



# CONSTITUTION



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# Constitution of Red Hot Arts Central Australia Incorporated

## Part 1 – Preliminary

### 1. Name

The name of the incorporated association is Red Hot Arts Central Australia Incorporated.

### 2. Values and Objectives

The Association shall be guided by the following values:

- (a) Respect the traditional custodians of this land and respect local heritage, both Indigenous and non-Indigenous
- (b) Promote inclusive, environmentally friendly and sustainable arts practice
- (c) Maintain and develop strong collaborative community relationships across all sectors
- (d) Connect and contribute to a vibrant economy through arts practice and programs
- (e) Build capacity and professionalism of the arts sector in Central Australia, and promote sustainable and professional livelihoods in the arts

The Association's Objectives are to:

- (a) Build greater recognition and value for its festival/s, other events and the arts from Central Australia locally and nationally
- (b) Celebrate Central Australia's uniqueness and foster and promote the cultures of the region
- (c) Provide leadership through Community Cultural Development projects that sustain and enhance local aspirations
- (d) Provide professional opportunities and programs for Central Australian people to develop and present their artistic practice
- (e) Provide strong arts leadership and advocacy
- (f) Provide learning opportunities and resources, artistic, marketing and audience development
- (g) Increase participation and attendance at arts and cultural events
- (h) Engage a range of income sources to become sustainable

### 3. Definitions

In this Constitution, unless the contrary intention appears:

"Act" means the *Associations Act* and regulations made under that Act;

"Association" means Red Hot Arts Central Australia Incorporated

"Board" means the Board of Management of the Association;

"financial institution" means an authorised deposit-taking institution within the meaning of section 5 of the *Banking Act 1959* of the Commonwealth;

"general meeting" means a general meeting of members convened in accordance with clause 38;

"member" means a member of the Association;

"person" means an individual, a partnership, association or corporation, unincorporated and incorporated by Ordinance, Act of Parliament or registration

"register of members" means the register of the Association's members established and maintained under section 34 of the Act;

"special resolution" means a resolution notice of which is given under clause 41 and passed in accordance with section 37 of the Act.

## **Part 2 – Constitution and Powers of Association**

### **4. Powers of Association**

- (1) For achieving its objects and purposes, the Association has the powers conferred by sections 11 and 13 of the Act.
- (2) Subject to the Act, the Association may do all things necessary or convenient for carrying out its objects or purposes, and in particular, may:
  - (a) open and operate accounts with financial institutions;
  - (b) invest its money in any security in which trust monies may lawfully be invested;
  - (c) and enter into any other contract it considers necessary or desirable.

### **5. Effect of Constitution**

This Constitution binds every member and the Association to the same extent as if every member and the Association had signed and sealed this Constitution and agreed to be bound by it.

### **6. Inconsistency between Constitution and Act**

If there is any inconsistency between this Constitution and the Act, the Act prevails.

### **7. Altering the Constitution**

- (1) The Association may alter this Constitution by special resolution but not otherwise.
- (2) If the Constitution is altered, the public officer must ensure compliance with section 23 of the Act.

## **Part 3 – Members**

### ***Division 1 - Membership***

### **8. Minimum number of members**

The Association must have at least 5 members.

### **9. Application for membership**

To apply to become a member of the Association a person must:

- (a) Work and/or live in the Central Australian region

- (b) Have an interest in assisting the Association to achieve its aim
- (c) submit a written application for membership

## **10. Approval of Membership**

- (1) The Board must consider any application made under clause 9(c) at the next available Board meeting and must accept or reject the application at that meeting or the next.
- (2) If an application is accepted, the person's name and the date they became a member is then entered into the Registrar of Members.
- (3) If an application is rejected, the person will be notified in writing by the Chair.

## **11. Membership Categories and fees**

- (1) Membership is free.
- (2) Paid Membership entitles members to different levels of service and support as determined from time to time by resolution by the Board
- (3) The Paid Membership fees are the amount determined from time to time by resolution by the Board.
- (4) Each Paid Member must pay the stipulated paid membership fee to the Association on acceptance of membership by the Board and annually thereafter.

