

RULES
for
PORTLAND C.E.M.A. Inc.
(PORTLAND COUNCIL FOR THE
ENCOURAGEMENT OF MUSIC AND THE
ARTS INCORPORATED)

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Rules for Portland C.E.M.A. Inc.

Note

The persons who from time to time are members of the Association (CEMA Inc.) are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the **Associations Incorporation Reform Act 2012**, these Rules are taken to constitute the terms of a contract between the Association (CEMA Inc.) and its members.

PART 1—PRELIMINARY

1. Name

The name of the incorporated association is "Portland C.E.M.A. Incorporated ("Portland Council for the Encouragement of Music and the Arts Incorporated"), hereafter referred to as "the Association (CEMA Inc.)".

2. Purposes

- To enrich the cultural life within Portland and district by encouraging all forms of art including visual, performing, music, literature, crafts, film, community and heritage.
- To provide a structure which enables groups of Members with common interests in any form of art to pursue arts activities.
- To advocate the arts to Local Government, to Regional and State bodies and to the Federal Government
- To work directly with Local Government in community arts development through the Shire's Arts Officer, Council sub-committees and Arts Victoria.
- To liaise with The Arts Company (Julia Street Creative Space) Portland and other local community and regional arts Groups and individual artists.
- To collect and preserve archival material related to the development of Portland CEMA Inc. and its Groups.

3. Financial year

The financial year of the Association (CEMA Inc.) is each period of 12 months ending on 30 June.

4. Definitions

In these Rules—

- **Absolute majority**, of the Committee, means a majority of the committee members currently holding office and entitled to vote at the time (as distinct from a majority of committee members present at a committee meeting);
- **Annual Membership Subscription** means a fee payable by each Member each year
- **Associate member** means a member referred to in rule 14(1);
- **CEMA AGM** means the Annual General meeting of Portland CEMA Inc.
- **CEMA General Meeting** means a meeting of the members of the Association (CEMA Inc.) at which all Members may participate, and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting
- **Chairperson**, of a general meeting or committee meeting, means the person chairing the meeting as required under rule 46;
- **Committee meeting** means a meeting of the Executive Committee held in accordance with these Rules;

- **Committee member** means a member of the Executive Committee elected or appointed under Division 3 of Part 5;
- **Convenor** means a person elected by the Members of a Group to preside over the committee of management of that Group
- **Disciplinary appeal meeting** means a meeting of the members of the Association (CEMA Inc.) convened under rule 23(3);
- **Disciplinary meeting** means a meeting of the Committee convened for the purposes of rule 22;
- **Disciplinary subcommittee** means the subcommittee appointed under rule 20;
- **Executive Committee** means the Committee having management of the business of the Association (CEMA Inc.);
- **Financial year** means the 12 month period specified in rule 3;
- **General meeting** means a general meeting of the members of the Association (CEMA Inc.) convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting;
- **Group** means a body of Members formed to provide a specific artistic function or activity consistent with Portland CEMA Inc.'s Purposes
- **Group AGM** means the Annual General meeting of a Group
- **Group Committee** means the committee of management of a Group
- **Group Office** means a position on a Group Committee
- **Member** means a member of the Portland CEMA Inc.;
- **Member entitled to vote** means a member who under rule 13(2) is entitled to vote at a general meeting;
- **Office** means a position on the Executive
- **Ordinary Office** means any of the Offices of President, Senior Vice-President, General Secretary, Membership Secretary, Treasurer
- **Registrar** means the Registrar of Incorporated Associations.
- **Representative Office** means any of the Offices of Group Representative
- **Surcharge** means a fee that may be imposed by Groups over and above the Annual Subscription payable to Portland CEMA Inc.
- **Special General Meeting** means a General meeting called by a requisition from Members
- **Special resolution** means a resolution that requires not less than three-quarters of the members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution;
- **The Act** means the Association (CEMA Inc.)s **Incorporation Reform Act 2012** and includes any regulations made under that Act;
- **The Arts Company** means The Arts Company (Julia Street Creative Space) Portland Inc.

PART 2—POWERS OF ASSOCIATION

5. Powers of Association

- 1) Subject to the Act, the Association (CEMA Inc.) has power to do all things incidental or conducive to achieve its purposes.
- 2) Without limiting sub-rule (1), the Association (CEMA Inc.) may—
 - (a) acquire, hold and dispose of real or personal property;
 - (b) open and operate accounts with financial institutions;
 - (c) invest its money in any security in which trust monies may lawfully be invested;
 - (d) raise and borrow money on any terms and in any manner as it thinks fit;

- (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
 - (f) appoint agents to transact business on its behalf;
 - (g) enter into any other contract it considers necessary or desirable.
- 3) The Association (CEMA Inc.) may only exercise its powers and use its income and assets (including any surplus) for its purposes.

6. Not for profit organisation

- 1) The Association (CEMA Inc.) must not distribute any surplus, income or assets directly or indirectly to its members.
- 2) Sub-rule (1) does not prevent the Association (CEMA Inc.) from paying a member—
 - a) reimbursement for expenses properly incurred by the member; or
 - b) for goods or services provided by the member—if this is done in good faith on terms no more favourable than if the member was not a member.

