

CONSTITUTION

of

THEATRE KIMBERLEY (INC.)

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1. PRELIMINARY

1.1 Name of Association

The name of the Association is Theatre Kimberley (Inc.).

Schedule 1, Item 1

1.2 Objects of Association

The purpose of the Association is

To provide opportunities to create, participate in, and be exposed to distinctive, high-quality performing arts experiences in, and from, the Kimberley region.

Our main objectives are:

- Develop, resource and promote performance theatre from the Kimberley region for the people of the Kimberley and Australia;
- Foster and encourage training and professional development for communities in all aspects of theatre practice;
- Develop collaborative and creative partnerships.

Schedule 1, Item 2

1.3 Quorum for Board Meetings Schedule 1, Item 6(e)

Any four Board Members constitute a quorum one of whom shall be either the Chairperson or Vice chairperson for the conduct of the business at a Board Meeting.

1.4 Quorum for General Meetings Schedule 1, Item 7

Seven of Members personally present (being Members entitled to vote under these Rules at a General Meeting) will constitute a quorum for the conduct of business at a General Meeting.

1.5 Financial Year Schedule 1, Item 12

- (a) The Association's Financial Year will be the period of 12 months commencing on 01 January and ending on 31 December of each year.
- (b) The first Financial Year of the Association shall be the period ending on the next 31 December following incorporation.

2. INTERPRETATION

2.1 Definitions

In these Rules, unless the contrary intention appears:

“Act” means the *Associations Incorporation Act 2015*;

“AGM” means the annual general meeting convened under rule 23.1;

“Books of the Association” has the meaning given to it in section 3 of the Act and includes all of the registers; financial records, financial statements or financial reports, as each of those terms is defined in section 62 of the Act, however compiled, stored or recorded; minute books and documents and securities of the Association.

“By-laws” are additional arrangements or processes adopted by members by Ordinary Resolution of the Association to supplement these Rules. They do not form part of the Rules and are not required to be lodged with the Commissioner.

“Commissioner” means the person designated as the “Commissioner” from time to time under the Act;

“Board” means the Management Committee required by the Act which is the body responsible for the management of the affairs of the Association;

“Board Meeting” means a meeting referred to in rule 14.1;

“Financial Records” has the meaning given to it in section 62 of the Act and includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain:
 - (i) the methods by which financial statements are prepared; and
 - (ii) adjustments to be made in preparing financial statements;

“Financial Report” has the meaning given to it in sections 62 and 63 of the Act;

“Financial Statements” has the meaning given to it in section 62 of the Act;

“Financial Year” has the meaning given to it in Rule 1.5;

“General Meeting” means a meeting of the association which all Members (including Associate Members) are invited to attend;

“Member” means a person (including a body corporate) who becomes a Member of the Association under these Rules;

“Ordinary Resolution” means a resolution to decide a question, matter or resolution at a General Meeting that is not a Special Resolution;

“**Poll**” means voting conducted in written form which may include, but is not limited to a secret ballot (as opposed to general agreement or a show of hands);

“**Rules**” mean these rules of the Association as amended from time to time under Rule 24.2;

“**Special Resolution**” is a resolution of the Association passed in accordance with rule 19.1;

“**Surplus Property**” has the meaning given to it in the Act and means the property remaining when the association is wound up or cancelled after satisfying:

- (a) the debts and liabilities of the Association; and
- (b) the costs, charges and expenses of winding up the Association,

but does not include books pertaining to the management of the Association;

“**Tier 1 Association**” has the meaning given to it in section 62 of the Act;

“**Tier 2 Association**” has the meaning given to it in section 62 of the Act;

“**Tier 3 Association**” has the meaning given to it in section 62 of the Act;

2.2 Notices

- (a) A notice or other communication connected with these Rules has no legal effect unless it is in writing and given as follows:
 - (i) delivered by hand to the nominated address of the addressee;
 - (ii) sent by post to the nominated postal address of the addressee; or
 - (iii) sent by e-mail or any other method of electronic communication (including facsimile) to the nominated electronic address of the addressee.
- (b) Any notice given to a Member under these Rules, must be sent to Member’s address as set out in the Register referred to in Rule 8.1.

3. POWERS OF THE ASSOCIATION

3.1 Powers of the Association

Subject to the Act, the Association may do all things necessary or convenient for carrying out its objects or purposes in a lawful manner. Not for Profit

The property and income of the Association must be applied solely towards promoting the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member, except in good faith in promoting those objects or purposes.

4. **NOT FOR PROFIT**

The property and income of the Association must be applied solely towards promoting the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member, except in good faith in promoting those objects or purposes.

5. **BECOMING A MEMBER**

5.1 **Minimum Number of Members**

The Association must have at least six Members with full voting rights.

5.2 **Qualifications for Membership Schedule 1, Item 3**

- (a) Subject to rules 5.2(b) and (c) any person who supports the purposes of the Association is eligible to apply for membership.
- (b) The by-laws of the Association made under rule 25 may require members to hold specified educational, trade or professional qualifications;
- (c) The Association must comply with all legal and regulatory obligations that apply to the Association when assessing eligibility of an applicant for membership; and
- (d) A person under the age of 15 years is not to belong to a class of membership that confers voting rights.

5.3 **Applying for Membership**

- (a) A person who wants to become a Member must:
 - (i) apply in writing to the Association; and
 - (ii) be nominated for membership by a Member.
- (b) All application forms must be signed by the Applicant and the nominee.
- (c) If the Association has more than one class of membership, the application form must specify the applicable class of membership.

5.4 **Deciding Membership Applications**

- (a) The Board will consider and decide whether to approve or reject any membership application.
- (b) Subject to rule 5.4(c) applications will be considered and decided in the order they are received by the Association.
- (c) When considering a membership application, the Board may seek clarification of any matter or further information in support of the application, and may delay its decision to allow for that material to be provided and proceed to consider and decide other applications.

- (d) The Board must not approve a membership application unless the Applicant:
 - (i) meets all the eligibility requirements under rule 5.2; and
 - (ii) applies under rule 5.3.
- (e) The Board may refuse to accept a membership application even if the Applicant has applied in writing and complies with all the eligibility requirements under rule 5.2.
- (f) As soon as is practicable after the Board has made a decision under rule 5.4(a), the Board must notify the Applicant in writing of the outcome of their membership application but is not obliged to provide reasons for the decision.

5.5 Becoming a Member Schedule 1, Item 3

- (a) An Applicant becomes a Member if:
 - (i) the Applicant is eligible for membership under rule 5.2;
 - (ii) the Applicant applies in writing to the Association under rule 5.3;
 - (iii) the Board approves the Applicant's application for membership; and
 - (iv) the Applicant pays any fees due under rules 9.1 and 9.2.
- (b) The Applicant immediately becomes a Member and is entitled to exercise all the rights and privileges of membership, including the right to vote (if applicable), and must comply with all of the obligations of Membership under these Rules, when rule 5.5(a) has been fulfilled.