### ***Division 2 – Rights of members***

## **12. Member's rights**

- (1) A member may exercise the rights of membership when his or her name is entered in the register of members.
- (2) A right of membership of the Association:
  - (a) is not capable of being transferred or transmitted to another person; and
  - (b) terminates on the cessation of membership whether by death, resignation or otherwise.
- (3) Each member has one vote at general meetings of the Association.
- (4) The Secretary must give all members notice of general meetings and special resolutions in the manner and time prescribed by this Constitution.
- (5) The following information on the Association must be available for inspection by members:
  - (a) a copy of this Constitution;
  - (b) minutes of general meetings;
  - (c) annual reports and annual financial reports.

## **13. Raising grievances and complaints**

- (1) A member may raise a grievance or complaint about a Board member, the Board or another member of the Association.
- (2) The grievance or complaint must be dealt with by the procedures set out in Part 8.

### ***Division 3 – Termination, death, suspension and expulsion***

#### **14. Termination of membership**

Membership of the Association is terminated:

- (a) On receipt of a notice of resignation addressed and posted to the Association or given personally to the Secretary or another Board member;
- (b) Expulsion as in accordance with clause 16.
- (c) If a member dies or the whereabouts of a member are unknown for 3 years.

#### **15. Suspension or expulsion of members**

- (1) If the Board considers that a member should be suspended or expelled because his or her conduct is detrimental to the interests of the Association, the Board must give notice of the proposed suspension or expulsion to the member.
- (2) The notice must:
  - (a) be in writing and include:
    - (i) the time, date and place of the Board meeting at which the question of that suspension or expulsion will be decided; and
    - (ii) the particulars of the conduct; and
  - (b) be given to the member not less than 30 days before the date of the Board meeting referred to in paragraph (a)(i).
- (3) At the meeting, the Board must afford the member a reasonable opportunity to be heard or to make representations in writing.
- (4) The Board may suspend or expel or decline to suspend or expel the member from the Association and must give written notice of the decision and the reason for it to the member.
- (5) Subject to clause 16, the decision to suspend or expel a member takes effect 14 days after the day on which notice of the decision is given to the member.

#### **16. Appeals against suspension or expulsion**

- (1) A member who is suspended or expelled under clause 15 may appeal against that suspension or expulsion by giving notice to the Secretary within 14 days after receipt of the Board's decision.
- (2) The appeal must be considered at a general meeting of the Association and the member must be afforded a reasonable opportunity to be heard at the meeting or to make representations in writing prior to the meeting for circulation at the meeting.
- (3) The members present at the general meeting must, by resolution, either confirm or set aside the decision of the Board to suspend or expel the member.
- (4) The member is not suspended or does not cease to be a member until the decision of the Board to suspend or expel him or her is confirmed by a resolution of the members.



## **17. Member's Responsibilities**

A member must:

- (a) notify the Association if they change their contact details
- (b) treat other members with respect

## **Part 4 – Management Board**

### ***Division 1 – General***

## **18. Role and powers**

- (1) The business of the Association must be managed by or under the direction of the Board.
- (2) The Board may exercise all the powers of the Association except those matters that the Act or this Constitution requires the Association to determine through a general meeting of members.
- (3) The Board may appoint and remove staff.
- (4) The Board may establish one or more subcommittees consisting of the members of the Association the Committee considers appropriate.

## **19. Composition of Board**

- (1) The Board of Management consists of:
  - (a) a Chair;
  - (b) a Vice-Chair;
  - (c) a Secretary;
  - (d) a Treasurer; and
  - (e) any other office holder as provided in subclauses (2), (3) and (5).
- (2) The Board must consist of not less than five (5) and no more than ten (10) Board members, inclusive of the Chair, Vice-Chair and the appointed ASTC Council member.
- (3) The Board members will endeavour to include:
  - (a) at least one representative from the arts sector elected at the AGM
  - (b) at least one representative from the tourism sector elected at the AGM
  - (c) one representative nominated by the Alice Springs Town Council (ASTC) and accepted by the Board
  - (d) one representative with recognised speciality skills relevant to the Association appointed by the Board from time to time
- (4) Staff or employees of the Association are ineligible to be a Board Member. However, a Board Member may choose to stand down from the Board to take up work with the Association and return to the Board at the completion of their employment.
- (5) Unless elected directly as a separate office holder, the Board must appoint one Board member to be the Association's public officer.