Note

Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.

PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

Division 1—Membership

7. Minimum number of members

The Association (CEMA Inc.) must have at least 5 members.

8. Who is eligible to be a member

- 1) Any person who supports the purposes of the Association (CEMA Inc.) is eligible for membership.
- 2) The Executive Committee, in its discretion, may admit any person to membership of the Portland CEMA Inc. as a Life Member, Honorary Member or Patron, with or without payment of any fee.

9. Application for membership

- 1) To apply to become a member of the Association (CEMA Inc.), a person must submit a membership form to the Executive Committee stating that the person—
 - a) wishes to become a member of the Association (CEMA Inc.); and
 - b) supports the purposes of the Association (CEMA Inc.); and
 - c) agrees to comply with these Rules.
- 2) The application—
 - a) must be signed by the applicant; and
 - b) may be accompanied by the subscription fee.

10. Consideration of application

- 1) Membership applications will be reviewed and accepted at the next CEMA Inc. Executive meeting.

11. New membership

- 1) A person becomes a member of the Association (CEMA Inc.) and, subject to rule 13(2), is entitled to exercise his or her rights of membership from the date on which the Executive Committee approves the person's membership.

12. Annual subscription

- 1) At each annual general meeting, the Association (CEMA Inc.) must determine—
 - a) the amount of the annual subscription (if any) for the following financial year; and
 - b) the date for payment of the annual subscription.
- 2) The Association (CEMA Inc.) may determine that a lower annual subscription is payable by associate members.
- 3) The Association (CEMA Inc.) may determine that any new member who joins after the start of a financial year must, for that financial year, pay a fee equal to—
 - a) the full annual subscription; or
 - b) a pro rata annual subscription based on the remaining part of the financial year; or
 - c) a fixed amount determined from time to time by the Association (CEMA Inc.).
- 4) The rights of a member (including the right to vote) who has not paid the annual subscription by the due date are suspended until the subscription is paid.
- 5) Any Member whose subscription is more than six months in arrears shall:
 - a) Not receive a Portland CEMA Inc. newsletter;
 - b) Be unable to cast a vote at any Group or General meeting; and
 - c) Be unable to attend or participate in any Group activities.

13. General rights of members

- 1) A Member may belong to multiple Member Groups (provided any additional Group surcharge is paid).
- 2) A member of the Association (CEMA Inc.) who is entitled to vote has the right—
 - a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
 - b) to submit items of business for consideration at a general meeting; and
 - c) to attend and be heard at general meetings; and
 - d) to vote at a general meeting; and
 - e) to have access to the minutes of general association meetings and other documents of the Association (CEMA Inc.) as provided under rule 75; and
 - f) to inspect the register of members.
- 3) A member is entitled to vote (subject to sub-rule 65) if—
 - a) their membership has been approved; and
 - b) the member is over 18 years; and
 - c) the member's membership rights are not suspended for any reason.

14. Associate members

- 1) Associate members of the Association (CEMA Inc.) include—
 - a) applicants waiting for membership approval; and
 - b) any members under the age of 18 years; and
 - c) any other category of member as determined by special resolution at a general meeting.
- 2) An associate member must not vote but may have other rights as determined by the Executive Committee or by resolution at a general meeting.

- 3) Associate members can participate in Group activities once their membership form and fee have been submitted.

15. Rights not transferable

The rights of a member are not transferable and end when membership ceases.

16. Ceasing membership

- 1) The membership of a person ceases on resignation, expulsion or death.
- 2) If a person ceases to be a member of the Association (CEMA Inc.), the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

17. Resigning as a member

- 1) A member may resign by notice in writing given to the Association (CEMA Inc.).

Note

Rule 74(3) sets out how notice may be given to the Association (CEMA Inc.). It includes by post or by handing the notice to a member of the committee.

- 2) A member is taken to have resigned if the member's annual subscription is more than 12 months in arrears; this does not apply to life or honorary members.

18. Register of members

- 1) The Secretary must keep and maintain a register of members that includes—
 - a) for each current member—
 - i. the member's name;
 - ii. the address for notice last given by the member;
 - iii. the date of becoming a member;
 - iv. if the member is an associate member, a note to that effect;
 - v. any other information determined by the Committee; and
 - b) for each former member, the date of ceasing to be a member.
- 2) Any member may, at a reasonable time and free of charge, inspect the register of members.

Note

Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

Division 2—Disciplinary action

19. Grounds for taking disciplinary action

- 1) The Association (CEMA Inc.) may take disciplinary action against a member in accordance with this Division if it is determined that the member—
 - a) has failed to comply with these Rules; or
 - b) refuses to support the purposes of the Association (CEMA Inc.); or
 - c) has engaged in conduct prejudicial to the Association (CEMA Inc.).

20. Disciplinary subcommittee

- 1) If the Executive Committee is satisfied that there are sufficient grounds for taking disciplinary action against a member, the Executive Committee must appoint a disciplinary

subcommittee to hear the matter and determine what action, if any, to take against the member.

- 2) The members of the disciplinary subcommittee—
 - a) may be Executive Committee members, members of the Association (CEMA Inc.) or anyone else; but
 - b) must not be biased against, or in favour of, the member concerned.