5.6 Recording Membership in the Register

The Secretary must enter a person's name in the Register within 28 days after the person becomes a Member.

6. LIABILITY AND ENTITLEMENTS OF MEMBERS

6.1 Classes of Members

- (a) The membership of the Association consists of:
 - (i) ordinary Members; and
 - (ii) may include associate Members.
- (b) The Association may have any category of associate membership determined by resolution of Members at a General Meeting, including junior membership, senior membership, honorary membership, or life membership.
- (c) A Member under the age of 15 years cannot be an ordinary Member, but may be an associate Member. See comment above point 5.2 b

- (d) If the Association has two or more classes of members, no member can belong to more than one class of membership.
- (e) An ordinary Member has all rights provided to Members under the Rules, including the right to vote, and other rights and benefits as determined by the Board or by resolution of Members at a General Meeting.
- (f) An associate Member has no right to vote, but has all other rights provided to a Member under the Rules and other rights and benefits as determined by the Board or by resolution of Members at a General Meeting.
- (g) The maximum number of ordinary Members is unlimited unless the Association in General Meeting decides otherwise.

6.2 Membership Voting Rights of Members

- (a) Each ordinary Member of the Association has one vote at a General Meeting of the Association.
- (b) Each ordinary Member of the Association that is a Body Corporate has one vote at a General Meeting of the Association.

6.3 Voting by Body Corporate

- (a) A Member which is a body corporate may appoint in writing a natural person, whether or not he or she is a Member, to represent it at a particular General Meeting or at all General Meetings.
- (b) A copy of the written appointment must be lodged with the Secretary.
- (c) A person appointed under rule 6.3(a) has authority to represent the body corporate as a Member:
 - (i) in the case of an appointment in respect of a particular General Meeting, until the conclusion of that General Meeting; or
 - (ii) otherwise, until the appointment is revoked by the body corporate and notice of the revocation is given to the Secretary.

6.4 Liability of Members

- (a) A Member is only liable for their outstanding membership fees payable under rules 9.1 and 9.2, if any.
- (b) Subject to rule 6.4(a), a Member is not liable, by reason of the person's Membership, for the liabilities of the Association or the cost of winding up the Association.
- (c) Rule 6.4(b) does not apply to liabilities incurred by or on behalf of the Association by the Member before incorporation.

6.5 Payment to Members

- (a) Subject to rule 6.5(b), no portion of the income or property of the Association may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members.

- (b) Rule 6.5(a) does not prevent:
 - (i) the payment in good faith of remuneration to any officer, employee or Member in return for any services actually rendered to the Association or for goods supplied in the ordinary and usual course of business;
 - (ii) the payment of interest at a rate not exceeding the prevailing market rate published by the Reserve Bank of Australia as the “Cash Rate Target” from time to time on money borrowed from any Member;
 - (iii) the payment of reasonable and proper rent by the Association to a Member for premises leased by the Member to the Association; or
 - (iv) the reimbursement of expenses incurred by any Member or any Board Member on behalf of the Association.

6.6 Membership Entitlements not Transferable

A right, privilege or obligation that a person has because he or she is a Member of the Association:

- (a) is not capable of being transferred to any other person; and
- (b) ends when the person’s membership ceases.

7. CEASING TO BE A MEMBER

7.1 Ending Membership Schedule 1, Item 3

- (a) A person’s membership ends, if the person:
 - (i) dies;
 - (ii) ceases to be a Member under rule 9.2(d);
 - (iii) resigns as a Member under rule 7.2; or
 - (iv) is expelled from the Association under rule 7.3.
- (b) For a period of one year after a person’s membership ends, the Secretary must keep a record of:
 - (i) the date on which a person ceases to be a Member under rule 7.1(a); and
 - (ii) the reason why the person ceases to be a Member.

7.2 Resigning as a Member

- (a) A Member, who has paid all amounts payable by the Member to the Association in respect of their membership, may resign from membership by giving written notice of their resignation to the Secretary.
- (b) The Member resigns:
 - (i) at the time the Secretary receives the notice; or

- (ii) if a later time is stated in the notice, at that later time.
- (c) Any Member who resigns from the Association remains liable to pay to the Association any outstanding fees which may be recovered as a debt due to the Association by the Member.

7.3 Suspending or Expelling Members

- (a) The Board may, by resolution, suspend or expel a Member from membership if:
 - (i) the Member refuses or neglects to comply with these Rules; or
 - (ii) the Member's conduct or behaviour is detrimental to the interests of the Association.
- (b) The Board must hold a Board Meeting to decide whether to suspend or expel a Member.
- (c) The Secretary must, not less than 28 days before the Board Meeting referred to in rule 7.3(b), give written notice to the Member:
 - (i) of the proposed suspension or expulsion and the grounds on which it is based;
 - (ii) of the date, place and time of the Board Meeting;
 - (iii) that the Member, or the Member's representative, may attend the Board Meeting; and
 - (iv) that the Member, or the Member's representative, may address the Board at the meeting and will be given a full and fair opportunity to state the Member's case orally, or in writing, or both.
- (d) At the Board Meeting referred to in rule 7.3(b) the Board must:
 - (i) give the Member, or the Member's representative, a full and fair opportunity to state the Member's case orally;
 - (ii) give due consideration to any written statement submitted by the Member; and
 - (iii) determine whether or not the Member should be:
 - A. expelled from the Association; or
 - B. suspended from membership, and if so, the period that the Member should be suspended from membership.
- (e) Once the Board has decided to suspend or expel a Member under rule 7.3(d), the Member is immediately suspended or expelled from membership.
- (f) The Secretary must inform the Member in writing of the decision of the Board and the reasons for the decision, within 7 days of the Board Meeting referred to in rule 7.3(d).

7.4 Right of Appeal of against Suspension or Expulsion

- (a) If a Member is suspended or expelled under rule 7.3, the person may appeal the Board's decision by giving written notice to the Secretary within 14 days of receiving notice of the Board's decision under rule 7.3(f) requesting the appointment of a mediator under rule 28.2(c)

7.5 Reinstatement of a Member

If the Board's decision to suspend or expel a Member is revoked under these Rules, any act performed by the Board or Members in General Meeting during the period that the Member was suspended or expelled from Membership under rule 7.3(e), is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of Membership, including voting rights, during that period.

7.6 When a Member is Suspended

- (a) If a Member's membership is suspended under rule 7.3(e), the Secretary must record in the Register:
 - (i) the name of the Member that has been suspended from membership;
 - (ii) the date on which the suspension takes effect; and
 - (iii) the length of the suspension as determined by the Board under 7.3(d)(iii)B.
- (b) A Member that has been suspended under rule 7.3(e) cannot exercise any rights or privileges of membership, including voting rights, during the period they are suspended from membership.
- (c) Upon the expiry of the period of a Member's suspension, the Secretary must record in the Register that the Member is no longer suspended.

