballot papers from the count and shall set such envelope aside for separate custody.

### 5.5.6 Where Names Do Not Correspond:

#### (a) If the name of the voter on the declaration form does not correspond with the name on the voters' roll against whom the security number on the declaration form is marked on the voters' roll, the Returning Officer shall set such ballot paper aside for separate custody.

#### (b) Provided that, should the Returning Officer be satisfied that the person who has completed and signed the declaration is a valid voter and this valid voter has not voted previously in the ballot and that the reason for the person using this ballot material is due to a satisfactory explanation, then the Returning Officer may accept the declaration as valid and make note of the acceptance on the declaration slip and against the correct number and name on the voters' roll.

### 5.5.7 If the Returning Officer is satisfied that the security number on the tear-off declaration corresponds with the security number marked beside the voter's name on the voters' roll and the signature on the declaration is not questioned, the Returning Officer shall deal with the ballot paper as follows:

#### (a) separate the declaration form from the remaining envelope;

#### (b) deposit the declaration form so separated into a receptacle provided for that purpose;

#### (c) deposit the remaining envelope in a separate container.

### 5.5.8 Forthwith, after completing the proceedings prescribed by sub-rule 5.5.7(b) the Returning Officer shall:

#### (a) secure the receptacle containing the declaration forms by locking the safe and retaining the key;

#### (b) subject to complying with sub-rule 5.5.8(a) open the remaining envelopes and remove the ballot papers;

#### (c) open out the ballot papers and proceed to examine and count the votes;

#### (d) not reject any ballot paper as informal if the voter's intention is clear; and

#### (e) set aside for separate custody any ballot papers rejected as informal.

### 5.5.9 Final Determinations by Returning Officer

#### (a) Forthwith, after completing the proceedings prescribed by sub-rule 5.5.8 the Returning Officer shall make out a written statement signed by the Returning Officer, and countersigned by any scrutineers who are present and consent to sign the same, containing the numbers, in words and figures, of the votes received for each candidate;

#### (b) If more than one candidate receives the same number of votes the Returning Officer shall determine by drawing lots between the equal candidates, which candidate or candidates, as the case may be, shall be elected.

### 5.5.10 The Returning Officer shall thereupon declare the result of the election, which shall contain all information as required by the relevant industrial legislation.

### 5.5.11 After the declaration of the election the Returning Officer shall make up in separate and distinct parcels:

#### (a) all the ballot papers, declaration forms, envelopes, books and papers kept and used by him/her during the polling;

#### (b) all declaration style envelopes set aside for separate custody under sub-rules 5.4.10, 5.5.5 and 5.5.6(a); and

#### (c) the marked voters' roll.

### 5.5.12 Upon the completion of the report required by sub-rule 5.5.13 the Returning Officer shall seal up the parcels referred to in sub-rule 5.5.11 and shall keep the same in a secure place for a period of not less than twelve (12) months following the declaration of the election.

### 5.5.13 As soon as practicable after the declaration of the election the Returning Officer shall make a written report on the election to the Industrial Registrar. A copy of the report shall be forwarded to the Association, Branch or sub-Branch, as the case may be, and shall be published in the next journal or newsletter.

### 5.5.14 The Returning Officer's report shall include all information required by the relevant industrial legislation.

# Rule 6 Structure of the Organisation

## 6.1 Branches

### 6.1.1 The Committee of Management may determine to establish Branches or sub-Branches based upon locality and/or identifiable sections within the Real Estate Sales Industry. Such Branches or sub-Branches will be structured on a basis to be determined by the Committee of Management, but must generally conform to these Rules as to structure, elections and methods of transacting business.

### 6.1.2 Provided that establishment of such Branches or sub-Branches may only occur once these Rules have been altered to accommodate the required provisions of the relevant industrial legislation.

### 6.1.3 Once established any Branch or sub-Branch may only be disbanded by a decision of a majority of Members of that Branch or sub-Branch who are in attendance at a general Meeting called in accordance with these Rules and held within the locality concerned if the Branch or sub-Branch relates to a particular geographical area. In the event that there are no Members of a Branch or sub-Branch the Committee of Management may, by majority decision, determine to disband such Branch or sub-Branch.

### 6.1.4 The Committee of Management shall take due notice of all matters properly referred to it from sub-Branches.

## 6.2 Committee of Management

### 6.2.1 The care, conduct, management and administration in all respects of the affairs, business, funds, and property of the Association shall be vested in a Committee of Management.