21. Notice to member

- 1) Before disciplinary action is taken against a member, the Secretary must give written notice to the member—
 - a) stating that the Association (CEMA Inc.) proposes to take disciplinary action against the member; and
 - b) stating the grounds for the proposed disciplinary action; and
 - c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the disciplinary meeting); and
 - d) advising the member that he or she may do one or both of the following—
 - i. attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
 - ii. give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
 - e) setting out the member's appeal rights under rule 23.
- 2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

22. Decision of subcommittee

- 1) At the disciplinary meeting, the disciplinary subcommittee must—
 - a) give the member an opportunity to be heard; and
 - b) consider any written statement submitted by the member.
- 2) After complying with sub-rule (1), the disciplinary subcommittee may—
 - a) take no further action against the member; or
 - b) subject to sub-rule (3)—
 - i. reprimand the member; or
 - ii. suspend the membership rights of the member for a specified period; or
 - iii. expel the member from the Association (CEMA Inc.).
- 3) The disciplinary subcommittee may not fine the member.
- 4) The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.

23. Appeal rights

- 1) A person whose membership rights have been suspended or who has been expelled from the Association (CEMA Inc.) under rule 22 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- 2) The notice must be in writing and given—
 - a) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
 - b) to the Secretary not later than 48 hours after the vote.

- 3) If a person has given notice under sub-rule (2), a disciplinary appeal meeting must be convened by the Executive Committee as soon as practicable, but in any event not later than 21 days, after the notice is received.
- 4) Notice of the disciplinary appeal meeting must be given to each member of the Association (CEMA Inc.) who is entitled to vote as soon as practicable and must—
 - a) specify the date, time and place of the meeting; and
 - b) state—
 - i. the name of the person against whom the disciplinary action has been taken; and
 - ii. the grounds for taking that action; and
 - iii. that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

24. Conduct of disciplinary appeal meeting

- 1) At a disciplinary appeal meeting—
 - a) no business other than the question of the appeal may be conducted; and
 - b) the Executive Committee must state the grounds for suspending or expelling the member and the reasons for taking that action; and
 - c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- 2) After complying with sub-rule (1), the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- 3) A member may not vote by proxy at the meeting.
- 4) The decision is upheld if not less than three quarters of the members voting at the meeting vote in favour of the decision.

Division 3—Grievance procedure

25. Application

- 1) The grievance procedure set out in this Division applies to disputes under these Rules between—
 - a) a member and another member;
 - b) a member and the Executive Committee;
 - c) a member and the Association (CEMA Inc.).
- 2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

26. Parties must attempt to resolve the dispute

- 1) 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.

27. Appointment of mediator

- 1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 26, the parties must within 10 days—
 - a) notify the Executive Committee of the dispute; and
 - b) agree to or request the appointment of a mediator; and
 - c) attempt in good faith to settle the dispute by mediation.
- 2) The mediator must be—

- a) a person chosen by agreement between the parties; or
- b) in the absence of agreement—
 - i. if the dispute is between a member and another member—a person appointed by the Executive Committee; or
 - ii. if the dispute is between a member and the Executive Committee or the Association (CEMA Inc.)—a person appointed or employed by the Dispute Settlement Centre of Victoria.
- 3) A mediator appointed by the Executive Committee may be a member or former member of the Association (CEMA Inc.) but in any case must not be a person who—
 - a) has a personal interest in the dispute; or
 - b) is biased in favour of or against any party.

28. Mediation process

- 1) The mediator to the dispute, in conducting the mediation, must—
 - a) give each party every opportunity to be heard; and
 - b) allow due consideration by all parties of any written statement submitted by any party; and
 - c) ensure that natural justice is accorded to the parties throughout the mediation process.
- 2) The mediator must not determine the dispute.

29. Failure to resolve dispute by mediation

- 1) If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

PART 4—GENERAL MEETINGS OF THE ASSOCIATION (CEMA INC.)

30. Annual general meetings

- 1) The Executive Committee must convene an annual general meeting of the Association (CEMA Inc.) to be held within 5 months after the end of each financial year.
- 2) Despite sub-rule (1), the Association (CEMA Inc.) may hold its first annual general meeting at any time within 18 months after its incorporation.
- 3) The Executive Committee may determine the date, time and place of the annual general meeting.
- 4) The ordinary business of the annual general meeting is as follows—
 - a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
 - b) to receive and consider—
 - i. the annual report of the Executive Committee on the activities of the Association (CEMA Inc.) during the preceding financial year; and
 - ii. the financial statements of the Association (CEMA Inc.) for the preceding financial year submitted by the Executive Committee in accordance with Part 7 of the Act; and
 - iii. the annual reports and financial reports of member groups;
 - c) to elect the members of the Executive Committee;
 - d) to confirm or vary the amounts (if any) of the subscription.
- 5) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

31. Special general meetings

- 1) Any general meeting of the Association (CEMA Inc.), other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- 2) The Executive Committee may convene a special general meeting whenever it thinks fit.
- 3) No business other than that set out in the notice under rule 33 may be conducted at the meeting.

Note

General business may be considered at the meeting if it is included as an item for consideration in the notice under rule 33 and the majority of members at the meeting agree.