8. MEMBERSHIP REGISTER

8.1 Register of Members Schedule 1, Item 4

- (a) The Secretary or a person authorised by the Board from time to time must maintain a register of Members and make sure that the Register is up to date.
- (b) The Register must contain:
 - (i) the full name of each Member;
 - (ii) a contact postal, residential or email address of each Member;
 - (iii) the class of membership held by the Member; and
 - (iv) the date on which the person became a Member;
- (c) Any change in membership of the Association must be recorded in the Register within 28 days after the change occurs.
- (d) The Register must be kept and maintained at the Secretary's place of residence, or at such other place as the Board decides.

8.2 Inspecting the Register

- (a) Any Member is able to inspect the Register free of charge, at such time and place as is mutually convenient to the Association and the Member.
- (b) A Member must contact the Secretary to request to inspect the Register.
- (c) The Member may make a copy of details from the Register but has no right to remove the Register for that purpose.

8.3 Copy of the Register

- (a) A Member may make a request in writing for a copy of the Register.
- (b) The Board may require a Member who requests a copy of the Register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association.
- (c) The Association may charge a reasonable fee to the Member for providing a copy of the Register, the amount to be determined by the Board from time to time.

8.4 When Using the Information in the Register is Prohibited

A Member must not use or disclose the information on the Register:

- (a) to gain access to information that a Member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
- (b) to contact, send material to the Association or a Member for the purpose of advertising for political, religious, charitable or commercial purposes unless the use of the information is approved by the Board, or
- (c) for any other purpose unless the purpose:
 - (i) is directly connected with the affairs of the Association; or
 - (ii) relates to the provision of information to the Commissioner in accordance with a requirement of the Act.

9. MEMBERSHIP FEES Schedule 1, Item 5

9.1 Entrance Fee

- (a) The Board may from time to time determine the amount of the entrance fee, if any, to be paid by each Member or each class of Members upon becoming a Member.

9.2 Annual Membership Fee

- (a) The Board may from time to time determine the amount of the annual membership fee, if any, to be paid by each Member or each class of Members.

- (b) Each Member must pay the Member's annual membership fee determined under rule 9.2(a) to the Treasurer, or a person authorised by the Board to receive payments, as and when decided by the Board.
- (c) If a Member pays the annual membership fee within 3 months after the due date, the Member retains all the rights and privileges of a Member for the purposes of these Rules during that time, including the right to vote.
- (d) Subject to rule 9.2(e), if a person fails to pay the annual Membership fee within 3 months after the due date, the person ceases to be a Member.
- (e) If a person ceases to be a Member under rule 9.2(d), and subsequently pays to the Association all the Member's outstanding fees, the Board may, if it thinks fit, reinstate the Member's rights and privileges from the date on which the outstanding fees are paid, including the right to vote.

Comment:

10. **POWERS AND COMPOSITION OF THE BOARD**

10.1 **Powers of the Board Schedule 1, Item 6**

- (a) The governing body of the Association is to be called the Board and it has authority to control and manage the affairs of the Association.
- (b) Subject to the Act, these Rules and any by-law or lawful resolution passed by the Association in General Meeting, the Board:
 - (i) may exercise all powers and functions as may be exercised by the Association, other than those powers and functions that are required by these Rules to be exercised by General Meetings of the Members; and
 - (ii) has power to perform all acts and do all things as appear to the Board to be necessary or desirable for the proper management of the business and affairs of the Association.

10.2 **Board Members**

- (a) The Board is to consist of:
 - (i) the office holders of the Association; and
 - (ii) not less than one other Member.
- (b) The maximum number of other Members of the Board is to be determined by the Board.
- (c) The office holders of the Association are:
 - (i) the Chairperson;
 - (ii) the Deputy-Chairperson;

- (iii) the Secretary; and
- (iv) the Treasurer; and
- (d) A Board Member must be:
 - (i) a natural person;
 - (ii) over 18 years in age; and
 - (iii) a Member.
- (e) No person shall be entitled to hold more than one of the positions set out in rule 10.2(c) at any time.
- (f) No person shall be entitled to hold a position on the Board if the person has been convicted of, or imprisoned in the previous five years for:
 - (i) an indictable offence in relation to the promotion, formation or management of a body corporate;
 - (ii) an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
 - (iii) an offence under Part 4 Division 3 or section 127 of the Act;
 unless the person has obtained the consent of the Commissioner.
- (g) No person shall be entitled to hold a position on the Board if the person is, according to the *Interpretation Act* section 13D, a bankrupt or a person whose affairs are under insolvency laws unless the person has obtained the consent of the Commissioner.

11. **ROLE AND RESPONSIBILITIES OF BOARD MEMBERS**

11.1 **Obligations of the Board**

- (a) The Board must take all reasonable steps to ensure the Association complies with its obligations under the Act and these Rules.

11.2 **Responsibilities of Board Members**

- (a) A Board Member must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances.
- (b) A Board Member must exercise his or her powers and discharge his or her duties in good faith in the best interests of the Association and for a proper purpose.
- (c) A Board Member or former Board Member must not improperly use information obtained because he or she is a Board Member to:
 - (i) gain an advantage for himself or herself or another person; or
 - (ii) cause detriment to the Association.

- (d) A Board Member or former Board Member must not improperly use his or her position to:
 - (i) gain an advantage for himself or herself or another person; or
 - (ii) cause detriment to the Association.
- (e) A Board Member having any material personal interest in a matter being considered at a Board Meeting must:
 - (i) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board;
 - (ii) disclose the nature and extent of the interest at the next General Meeting of the Association; and
 - (iii) not be present while the matter is being considered at the Board Meeting or vote on the matter.
- (f) Rule 11.2(e) does not apply in respect of a material personal interest that:
 - (i) exists only because the Board Member belongs to a class of persons for whose benefit the Association is established; or
 - (ii) the Board has in common with all, or a substantial proportion of, the members of the Association.
- (g) The Secretary must record every disclosure made by a Board Member under rule 11.2(e) in the minutes of the Board Meeting at which the disclosure is made.
- (h) No Board Member shall make any public statement or comment or cause to be published any words or article concerning the conduct of the Association unless the person is authorised by the Board to do so and such authority is recorded in the minutes of the Board Meeting.

11.3 **Chairperson**

The Chairperson:

- (a) must consult with the Secretary regarding the business to be conducted at each Board Meeting and each General Meeting;
- (b) may convene special meetings of the Board under rule 14.1(b);
- (c) may preside over Board Meetings under rule 14.3;
- (d) may preside over Board Meetings under rule 17.4; and
- (e) must ensure that the minutes of a General Meeting or Board Meeting are reviewed and signed as correct under rule 20.1(c).

