



## **RULES OF THE PLANTS MARKET ACCESS COUNCIL INCORPORATED** **Approved 7<sup>th</sup> November 2018**

(“the Rules”)

### **1. NAME**

1.1. The name of the society is “Plants Market Access Council Incorporated” (“PMAC”).

### **2. DEFINITIONS**

2.1. “Industry” means those businesses directly or indirectly involved in the arable/horticultural export sector in New Zealand.

2.2. MPIMPI means the Ministry for Primary Industries .

2.3. “MFAT” means the Ministry of Foreign Affairs and Trade

### **3. PURPOSE, MISSION and GOALS**

PMAC has been established to provide advice to government on market access priorities for plant products. It operates as a vehicle for Industry to work in partnership with MPI and MFAT to develop strategic approaches that will optimise market access for a range of New Zealand's plant products.

3.1. **Purpose:** Increase economic returns to New Zealand through universal, sustainable and profitable market access for plant products.

3.2. **Mission :** Provide strategic leadership to drive market access for New Zealand plant products through a partnership between industry and government agencies

3.3. **Goals:** PMAC through its advice to Government is working to deliver the following goals:

3.3.1. Maximise sustainable and profitable market access by maintaining existing and exploring new opportunities.

3.3.2. Influence international standards to New Zealand's advantage.

- 3.3.3. Proactively manage risks and issues.
- 3.3.4. Optimise New Zealand export assurance systems.
- 3.3.5. Minimise unjustified market access requirements.
- 3.3.6. Effective communication between industry and government.

#### 4. MEMBERSHIP

- 4.1 Industry organisations and the Government Department for the time being responsible for plants market access functions (currently MPI and MFAT) shall comprise the membership of PMAC.
- 4.2 Each member organisation shall appoint a nominee to represent that member at PMAC for such term as the member determines.
- 4.3 The name of the nominee must be advised in writing to the Executive Officer or Executive Secretary. If a nominee is unable to represent the member at a PMAC meeting or the member organisation wishes to change its nominee the member may nominate a replacement person to be its representative. These changes are subject to prior notification in writing to the Executive Officer or Executive Secretary advising of the replacement's name.
- 4.4 There shall be four classes of membership:
  - 4.4.1 **Ordinary Members** being organisations representing the various market access interests of exporters and growers and legislated bodies established to promote the effective export marketing of horticultural products.

Ordinary membership will carry the following membership benefits and entitlements:

- Eligibility for nomination for election to the PMAC Executive Council (see 10.1);
- Attendance and full voting rights at PMAC general (Executive Council Member only), special general, and annual general meetings;
- Eligibility to participate in working and/or task groups from time to time established under the Rules;

- 4.4.2 **Special Member** being the Government Department or Departments for the time being responsible for plants market access functions (currently MPI, and MFAT where MPI has up to three representatives; Market access, Assurance and Plant Exports).

Special membership will carry the following membership benefits and entitlements:

- Eligibility for membership of the PMAC Executive Council
- Attendance and full voting rights at PMAC general, special general, and annual general meetings;
- Eligibility to participate in working and/or task groups from time to time established under the Rules;

4.4.3 **IVA membership** being the independent verification agencies accredited to provide the audit and verification functions to the MPI Plants Exports specifications.

IVA membership will carry the following membership benefits and entitlements:

- Attendance at PMAC general meetings;
- Eligibility to participate in working and/or task groups from time to time established under the Rules;

4.4.4 **Service Members** being the representative organisations of those industries and service providers that by way of services provided to the export horticulture sector facilitate the export of horticultural product to the satisfaction of official certifying bodies and importing country requirements. Service membership is not available to individual businesses or trading entities.

Service membership will carry the following membership benefits and entitlements:

- Attendance at PMAC general meetings;
- Eligibility to participate in working and/or task groups from time to time established under Rules;

4.5 An organisation wishing to become an ordinary or special member of PMAC shall be nominated and seconded by existing Ordinary Members. The nomination must be in writing and in a form acceptable to the Executive Council. The Executive Council shall determine the appropriate class of membership for the applicant taking into account 4.4.1 and 4.4.2.

4.6 Notice of the nomination shall be circulated to all Ordinary and Special Members by the Executive Officer or Executive Secretary. Members shall be given 20 business days from the date of circulation of the notice to record their views on the nomination. The Executive Council will take such views into consideration in their decision to approve or decline the nomination.