32. Special general meeting held at request of members

- 1) The Executive Committee must convene a special general meeting if a request to do so is made in accordance with sub-rule (2) by at least 10% of the total number of members.
- 2) A request for a special general meeting must—
 - a) be in writing; and
 - b) state the business to be considered at the meeting and any resolutions to be proposed; and
 - c) include the names and signatures of the members requesting the meeting; and
 - d) be given to the Secretary.
- 3) If the Executive Committee does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- 4) A special general meeting convened by members under sub-rule (3)—
 - a) must be held within 3 months after the date on which the original request was made; and
 - b) may only consider the business stated in that request.
- 5) The Association (CEMA Inc.) must reimburse all reasonable expenses incurred by the members convening a special general meeting under sub-rule (3).

33. Notice of general meetings

- 1) The Secretary (or, in the case of a special general meeting convened under rule 32(3), the members convening the meeting) must give to each member of the Association (CEMA Inc.)—
 - a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
 - b) at least 14 days' notice of a general meeting in any other case.
- 2) The notice must—
 - a) specify the date, time and place of the meeting; and
 - b) indicate the general nature of each item of business to be considered at the meeting; and
 - c) if a special resolution is to be proposed—
 - i. state in full the proposed resolution; and
 - ii. state the intention to propose the resolution as a special resolution; and
 - d) comply with rule 34(5).
- 3) This rule does not apply to a disciplinary appeal meeting.

Note

Rule 23(4) sets out the requirements for notice of a disciplinary appeal meeting.

34. Proxies

- 1) A member may appoint another member as his or her proxy to vote and speak on his or her behalf at a general meeting other than at a disciplinary appeal meeting.
- 2) The appointment of a proxy must be in writing and signed by the member making the appointment.
- 3) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the member in any matter as he or she sees fit.
- 4) If the Executive Committee has approved a form for the appointment of a proxy, the member may use any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member.
- 5) Notice of a general meeting given to a member under rule 33 must—
 - a) state that the member may appoint another member as a proxy for the meeting; and
 - b) include a copy of any form that the Executive Committee has approved for the appointment of a proxy.
- 6) A form appointing a proxy must be given to the Chairperson of the meeting before or at the commencement of the meeting.
- 7) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association (CEMA Inc.) no later than 24 hours before the commencement of the meeting.

35. Use of technology

- 1) A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- 2) For the purposes of this Part, a member participating in a general meeting as permitted under sub-rule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

36. Quorum at general meetings

- 1) No business may be conducted at a general meeting unless a quorum of members is present.
- 2) The quorum for a general meeting is the presence (physically, by proxy or as allowed under rule 35) of 10% of the members entitled to vote.
- 3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting—
 - a) in the case of a meeting convened by, or at the request of, members under rule 32—the meeting must be dissolved;

Note

If a meeting convened by, or at the request of, members is dissolved under this sub-rule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 32.

- b) in any other case—
 - i. the meeting must be adjourned to a date not more than 21 days after the adjournment; and
 - ii. notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.

- 4) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under sub-rule (3)(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

37. Adjournment of general meeting

- 1) The Chairperson of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- 2) Without limiting sub-rule (1), a meeting may be adjourned—
 - a) if there is insufficient time to deal with the business at hand; or
 - b) to give the members more time to consider an item of business.

Example

The members may wish to have more time to examine the financial statements submitted by the Executive Committee at an annual general meeting.

- 3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- 4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 33.

38. Voting at general meeting

- 1) On any question arising at a general meeting—
 - a) subject to sub-rule (3), each member who is entitled to vote has one vote; and
 - b) members may vote personally or by proxy; and
 - c) except in the case of a special resolution, the question must be decided on a majority of votes.
- 2) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- 3) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.
- 4) This rule does not apply to a vote at a disciplinary appeal meeting conducted under rule 24.

39. Special resolutions

- 1) A special resolution is passed if not less than three quarters of the members voting at a general meeting (whether in person or by proxy) vote in favour of the resolution.

Note

In addition to certain matters specified in the Act, a special resolution is required—

- a) to remove an Executive Committee member from office ;
- b) to alter these Rules, including changing the name or any of the purposes of the Association (CEMA Inc.).

40. Determining whether resolution carried

- 1) Subject to subsection (2), the Chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been—
 - a) carried; or
 - b) carried unanimously; or
 - c) carried by a particular majority; or
 - d) lost; —and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.

- 2) If a poll (where votes are cast in writing) is demanded by three or more members on any question—
 - a) the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
 - b) the Chairperson must declare the result of the resolution on the basis of the poll.
- 3) A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.
- 4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.

