



## **Constitution of the Top of the South Filmmakers Incorporated**

### **THE SOCIETY**

#### **1. Name**

- 1.1 The name of the Society is TOP OF THE SOUTH FILMMAKERS INCORPORATED, ("the Society"). The Society is constituted by resolution dated 15 October 2015.

#### **2. Registered Office**

- 2.1 The registered office of the Society is Savage and Savage Chartered Accountants, 217 Bridge Street, Nelson 7010.

#### **3. Purpose of Society**

- 3.1 Nurture filmmaking excellence in the Top of the South.
- 3.2 Support the growth of the film industry in the Top of the South.
- 3.3 Facilitate educational opportunities for filmmakers to develop their craft.
- 3.4 Provide opportunities for filmmakers to showcase their films and filmmaking techniques.
- 3.5 Pecuniary gain is not a purpose of the Society.

#### **4. Objects**

The Society will achieve its purpose by such means as are appropriate including:

- 4.1 Providing workshops, seminars and educational opportunities.
- 4.2 Showcasing filmmakers and their work through film festivals and other opportunities.
- 4.3 Encouraging regional cooperation, collaboration and support across the Top of the South and beyond and for filmmakers to network and provide support opportunities.
- 4.4 Developing relationships with filmmaking individuals and organisations beyond our region to promote the Society and the region as a filmmaking destination.
- 4.5 Encouraging and providing opportunities for connection and networking between filmmakers and allied creatives.
- 4.6 Undertaking any other activities that are deemed necessary to meet the purpose of the Society.



## MANAGEMENT OF THE SOCIETY

### 5. Executive Committee

- 5.1 The Society shall have an elected management Executive Committee ("The Executive Committee") and it shall make decisions as to the direction of the Society. The Executive Committee consists of the following Officers:
- (a) Chairperson
  - (b) Vice Chairperson
  - (c) Secretary
  - (d) Treasurer
  - (e) A maximum of three (3) committee members in addition to the Officers listed.
- 5.2 The total number of elected Executive Committee Members shall be not less than five (5) and not more than seven (7).
- 5.3 The Executive Committee shall strive to have members representing the Marlborough, Nelson and Tasman regions.
- 5.4 Only members of the Society may be Executive Committee members.
- 5.5 The Secretary shall be the Contact Person for the purposes of Sections 112 to 116 of the Incorporated Societies Act 2022.
- (a) If the Secretary position is vacant for more than 20 days then another Contact Person shall be appointed until the position is filled.
  - (b) The Society will notify the Incorporated Societies Registrar within 20 working days of any change in the name and/or contact details of the Contact Person.

### 6. Appointment of Executive Committee members

- 6.1 The members of the Executive Committee shall be elected by the Society members at the Annual General Meeting of the Society each year by a majority vote.
- 6.2 No Executive Committee member shall hold more than one officer position.
- 6.3 The term of an Executive Committee member's appointments shall be for one (1) year. The Executive Committee members stand down at the Annual General Meeting and can seek re-election. An Executive Committee member may seek re-election but may not run for more than nine (9) consecutive years.
- 6.4 All newly appointed and re-elected Executive Committee members are required to sign a declaration that they have read and understood the Constitution (Rules), Code of Conduct, and all Society policies.
- 6.5 A person cannot be an Executive Committee member if they:
- (a) Are under 18 years old age.
  - (b) Are an undischarged bankrupt.



- (c) Have previously and/or at the time of appointment, are prohibited or disqualified from being an officer of a charitable entity
- (d) Are prohibited from being a director or promoter of a company.
- (e) Have any criminal convictions – convicted and sentenced for certain offending (e.g. a crime involving dishonesty or charges involving minors).
- (f) Are subject to particular orders (for example, a banning order)
- (g) Are unable to comply with any qualifications for officers contained in the Society's constitution or Incorporated Societies Act.