- (6) Board Members are not paid, unless they have a contract to provide goods or services (so long as the Board Member has exercised any duty to disclose a conflict of interest).

The Association may pay the Board member's travelling and other expenses for attending to the Association's business.

## **20. Delegation**

- (1) The Board may delegate to a subcommittee or staff any of its powers and functions other than –
- (a) this power of delegation; or
  - (b) a duty imposed on the Board by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Board considers appropriate.
- (3) The Board may, in writing, revoke wholly or in part the delegation.

### ***Division 2 – Tenure of office***

## **21. Eligibility of Board members**

- (1) A Board member must be a member who is 18 years or over.
- (2) A Board member must also meet the criteria as provided in clause 9.
- (3) Board members must be elected to the Board at an annual general meeting or appointed under clause 28.

## **22. Nominations for election to Board**

- (1) A member is not eligible for election to the Board unless the Secretary receives a written nomination for that member by another member not less than 7 days before the date of the next annual general meeting
- (2) The nomination must be signed by:
- (a) the nominator and a seconder; and
  - (b) the nominee to signify his or her willingness to stand for election.
- (3) A person who is eligible for election or re-election under this clause may:
- (a) propose or second himself or herself for election or re-election; and
  - (b) vote for himself or herself.

## **23. Retirement of Board members**

- (1) At every annual general meeting, except the Association's first annual general meeting, one-third of the Board or, if their number is not a multiple of three, then the number nearest to, must retire from office.
- (2) A Board member will hold office for 3 consecutive years unless the member vacates the office under clause 27.
- (3) At the annual general meeting the office of Board Members whose three-year term has expired shall be declared vacant and election held for those positions.

- (4) Members may serve a maximum of 2 consecutive terms on the Board. The member will be eligible for re-election after one year.
- (5) The Chair of the outgoing Board must preside at the annual general meeting until a new member is elected as Chair.

#### **24. Election by default**

- (1) If the number of persons nominated for election to the Board under clause 21 does not exceed the number of vacancies to be filled, the Chair must declare the persons to be duly elected as members of the Board at the annual general meeting.
- (2) If vacancies remain on the Board after the declaration under subclause (1), additional nominations of Board members may be accepted from the floor of the annual general meeting.
- (3) If the nominations from the floor do not exceed the number of remaining vacancies, the Chair must declare those persons to be duly elected as members of the Board.
- (4) If the nominations from the floor are less than the number of remaining vacancies, the unfilled vacancies are taken to be casual vacancies and must be filled by the new Board in accordance with clause 29.

#### **25. Election by ballot**

- (1) If the number of nominations exceeds the number of vacancies on the Board, ballots for those positions must be conducted.
- (2) The ballot must be conducted in a manner determined from time to time by resolution at a general meeting.
- (3) The members chosen by ballot must be declared by the Chair to be duly elected as members of the Board.

#### **26. Election of Office Bearers**

- (1) The Chair, Vice-Chair, Secretary and Treasurer must be Board Members of the Association and are elected by the Board at their first Board Meeting after the annual general meeting.

#### **27. Vacating office**

The office of a Board member becomes vacant if:

- (a) the member:
  - (i) is disqualified from being a Board member under section 30 or 40 of the Act;
  - (ii) resigns by giving written notice to the Board;
  - (iii) dies or is rendered permanently incapable of performing the duties of office by mental or physical ill-health;
  - (iv) ceases to work and/or live in the Central Australian region; or
  - (v) ceases to be a member of the Association;
- (b) the member is absent from more than:

- (i) three (3) Board meetings in the same financial year without tendering an apology to the Chair;

of which meetings the member received notice and the Board has resolved to declare the office vacant.