41. Minutes of general meeting

- 1) The Committee must ensure that minutes are taken and kept of each general meeting.
- 2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- 3) In addition, the minutes of each annual general meeting must include—
 - a) the names of the members attending the meeting; and
 - b) (b)proxy forms given to the Chairperson of the meeting under rule 34(6); and
 - c) (c)the financial statements submitted to the members in accordance with rule 30(4)(b)(ii); and
 - d) (d)the certificate signed by two committee members certifying that the financial statements give a true and fair view of the financial position and performance of the Association (CEMA Inc.); and
 - e) (e)any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

PART 5—EXECUTIVE COMMITTEE

Division 1—Powers of Executive Committee

42. Role and powers

- 1) The affairs of Portland CEMA Inc. shall be managed by a committee of management called the Executive Committee.
- 2) Subject to these Rules, the Regulations and the Act, the Executive Committee shall have the power to perform all such acts and functions that appear to the Executive Committee to be essential for the proper management of the business and affairs of Portland CEMA Inc.
- 3) The Executive Committee may—
 - a) Carry out the instructions of General meetings;
 - b) Co-ordinate activities of the Groups;
 - c) Receive reports by Groups and individuals;
 - d) Liaise with local Shire Council through its appropriate officer;
 - e) Liaise with The Arts Company (Julia Street Creative Space) committee;
 - f) Formulate general Portland CEMA Inc. policy;
 - g) Receive and attend to correspondence;
 - h) Maintain financial accounts and records; and
 - i) Appoint and remove staff; and
 - j) Establish subcommittees consisting of members with terms of reference it considers appropriate.
 - k) Deal with such other matter as may arise from time to time.

43. Delegation

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

Division 2—Composition of Executive Committee and duties of members

44. Composition of Executive Committee

- 1) The Executive Committee consists of—
 - a) a President; and
 - b) a Vice-President; and
 - c) a Secretary; and
 - d) a Treasurer; and
 - e) a Membership Secretary; and
 - f) ordinary members (if any) elected under rule 53; and
 - g) one Group Representative from each member group.

45. General Duties

- 1) As soon as practicable after being elected or appointed to the Executive Committee, each committee member must become familiar with these Rules and the Act.
- 2) The Executive Committee is collectively responsible for ensuring that the Association (CEMA Inc.) complies with the Act and that individual members of the Executive Committee comply with these Rules.
- 3) Executive Committee members must exercise their powers and discharge their duties with reasonable care and diligence.
- 4) Executive Committee members must exercise their powers and discharge their duties—
 - a) in good faith in the best interests of the Association (CEMA Inc.); and
 - b) for a proper purpose.
- 5) Executive Committee members and former committee members must not make improper use of—
 - a) their position; or
 - b) information acquired by virtue of holding their position—so as to gain an advantage for themselves or any other person or to cause detriment to the Association (CEMA Inc.).

Note

See also Division 3 of Part 6 of the Act which sets out the general duties of the office holders of an incorporated association.

- 6) In addition to any duties imposed by these Rules, an Executive Committee member must perform any other duties imposed from time to time by resolution at a general meeting.

46. President and Vice-President

- 1) Subject to sub-rule (2), the President or, in the President's absence, the Vice-President is the Chairperson for any general meetings and for any committee meetings.
- 2) If the President and the Vice-President are both absent, or are unable to preside, the Chairperson of the meeting must be—

- a) in the case of a general meeting—a member elected by the other members present; or
- b) in the case of an Executive Committee meeting—a committee member elected by the other committee members present.

47. Secretary

- 1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.

Example

Under the Act, the secretary of an incorporated association is responsible for lodging documents of the Association (CEMA Inc.) with the Registrar.

- 2) The Secretary must—
 - a) maintain the register of members in accordance with rule 18; and
 - b) keep custody of the common seal (if any) of the Association (CEMA Inc.) and, except for the financial records referred to in rule 70(3), all books, documents and securities of the Association (CEMA Inc.) in accordance with rules 72 and 75; and
 - c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and
 - d) perform any other duty or function imposed on the Secretary by these Rules.
- 3) The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

48. Treasurer

- 1) The Treasurer must —
 - a) receive all moneys paid to or received by the Association (CEMA Inc.) and issue receipts for those moneys in the name of the Association (CEMA Inc.); and
 - b) ensure that all moneys received are paid into the account of the Association (CEMA Inc.) within 5 working days after receipt; and
 - c) make any payments authorised by the Executive Committee or by a general meeting of the Association (CEMA Inc.) from the Association (CEMA Inc.)'s funds; and
 - d) ensure cheques are signed by at least 2 committee members.
- 2) The Treasurer must also —
 - a) ensure that the financial records of the Association (CEMA Inc.) are kept in accordance with the Act; and
 - b) coordinate the preparation of the financial statements of the Association (CEMA Inc.) and their certification by the Executive Committee prior to their submission to the annual general meeting of the Association (CEMA Inc.).
- 3) The Treasurer must ensure that at least one other committee member has access to the accounts and financial records of the Association (CEMA Inc.).

Division 3—Election of Executive Committee members and tenure of office

49. Who is eligible to be an Executive Committee member

- 1) A member is eligible to be elected or appointed as a committee member if the member—
 - a) is 18 years or over; and
 - b) is entitled to vote at a general meeting.

50. Positions to be declared vacant

- 1) This rule applies to—

- a) the first annual general meeting of the Association (CEMA Inc.) after its incorporation; or
 - b) any subsequent annual general meeting of the Association (CEMA Inc.), after the annual report and financial statements of the Association (CEMA Inc.) have been received.
- 2) The Chairperson of the meeting must declare all positions on the Executive Committee vacant and hold elections for those positions in accordance with rules 51 to 54.