11.4 **Secretary**

The Secretary must:

- (a) co-ordinate the correspondence of the Association;

- (b) consult with the Chairperson about all business to be conducted at meetings and convene General Meetings and Board Meetings, including preparing the notices of meetings and of the business to be conducted at each meeting;
- (c) keep and maintain in an up to date condition the rules of the Association as required by rule 24.1 and any by-laws of the Association made in accordance with rule 25;
- (d) maintain the register of the Members, referred to in rule 8.1;
- (e) maintain the record of office holders of the Association, referred to in rule 11.6;
- (f) ensure the safe custody of the Books (with the exception of the Accounting Records) of the Association under rule 27.1;
- (g) keep full and correct minutes of Board Meetings and General Meetings; and
- (h) perform any other duties as are imposed by these Rules or the Association on the Secretary.

11.5 **Treasurer**

The Treasurer must:

- (a) ensure all moneys payable to the Association are collected, and that receipts are issued for those moneys in the name of the Association;
- (b) ensure the payment of all moneys referred to in rule 11.5(a) into the account or accounts of the Association as the Board may from time to time direct;
- (c) ensure timely payments from the funds of the Association with the authority of a General Meeting or of the Board;
- (d) ensure that the Association complies with the account keeping requirements in Part 5 of the Act;
- (e) ensure the safe custody of the Financial Records of the Association and any other relevant records of the Association;
- (f) if the Association is a Tier 1 Association, coordinate the preparation of the Financial Statements of the Association prior to their submission to the annual general meeting of the Association;
- (g) if the Association is a Tier 2 Association or Tier 3 Association, coordinate the preparation of the Financial Report of the Association prior to its submission to the annual general meeting of the Association;
- (h) assist the reviewer or auditor (if any) in performing their functions; and
- (i) perform any other duties as are imposed by these Rules or the Association on the Treasurer.

11.6 **Record of Office Holders**

- (a) The Secretary or a person authorised by the Board from time to time must maintain a record of office holders.
- (b) The record of office holders must include:
 - (i) the full name of each office holder;
 - (ii) the office held and the dates of appointment and (if applicable) cessation of the appointment; and
 - (iii) a current contact postal, residential or email address of each office holder.
- (c) The record of office holders must be kept and maintained at the Secretary's place of residence, or at such other place as the Board decides.

11.7 **Inspecting the Record of Office Holders**

- (a) Any Member is able to inspect the record of office holders free of charge, at such time and place as is mutually convenient to the Association and the Member.
- (b) The Member may make a copy of details from the record of office holders but has no right to remove the record for that purpose.

12. **APPOINTING BOARD MEMBERS Schedule 1, Item 6(a)**

12.1 **Appointment to the Board Members are appointed to the Board by:**

- (a) election at an AGM; or
- (b) appointment to fill a casual vacancy under rule 13.1(b).

12.2 **Nominating for Membership of the Board**

- (a) A Member who wishes to be a Board Member must be nominated by one other Member as a candidate for election.
- (b) Nominations for election to the Board shall close at least 28 days before the AGM.
- (c) The Secretary must send a notice calling for nominations for election to the Board and specifying the date for the close of nominations to all Members at least 14 days before the date for the close of nominations.
- (d) The nomination for election must be:
 - (i) in writing; and
 - (ii) delivered to the Secretary on or before the date for the close of nominations.

- (e) A Member may only be nominated for one position on the Board prior to the AGM.
- (f) If a nomination for election to the Board is not made in accordance with Rules 12.2(a)-(e) the nomination is to be deemed invalid and the Member will not be eligible for election unless rule 12.3(c) takes effect.

12.3 Electing Board Members

- (a) If the number of valid nominations received under rule 12.2 is equal to the number of vacancies to be filled for the relevant position on the Board, the Member nominated shall be deemed to be elected at the AGM.
- (b) If the number of valid nominations exceeds the number of vacancies to be filled for the relevant position on the Board, elections for the positions must be conducted at the AGM.
- (c) If there are not enough valid nominations to fill the number of vacancies for the relevant positions on the Board, the candidates nominated (if any) shall be deemed to be elected and further nominations may be received from the floor of the AGM.
- (d) Where the number of nominations from the floor exceeds the remaining number of vacancies on the Board, elections for those positions must be conducted.
- (e) If an insufficient number of nominations are received from the floor for the number of vacancies on the Board that remain, each relevant position on the Board is declared vacant by the person presiding at the AGM and rule 13.1(b) applies.
- (f) The elections for office holders or ordinary Board Member are to be conducted at the AGM in the manner directed by the Board.
- (g) A list of candidates, names in alphabetical order, with the names of the Members who nominated each candidate, must accompany the notice of the AGM.

Voting in Elections for Membership of the Board

- (h) Subject to rule 19.3(e), each Member present and eligible to vote at the AGM may vote for one candidate for each vacant position on the Board
- (i) A Member who nominates for election or re-election may vote for himself or herself.

12.4 Term of Office of Board Members Schedule 1, Item 6(b)

- (a) The Board Members appointed on incorporation of the Association will hold office until the conclusion of the first AGM of the Association and will be eligible for re-election.

- (b) At each AGM of the Association, the appointment of the Board Members at the AGM will be for a term of one year.
- (c) Subject to rule 12.4(a), a Board Member's term will commence on the date of his or her:
 - (i) election at an AGM; or
 - (ii) appointment to fill a casual vacancy that arises under rule 13.1(b).
- (d) All retiring Board Members are eligible, on nomination under rule 12.2, for re-election.

13. CEASING TO BE A MEMBER OF THE BOARD

13.1 Vacant Positions on the Board Schedule 1, Items 6(c) and 6(d)

- (a) A casual vacancy occurs in the office of a Board Member and that office becomes vacant if the Board Member:
 - (i) dies;
 - (ii) ceases to be a Member;
 - (iii) becomes disqualified from holding a position under rule 10.2 (f) or (g) as a result of bankruptcy or conviction of a relevant criminal offence;
 - (iv) becomes permanently incapacitated by mental or physical ill-health;
 - (v) resigns from office under rule 13.2;
 - (vi) is removed from office under rule 13.3; or
 - (vii) is absent from more than:
 - A. three consecutive Board Meetings without a good reason; or
 - B. three Board Meetings in the same Financial Year without tendering an apology to the person presiding at each of those Board Meetings,

where the Member received notice of the meetings, and the Board has resolved to declare the office vacant.

- (b) If a position on the Board is declared vacant under rule 12.3(e), or there is a casual vacancy within the meaning of rule 13.1(a), the continuing Board Members may:
 - (i) appoint a Member to fill that vacancy until the conclusion of the next AGM; and
 - (ii) subject to rule 0, act despite the vacant position on the Board.
- (c) If the number of Board Members is less than the number fixed under rule 1.3 as the quorum for Board Meetings, the continuing Board Members may act only to:

- (i) increase the number of Members on the Board to the number required for a quorum; or
- (ii) convene a General Meeting of the Association.