6.6 If a vacancy on the Executive Committee shall arise, the Executive Committee shall have the power to co-opt members as it may deem necessary to fill that vacancy. The member/s shall hold office until the next Annual General Meeting.

## **7. Cessation of Executive Committee members**

7.1 Persons cease to be Executive Committee members when they:

- (a) Become disqualified from being an officer in accordance with the Incorporated Societies Act.
- (b) Fail to comply with the requirements of the Society's constitution and/or policies.
- (c) Resign by giving written notice to the Executive Committee.
- (d) Are removed by majority vote of Society members at a Special General Meeting.
- (e) Die.

## **8. Role of the Executive Committee**

8.1 The Members of the Executive Committee are to:

- (a) Act in good faith and in the best interests of the Society.
- (b) Exercise powers for proper purposes only.
- (c) Comply with the Incorporated Societies Act, Constitution (Rules), Code of Conduct, all Society policies, and any relevant legislation.
- (d) Prepare and file an annual return.
- (e) Exercise reasonable care and diligence.
- (f) Manage the Society's financial affairs.
- (g) Not create a substantial risk of serious loss to creditors.
- (h) Not to incur an obligation if the officer believes the Society will not be able to meet the obligation.

## **9. Function and Powers of the Executive Committee**

9.1 The members of the Executive Committee are empowered to:

- (a) Establish committees which may comprise members of the Executive Committee, members of the Society and/or any other suitable non-members and delegate to them certain powers or duties for the purpose of supervising or performing any work authorised by the Executive Committee. The Executive Committee will determine the extent of the authority of any such committee.
- (b) The committee or person(s) to whom the Executive Committee has delegated powers or duties may, without confirmation by the Executive Committee,



exercise or perform the delegated powers or duties in the same way as the Executive Committee would have done.

- (c) Any committee or person(s) to whom the Executive Committee has delegated powers or duties will be bound by the terms and conditions of the delegations, as set out in a Terms of Reference.
- (d) The Executive Committee will be able to revoke any such delegation at will, and no such delegation will prevent the Executive Committee from exercising any power or duties.
- (e) To apply for funding and receive sponsorship, gifts, donations, in-kind and other financial contributions to support the Objects of the Society.
- (f) To provide scholarships, grants, loans or funding to support filmmakers and filmmaking endeavours.  
To purchase, hire or lease, or otherwise acquire any property or assets.
- (g) To sell, let, mortgage, or otherwise dispose of or deal with any property or assets of the Society.
- (h) Subscribe or pay for memberships to other Societies, Association or organisations that support the Objects of the Society.
- (i) To enter or terminate any contract or arrangement with any Society, government department, corporation, funder or other body.
- (j) To acquire and undertake the whole or any part of the business, property, assets and liabilities of any persons, company, not-for-profit entity or body corporate carrying on any business or activity which the Society is hereby authorised to carry on or which can conveniently be carried on in connection with the above Objects.
- (k) To enter into any partnership, union of interests, cooperation, joint venture, social enterprise or reciprocal concession with any partner, company, not-for-profit or body corporate carrying on any business or activity which the Society is hereby authorised to carry on or engage in, or any business or transaction capable of being conducted so as directly or indirectly to benefit the Society.
- (l) To use its funds in payment of proper costs and expenses, including the employment and dismissal of counsel, solicitors, accountants, agents, contractors, and staff, according to the principles of good employment and the Employment Contracts Act 1991 or any subsequent enactments.

9.2 The Executive Committee is authorised to appoint a Film Festival Director:

- (a) Through an open and competitive appointment process.
- (b) For a fixed-term contract of not more than one year, but shall be eligible for renew for a further term/s subject to a successful Festival and review.
- (c) A budget shall be set for the Film Festival in accordance with relevant financial policies.
- (d) The Film Festival Director will provide regular written financial and non-financial performance reports to the Executive Committee, and/or appointed committee, in accordance with the key deliverables set out in the contract.
- (e) The Executive Committee and/or appointed committee shall support the Film Festival Director and ensure that there is sufficient oversight and accountability of all decisions and actions.
- (f) Members of the Executive Committee may not serve as the Film Festival Director.