51. Nominations

- 1) Written nominations are preferred and will be accepted by the Secretary prior to the AGM
- 2) Prior to the election of each position, the Chairperson of the meeting must call for nominations to fill that position.
- 3) An eligible member of the Association (CEMA Inc.) may—
 - a) nominate himself or herself; or
 - b) with the member's consent, be nominated by another member.
- 4) A member who is nominated for a position and fails to be elected to that position may be nominated for any other position for which an election is yet to be held.

52. Election of President etc.

- 1) At the annual general meeting, separate elections must be held for each of the following positions—
 - a) President;
 - b) Vice-President;
 - c) Secretary;
 - d) Treasurer;
 - e) Membership Secretary.
- 2) If only one member is nominated for the position, the Chairperson of the meeting must declare the member elected to the position.
- 3) If more than one member is nominated, a ballot must be held in accordance with rule 54.
- 4) On his or her election, the new President may take over as Chairperson of the meeting.

53. Election of ordinary members

- 1) The annual general meeting must by resolution decide the number of ordinary members of the Executive Committee (if any) it wishes to hold office for the next year.
- 2) A single election may be held to fill all of those positions.
- 3) If the number of members nominated for the position of ordinary committee member is less than or equal to the number to be elected, the Chairperson of the meeting must declare each of those members to be elected to the position.
- 4) If the number of members nominated exceeds the number to be elected, a ballot must be held in accordance with rule 54.

54. Ballot

- 1) If a ballot is required for the election for a position, the Chairperson of the meeting must appoint a member to act as returning officer to conduct the ballot.
- 2) The returning officer must not be a member nominated for the position.
- 3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- 4) The election must be by secret ballot.
- 5) The returning officer must give a blank piece of paper to—

- a) each member present in person; and
- b) each proxy appointed by a member.

Example

If a member has been appointed the proxy of 5 other members, the member must be given 6 ballot papers—one for the member and one each for the other members.

- 6) If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.
- 7) If the ballot is for more than one position—
 - a) the voter must write on the ballot paper the name of each candidate for whom they wish to vote;
 - b) the voter must not write the names of more candidates than the number to be elected.
- 8) Ballot papers that do not comply with sub-rule (7)(b) are not to be counted.
- 9) Each ballot paper on which the name of a candidate has been written counts as one vote for that candidate.
- 10) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- 11) If the returning officer is unable to declare the result of an election under sub-rule (10) because 2 or more candidates received the same number of votes, the returning officer must—
 - a) conduct a further election for the position in accordance with sub-rules (4) to (10) to decide which of those candidates is to be elected; or
 - b) with the agreement of those candidates, decide by lot which of them is to be elected.

Examples

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

55. Term of office

- 1) Subject to sub-rule (3) and rule 56, an executive committee member holds office until the positions of the Executive Committee are declared vacant at the next annual general meeting.
- 2) An executive committee member may be re-elected.
- 3) A general meeting of the Association (CEMA Inc.) may—
 - a) by special resolution remove a committee member from office; and
 - b) elect an eligible member of the Association (CEMA Inc.) to fill the vacant position in accordance with this Division.
- 4) A member who is the subject of a proposed special resolution under sub-rule (3)(a) may make representations in writing to the Secretary or President of the Association (CEMA Inc.) (not exceeding a reasonable length) and may request that the representations be provided to the members of the Association (CEMA Inc.).
- 5) The Secretary or the President may give a copy of the representations to each member of the Association (CEMA Inc.) or, if they are not so given, the member may require that they be read out at the meeting at which the special resolution is to be proposed.

56. Vacation of office

- 1) An executive committee member may resign from the Executive Committee by written notice addressed to the Executive Committee.
- 2) A person ceases to be an executive committee member if he or she—
 - a) ceases to be a member of the Association (CEMA Inc.); or

- b) fails to attend 3 consecutive executive committee meetings (other than special or urgent committee meetings) without leave of absence under rule 67; or
- c) otherwise ceases to be an executive committee member by operation of section 78 of the Act.

Note

An Executive Committee member may not hold the office of secretary if they do not reside in Australia.

57. Filling casual vacancies

- 1) The Executive Committee may appoint an eligible member of the Association (CEMA Inc.) to fill a position on the Executive Committee that—
 - a) has become vacant under rule 56; or
 - b) was not filled by election at the last annual general meeting.
- 2) If the position of Secretary becomes vacant, the Executive Committee must appoint a member to the position within 14 days after the vacancy arises.
- 3) Rule 55 applies to any committee member appointed by the Executive Committee under sub-rule (1) or (2).
- 4) The Executive Committee may continue to act despite any vacancy in its membership.

Division 4—Meetings of Executive Committee

58. Meetings of Executive Committee

- 1) The Executive Committee must meet at least 6 times in each year at the dates, times and places determined by the Executive Committee.
- 2) The date, time and place of the first committee meeting must be determined by the members of the Executive Committee as soon as practicable after the annual general meeting of the Association (CEMA Inc.) at which the members of the Executive Committee were elected.
- 3) Special committee meetings may be convened by the President or by any 4 members of the Executive Committee.