## **28. Removal of Board member**

- (1) The Association, through a special general meeting of members, may remove any Board member before the member's term of office ends.
- (2) If a vacancy arises through removal under subclause (1), an election must be held to fill the vacancy.

## **29. Filling casual vacancy on Board**

- (1) If the office of a Board member becomes vacant under clause 27, the Board may appoint a replacement Board member by resolution at a Board Meeting.
- (2) However, if the office of public officer becomes vacant, a person must be appointed under section 27(6) of the Act to fill the vacancy

### ***Division 3 – Duties of Board members***

## **30. Collective responsibility of Board**

- (1) As soon as practicable after being elected to the Board, each Board member must become familiar with the Act and regulations made under the Act.
- (2) The Board is collectively responsible for ensuring the Association complies with the Act and regulations made under the Act.
- (3) The Board is expected to:
  - (a) fulfil its role with care and diligence
  - (b) operate with good faith
  - (c) ensure that the Association does not trade while insolvent
  - (d) not use their position or access to information in an improper manner
  - (e) maintain confidentiality of all discussions at Board meetings unless with prior approval by the Board

## **31. Chair and Vice-Chair**

- (1) Subject to subclauses (2) and (3), the Chair must preside at all general meetings and Board meetings.
- (2) If the Chair is absent from a meeting, the Vice-Chair must preside at the meeting.
- (3) If the Chair and the Vice-Chair are both absent, the presiding member for that meeting must be:
  - (a) a member elected by the other members present if it is a general meeting; or
  - (b) a Board member elected by the other Board members present if it is a Board meeting.

### **32. Secretary**

The Secretary must:

- (a) coordinate the correspondence of the Association;
- (b) ensure minutes of all proceedings of general meetings and of Board meetings are kept in accordance with section 38 of the Act;
- (c) maintain the register of members in accordance with section 34 of the Act;

### **33. Treasurer**

The Treasurer must:

- (a) Authorise electronic funds transfers and sign cheques in accordance with the approved Delegations Register.
- (1) The Treasurer must ensure the accounting records of the Association are kept in accordance with section 41 of the Act.

### **34. Public officer**

- (1) The public officer must ensure that documents are filed with the Commissioner of Consumer Affairs in accordance with sections 23, 28 and 45 of the Act.
- (2) The public officer must keep a current copy of the Constitution of the Association.

## **Part 5 – Meetings of Management Board**

### **35. Frequency and calling of meetings**

- (1) The Board must meet together for the conduct of business not less than 4 times in each financial year.
- (2) The Chair, or at least half the Board members, may at any time convene a special meeting of the Board.
- (3) A special meeting may be convened to deal with an appeal under clause 16.

### **36. Voting and decision making**

- (1) Each Board member present at the meeting has a deliberative vote.
- (2) A question arising at a Board meeting must be decided by a majority of votes.
- (3) If there is no majority, the person presiding at the meeting has a casting vote in addition to a deliberative vote.

### **37. Quorum**

For a Board meeting, one-half of the Board members constitutes a quorum.

### **38. Disclosure of interest**

- (1) A Board member who has a direct or indirect pecuniary interest in a contract, or proposed contract, with the Association must disclose the nature and extent of the interest to the Board in accordance with section 31 of the Act.

- (2) The Secretary must record the disclosure in the minutes of the meeting.
- (3) The Chair must ensure a Board member who has a direct or indirect pecuniary interest in a contract, or proposed contract, complies with section 32 of the Act.

## **Part 6 – General Meetings**

### **39. Convening general meetings**

- (1) The Association must hold its first annual general meeting within 18 months after its incorporation.
- (2) The Association must hold all subsequent annual general meetings within 5 months after the end of the Association's financial year.
- (3) The Board:
  - (a) may at any time convene a special general meeting;
  - (b) must, within 30 days after the Secretary receives a notice under clause 16(1), convene a special general meeting to deal with the appeal to which the notice relates; and
  - (c) must, within 30 days after it receives a request under clause 40(1), convene a special general meeting for the purpose specified in that request.