- 9.4 The Executive Committee has authority to make decisions for the Society unless otherwise specified in this Constitution.
- 9.5 The Executive Committee does not have the power to undertake activities that pursue non-charitable purposes.
- 9.6 All contracts or legal agreements must be authorised by two signatories of a maximum of four signatories appointed by the Society. Authorisation for signing of any contracts or legal agreements must be duly resolved and minuted within the Executive Committee meeting minutes.
- 10. Financial Management**
- 10.1 The financial year for the Society begins on 1st April every year and ends on 31 March the next year.
- 10.2 The Society may only use the Society's money and other assets if:
- (a) It is for the purposes of the Society.
  - (b) That use has been approved by the Executive Committee, or majority vote of the Society, to pay the costs and expenses of furthering or carrying out its Objects.
  - (c) The use of such money or other assets is consistent with the obligations of Societies under the law.
  - (d) The use and accountability of such money is in accordance with all financial policies.
- 10.3 The Executive Committee shall set financial policies in line with generally accepted accounting practices.
- 10.4 All funds received by the Society will be paid into its bank accounts.
- 10.5 All monetary withdrawals (or transfers) against the Society's account will be authorised by two signatories of a maximum of four signatories appointed by the Society. No income or property is to be paid or transferred directly or indirectly to any members. This will not prevent payment of reasonable remuneration or expenses to any member/s for any services performed by them for the Society.
- 10.6 The Treasurer will ensure that true and fair accounts are kept of all money received and expended by the Society.
- 10.7 Annual Financial Statements:
- (a) Within four (4) months of the end of the financial year, the Executive Committee shall present a reviewed set of annual financial statements in accordance with generally accepted accounting practices, and an annual statement of service performance (annual report).
  - (b) The annual financial statements shall be reviewed by an independent reviewer (who may or may not be assurance practitioner) appointed at the Annual General Meeting for that purpose.



## **11. Pecuniary profit prohibition**

- 11.1 Any income, benefit or advantage must be used to advance the purposes of the Society.
- 11.2 No member of the Executive Committee or of the Society, or anyone associated with a member, is allowed to take part in, or influence any decision made by the Executive Committee in respect of payments to, or on behalf of, the member or associated person of any income, benefit, or advantage.
- 11.3 Any payments made to an Executive Committee member or Society member, or anyone associated with a member, must be for goods or services that advance the purposes of the Society and must be reasonable and relative to payments that would be made between unrelated parties.

## **12. Conflict of Interest**

- 12.1 A conflict of interest arises where a member has an interest (actual), might conflict (potential), or might be perceived to conflict (perceived) with the interests of the Society.
  - (a) The Executive Committee shall adopt and adhere to a Conflict of Interests Policy.
  - (b) It is the duty of all Executive Committee members to declare all interests and potential conflicts upon appointment in accordance with the Conflict of Interests Policy.
  - (c) The secretary or other designated person on the Executive Committee is responsible to maintain a Register of Interests at all times and have it as the first item on the meeting agenda.
  - (d) Any declared conflicts pertaining to items on the agenda are recorded and are included in the minutes.

## **13. Executive Committee Meetings**

- 13.1 Executive Committee meetings may be held in person, via electronic means or a hybrid of the two, as the Executive Committee so decides.
- 13.2 A quorum of 50 percent plus one is needed for an Executive Committee meeting.
- 13.3 The Executive Committee shall meet a minimum of 10 meetings annually.
- 13.4 The Chairperson shall chair Executive Committee meetings, or in their absence, the Vice Chairperson or in their absence, the Executive Committee shall elect an Executive Committee member present to chair a specific meeting.
- 13.5 All decisions of the Executive Committee shall be by majority vote. Only those members present are eligible to vote at Executive Committee meetings.
- 13.6 Minutes shall be taken at all Executive Committee meetings recording the key discussions and all decisions made. Minutes shall be made available to Society members on request.