59. Notice of meetings

- 1) Notice of each executive committee meeting must be given to each executive committee member no later than 7 days before the date of the meeting.
- 2) Notice may be given of more than one executive committee meeting at the same time.
- 3) The notice must state the date, time and place of the meeting.
- 4) If a special committee meeting is convened, the notice must include the general nature of the business to be conducted.
- 5) The only business that may be conducted at the meeting is the business for which the meeting is convened.

60. Urgent meetings

- 1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 59 provided that as much notice as practicable is given to each committee member by the quickest means practicable.
- 2) Any resolution made at the meeting must be passed by an absolute majority of the Executive Committee.
- 3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

61. Procedure and order of business

- 1) The procedure to be followed at a meeting of an Executive Committee must be determined from time to time by the Executive Committee.
- 2) The order of business may be determined by the members present at the meeting.

62. Use of technology

- 1) A committee member who is not physically present at an executive committee meeting may participate in the meeting by the use of technology that allows that committee member and the committee members present at the meeting to clearly and simultaneously communicate with each other.
- 2) For the purposes of this Part, a committee member participating in an executive committee meeting as permitted under sub-rule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

63. Quorum

- 1) No business may be conducted at an Executive Committee meeting unless a quorum is present.
- 2) Any five members of the Executive Committee constitutes a quorum for the transaction of the business of a meeting of the Executive Committee, provided two of those members are Group Representatives.
- 3) If a quorum is not present within 30 minutes after the notified commencement time of an executive committee meeting—
 - a) in the case of a special meeting—the meeting lapses;
 - b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 59.

64. Voting

- 1) On any question arising at an executive committee meeting, each committee member present at the meeting has one vote.
- 2) A motion is carried if a majority of executive committee members present at the meeting vote in favour of the motion.
- 3) Sub-rule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Executive Committee.
- 4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- 5) Voting by proxy is not permitted.

65. Conflict of interest

- 1) An executive committee member who has a material personal interest in a matter being considered at an executive committee meeting must disclose the nature and extent of that interest to the Executive Committee.
- 2) The member—
 - a) must not be present while the matter is being considered at the meeting; and
 - b) must not vote on the matter.

Note

Under section 81(3) of the Act, if there are insufficient committee members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

- 3) This rule does not apply to a material personal interest—
 - a) that exists only because the member belongs to a class of persons for whose benefit the Association (CEMA Inc.) is established; or
 - b) that the member has in common with all, or a substantial proportion of, the members of the Association (CEMA Inc.).

66. Minutes of meeting

- 1) The Committee must ensure that minutes are taken and kept of each committee meeting.
- 2) The minutes must record the following—
 - a) the names of the members in attendance at the meeting;
 - b) the business considered at the meeting;
 - c) any resolution on which a vote is taken and the result of the vote;
 - d) any material personal interest disclosed under rule 65.

67. Leave of absence

- 1) The Committee may grant a committee member leave of absence from committee meetings for a period not exceeding 3 months.
- 2) The Committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the committee member to seek the leave in advance.

PART 6—FINANCIAL MATTERS

68. Source of funds

- 1) The funds of the Association (CEMA Inc.) may be derived from annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Committee.

69. Management of funds

- 1) The Association (CEMA Inc.) must open an account with a financial institution from which all expenditure of the Association (CEMA Inc.) is made and into which all of the Association (CEMA Inc.)'s revenue is deposited.
- 2) Subject to any restrictions imposed by a general meeting of the Association (CEMA Inc.), the Committee may approve expenditure on behalf of the Association (CEMA Inc.).
- 3) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 committee members.
- 4) All funds of the Association (CEMA Inc.) must be deposited into the financial account of the Association (CEMA Inc.) no later than 5 working days after receipt.
- 5) There shall be maintained by the Association (CEMA Inc.) a specified purpose account known as the “Portland CEMA Incorporated Public Fund” which shall be used for the purposes of receiving Government grants and public donations solicited or received. Such funds may be withdrawn over the signatures of any two of the members of a sub-committee whose membership complies with the eligibility criteria set out in the Register of Cultural Organisations administered by the Commonwealth of Australia, and one of whom shall be the President, Secretary or Treasurer of the Association. The purpose of the fund shall be the production, presentation, publication, promotion, preservation or housing of, or training in any one or more of the following: literature, music, performing arts, visual arts, crafts, design, film, video, television, radio, community arts, aboriginal arts or movable cultural heritage.

70. Financial records

- 1) The Association (CEMA Inc.) must keep financial records that—
 - a) correctly record and explain its transactions, financial position and performance; and
 - b) enable financial statements to be prepared as required by the Act.
- 2) The Association (CEMA Inc.) must retain the financial records for 7 years after the transactions covered by the records are completed.
- 3) The Treasurer must keep in his or her custody, or under his or her control—
 - a) the financial records for the current financial year; and
 - b) any other financial records as authorised by the Committee.