4.7 Election of Members shall be made by ordinary resolution of the Executive Council at either an AGM, special meeting or a meeting run according to rules 9.1-9.10. On the passing of the resolution approving the nomination, the Executive Officer or Executive Secretary shall notify the applicant in writing and enrol it as a member of PMAC for the appropriate membership class but only once payment of the applicable Joining Fee and Annual Levy has been made in full. Where an applicant is elected as a member in the first half of the financial year, it shall pay the Joining Fee and the full Annual Levy applicable to the membership class. Where an applicant is elected as a member in the second half of the financial year, it shall pay the Joining Fee and half the Annual Levy applicable to the membership class.

4.8 The Special Member shall automatically be a Member of PMAC and any change to the Special Members shall be confirmed by ordinary resolution of the Executive Council

4.9 Membership may be terminated in any of the following ways:

- 4.9.1 Any Member may resign its membership at any time on the giving of not less than 20 business day's notice to the Executive Officer or Executive Secretary in writing of its intention to resign. Such notice of resignation shall be deemed effective from the date specified in the notice.
- 4.9.2 Any failure to pay the Annual Levy within six months after the due date for payment or such lesser period as may be advised to the Members by notice in writing from the Executive Council from time to time will result in automatic termination of membership, unless the Executive Council resolves otherwise.
- 4.9.3 Any Member who becomes insolvent or being a company or other body corporate or unincorporated is wound up or has a receiver or liquidator appointed or who makes a compromise with its creditors or who is convicted of a criminal offence shall be expelled from membership.
- 4.9.4 The Executive Council shall have the power at its discretion to be exercised by special resolution requiring 75% majority to expel a Member where the Executive Council determines that continuation of membership is not in the best interests of PMAC. Prior to expulsion the affected member will be given a statement setting out the reasons for the potential expulsion and be allowed an opportunity to put their case in writing before the Executive Council makes its decision. Termination shall be effected by notice in writing from the Executive Officer or Executive Secretary.
- 4.10 The Joining Fee and Annual Levy and any other amount due from the Member to PMAC shall remain payable to the date of termination of membership for whatever reason and the Joining Fee and Annual Levy are not refundable.

## **5 REGISTER OF MEMBERS**

- 5.1 The Executive Officer or Executive Secretary shall keep a register of Members and the nominated representatives of Members, containing the names, addresses and industry affiliation of all Members and the dates at which they became Members.

## **6 REGISTERED OFFICE**

- 6.1 The registered office of PMAC shall be:-

Chartered Accountant  
Parbhu Gallagher Parag Limited  
Level 1, iSoft House,  
PO Box 8060  
Wellington

or such other place as the Executive Council shall from time to time decide.

## **7 JOINING FEE AND ANNUAL LEVIES**

- 7.1 The Joining Fee and Annual Levy for Ordinary, Service and IVA Members of PMAC shall, subject to 7.3, be determined by the Executive Council and shall be

payable for the period from 1 July to 30 June in each year and shall become due and payable within 60 business days of notification of the amount of the Annual Levy to a Member.

- 7.2 The Special Member shall not be required to pay the Joining Fee or an Annual Levy.
- 7.3 The Annual Levies shall be subject to ratification by the Members at the Annual General Meeting.
- 7.4 The Executive Council shall have the power to call for payment of a Special Levy from time to time to cover special projects such Special Levy to be split between the Ordinary and Service Members, in such proportions as the Executive Council shall determine. Imposition of a Special Levy shall not require the ratification of Members.
- 7.5 Upon a majority vote in favour, the Executive Council may waive all or part of the annual membership levy as appropriate on a case by case basis.

## **8 ALTERATION AND INTERPRETATION OF RULES**

- 8.1 The rules of PMAC may be amended and added from time to time in accordance with the following procedure:
  - 8.1.1 Any Ordinary or Special Member or the Executive Council may propose a rule change by notice to the Executive Officer or Executive Secretary in writing.
  - 8.1.2 The Executive Officer or Executive Secretary shall give at least 20 business day's notice to Members of a proposed rule change. The notice shall include the date of the meeting at which the rule change resolution will be considered and/or setting out the procedure for a postal /electronic ballot.
  - 8.1.3 A special resolution of not less than 75% of Ordinary and Special Members voting in person or by proxy (or by post if the Executive Council has decided to hold a postal ballot) shall be required to effect a rule change.
  - 8.1.4 The Executive Officer or Executive Secretary shall deliver to the Registrar of Incorporated Societies the amended rules in accordance with the provisions of section 21 of the Incorporated Societies Act 1908 (or any section which is passed in succession or substitution to it) and circulate copies of the amended rules to Members.