- 13.7 Only Executive Committee members who are present at the Executive Committee meeting have the authority to vote.
- 13.8 Society Members:
- (a) May observe, listen and take notes during non-confidential sessions of meetings.
  - (b) Will leave the meeting if asked by the Chair under reasonable belief that the member's behaviour is likely to impact or influence decision-making.
  - (c) Declare any conflicts of interest and abide by the Conflict of Interests Policy, leaving the meeting if a conflict arises.
  - (d) May request an item be added to the meeting agenda by emailing the Secretary.
- 13.9 In lieu of a meeting, a written resolution may be approved by electronic means providing that the decision receives unanimous support from all Executive Committee members and is subsequently ratified and minuted at an Executive Committee meeting.

#### **14. Society Meetings**

- 14.1 Society Meetings shall be either Annual General Meetings or Special General Meetings.
- 14.2 An Annual General Meeting shall be held no later than four months after the Society's balance date.
- 14.3 The Notice of the Annual General meeting must include the place, date and time decided by the Executive Committee and must be distributed to members no less than four weeks before the agreed date of the meeting.
- 14.4 The Notice of the Annual General Meeting shall also call for any nominations for the Executive Committee and any Notices of Motion. All nominations and notices of motion must be received fourteen (14) days prior to the Annual General Meeting.
- 14.5 All applications for the Executive Committee must be on the prescribed form and nominated and seconded by eligible members (nominees may self-nominate). By signing the prescribed application form the nominee confirms that they are not disqualified from being an officer in accordance with the Incorporated Societies Act.
- 14.6 All papers for the Annual General Meeting including but not limited to, Annual Financial Statements, Statement of Service Performance (annual report), nominations, motions, and previous minutes shall be sent to all member no later than seven (7) days prior to the meeting.
- 14.7 The business of the Annual General Meeting shall be:
- (a) Receiving minutes of the previous Annual General Meeting.
  - (b) Receiving the Chairperson's report and the Statement of Service Performance (Annual Report) on the non-financial performance of the Society.
  - (c) Receiving the Treasurer's report on the finances of the Society and the Annual Financial Statements.
  - (d) Election of Executive Committee members.
  - (e) Motions to be considered (if any).



- (f) Set membership fees.
  - (g) Confirm appointment of the accountant and any other paid or honorary professional advisors.
  - (h) Appoint the reviewer.
  - (i) General business.
- 14.8 Special General Meetings may be called by the Executive Committee or the Executive Committee must call a Special General Meeting if a written request is received and signed by two-thirds of members.
- 14.9 All paid-up members may attend and vote at Society Meetings ie: the Annual General Meeting and a Special General Meeting.
- 14.10 In the event that a member cannot attend a meeting, they may be represented at a general meeting by a proxy who shall be entitled to vote on their behalf. A proxy must also be a member and the notice of proxy signed by the absent member must be delivered to the Secretary at least three (3) days before the commencement of the meeting.
- 14.11 The quorum for Society Meetings shall be ten (10) Society members (present in person or electronically).
- 14.12 The Secretary shall give all members 14 days' written notice of a Special General Meeting.
- 14.13 Society Meetings can be chaired by the Chairperson, Vice-Chairperson or other nominated person upon the approval of the Executive Committee.
- 14.14 Minutes must be taken at all Society Meetings recording the key discussions and all decisions made.

## **15. Membership**

- 15.1 There shall be two membership class:
- (a) Full members
  - (b) Affiliate members
- 15.2 A person becomes a member upon:
- (a) Submission of the online Registration Form
  - (b) Signed agreement to adhere to the Society's Rules (Constitution) and Code of Conduct.
  - (c) Approval of the Executive Committee.
  - (d) Payment of the Society member fee.
- 15.3 The Society must keep an up-to-date register of all members containing:
- (a) The name of each member; and
  - (b) The last known contact details of each member; and
  - (c) The date on which each person became a member; and
  - (d) All other information determined relevant by the Society.