13.2 Resigning from the Board

- (a) A Board Member may resign from the Board by giving written notice of resignation to the Secretary, or if the Board member is the Secretary, to the Chairperson.
- (b) The Board Member resigns:
 - (i) at the time the notice is received by the Secretary or Chairperson under rule 13.2(a); or
 - (ii) if a later time is stated in the notice, at the later time.

13.3 Removal from Board

- (a) Subject to rule 13.1(a)(vii), a Board Member may only be removed from his or her position on the Board by resolution at a General Meeting of the Association if a majority of the Members present and eligible to vote at the meeting vote in favour of the removal.
- (b) The Board Member who faces removal from the Board must be given a full and fair opportunity at the General Meeting to decide the proposed resolution, to state his or her case as to why the Member should not be removed from his or her position on the Board.
- (c) If all Board are removed by resolution at a General Meeting, the Members must, at the same General Meeting, elect an interim Board. The interim Board must, within two months, convene a General Meeting of the Association for the purpose of electing a new Board.

14. BOARD MEETINGS

14.1 Meetings of the Board

- (a) The Board must meet at least four times in each year. The Board is to determine the place and time of all Board Meetings.
- (b) Special meetings of the Board may be convened under rule 14.2 by:
 - (i) the Chairperson; or
 - (ii) any two Board Members.

14.2 Notice of Board Meetings

- (a) The Secretary must give each Board Member at least 48 hours' notice of each Board Meeting before the time appointed for holding the meeting.
- (b) Notice of a Board Meeting must specify the general nature of the business to be transacted at the meeting.
- (c) Subject to rule 14.2(d), only the business specified on the notice of the Board Meeting is to be conducted at that meeting.

- (d) Urgent business may be conducted at Board Meetings if the Board Members present at a Board Meeting unanimously agree to treat the business as urgent.

14.3 Chairing at Board Meetings

- (a) The Chairperson or, in the Chairperson's absence, the Deputy-Chairperson is to preside as chairperson of each Board Meeting.
- (b) If the Chairperson and the Deputy-Chairperson are absent or unwilling to act, the remaining Board Members must choose one of their number to preside as chairperson at the Board Meeting.

14.4 Procedure of the Board Meeting Schedule 1, Item 6(e) and (f)

- (a) The quorum for a Board Meeting is specified at clause 1.3. The Board cannot conduct business unless a quorum is present.
- (b) If, within half an hour of the time appointed for the meeting, a quorum is not present the meeting is to stand adjourned to the same time, day and place in the following week.
- (c) If at a meeting adjourned under rule 14.4(b), a quorum is not present within half an hour of the time appointed for the meeting, the Board Members personally present will constitute a quorum.
- (d) Board Meetings may take place:
 - (i) where the Board Members are physically present together; or
 - (ii) where the Board Members are able to communicate by using any technology that reasonably allows the Board Member to participate fully in discussions as they happen in the Board Meeting and in making decisions, provided that the participation of the Member in the Board Meeting must be made known to all other Members.
- (e) A Board Member who participates in a meeting as set out in rule 14.4(d)(ii):
 - (i) is deemed to be present at the Board Meeting; and
 - (ii) continues to be present at the meeting for the purposes of establishing a quorum,

until the Board Member notifies the other Board Members that he or she is no longer taking part in the Board Meeting.

- (f) Subject to these Rules, the Board Members present at the Board Meeting are to determine the procedure and order of business to be followed at a Board Meeting.
- (g) All Board Members have the right to attend and vote at Board Meetings.
- (h) All Members, or other guests, may attend Board Meetings if invited by the Board but the person shall not have any right to comment without invitation, or any right to vote, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.

- (i) The Secretary or a person authorised by the Board from time to time must keep minutes of the resolutions and proceedings of all Board Meetings together with a record of the names of persons present at each meeting.

14.5 Voting at Board Meetings

- (a) Each Board Member present at a Board Meeting has a deliberate vote.
- (b) A question arising at a Board Meeting is to be decided by a majority of votes, but if there is an equality of votes, the chairperson of the Board Meeting as set out in rule 14.3 is entitled to exercise a second or casting vote.
- (c) Decisions may be made by general agreement or a show of hands.
- (d) A poll by secret ballot may be used if the Board prefers to determine a matter in this way and the person presiding over the Board Meeting is to oversee the ballot.

14.6 Acts not Affected by Defects or Disqualifications

Any act performed by the Board, a sub-committee or a person acting as a Board Member is deemed to be valid even if the act was performed when:

- (a) there was a defect in the appointment of a Board Member, sub-committee or person holding a subsidiary office; or
- (b) a Board Member, a sub-committee member or a person holding a subsidiary office was disqualified from being a Member.

15. REMUNERATION OF BOARD MEMBERS Schedule 1, item 6(g)

- (a) The Association may pay a Board Member's travelling and other expenses as properly incurred:
 - (i) in attending Board Meetings or sub-committee meetings;
 - (ii) in attending any General Meetings of the Association; and
 - (iii) in connection with the Association's business.
- (b) Board Members must not receive any remuneration for their services as Board Members other than as described at rule 15(a).

16. SUB-COMMITTEES AND DELEGATION

16.1 Appointment of Sub-Committee

- (a) The Board may appoint one or more sub-committees as considered appropriate by the Board from time to time to assist with the conduct of the Association's operations.
- (b) Sub-committees may comprise (in such numbers as the Board determines) Members and non-members.

- (c) Subject to these Rules, the sub-committee members present at the sub-committee meeting are to determine the procedure and order of business to be followed at the sub-committee meeting.

16.2 Delegation by Board to Sub-Committee

- (a) The Board may delegate, in writing, to any or all of the sub-committees, any authority, power or functions and may cancel any authority, powers or functions, as the Board sees fit from time to time.
- (b) Despite any delegation under this rule, the Board may continue to exercise all its functions, including any function that has been delegated to a sub-committee and remains responsible for the exercise of those functions at all times.

16.3 Delegation to Subsidiary Offices

- (a) The Board may create and fill such subsidiary office as may be necessary for the proper and efficient management of the Association's affairs.
- (b) The Board may delegate, in writing, to any person holding a subsidiary office any authority, power or functions and may cancel any authority, powers or functions, as the Board sees fit from time to time.
- (c) Despite any delegation under this rule, the Board may continue to exercise all its functions, including any function that has been delegated to a subsidiary office and remains responsible for the exercise of those functions at all times.

17. GENERAL MEETINGS

17.1 Procedure for General Meetings Schedule 1, Item 7

- (a) General Meetings may take place:
 - (i) where the Members are physically present together; or
 - (ii) where the Members are able to communicate by using any technology that reasonably allows the Member to participate fully in discussions as they happen in the General Meeting and in making any decisions, provided that the participation of the Member in the General Meeting must be made known to all other Members.
- (b) A Member who participates in a meeting as set out in rule 17.1(a)(ii):
 - (i) is deemed to be present at the General Meeting; and
 - (ii) continues to be present at the meeting for the purposes of establishing a quorum,

until the Member notifies the other Members that he or she is no longer taking part in the General Meeting.