### 6.2.2 The Committee of Management shall be the supreme policy-making body of the Association, and all decisions of the Committee of Management shall be binding on all Members and all other decision-making bodies within the Association.

### 6.2.3 The Committee of Management shall consist of the President, two Vice Presidents, Secretary, Assistant Secretary, Treasurer and five Councillors elected by a ballot of the total Membership of the Association in accordance with Rule 5.

### 6.2.4 The Committee of Management shall meet at least once every three (3) months (but preferably more frequently) at a location, time and date to be determined by the preceding meeting of the Committee of Management.

## 6.3 Powers and Duties of the Committee of Management

### 6.3.1 Without limiting the generality of the preceding clause, the Committee of Management shall have the following powers and duties, subject to these Rules:

#### (a) decide policy of the Association;

#### (b) direct the Executive to carry out and perform any power or duty vested in the Committee of Management by these Rules and to discharge such other duties and responsibilities as may be assigned from time to time;

#### (c) confirm, vary, alter, overrule, or otherwise deal with decisions of the Executive;

#### (d) decide any matters submitted to it for decision by the Executive or by any Branch of the Association;

#### (e) submit any matter to the Members of the Association for decision by way of ballot or purpose;

#### (f) institute and/or defend legal proceedings in matters relating to the affairs of the Association;

#### (g) appoint and/or dismiss such employees or agents as are deemed necessary to enable the Association to discharge its functions and to assist the officers of the Association in carrying out their respective functions under these Rules;

#### (h) hear and determine any form of dispute which may arise between officers, employees and/or members of the Association; and

#### (i) do all such things as are necessary or incidental to the carrying out of all or any of the Objects of the Association or the obligations of the Association in accordance with any Act or law.

## 6.4 Association Executive

### 6.4.1 Between meetings of the Committee of Management the control of the Association shall be vested in the Association Executive. The Executive shall comprise the President, two Vice-Presidents, the Secretary and the Assistant Secretary.

### 6.4.2 Meetings of the Executive shall be held as and when decided by the Executive, and additionally when called by the Secretary, upon receipt of a written request signed by at least one half of the Members of the Executive, the Secretary shall call a meeting of the Executive on a date within one (1) week of the receipt of the requisition.

### 6.4.3 Between meetings of the Committee of Management the Executive shall transact all business of the Association subject to the supervision and control of the Committee of Management. The Executive shall not contract for any expenditure in excess of $5,000.00 for anyone item without the prior authority of the Committee of Management.

# Rule 7 Meetings

## 7.1 How Summoned

### 7.1.1 Committee of Management:

#### (a) Meetings of the Committee of Management shall be held as provided in sub-rule 6.2.4.

#### (b) Within seven (7) days of a meeting at which the time and date of the following meeting is determined, the Secretary shall forward a written notice specifying that time and date to each person entitled to attend such meeting.

#### (c) If the Executive resolves that any matter should be referred to the Committee of Management at any time, prior to the next scheduled meeting thereof, it may resolve accordingly, whereupon the Secretary shall set a time and date for such meeting (being not more than seven (7) days after such Executive resolution) and shall forthwith notify all persons entitled to attend Committee of Management meetings of such meeting and the time and date thereof.

### 7.1.2 Executive:

#### Meetings of the Executive shall be at such times as provided in sub-rule 6.4.2. The Secretary shall notify the Executive by written notice of the date and location of such meetings.

### 7.1.3 General Meeting of Members:

#### (a) If the Secretary receives a request in writing in that behalf, signed by no less than five (5) percent of the Financial Members of the Association or a Branch of the Association (as the case may be), the Secretary shall call a General Meeting of all Members of the Association or the respective Branch of the Association (as the case may be) at a time, data and place which the Secretary determines to be the most likely to permit the maximum number of Financial Members of the Association or the respective Branch of the Association (as the case may be) to attend such meeting.

#### (b) Notice of such meeting (which shall be not more than six (6) weeks, nor less than four (4) weeks after the receipt of the request by the Secretary) and of the time, date and location thereof, shall be advertised by the placing of public notice in at least one newspaper circulating in Australia, or in the case of a Branch, the State(s) in which that Branch has coverage.

#### (c) Any General Meeting of the members of the Association shall have the power to direct the Committee of Management of the Association. Also, any General Meeting of members of a Branch of the Association shall have the power to direct the Committee of Management of the Branch.