- 15.4 Members agree to have their contact details kept in the Membership Register.
- (a) It is the responsibility of all members to keep the Secretary updated by giving email notification of any changes of address or contact details.
  - (b) The Society may give notice to any member by the member's last known email address.
- 15.5 Members agree to have their contact details kept in the Membership Register Database.
- (a) It is the responsibility of all members to keep the Secretary updated by giving email notification of any changes of address or contact details.
  - (b) The Society may give notice to any member by the member's last known email address.
- 15.6 Membership may be terminated if the Executive Committee is of the view that the member has breached the Constitution or Code of Conduct or brought the Society into disrepute or is acting in a manner inconsistent with the purposes of the Society.
- 15.7 Membership of the Society shall cease once the member does not renew their annual membership. Members have a period of no longer than three (3) months after the due date of their membership to renew their membership. During this time, the member is not eligible to be an Executive Committee member or receive any benefits of membership, but shall not have their membership terminated.
- 15.8 Full Membership:
- (a) Is open to any person residing within the Top of the South (Nelson, Tasman, Marlborough regions), with an interest in filmmaking.
  - (b) Full members are eligible to be nominated and elected onto the Executive Committee.
- 15.9 Affiliate Membership:
- (a) Is open to any person or organisation residing within New Zealand with an interest in supporting filmmaking in the Top of the South.
  - (b) Are not eligible to vote or become Executive Committee members.
  - (c) Is for people under the age of 18 years old.

## **16. Termination of Membership**

- 16.1 Any member wishing to resign must advise the Secretary by written notice.
- 16.2 A member whose status as a member is being considered for termination in accordance with clause 15.6 shall be entitled to a fair hearing before the Executive Committee.
- 16.3 In accordance with clause 15.7, any membership shall cease if the member has not paid their membership within three (3) months of their annual subscription fee renewal falling due.



## **17. Disputes Resolution Procedure**

The dispute resolution procedures are demonstrably those as outlined in Schedule 2 of the Incorporated Societies Act 2022.

- 17.1 A disagreement or conflict is a dispute if it is between one or more members and other members, the Society or an officer/s.
- 17.2 A disagreement or conflict relates to an allegation that:
- (a) A member or an officer has engaged in misconduct.
  - (b) A member's rights or interests have been damaged.
  - (c) A member or an officer has breached a duty under the constitution or the Incorporated Societies Act
  - (d) The Society has breached a duty under the Society's Constitution or the Incorporated Societies Act
- 17.3 How a complaint is made
- (1) A member or an officer may make a complaint by giving to the Executive Committee (or a complaints subcommittee if/when one is established) a notice in writing that:
    - (a) states that the member or officer is starting a procedure for resolving a dispute in accordance with the Society's constitution; and
    - (b) sets out the allegation to which the dispute relates and whom the allegation is against; and
    - (c) provides any evidence or supporting data; and
    - (d) upon request, will provide any other information reasonably required by the Society.
  - (2) The Society may make a complaint involving an allegation against a member or an officer by giving to the member or officer a notice in writing that:
    - (a) states that the Society is starting a procedure for resolving a dispute in accordance with the Society's constitution; and
    - (b) sets out the allegation to which the dispute relates; and
    - (c) provides any evidence or supporting data.
  - (3) The information given under subclause (1)(b), (1)(c), (2)(b) or (2)(c) must be enough to ensure that a person against whom an allegation is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.
- 17.4 Person who makes a complaint has a right to be heard
- (1) A member or an officer who makes a complaint has a right to be heard by the Complaints Committee constituted in accordance with clause 17.8 before the complaint is resolved or any outcome is determined.
  - (2) If the Society makes a complaint:
    - (a) the Society has a right to be heard before the complaint is resolved or any outcome is determined; and
    - (b) an officer may exercise that right on behalf of the Society.
  - (3) Without limiting the manner in which the member, officer, or Society may be given the right to be heard, they must be taken to have been given the right if:
    - (a) they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
    - (b) an oral hearing is held if the decision-maker considers that an oral hearing is needed to ensure an adequate hearing; and