17.2 Quorum for General Meetings Schedule 1, Item 7

- (a) The Quorum for General Meetings is specified in rule 1.4.

- (b) Subject to rules 17.2(c) and (d), no business is to be conducted at a General Meeting unless a quorum of Members entitled to vote under these Rules is present at the time when the meeting is considering that item.
- (c) If, within half an hour of the time appointed for the commencement of a General Meeting, a quorum is not present:
 - (i) in the case of a Special General Meeting, the meeting lapses; or
 - (ii) in the case of an AGM, the meeting is to stand adjourned to:
 - A. the same time and day in the following week; and
 - B. the same place unless another place is specified by the Chairperson at the time of the adjournment or by written notice to the Members given before the day to which the meeting is adjourned.
- (d) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the commencement of the meeting, the Members present are to constitute a quorum.

17.3 Notice of General Meetings and Motions Schedule 1, Items 8 & 9

- (a) The Secretary must give at least:
 - (i) 14 days' notice of a General Meeting to each Member, or
 - (ii) 21 days' notice of a General Meeting to each Member if a Special Resolution is proposed to be moved at the General Meeting.
- (b) The notice convening a General Meeting must specify:
 - (i) the place, date and time of the meeting; and
 - (ii) the particulars and order of the business to be conducted at the meeting.
- (c) The notice convening a General Meeting or any notice of motion must be issued in the manner prescribed by rule 2.2.

17.4 Presiding Member

- (a) The Chairperson or, in the Chairperson's absence, the Deputy-Chairperson is to preside as chairperson of each General Meeting.
- (b) If the Chairperson and the Deputy-Chairperson are absent or unwilling to act, the remaining Board Members must choose one of their number to preside as chairperson at the General Meeting.

17.5 Adjournment of General Meetings

- (a) The person presiding over a General Meeting, at which a quorum is present, may adjourn the meetings from time to time and place to place with the consent of a majority of Members present at the meeting.

- (b) No business is to be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- (c) When a General Meeting is adjourned for 14 days or more, the Secretary must give notice of the adjourned meeting in accordance with rules 2.2 and 17.1 as if that General Meeting was a new General Meeting.

18. **SPECIAL GENERAL MEETINGS**

18.1 **Special General Meeting Schedule 1 Item 10**

- (a) The Board may at any time convene a Special General Meeting of the Association.
- (b) The Secretary must convene a Special General Meeting of the Association within 28 days after receiving a written request to do so from at least 20 per cent of the total number of Members.

18.2 **Request for Special General Meeting**

A request by the Members for a Special General Meeting must:

- (a) state the purpose of the meeting;
- (b) be signed by the required number of Members making the request as specified in rule 18.1(b); and
- (c) be lodged with the Secretary.

18.3 **Failure to Convene Special General Meeting**

- (a) If the Secretary fails to convene a Special General Meeting within the 28 days referred to in rule 18.1(b), the Members who made the request; may convene a Special General Meeting within 3 months after the original request was lodged as if the Members were the Board
- (b) A Special General Meeting must be convened in the same or substantially the same manner as General Meetings are convened by the Board and the Association must pay the reasonable expenses of convening and holding the Special General Meeting.

19. **MAKING DECISIONS AT GENERAL MEETINGS**

19.1 **Special Resolutions**

- (a) A Special Resolution must be moved at a General Meeting where notice of the Special Resolution has been given under rule 19.1(c).
- (b) A Special Resolution of the Association is required to:
 - (i) amend the name of the Association;
 - (ii) amend the Rules, under rule 24.2;
 - (iii) affiliate the Association with another body;
 - (iv) transfer the incorporation of the Association;

- (v) amalgamate the Association with one or more other incorporated associations;
 - (vi) voluntarily wind up the association;
 - (vii) cancel incorporation; or
 - (viii) request that a statutory manager be appointed.
- (c) Notice of a Special Resolution must:
- (i) be in writing;
 - (ii) include the place, date and time of the meeting;
 - (iii) include the intention to propose a Special Resolution;
 - (iv) set out the wording of the proposed Special Resolution; and
 - (v) be given in accordance with rule 2.2.
- (d) If notice is not given in accordance with rule 19.1(c), the Special Resolution will have no effect.
- (e) A Special Resolution must be passed at a General Meeting at which there is a quorum and be supported by the votes of not less than three-fourths of the Members present, in person or by proxy, and eligible to cast a vote at the meeting.

19.2 Ordinary Resolutions

Subject to these Rules, a majority of votes will determine an Ordinary Resolution.

19.3 Voting at meetings

- (a) Subject to these Rules, each ordinary Member has one vote at a General Meeting of the Association.
- (b) A person casts a vote at a meeting either by:
 - (i) voting at the meeting either in person or through the use of technology as under rule 17.1(a)(ii); or
 - (ii) by proxy.
- (c) In the case of an equality of votes at a General Meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (d) A Member or their proxy is not entitled to vote at any General Meeting of the Association unless all money due and payable by the Member or their proxy to the Association has been paid in accordance with rules 9.1 and 9.2.
- (e) A Member is only entitled to vote at a General Meeting if the Member's name is recorded in the Register as at the date the notice of the General Meeting was sent out under rule 17.3.

19.4 Proxies

- (a) Each Member is entitled to appoint in writing, a natural person who is also a Member of the Association to be the Member's proxy, and to attend and vote on the Member's behalf at any General Meeting of the Association.
- (b) Written notice of the proxy must be given to the Secretary before the commencement of the meeting in respect of which the proxy is appointed.
- (c) No Member may hold more than five proxies.

19.5 Manner of Determining Whether Resolution Carried

- (a) Unless a Poll is demanded under rule 19.6, if a question arising at a General Meeting of the Association is determined by general agreement or a show of hands, a declaration must be made by the chairperson of the General Meeting that the resolution has been:
 - (i) carried unanimously;
 - (ii) carried by a particular majority; or
 - (iii) lost.
- (b) If the declaration relates to a Special Resolution, then subject to rule 19.1(c), the declaration should state that a Special Resolution has been determined.
- (c) The declaration made under rule 19.5(a) must be entered into the minute book of the Association.
- (d) The entry in the minute book of the Association under rule 19.5(c) is evidence of the fact that the resolution has been determined, without proof of the number or proportion of the votes recorded in favour of or against that resolution.