## **9 MEETINGS**

- 9.1 An Annual General Meeting shall be held within five months of the financial year-end.
- 9.2 The business of the Annual General Meeting shall include but not be limited to:
  - 9.2.1 confirming minutes of the previous meeting;
  - 9.2.2 receiving the annual report;

- 9.2.3 receiving the annual accounts and balance sheet;
  - 9.2.4 electing members of the Executive Council (refer Rule10);
  - 9.2.5 ratifying the Annual Levy to be paid for the ensuing year;
  - 9.2.6 determining honoraria for members of the Executive Council for the ensuing year; and
  - 9.2.7 determining and reviewing policy directions and any other matter of which notice in writing is given to the Executive Officer or Executive Secretary at least 25 business days prior to the date of meeting.
- 9.3 The Executive Officer or Executive Secretary shall circulate a notice of and AGM at least 20 business days in advance of any meeting and shall circulate an agenda, minutes of previous meeting, and any notices of motions received by that date. Notices received after that date will be circulated, if practicable in the opinion of the Executive Officer or Executive Secretary.
- 9.4 The Executive Officer or Executive Secretary shall circulate a notice for a general meeting at least 5 business days in advance of any meeting and shall circulate an agenda, minutes of previous meeting, and any notices of motions received by that date. Notices received after that date will be circulated, if practicable in the opinion of the Executive Officer or Executive Secretary.
- 9.5 The quorum of an AGM or general meeting shall be 50% of the nominated representatives of current Ordinary and Special members present in person or linked by conference call or other audio or visual means with at least 3 ordinary members and 2 special members. In the case of an AGM some of the quorum may be represented by proxy where such proxy is received by the Executive Officer or Executive Secretary not less than 24 hours prior to the commencement of the meeting on the approved proxy form (refer Appendix I), provided that at least 33% of Ordinary Members' nominated representatives are present in person
- 9.6 A Special or Extraordinary General Meeting of Members may be called on 5-business days' notice (except in the case of urgent business where lesser notice may be given) by the Executive Council or by the Executive Officer or Executive Secretary at the request of the Chairperson. A quorum at a special meeting shall be 5 of the nominated representatives of current Ordinary and Special Members who are present in person or linked by audio or visual means. At least 3 of those present must be representatives of ordinary members. At least 3 of those present must be representatives of ordinary members and 1 a special member.
- 9.7 At every meeting the chair shall be taken by the Chairperson if present, or in his/her absence, by the Deputy Chairperson or in their absence by a person nominated by the Executive Council or failing such nomination by representatives of Members present at the meeting.
- 9.8 Decisions may be made and resolutions agreed at a meeting or by way of a postal/ email ballot. They shall be made by a simple majority of votes by Executive Council members entitled to vote. Each member shall have one vote. If the Chairperson is a member of the Executive (i.e. not an independent Chair)

they will have a second or casting vote in the event of an equality of votes. If the Council is being Chaired by an Independent Chair in the event of equality of vote the status quo will prevail. Decisions must be recorded in writing.

- 9.9 The procedure at meetings shall be:
  - 9.9.1 Any nominated representatives of members of PMAC may attend and speak on any matter provided the Annual Levy of that member is not in arrears.
  - 9.9.2 Only nominated representatives of Ordinary and Special Members who are not in arrears with their Annual Levy may vote and each Member has one vote.
  - 9.9.3 Prior to dealing with any business, the Executive Officer or Executive Secretary shall record all approved proxy forms received, confirm whether there is a quorum for the transaction of business and advise the number of votes required for an ordinary or special resolution as the case may be.
  - 9.9.4 Subject to the above, the Chairperson of the meeting shall otherwise determine the procedure and conduct of the meeting.
- 9.10 Minutes of meetings shall be circulated by the Executive Officer or Executive Secretary to all members of the Executive Council as soon as practicable after the meeting.