### **40. Special general meetings**

- (1) Half the number of members constituting a quorum for a general meeting may make a written request to the Board for a special general meeting.
- (2) The request must:
  - (a) state the purpose of the special general meeting; and
  - (b) be signed by the members making the request.
- (3) If the Board fails to convene a special general meeting within the time allowed:
  - (a) for clause 39(3)(b) – the appeal against the decision of the Board is upheld; and
  - (b) for clause 39(3)(c) – the members who made the request may convene a special general meeting as if they were the Board.
- (4) If a special general meeting is convened under subclause (3)(b), the Association must meet any reasonable expenses of convening and holding the special general meeting.
- (5) The Secretary must give to all members not less than 21 days' notice of a special general meeting.
- (6) The notice must specify:
  - (a) when and where the meeting is to be held; and
  - (b) the particulars of and the order in which business is to be transacted.

### **41. Annual general meeting**

- (1) The Association must give to all members 28 days' notice of an annual general meeting.

- (2) The notice must specify:
  - (a) when and where the meeting is to be held; and
  - (b) the particulars of and the order in which business is to be transacted.
- (3) The order of business for each annual general meeting is as follows:
  - (a) first – the consideration of the accounts and reports of the Board;
  - (b) second – the election of new Board members;
  - (c) third – any other business requiring consideration by the Association at the meeting.

#### **42. Special resolutions**

- (1) A special resolution may be moved at any general meeting of the Association.
- (2) The Secretary must give all members not less than 21 days' notice of the meeting at which a special resolution is to be proposed.
- (3) The notice must include the resolution to be proposed and the intention to propose the resolution as a special resolution.

#### **43. Quorum at general meetings**

At a general meeting 10 members present in person constitutes a quorum.

#### **44. Lack of quorum**

- (1) If within 30 minutes after the time specified in the notice for the holding of a general meeting a quorum is not present –
  - (a) for an annual general meeting or special general meeting convened under clause 39(3)(a) – the meeting stands adjourned to the same time on the same day in the following week and to the same place;
  - (b) for a meeting convened under clause 39(3)(b) – the members who are present in person or by proxy may proceed with hearing the appeal for which the meeting is convened; or
  - (c) for a meeting convened under clause 39(3)(c) – the meeting lapses.

#### **45. Voting**

- (1) Each member present in person or by proxy at a general meeting is entitled to a deliberative vote.
- (2) At a general meeting:
  - (a) an ordinary resolution put to the vote is decided by a majority of votes made in person or by proxy; and
  - (b) a special resolution put to the vote is passed if three-quarters of the members who are present in person or by proxy vote in favour of the resolution.
- (3) A poll may be demanded by the Chair or by 3 or more members present in person or by proxy.
- (4) If demanded, a poll must be taken immediately and in the manner the Chair directs.

#### **46. Proxies**

- (1) A member may appoint in writing another member to be the proxy of the appointing member to attend and vote on behalf of the appointing member at any general meeting.
- (2) A proxy appointment must contain the member's name and address, the Association's name, the proxy's name, the meeting the proxy is attending and must be signed by the member.
- (3) The Association must receive the proxy's appointment at least 48 hours before the meeting.
- (4) A person must not be a proxy for more than 3 members at any meeting.

### **Part 7 – Financial Management**

#### **47. Financial year**

- (1) The financial year of the Association is the period of 12 months ending on 31 December.

#### **48. Funds and accounts**

- (1) The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed as stipulated in the G5 Delegations Policy.
- (3) All funds of the Association must be deposited into the financial account of the Association no later than 5 working days after receipt or as soon as practicable after that day.
- (4) With the approval of the Board, the Association may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

#### **49. Distribution of assets and income**

- (1) The assets and income of the Association shall be applied solely in furtherance of its objectives and no portion shall be distributed directly or indirectly to the members of the Association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

#### **50. Accounts and audits**

The responsibility of the Board under clause 30(2) for ensuring compliance with the Act includes meeting the requirements of Part 5 of the Act and regulations made for that Part relating to:

- (a) the keeping of accounting records;
- (b) the preparation and presentation of the Association's annual statement of accounts;  
and
- (c) the auditing of the Association's accounts.