## 7.2 Conduct of Meetings

### 7.2.1 At each of the meetings referred to in sub-rules 7.1.1, 7.1.2 and 7.1.3, the President shall preside, or in his or her absence, a Vice-President. Provided that for a Branch General Meeting, if the Branch has elected officials a General Meeting of that Branch shall be presided on by the Branch President, or in his/her absence, a Branch Vice-President of that Branch.

### 7.2.2 In the absence of any of the officers specified in sub-rule 7.2.1, the attending Members shall elect a presiding Member for the purposes of that meeting only.

### 7.2.3 The minimum number of people required to establish a quorum for meetings shall be as follows:

#### (a) Committee of Management, six (6).

#### (b) Association Executive, three (3).

#### (c) General Meetings of members of the Association, five (5) percent of the members of the Association.

#### (d) General Meetings of members of a Branch of the Association, five (5) percent of the members of the Branch.

## 7.3 Voting at Meetings

### 7.3.1 Voting by members in attendance at each of the meetings referred to in sub-rules 7.1.1, 7.1.2 and 7.1.3 must be by secret ballot.

### 7.3.2 Any member unable to attend a meeting referred to in sub-rules 7.1.1, 7.1.2 or 7.1.3 may appoint another member of that body, or in relation to a General Meeting, a financial member of the Association, to exercise that member’s vote at the meeting. Such appointment shall be in writing and shall be handed to the person presiding at the meeting prior to the commencement of the meeting. No member shall hold more than one proxy at any meeting.

## 7.4 Referenda

### 7.4.1 Where at least ten (10) percent of the Membership petition in writing for a referendum on a nominated matter or matters, the Committee of Management shall, within thirty (30) days of receipt of such petition, authorise the Returning Officer to conduct such referendum in accordance with the provision governing the Conduct of Elections in these Rules.

## 7.5 Decisions

### 7.5.1 Decision(s) of a simple majority of the Membership voting in a Committee of Management Meeting, Executive Meeting, General Meeting of Members or Referendum of Members shall be binding on the Committee of Management, and it shall take immediate steps to act in accord with such decision(s).

# Rule 8 Officers

## 8.1 Election of Officers

### 8.1.1 The holder of each office in the Association must be elected to that office by direct voting system by secret postal ballot.

### 8.1.2 Such election must be a secret ballot and be conducted in accordance with Rule 5.

## 8.2 Term of Office

### 8.2.1 The term of each officer of the Association or a Branch shall be no longer than the following:

#### (a) President – 4 years;

#### (b) Vice-Presidents – 4 years;

#### (c) Secretary – 4 years;

#### (d) Assistant Secretary – 4 years;

#### (e) Treasurer – 4 years;

#### (f) Councillors – 4 years,

or as determined by the Executive at least three (3) months before the opening of nominations for any office(s) in question, but in no case shall the period exceed four (4) years.

## 8.3 Casual Vacancies

### 8.3.1 Subject to sub-rule 8.3.2, a Casual Vacancy in any office may be filled by the appointment by the Committee of Management of a person who would have been eligible, as at the date of such appointment, to be elected to the position to be filled. Any person so appointed is deemed for the purposes of these Rules to have been elected to that office for the balance of the unexpired term.

### 8.3.2 A Casual Vacancy in any office, or a further Casual Vacancy occurring within the term of an office may not be filled in accordance with sub-rule 8.3.1 herein, if the unexpired part of the term of office is longer than:

#### (a) one (1) year; or

#### (b) three-quarters of the term of office,

whichever is the greater. In such case, the Casual Vacancy must be filled by an ordinary election conducted in accordance with Rule 5.

## 8.4 Definitions for Rules 8.2 and 8.3

### 8.4.1 For the purposes of Rules 8.2 and 8.3, "ordinary election" and "term" shall respectively bear the meanings assigned to them in the relevant industrial legislation.

## 8.5 Duties of Officials and Others

### 8.5.1 President

#### The President shall chair all meetings of which he/she is in attendance, and carry out such other duties on behalf of the Association as may be determined, from time to time, by any of the governing bodies. These duties may include representing or speaking for the Association in matters related to the objectives of the Association.