## 10 **EXECUTIVE COUNCIL**

- 10.1 PMAC's affairs shall be managed by an Executive Council, whose members shall be:
  - 10.1.1 The two people who are the nominated representatives of the Ordinary Members representing the Kiwifruit and Pipfruit Industries.
  - 10.1.2 The person who is the nominated representative of the Ordinary Member representing the body established to provide advocacy on national industry-wide issues for commercial fruit and vegetable growers.
  - 10.1.3 The person who is the nominated representative of the Ordinary Member representing the legislated body established to promote the effective export marketing of horticultural products representing the market access interests of product groups.
  - 10.1.4 Each person who is a nominated representative of a Special Member.
  - 10.1.5 Individuals who fulfil the requirements of an ordinary member and are nominated and seconded by any two ordinary members and elected at the AGM or special meeting (see rule 10.4).
  - 10.1.6 The Chair appointed pursuant to Rule 10.6.
  - 10.1.7 The Executive Officer or Executive Secretary appointed pursuant to Rule 10.

- 10.2 The members of the Executive Council to be elected pursuant to Rule 10.1.5 shall be elected annually at the Annual General Meeting.
- 10.3 If for any reason there is a vacancy in the membership of the Executive Council between one Annual General Meeting of PMAC and the next, the Executive Council may fill the vacancy. Any person appointed to fill such vacancy shall retire from office at the next Annual General Meeting.
- 10.4 Notice of the date on which nominations for election of Executive Council members pursuant to Rule 10.1.5 will be embodied in, or accompany, the notice of the Annual General Meeting. Nominations for all such appointments will be in writing in a form prescribed by the Executive Council and signed by the nominated representatives of two current Ordinary Members with the consent of the nominee enclosed. The Executive Officer or Executive Secretary must receive nominations and consents to nomination at least one business days prior to the date on which the Annual General Meeting is to be held.
- 10.5 In the event of insufficient nominations, nominations may be accepted from the floor at the Annual General Meeting in compliance with 10.1.5. In the event of an excess of nominations the candidates to be elected to the Executive Council shall be determined by a ballot held at the Annual General Meeting.
- 10.6 The Executive Council shall either:
- 10.6.1 appoint an Independent Chairperson who:
- 10.6.1.1 is not a nominated representative of a Member;
  - 10.6.1.2 shall not be entitled to a vote on the Executive Council;
  - 10.6.1.3 will hold office as long as the Executive Council thinks fit;
  - 10.6.1.4 will be paid such remuneration as the Executive Council may determine;
  - 10.6.1.5 shall primarily be responsible for the efficient conduct of the business of PMAC at its meetings;
  - 10.6.1.6 will be responsible for such matters as set out in the Position Description for an Independent Chair;
  - 10.6.1.7 will be responsible for such matters as the Executive Council shall determine from time to time in accordance with these Rules;
  - 10.6.1.8 will proactively work with the Council and its stakeholders to facilitate consensus decision making to support New Zealand's wider market access;
  - 10.6.1.9 will uphold the values of PMAC including those of the industry stakeholders, and its Special Members – MPI & MFAT.

Or



10.6.2 Elect a Chairperson from among their number who shall primarily be responsible for the efficient conduct of the business of PMAC at its meetings.

10.7 The Executive Council shall elect a Deputy Chairperson.

10.8 The Deputy Chairperson shall assist the Chairperson as required.

10.9 The Executive Council shall appoint an Executive Officer or Executive Secretary who:

10.9.1 Need not be a nominated representative of a Member;

10.9.2 shall not be entitled to a vote on the Executive Council;

10.9.3 will hold office as long as the Executive Council thinks fit;

10.9.4 will be paid such remuneration as the Executive Council may determine; and

10.9.5 will be responsible for such matters as the Executive Council shall determine from time to time in accordance with these Rules.

10.10 The Officers of PMAC shall be the persons from time to time holding office as the Chairperson, Deputy Chairperson and Executive Officer or Executive Secretary.