19.6 Poll at General Meetings

- (a) At a General Meeting, a Poll on any question may be demanded by either:
 - (i) the chairperson of the meeting; or
 - (ii) at least three Members present in person or by proxy.
- (b) If a Poll is demanded at a General Meeting, the Poll must be taken in a manner as the chairperson of the meeting directs and a declaration by the chairperson of the result of the Poll is evidence of the matter so declared.
- (c) If a Poll is demanded at a General Meeting, the Poll must be taken:
 - (i) immediately in the case of a Poll which relates to electing a person to preside over the meeting;

- (ii) immediately in the case of a Poll which relates to adjourning the meeting; or
- (iii) in any other case, in the manner and time before the close of the meeting as the chairperson directs.

20. MINUTES OF MEETINGS

20.1 Minutes of Meetings

- (a) The Secretary or a person authorised by the Board from time to time must keep minutes of the resolutions and proceedings of all General Meetings and Board Meetings together with a record of the names of persons present at each meeting.
- (b) The minutes are to be taken and then to be entered within 30 days after the holding of each meeting, into a minute book kept for that purpose.
- (c) The Chairperson must ensure that the minutes of a General Meeting or Board Meeting under rule 20.1(a) are reviewed and signed as correct by:
 - (i) the chairperson of the General Meeting or Board Meeting to which those minutes relate; or
 - (ii) the chairperson of the next succeeding General Meeting or Board Meeting.
- (d) When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that:
 - (i) the General Meeting or Board Meeting to which they relate was duly convened and held;
 - (ii) all proceedings recorded as having taken place at the General Meeting or Board Meeting did in fact take place at the meeting; and
 - (iii) all appointments or elections purporting to have been made at the meeting have been validly made.
- (e) The minutes of General Meetings may be inspected by a Member under rule 27.2.
- (f) The minutes of Board Meetings may be inspected by a Member under rule 27.2 unless the Board determines that the minutes of Board Meetings generally, or the minutes of a specific Board Meeting are not to be available for inspection.

21. FUNDS AND ACCOUNTS

21.1 Control of Funds Schedule 1, Item 11

- (a) The funds of the Association must be kept in an account in the name of the Association in a financial institution determined by the Board.

- (b) The funds of the Association are to be used in pursuance of the objects of the Association.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:
 - (i) any two Board e Members; or
 - (ii) one Board Member and a person authorised by the Board.
- (d) All expenditure above the maximum amount set by the Board from time to time must be approved or ratified at a Board Meeting.

21.2 Source of Association Funds

- (a) The funds of the Association may be derived from entrance fees and annual membership fees of Members, donations, fund raising activities, grants, interest, and any other sources approved by the Board.
- (b) The Association must, as soon as practicable:
 - (i) deposit all money received by the Association, to the credit of the Association's bank account, without deduction; and
 - (ii) after receiving any money, issue an appropriate receipt.

21.3 Financial Records

- (a) The Association must keep Financial Records that:
 - (i) correctly record and explain its transactions, financial position and performance; and
 - (ii) enable true and fair financial statements to be prepared in accordance with Part 5 of the Act.
- (b) The Association must retain its Financial Records for at least 7 years after the transactions covered by the records are completed.

21.4 Financial Statements and Financial Reports

- (a) For each financial year, the Association must ensure that the requirements under Part 5 of the Act are met.
- (b) Without limiting sub rule (a), those requirements include—
 - (i) if the Association is a Tier 1 Association, the preparation of the Financial Statements;
 - (ii) If the Association is a Tier 2 Association or Tier 3 Association, the preparation of the Financial Report;

- (iii) if required, the review or auditing of the Financial Statements or Financial Report (whichever is applicable);
- (iv) if the Association is a Tier 1 Association, the presentation of the Financial Statements to the annual general meeting of the Association (and, if required, a copy of the report of the review or auditor's report, whichever is applicable);
- (v) if the Association is a Tier 2 Association or a Tier 3 Association, the presentation of the Financial Report to the annual general meeting of the Association (and a copy of the report of the review or auditor's report, whichever is applicable); and
- (vi) if required by the regulations made under the Act, the lodgement of the annual return with the Commissioner.

21.5 Review or Audit of Financial Statements or Financial Report

The Association must ensure that a review or audit is undertaken of the Financial Statements or Financial Report of the Association if:

- (a) the Association is a Tier 2 or Tier 3 Association;
- (b) the by-laws of the Association require a review or audit;
- (c) the Members require a review or audit by resolution at a General Meeting;
- (d) an audit or review is directed by the Commissioner; or
- (e) an audit or review is required as a condition of a funding arrangement; or holding of a charitable collections licence.

22. FINANCIAL YEAR OF THE ASSOCIATION

The financial year of the association is at rule 1.5.

23. ANNUAL GENERAL MEETINGS

23.1 Annual General Meeting Schedule 1, Item 13

- (a) Subject to rules 23.1(b) and 23.1(c), the Association must convene an AGM each calendar year:
 - (i) within 6 months after the end of the Association's Financial Year; or
 - (ii) within a longer period as the Commissioner may allow.
- (b) The Association may hold its first AGM at any time within the period of 18 months after incorporation under the Act.
- (c) If the Association requires the approval from the Commissioner to hold its AGM within a longer period under rule 23.1(a)(ii), the Secretary must apply to the Commissioner no later than four months after the end of the Association's Financial Year.

23.2 **Notice of AGM**

The notice convening an AGM must specify that it is the AGM of the Association and otherwise must comply with rules 2.2 and 17.3 (as applicable).

23.3 **Business to be Conducted at AGM**

- (a) Subject to rule 23.1, the AGM of the Association is to be convened on a date, time and place as the Board decides.
- (b) At each AGM of the Association, the Association:
 - (i) must confirm the minutes of the last preceding AGM and of any Special General Meeting held since that meeting if the minutes of that Special General Meeting have not yet been confirmed;
 - (ii) if the Association is a Tier 1 Association, must receive the Financial Statements of the Association for the preceding Financial Year;
 - (iii) if the Association is a Tier 2 Association or a Tier 3 Association, must receive the Financial Report of the Association for the preceding Financial Year;
 - (iv) if applicable, must appoint or remove a reviewer or auditor in accordance with the Act;
 - (v) if applicable, must present a copy of the report of the review or the auditor's report to the Association; and
 - (vi) must elect or appoint the office holders and ordinary Board Members.

24. **RULES OF THE ASSOCIATION**

24.1 **Rules of the Association**

- (a) These Rules bind every Member and the Association and each Member agrees to comply with these Rules.
- (b) The Association must provide, free of charge, a copy of the Rules in force, at the time Membership commences, to each person who becomes a Member under rule 5.5.
- (c) The Association must keep a current copy of the Rules.

24.2 **Amendment of Rules, Name and Objects Schedule 1, Item 14**

- (a) The Association may alter, rescind or add to these Rules by Special Resolution in accordance with rule 19.1 and not otherwise.
- (b) When a Special Resolution amending the Rules is passed, the required documents must be lodged with the Commissioner within:
 - (i) one month after the Special Resolution is passed; or
 - (ii) a longer period as the Commissioner may allow.