### 8.5.2 Vice-Presidents

#### The Vice-Presidents shall assist the President, and chair meetings at which the President may not be in attendance.

### 8.5.3 Secretary

#### (a) The Secretary shall record minutes of meetings, conduct correspondence under the direction of the Association and generally perform all duties usually connected with the office of Secretary. He/she shall also keep a register of the names and addresses of all Members of the Association. The Secretary is authorised to represent and appear on behalf of the Association in any Court or Industrial Commission or any tribunal, Committee or Board of Reference in any proceedings concerning the Association or any Member thereof or in which it or he/she is interested.

#### (b) The Secretary shall not delegate his/her responsibilities to any person other than the Assistant Secretary save with the permission of the Executive.

### 8.5.4 Assistant Secretary

#### The Assistant Secretary shall:

#### (a) Assist the Secretary in all matters as required by the Secretary.

#### (b) If the Secretary is absent from his/her position for an extended period and/or unable to perform his/her usual responsibilities, perform the usual responsibilities of the Secretary.

### 8.5.5 Treasurer

#### The Treasurer shall receive all moneys due to the Association and pay all debts contracted by it when duly authorised by the Association, keeping a correct account thereof in books supplied for such purpose, furnish a statement at each General Meeting of the Association and submit duly audited accounts to the Annual General Meeting.

### 8.5.6 Member of Committee of Management

#### A Member of the Committee of Management shall attend Committee of Management meetings and uphold the rights, improve, foster and protect the interests of Members.

### 8.5.7 Members of the Executive

#### Members of the Executive shall be responsible for the administration of the affairs of the Association, carry out the terms of the Constitution and Rules and the day to day running of the Association, and uphold the rights and improve, foster and protect the interests of Members.

## 8.6 Removal of Officers and Officials

### 8.6.1 An officer may be removed from the office to which the officer has been elected if and only if the officer has:

#### (a) ceased to be eligible under the Rules to hold the office; or

#### (b) has been found guilty under these Rules of:

##### (i) misappropriation of the Association's funds; or

##### (ii) a substantial breach of these Rules; or

##### (iii) gross misbehaviour or gross neglect of duty.

### 8.6.2 Any Official who is not an officer as defined in the Act, may be removed from their position on the same grounds as those specified for an officer, together with the further ground that such Official has wilfully and without reasonable excuse, failed to obey a direction given by an officer who is authorised by these Rules to give such direction.

### 8.6.3 In any case where the Secretary determines that an Official (who is not an officer) has acted in a manner which would warrant summary dismissal of an employee of the Association the Secretary may suspend that Official from duty, with or without pay and other entitlements, for a period not exceeding three (3) months, pending the carrying out of the procedure prescribed in these Rules for the removal of that Official.

### 8.6.4 If an Official who is suspended under sub-Rule 8.6.3 is:

#### (a) not brought before a hearing in accordance with sub-rule 8.7 within two (2) months; or

#### (b) found, following a hearing under sub-rule 8.7, to have not been guilty of conduct warranting suspension,

#### the Official shall be entitled to be reinstated to the position held by them, and to receive all pay and other benefits attaching to that position. If such Official was suspended without pay, the Official shall be entitled upon reinstatement to reimbursement of all pay and other entitlements to which they would have been entitled if they had not been suspended.

## 8.7 Procedure for Removal from Office

### 8.7.1 If any Financial Member believes that grounds may exist for the removal of any Official from their office or position as provided under these Rules, that Member may deliver to the Secretary a Notice in writing containing the following particulars:

#### (a) Name of Member giving the Notice (to be called "the Complainant");

#### (b) Name of the Official and Office or position held;

#### (c) Facts and circumstances alleged by Complainant to exist and which constitute grounds for removal under the Rules (called "the Complaint");

#### (d) A request that the Committee of Management hear the Complaint and determine whether the Official should be removed from the office or position, or otherwise dealt with.

### 8.7.2 Provided that if the Complaint is against the Secretary then such complaint shall be lodged with the President who shall in all respects comply with this Rule.

### 8.7.3 Forthwith upon receiving such a Notice, the Secretary shall examine same, and unless the Notice clearly fails to comply with this Rule, the Secretary shall deliver a copy of the Notice to the Official concerned.

### 8.7.4 The Secretary shall refer the Notice to the next scheduled meeting of the Committee of Management, and the Committee of Management shall nominate a time and place for hearing the Complainant and the Official in relation to the Complaint, which time shall be not less than twenty-one (21) days after the Official is delivered a copy of the Notice.

### 8.7.5 The Secretary shall notify the Official and the Complainant forthwith of the proposed time and place of such hearing, such notification to be given at least seven (7) days prior to the proposed time and place of such hearing.