## **11 LIMITATION OF LIABILITY FOR OFFICERS AND EXECUTIVE COUNCIL MEMBERS**

11.1 No Officer or other member of the Executive Council shall be liable for the actions of any other Officer or other member of the Executive Council or for any loss caused by any error of judgment or oversight on his/her part or for any other loss, or damage howsoever caused which occurs in the execution of his/her duties as an Officer or other member of the Executive Council unless occasioned by his/her own wilful default or dishonesty.

## **12 OTHER POWERS OF THE EXECUTIVE COUNCIL**

12.1 Without prejudice to the general powers conferred by the Rules, the Executive Council shall have the following powers: -

12.1.1 It shall be responsible for the management of the affairs of PMAC including the control and investment of PMAC funds.

12.1.2 It may build, purchase, lease, rent, hold and/or furnish any building or premises for the use of members of PMAC and may from time to time dispose of some or any part of it.

12.1.3 It may make and give receipts, releases and other discharges for moneys payable to PMAC and for the claims and demands of PMAC.

- 12.1.4 It shall make provision for the opening and operation of such bank account or accounts as may be deemed necessary for the purposes of PMAC.
- 12.1.5 It may invest and deal with any money of PMAC upon such security and in such manner as it thinks fit, and it may from time to time vary such investments.
- 12.1.6 It may borrow or otherwise raise money in such manner as it thinks fit and to secure repayment by the issue of debentures or by mortgages or charges upon the whole or part of the property or assets of PMAC (whether present or future) and to purchase, redeem or pay off any such securities.
- 12.1.7 It shall keep minutes of all meetings of the Executive Council and sub-committees and of all general meetings of members.
- 12.1.8 It shall ensure that proper books of account are kept by the Executive Officer or Executive Secretary who shall present a six monthly financial statement to the Executive Council and an annual statement of income and expenditure, together with a balance sheet, to the members at the Annual General Meeting.
- 12.1.9 It may make, alter or rescind by-laws not inconsistent with these Rules for the conduct and behaviour of members or any other matter related to the affairs of PMAC. By-laws shall take effect and become binding on all Members on the date ("the Effective Date") 20 business days from the date of the notice issued by the Executive Council setting out the new, altered or rescinded by-law (as the case may be), unless before the Effective Date written notice of objection signed by 50% of the paid up Ordinary and Special Members is received by the Executive Officer or Executive Secretary, in which case such notice shall be deemed to be a requisition for the purpose of convening a Special General Meeting of Members pursuant to Rule 9.8 6 provided that if the notice is received within six months of the proposed date for the Annual General Meeting then the notice shall be held over and dealt with at the Annual General Meeting unless the Executive Council agrees that a Special General Meeting be held.
- 12.1.10 To enter into any arrangements with any person which seem conducive to the attainment of any of PMAC's objective.
- 12.1.11 To delegate any of its powers to committees, sub-structures and special project teams on such terms as it thinks fit.
- 12.1.12 To take such steps as it considers will promote any of the objectives of PMAC.
- 12.1.13 To co-opt such persons as it thinks fit to the Executive Council provided that persons so co-opted will have no voting rights and need not be nominated representatives of a Member.
- 12.1.14 It shall exercise all the rights, powers and duties which under these Rules are required to be performed by the Executive Council.

## 13 FINANCIAL ACCOUNTABILITY

13.1 The Executive Council will ensure that the Chairperson and Executive Officer or Executive Secretary work together to ensure the highest standards of financial accountability are maintained by PMAC. The following rules apply:

13.1.1 The Executive Officer or Executive Secretary will open bank accounts as required for the efficient conduct of PMAC. Receipts will be issued for all monies received. All cheques must be signed by two Officers.

13.1.2 The Executive Council will approve from time to time an investment code upon advice from reputable financial advisors or Council agreed treasury policy.

13.1.3 The Executive Officer or Executive Secretary will provide a six monthly statement of the financial position of PMAC to the Executive Council.

#### 14 **FINANCIAL YEAR**

14.1 The financial year of PMAC shall commence on the 1st day of July and shall end on the following 30th day of June.

#### 15 **AUDIT**

15.1 The Executive Council may appoint an auditor who is a member of the Institute of Chartered Accountants of New Zealand but who is not a member of PMAC. The auditor will hold office as long as the Executive Council thinks fit, and will be paid whatever remuneration the Executive Council may determine.