- (c) Subject to rule 24.2(d), an amendment to the Rules does not take effect until the required documents are lodged with the Commissioner under rule 24.2(b).
- (d) An amendment to the Rules that changes or has the effect of changing:
 - (i) the name of the Association; or
 - (ii) the objects or purposes of the Association,

does not take effect until the required documents are lodged with the Commissioner under rule 24.2(b) and the approval of the Commissioner is given in writing.

25. **BY-LAWS OF THE ASSOCIATION**

- 25.1 The Members of the Association may make, amend and repeal by-laws for the management of the Association by Ordinary Resolution at a General Meeting provided that the by-laws are not inconsistent with the Rules or the Act.
- 25.2 The by-laws made under rule 25.1:
 - (a) Do not form part of the Rules;
 - (b) May make provision for:
 - (i) classes of Membership and the rights and obligations that apply to each class of Membership;
 - (ii) requirements for financial reporting, financial accountability or audit of accounts in addition to those prescribed by the Act and the Rules;
 - (iii) restrictions on the powers of the Board including the power to dispose of assets;
 - (iv) a requirement for members to hold a specified educational, trade or professional qualification; and
 - (v) any other matter that the Association considers necessary or appropriate; and
 - (c) Must be available for inspection by Members.

26. **AUTHORITY REQUIRED TO BIND ASSOCIATION**

26.1 **Executing Documents**

- (a) The Association may execute a document without using a common seal if the document is signed by:
 - (i) any two Board Members; or
 - (ii) one Board Member and a person authorised by the Board.

26.2 Use of the Common Seal Schedule 1, Item 15

- (a) If the Association has a common seal on which its corporate name appears in legible characters:
 - (i) the Secretary or any other person as the Board from time to time decides must provide for its safe custody; and
 - (ii) it must only be used under resolution of the Board.
- (b) The Association executes a document with its common seal, if the fixing of the seal is witnessed by:
 - (i) any two Board Members; or
 - (ii) one Board Member and a person authorised by the Board.
- (c) Every use of the common seal must be recorded in the Board's minute book.

27. THE ASSOCIATION'S BOOKS AND RECORDS

27.1 Custody of the Books of the Association Schedule 1, Item 16

- (a) Except as otherwise decided by the Board from time to time, the Secretary must keep in his or her custody or under his or her control all of the Books of the Association with the exception of the Financial Records which, except as otherwise directed by the Board from time to time, are to be kept under the custody or control of the Treasurer.
- (b) The Books of the Association must be retained for at least 7 years.

27.2 Inspecting the Books of the Association Schedule 1, Item 17

- (a) Subject to these rules, and in particular rule 20.1(f), a Member is able to inspect the Books of the Association free of charge at such time and place as is mutually convenient to the Association and the Member.
- (b) A Member must contact the Secretary to request to inspect the Books of the Association.
- (c) The Member may copy details from the Books of the Association but has no right to remove the Books of the Association for that purpose.

27.3 Prohibition on Use of Information in the Books of the Association

- (a) A Member must not use or disclose information in the Books of the Association except for a purpose:
 - (i) that is directly connected with the affairs of the Association; or
 - (ii) related to the provision of the information to the Commissioner in accordance with a requirement of the Act.

27.4 **Returning the Books of the Association**

- (a) Outgoing Board Members are responsible for transferring all relevant assets and Books of the Association to the new Board within 14 days of ceasing to be a Board Member.

28. **RESOLVING DISPUTES Schedule 1, item 18**

28.1 **Disputes Arising under the Rules**

- (a) This rule applies to:
 - (i) Disputes between Members; and
 - (ii) Disputes between the Association and one or more Membersthat arise under the rules or relate to the rules of the Association.
- (b) In this rule “Member” includes any former Member whose membership ceased not more than six months before the dispute occurred.
- (c) The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.
- (d) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this rule by giving written notice to the Secretary of the parties to, and details of, the dispute.
- (e) The Secretary must convene a Board Meeting within 28 days after the Secretary receives notice of the dispute under rule 28.1(d) for the Board to determine the dispute.
- (f) At the Board Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.
- (g) The Secretary must inform the parties to the dispute of the Board’s decision and the reasons for the decision within 7 days after the Board Meeting referred to in rule 28.1(e).
- (h) If any party to the dispute is dissatisfied with the decision of the Board they may elect to initiate further dispute resolution procedures as set out in the Rules.

28.2 **Mediation**

- (a) This rule applies:
 - (i) where a person is dissatisfied with a decision made by the Board where a dispute arises between a Member or more than one Member and the Association and any party to the dispute elects not to have the matter determined by the Board.
- (b) Where the dispute relates to a proposal for the suspension or expulsion of a Member this rule does not apply until the procedure

under rule 7.3 in respect of the proposed suspension or expulsion has been completed.

- (c) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 28.1(c), or a party to the dispute is dissatisfied with a decision made by the Board under rule 28.1(g) a party to a dispute may:
 - (i) Provide written notice to the Secretary of the parties to, and the details of, the dispute;
 - (ii) Agree to, or request the appointment of, a mediator.
- (d) The party, or parties requesting the mediation must pay the costs of the mediation.
- (e) The mediator must be:
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - A. if the dispute is between a Member and another Member – a person appointed by the Board; or
 - B. if the dispute is between a Member or more than one Member and the Association, the Board or a Board Member then an independent person who is a mediator appointed to, or employed with, a not for profit organisation.
- (f) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the mediation session.
- (i) The mediator, in conducting the mediation, must:
 - (i) give the parties to the mediation process every opportunity to be heard;
 - (ii) allow all parties to consider any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (j) The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

28.3 Inability to Resolve Disputes

If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

29. CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY Schedule 1, item 19

- (a) The Association may cease its activities and have its incorporation cancelled in accordance with the Act if the Members resolve by Special Resolution that the association will:
 - (i) apply to the Commissioner for cancellation of its incorporation; or
 - (ii) appoint a liquidator to wind up its affairs.
- (b) The association must be wound up under rule 29(a)(ii) and Part 9 of the Act before cancellation can take place if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.
- (c) Upon cancellation of the Association, the Surplus Property must only be distributed to one or more of the following:
 - (i) an incorporated association under the Act;
 - (ii) a body corporate that at the time of the distribution is the holder of a licence under the charitable collections legislation in Western Australia;
 - (iii) a company limited by guarantee that is registered as mentioned in section 150 of the *Corporations Act 2001 (Cwth)*;
 - (iv) a company holding a licence that continues in force under section 151 of the *Corporations Act 2001(Cwth)*;
 - (v) a body corporate that:
 - A. is a Member or former member of the Association; and
 - B. at the time of the Surplus Property is distributed, has rules that prevent the property being distributed to its members;
 - (vi) a trustee for a body corporate referred to in rule 29(c)(v); or
 - (vii) a co-operative registered under the *Co-operatives Act 2009* that, at the time of the distribution, is a non-distributing co-operative as defined in that Act.