### 8.7.6 At such hearing, the following procedure shall apply:

#### (a) The President shall preside, unless the President is the Official in respect of whom the Complaint is made, whereupon the Committee of Management shall elect a Chair before formal proceedings commence;

#### (b) The Complainant shall present the evidence, both oral and documentary, upon which the Complainant relies to establish the ground(s) alleged for the removal of the Official;

#### (c) The Official and his/her advisers (if any) are entitled to be present at all times that such evidence is given to the Committee of Management and, subject to sub-rule 8.7.6(e), to cross-examining all witnesses called, and to object to the admission of any material as evidence;

#### (d) Should the Complainant or Official against whom an allegation is made fail to appear at the hearing and fail to provide a satisfactory explanation for their non-attendance, the Committee of Management may proceed with the hearing of the allegation in their absence provided it is first satisfied that notice of the hearing in accordance with this rule has been served on them;

#### (e) Neither the Complainant nor the Official shall be entitled to legal representation to conduct the case on their behalf unless the Committee of Management resolves that, having regard to:

##### (i) the seriousness of the allegations in the Complaint; and

##### (ii) the possible consequences for the Official under this Rule; and

##### (iii) the technical nature of the evidence to be called,

#### the interests of fairness and justice require that any party making such request be so represented. In deciding this matter, the Committee of Management shall also have regard to any disadvantage, either physical, social, linguistic or educational, in respect of which the Official may require particular assistance or protection. If either the Complainant or the Official is granted permission under this Rule to be legally represented, the other party shall thereby be entitled to be legally represented.

#### (f) After hearing the Complainant's evidence, the Chair shall call upon the Official to present such evidence in defence as may be desired. If the Official is surprised or otherwise prejudiced in the conduct of the defence by the giving of substantial evidence by the Complainant, which the Official could not reasonably anticipate, the Committee of Management may adjourn the proceedings for such reasonable time as is necessary to permit the Official to prepare a defence.

#### (g) The Official may call such evidence, both oral and documentary, as is deemed necessary to answer the matter raised by the Complainant. The Complainant and his/her advisers may be present at all times that such evidence is given, and may cross-examine any witnesses and object to the admission of any material as evidence.

#### (h) Any Member of the Committee of Management may ask such questions of the Complainant, Official or any witness as may be deemed appropriate for the proper and speedy resolution of the matter.

#### (i) Upon the conclusion of the evidence of the Official, an oral summation of the respective cases presented by the Complainant and the Official may be given by either or both parties, with the Official being allowed the right to the concluding submission.

#### (j) In the conduct of the proceedings and in making a determination under this Rule, the Committee of Management shall not be bound by the Rules of evidence and procedure applied in Courts, but shall be bound to act in accordance with the principles of equity and good conscience, and with the interests of the Association and its Members as the foremost consideration. The Committee of Management may inform itself on any matter as it deems just and fair, and may have regard to matters within the knowledge of Members of the Committee of Management, provided that any such matters as are not the subject of evidence shall be brought to the attention of the Complainant and the Official before the Committee of Management acts upon them.

#### (k) Upon hearing all evidence and submissions, the Committee of Management may adjourn proceedings for such reasonable period as is required to determine the matters before it, and no longer.

#### (l) The Committee of Management shall decide whether or not the grounds alleged by the Complainant have been made out by a simple majority vote of all Members present at the whole of the hearing; the decision of the Committee of Management shall be final and binding and there shall be no further appeal.

#### (m) A quorum for proceedings to hear a Complaint under this rule shall be not less than three-quarters of the persons entitled to attend meetings of the Committee of Management. If the Official who is the subject of the Complaint is a Member of the Committee of Management, the Official shall not be entitled to sit or vote on the Committee of Management in such proceedings, and a quorum shall be three-quarters of the Members remaining after excluding the Official or Officials concerned.

#### (n) In the event that it is not practicable to obtain a quorum under these Rules, or a quorum would constitute less than three (3) persons, any Complaint shall be heard by a board comprised of Financial Members and agreed to by both parties specially summoned by the Secretary for that purpose, and this Rule shall be adapted accordingly.