#### **51. The Red Hot Arts Central Australia Gift Fund**

- (1) The Association will establish and maintain a public fund:
  - (a) Named "The Red Hot Arts Central Australia Gift Fund"
  - (b) To which gifts of money or property for the purposes of the objects of the association are to be made



- (c) To which any money received by the association because of those gifts is to be credited
  - (d) That does not receive any money or property other than that stated as above at (b).
- (2) The association shall maintain a separate bank account for the Gift Fund.
- (3) The fund is to be administered by a sub-committee of the management committee, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of Red Hot Arts Central Australia.
- (4) No monies/assets in this fund will be distributed to general members or office bearers of the Association, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration of administrative expenses
- (5) The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments of alterations to the provisions for the public fund, to assess the effect of any amendments on the public fund's continuing Deductible Gift Recipient status.
- (6) The Association shall use the public fund only for the principal purpose of:
- (a) Gifts made to the public fund
  - (b) Any money received because of such gifts
- (7) Receipts for gifts to the public fund must state:
- (a) The name of public fund and that the receipt is for a gift made to the public fund
  - (b) The Australian Business Number of the company the fact that the receipt is for a gift
  - (c) Any other matter required to be included on the receipt pursuant to the requirements of the Income Tax Assessment Act 1997
- (8) Receipts issued for gifts to the Gift Fund shall state:
- (a) The full name of the Association's public fund
  - (b) The Australian Business Number of the association
  - (c) The fact that the receipt is for a gift
- (9) At the first occurrence of the winding up of the Gift Fund or the revocation of the association as a deductible gift recipient under Subdivision 30-BA of the Income Tax Assessment Act 1997:
- (a) Any surplus assets of the Gift Fund shall be transferred to another fund, authority or institution, which has similar objects to the association and which is a body that may receive tax deductible gifts under Subdivision 30-8 of the Income Tax Assessment Act 1997 as amended from time to time under any legislative provision enacted in substitution for those provisions.

## **Part 8 – Grievance and disputes**

### **52. Grievance and disputes procedures**

- (1) This clause applies to disputes between:
  - (a) a member and another member; or
  - (b) a member and the Board.
- (2) The dispute notice must be in writing with details of the dispute and the parties involved.
- (3) Within 20 days after the dispute comes to the attention of the parties to the dispute, they must meet and discuss the matter in dispute, and, if possible, resolve the dispute.
- (4) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days after the meeting, hold another meeting in the presence of a mediator.
- (5) The mediator must be:
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement:
    - (i) for a dispute between a member and another member – a person appointed by the Board; or
    - (ii) for a dispute between a member and the Board – a person who is a mediator appointed or employed by the department administering the Act.
- (6) A member of the Association can be a mediator.
- (7) The mediator cannot be a party to the dispute.
- (8) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (9) The mediator, in conducting the mediation, must:
  - (a) give the parties to the mediation process every opportunity to be heard;
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure natural justice is accorded to the parties to the dispute throughout the mediation process.
- (10) The mediator must not determine the dispute.
- (11) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **Part 9 – Miscellaneous**

### **53. Common seal**

- (1) The common seal of the Association must not be used without the express authority of the Board and every use of that common seal must be recorded by the Secretary.

- (2) The affixing of the common seal of the Association must be witnessed by any 2 of the following:
  - (a) the Chair;
  - (b) the Secretary;
  - (c) the Treasurer;
  - (d) a Delegate appointed by the Board.
- (3) The common seal of the Association must be kept in the custody of the Secretary or another person the Board from time to time decides.

**54. Distribution of surplus assets on winding up**

- (1) If on the winding up or dissolution of the Association, and after satisfaction of all its debts and liabilities, there remains any assets, the assets must not be distributed to the members or former members.
- (2) The surplus assets must be given or transferred to another association incorporated under the Act that:
  - (a) has similar objects or purposes;
  - (b) is not carried on for profit or gain to its individual members; and
  - (c) is determined by resolution of the members