- (c) an oral hearing (if any) is held before the decision-maker; and
- (d) the member's, officer's, or Society's written statement or submissions (if any) are considered by the decision-maker.

17.5 Person who is subject of complaint has right to be heard

- (1) This clause applies if a complaint involves an allegation that a member, an officer, or the Society (the respondent):
  - (a) has engaged in misconduct; or
  - (b) has breached, or is likely to breach, a duty under the Society's constitution or policies or this Act; or
  - (c) has damaged the rights or interests of a member or the rights or interests of members generally.
- (2) The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
- (3) If the respondent is the Society, an officer may exercise the right on behalf of the Society.
- (4) Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if:
  - (a) the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
  - (b) the respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
  - (c) an oral hearing is held if the decision-maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - (d) an oral hearing (if any) is held before the decision-maker; and
  - (e) the respondent's written statement or submissions (if any) are considered by the decision-maker.

17.6 Investigating and determining dispute

- (1) The Society must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with the constitution, ensure that the dispute is investigated and determined.
- (2) Disputes must be dealt with under the constitution in a fair, efficient, and effective manner.

17.7 Society may decide not to proceed further with complaint

Despite Clause 17.6, a Society may decide not to proceed further with a complaint if:

- (a) the complaint is trivial; or
- (b) the complaint does not appear to disclose or involve any allegation of the following kind:
  - (i) that a member or an officer has engaged in material misconduct;
  - (ii) that a member, an officer, or the Society has materially breached, or is likely to materially breach, a duty under the Society's constitution or policies or the Incorporated Societies Act;
  - (iii) that a member's rights or interests or members' rights or interests generally have been materially damaged;
- (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 the constitution; or
- (f) there has been an undue delay in making the complaint.

17.8 Decision-makers

- (1) The Society shall establish a Disputes Committee for the purposes of dealing with, and being decision-maker for all disputes.
- (2) A person may not act as a decision-maker in relation to a complaint if:
  - (a) there are reasonable grounds to believe that the person may not be impartial; or
  - (b) are unable to consider the matter without a predetermined view; or
  - (c) are a named party in the complaint, for example as respondent or witness.
- (3) If the complaint is against the Society/Executive Committee or if the Executive Committee lodges the complaint, then an independent investigator/s may be appointed to act as decision-maker by agreement of both parties or the complaint may be referred to an arbitral tribunal.

**18. Altering The Rules**

- 18.1 The Society may alter or replace the constitution at a Society Meeting by a resolution passed by two-thirds of those members present (including proxy votes) who are eligible to vote.
- 18.2 Any proposed motion to alter the constitution shall be notified to all Members at least seven (7) days before the Society Meeting at which the rule change is to be considered.
- 18.3 When a constitution change is approved at a Society Meeting, it does not take effect until the changes have been filed with the Registrar of Incorporated Societies.
- 18.4 No addition to, deletion from, or alteration of the Society's rules shall be made which will allow personal pecuniary profits to any individual. The provision and effects of that clause shall not be removed from this document and shall be included and implied into any document replacing this document.

**19. Winding Up**

- 19.1 The Society shall not be wound up except by resolution of two-thirds of those present at a Special General Meeting called for that purpose.
- 19.2 In the event that the Society is wound up, any monies or assets remaining after all debts and liabilities are paid, shall not be distributed to members but shall become the property of a charitable organisation or body having Objects similar to the Society or some other charitable purpose within New Zealand.