#### (o) If the Committee of Management or Board of Financial Members decides, after a hearing conducted in accordance with this Rule, that any ground(s) exist under these Rules for the removal of an Official from office or position, the Committee of Management or Board of Financial Members may decide that the Official:

##### (i) shall be removed forthwith from the office or position held; or

##### (ii) shall be fined a sum not exceeding $500.00; or

##### (iii) shall be admonished in lieu of, or in conjunction with, any of the foregoing.

# Rule 9 Administration

## 9.1 General

### 9.1.1 The Association shall have a Common Seal, which shall be kept by the Secretary in safe custody.

### 9.1.2 Except as expressly provided elsewhere in these Rules, any document which is required to be executed by or on behalf of the Association shall be signed by the Secretary together with one or more of the President, Vice-Presidents or Assistant Secretary (or in the absence of the Secretary, by at least two of the aforementioned officers), and shall be impressed with the Common Seal of the Association.

## 9.2 Notification of Industrial Disputes

### 9.2.1 The Secretary, or in his or her absence, the President shall notify the relevant Industrial Relations Commission in the manner prescribed under their Act and rules of the existence or likelihood of an industrial dispute.

## 9.3 Property of the Association

### 9.3.1 All property of the Association, both real and personal, shall be held by the Association in the following manner:

#### (a) The Association shall maintain accounts at a bank, as required by direction of the Committee of Management, for the purposes of maintaining the financial affairs of the Association. All such accounts shall be kept in the name of the Association, with such other words as are necessary to describe the nature or purpose of the account;

#### (b) Any cash, cheque, or other negotiable instrument belonging to the Association which comes into the possession of any Member or Official of the Association shall be immediately paid or delivered to the Secretary, who shall immediately pay such sum into the appropriate Association bank account;

#### (c) Any other property of the Association which comes into the possession of any Member or Official (and of which that Member or Official is not entitled to retain possession under these Rules) shall be immediately delivered to the Secretary, or the Secretary shall be immediately informed of the nature of the property and its location;

#### (d) The Secretary shall take all necessary steps to ensure that all real property of the Association is and remains registered with the relevant Government Department in the name of the Association as the registered proprietor or lessee thereof (as the case may be), or in the name of any trustee(s) who may be appointed to hold property on behalf of the Association.

## 9.4 Payment of Accounts

### 9.4.1 Allaccounts for expenditure of the Association shall be paid from the Number 1 account and authorised in writing by the Secretary and one or more of the President, Vice-President and/or Treasurer.

### 9.4.2 No person shall authorise any payment for or on behalf of the Association unless the name of the payee and the amount to be paid, is already endorsed in full on the document authorising payment prior to such authorisation being given.

### 9.4.3 All accounts shall be submitted for approval to the Committee of Management as soon as practicable, and prior to payment thereof if possible, provided that no account in excess of $5,000.00 shall be paid until approved by the Committee of Management inaccordance with the Rules. The Committee of Management may call for a report from the Secretary or any other Official in relation to any account or expenditure before approving same for payment, and it shall be the duty of that Official to provide such information as quickly and as accurately as possible.

## 9.5 Purposes of Expenditure

### 9.5.1 The funds and property of the Association may only be applied in the furtherance of the Objects of the Association and in the maintenance of the Association and the advancement of the interests of its Members.

### 9.5.2 Any expenditure incurred or purported to be incurred by any Official other than in accordance with these Rules shall be deemed a substantial breach of these Rules and/or gross misbehaviour and/or neglect of duty.

## 9.6 Loans, Grants and Donations

### 9.6.1 A loan, grant or donation of an amount exceeding $1,000.00 must not be made by the Association unless the Committee of Management:

#### (a) has satisfied itself:

##### (i) that the making of the loan, grant or donation would be in accordance with the other Rules of the Association; and

##### (ii) in the case of a loan – that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and

#### (b) has approved the making of the loan, grant or donation.

### 9.6.2 In spite of sub-rule 9.6.1, a person may be authorised by the Rules to make a loan, grant or donation of an amount not exceeding $3,000.00 to a Member of the Association if the loan, grant or donation:

#### (a) is for the purpose of relieving the Member or any of the Member’s dependants from severe financial hardship; and

#### (b) is subject to a condition to the effect that, if the Committee of Management, at the next meeting of the Committee of Management, does not approve the loan, grant or donation, it must be repaid as determined by the Committee of Management.