#### 16 **PUBLICITY**

16.1 Except where dealing with their own membership, no nominated representative (other than the Chairperson or a nominated representative authorised so to do by the Chairperson) will speak for or represent the views of PMAC as a whole without first having obtained the approval of the Executive Council to do so.

#### 17 **WINDING UP**

17.1 PMAC may be liquidated voluntarily if PMAC at a General Meeting of its Members called for the purpose passes a resolution with a simple majority of paid up Ordinary Members requiring PMAC to be liquidated. Notice of the passing of such a resolution shall be given by the Executive Council to the Registrar of Incorporated Societies.

17.2 If upon the liquidation or dissolution of PMAC there remains, after the satisfaction of liabilities, any property or assets, they shall not be paid to or distributed among the Members of PMAC but shall be given or transferred to some other institution or institutions having objects similar to the objects of PMAC and which shall prohibit the distribution of its or their income or property among its or their members to an extent at least as great as is imposed on PMAC. Such institution or institutions shall be determined by the members of PMAC at or before the time of dissolution or in default thereof by a judge of the High Court of New Zealand or in the absence of there being such an institution, then to such public charity or public charities as such judge may determine.

**18 COMMON SEAL AND CONTRACTING**

- 18.1 PMAC shall have a Common Seal which shall be kept in the custody and control of the Executive Officer or Executive Secretary.
- 18.2 PMAC shall not enter into a contract unless the entering into of that contract has received the prior approval of the Executive Council.
- 18.3 Where a contract must be made under the Common seal of PMAC the affixing of the Common Seal must take place in the presence of two Officers or such other persons as the Executive Council shall appoint for that purpose from time to time.
- 18.4 Where a contract does not need to be made under the Common Seal, that contract must be signed on behalf of PMAC by two Officers or such other persons as the Executive Council shall appoint for that purpose from time to time.
- 18.5 A register separately recording all contracts made under the Common Seal of PMAC shall be kept by the Executive Officer or Executive Secretary.

**19 INTERPRETATION**

- 19.1 The decision of the Executive Council on the interpretation of the Rules or on any matter or thing not contained in the Rules but pertaining to PMAC its property or interests shall be conclusive and binding on all members until revoked at a General Meeting.

**APPENDIX 1**

**PLANTS MARKET ACCESS COUNCIL INCOPORATED  
("PMAC")**

**Instrument Appointing a Proxy for an Ordinary member of PMAC**

I \_\_\_\_\_ being the nominated representative of  
(full name)  
\_\_\_\_\_ hereby appoint the nominated representative  
(name of member)  
of \_\_\_\_\_ or failing him/her the nominated representative  
(name of alternate member proxy)  
of \_\_\_\_\_  
as my proxy to vote for me on my behalf at the meeting of PMAC to be held on  
\_\_\_\_\_ and at any adjournment thereof.  
(date)

I instruct my Proxy to vote as follows:

---

---

---

---

---

Signed

\_\_\_\_\_ Date

Please note:

1. A proxy must be another nominated representative of an Ordinary Member of PMAC.
2. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his or her attorney duly authorised in writing.
3. To be valid, this proxy form, and the power of attorney or other authority, if any, under which it is signed, must be delivered to the Executive Officer or Executive Secretary no later than 24 hours prior to the commencement of that meeting.

**APPENDIX 2**

**PLANTS MARKET ACCESS COUNCIL INCOPORATED  
("PMAC")**

**Instrument Appointing a Proxy of a Special member of PMAC**

I \_\_\_\_\_ being the nominated representative of  
(full name)  
\_\_\_\_\_ hereby appoint the nominated representative  
(name of member)  
of \_\_\_\_\_ or failing him/her the nominated representative  
(name of alternate member proxy)  
of \_\_\_\_\_  
as my proxy to vote for me on my behalf at the meeting of PMAC to be held on  
\_\_\_\_\_ and at any adjournment thereof.  
(date)

I instruct my Proxy to vote as follows:

---

---

---

---

---

Signed

\_\_\_\_\_ Date

Please note:

1. A proxy must be another nominated representative of ~~an Ordinary Member~~ the Special member being represented of PMAC.
2. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his or her attorney duly authorised in writing.
3. To be valid, this proxy form, and the power of attorney or other authority, if any, under which it is signed, must be delivered to the Executive Officer or Executive Secretary no later than 24 hours prior to the commencement of that meeting