### 9.6.3 In considering whether to approve a loan, grant or donation made under sub-rule 9.6.2, the Committee of Management must have regard to:

#### (a) whether the loan, grant or donation was made under the rules of the Association; and

#### (b) in the case of a loan:

##### (i) whether the security (if any) given for the repayment of the loan is adequate; and

##### (ii) whether the arrangements for the repayment of the loan are satisfactory.

### 9.6.4 Nothing in sub-rule 9.6.1 requires the Association to make provision of the kind referred to in that sub-rule in relation to payments made by the Association by way of provision for, or reimbursement of, out-of-pocket expenses incurred by persons for the benefit of the Association.

### 9.6.5 In this Rule, a reference to the Association includes a reference to a Branch of the Association.

### 9.6.6 For the purposes of the application of this Rule to a Branch of the Association, the Members of the Association constituting the Branch are taken to be Members of the Branch.

## 9.7 Accounting Records

### 9.7.1 The Association shall maintain at all times the accounting records required by,,and shall promptly comply with all other requirements of, the relevant industrial legislation.

## 9.8 Audits

### 9.8.1 The Association’s accounts must be audited at least yearly, and may be audited more frequently if required.

## 9.9 Auditor

### 9.9.1 The Committee of Management shall appoint an approved auditor within the meaning of the relevant industrial legislation at such time each year as to ensure that such auditor is able to perform the obligations of an auditor under the relevant industrial legislation each financial year.

### 9.9.2 The auditor appointed in accordance with sub-rule 9.9.1 shall be appointed for a term of one year, and may be reappointed at the expiry of such term. The auditor may only be removed during the term of such appointment by a resolution to that effect at a meeting of the Committee of Management by an absolute majority of all Members of the Committee of Management.

### 9.9.3 The auditor shall be paid such reasonable fees and expenses as are incurred in performing the duties required by these Rules and by the Act.

# Rule 10 Rules and Dissolution

## 10.1 Alteration of Rules

### 10.1.1 Subject to sub-rule 10.1.4, the Rules of the Association may be amended, added to, or rescinded only by a resolution of the Committee of Management at an ordinary meeting or at an extraordinary meeting called for that purpose. The resolution must be carried by a simple majority of all persons entitled to vote at a meeting of the Committee of Management.

### 10.1.2 A resolution to amend, add to, or rescind any of the Rules of the Association may be proposed by any Financial Member of the Association and must be seconded by any other Financial Member of the Association.

### 10.1.3 Notice of a resolution to amend, add to, or rescind the Rules shall be given to all Members of the Committee of Management at least one (1) month prior to the meeting at which such resolution is proposed.

### 10.1.4 Notwithstanding sub-rule 10.1.1, if an application is made to the Industrial Registrar for the alteration of Rules as a consequence of a resolution passed in accordance with sub-rule 10.1.1, and the Registrar refuses to register such proposed alteration on the ground that such alteration does not comply with the relevant industrial legislation, the Executive shall be authorised to amend such application by changing the proposed alteration to conform with the requirements of the Registrar, provided that such amendment of the application does not, in the opinion of the Executive, substantially depart from the scope and intent of the original resolution.

## 10.2 Dissolution

### 10.2.1 The Association may be dissolved by the Members of the Association, if the number of Financial Members falls below one hundred (100) or if it is determined that for any reason the Objects of the Association are not able to be effectively pursued, or that those Objects would be best served by the dissolution of the Association.

### 10.2.2 A decision or determination referred to in sub-rule 10.2.1 may only be made by a plebiscite of all Financial Members conducted in accordance with this Rule, and shall only be carried if sixty (60) percent of Members who vote in such plebiscite vote in favour of the decision or determination.

### 10.2.3 A plebiscite under this Rule shall be initiated by the Committee of Management, upon passing a resolution to that effect, and shall be conducted by a Returning Officer appointed by the Committee of Management for that purpose, in a manner as far as practicable in accordance with Rule 5 herein.

### 10.2.4 If a vote in a plebiscite held under this Rule is in favour of dissolution by the required majority, the Committee of Management shall, as soon as practicable, do the following:

#### (a) collect all debts and other monies owing to the Association;

#### (b) sell or otherwise dispose of, or convert all property of the Association into money;

#### (c) pay all debts and expenses of the Association;

#### (d) make application to the relevant Industrial Relations Commission for cancellation of the registration of the Association; and

#### (e) prior to the cancellation of such registration, pay to any other kindred or related industrial Associations the balance of all monies held after complying with sub-rules 10.2.4(a) to 10.2.4(d) above.

\*\*\*EndOfRules\*\*\*