71. Financial statements

- 1) For each financial year, the Executive Committee must ensure that the requirements under the Act relating to the financial statements of the Association (CEMA Inc.) are met.
- 2) Without limiting sub-rule (1), those requirements include—
 - a) the preparation of the financial statements;
 - b) if required, the review or auditing of the financial statements;
 - c) the certification of the financial statements by the Executive Committee;
 - d) the submission of the financial statements to the annual general meeting of the Association (CEMA Inc.);
 - e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

PART 7—GENERAL MATTERS

72. Common seal

- 1) The Association (CEMA Inc.) may have a common seal.
- 2) If the Association (CEMA Inc.) has a common seal—
 - a) the name of the Association (CEMA Inc.) must appear in legible characters on the common seal;
 - b) a document may only be sealed with the common seal by the authority of the Executive Committee and the sealing must be witnessed by the signatures of two executive committee members;
 - c) the common seal must be kept in the custody of the Secretary.

73. Registered address

- 1) The registered address of the Association (CEMA Inc.) is—
 - a) the address determined from time to time by resolution of the Executive Committee; or
 - b) if the Executive Committee has not determined an address to be the registered address—the postal address of the Secretary.

74. Notice requirements

- 1) Any notice required to be given to a member or an executive committee member under these Rules may be given—
 - a) by handing the notice to the member personally; or
 - b) by sending it by post to the member at the address recorded for the member on the register of members; or
 - c) by email or facsimile transmission.
- 2) Sub-rule (1) does not apply to notice given under rule 60.

- 3) Any notice required to be given to the Association (CEMA Inc.) or the Executive Committee may be given—
 - a) by handing the notice to a member of the Executive Committee; or
 - b) by sending the notice by post to the registered address; or
 - c) by leaving the notice at the registered address; or
 - d) if the Executive Committee determines that it is appropriate in the circumstances—
 - i. by email to the email address of the Association (CEMA Inc.) or the Secretary; or
 - ii. by facsimile transmission to the facsimile number of the Association (CEMA Inc.).

75. Custody and inspection of books and records

- 1) Members may on request inspect free of charge—
 - a) the register of members;
 - b) the minutes of general meetings;
 - c) subject to sub-rule (2), the financial records, books, securities and any other relevant document of the Association (CEMA Inc.), including minutes of Executive Committee meetings.

Note

See note following rule 18 for details of access to the register of members.

- 2) The Executive Committee may refuse to permit a member to inspect records of the Association (CEMA Inc.) that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association (CEMA Inc.).
- 3) The Executive Committee must on request make copies of these rules available to members and applicants for membership free of charge.
- 4) Subject to sub-rule (2), a member may make a copy of any of the other records of the Association (CEMA Inc.) referred to in this rule and the Association (CEMA Inc.) may charge a reasonable fee for provision of a copy of such a record.
- 5) For purposes of this rule **relevant documents** means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association (CEMA Inc.) and includes the following—
 - a) its membership records;
 - b) its financial statements;
 - c) its financial records;
 - d) records and documents relating to transactions, dealings, business or property of the Association (CEMA Inc.).

76. Winding up and cancellation

- 1) The Association (CEMA Inc.) may be wound up voluntarily by special resolution.
- 2) In the event of the winding up or the cancellation of the incorporation of the Association (CEMA Inc.), the surplus assets of the Association (CEMA Inc.) must not be distributed to any members or former members of the Association (CEMA Inc.).
- 3) If the Association (CEMA Inc.) shall be wound up in accordance with the provisions of the Association (CEMA Inc.)s Incorporation Reform Act 2012, and there remains, after satisfaction of all its debts and liabilities, any property, save for any balance in the Portland CEMA Incorporated Public Fund, the same shall be given or transferred to some other institution or institutions having purposes similar to the purposes of the Association (CEMA Inc.), and which prohibits the distribution of its other income and property amongst its or their members to an extent at least as great as is imposed on the Association (CEMA Inc.)

under or by virtue of this rule such institution or institutions to be determined in accordance with a special resolution of the members of the Association (CEMA Inc.) or, in the absence of a special resolution of the members, by the Registrar.

- 4) If the Association (CEMA Inc.) be wound up as aforesaid and any balance remains in the Portland CEMA Incorporated Public Fund at that date, such balance shall not be paid to or distributed among the members of the Association (CEMA Inc.), but shall be given or transferred to some other institution or institutions having purposes similar to the purposes of the Association (CEMA Inc.) and being eligible for tax deductibility under section 78(1)(a) of the Income Tax Assessment Act 1997.

77. Alteration of Rules

- 1) These Rules may only be altered by special resolution of a general meeting of the Association (CEMA Inc.).

Note

An alteration of these Rules does not take effect unless or until it is approved by the Registrar. If these Rules (other than rule 1, 2 or 3) are altered, the Association (CEMA Inc.) is taken to have adopted its own rules, not the model rules.

PART 8 – CEMA Inc. Member Groups

78. CEMA Inc. Member Groups

- 1) The Association (CEMA Inc.) may admit to membership any groups that fulfil the aims of the organisation.
- 2) New groups will be instituted or admitted at a CEMA Inc. general meeting.
- 3) A public meeting must be called to form any newly instituted group.
- 4) Each group must elect a convenor and secretary and treasurer (or a secretary/treasurer) and must provide a Group Representative to attend CEMA Inc. Executive Committee meetings.
- 5) Each group shall hold regular meetings (minimum of four per year) to conduct group business.
- 6) Each group shall make its own rules for the conduct of its business provided that they are consistent with the rules of CEMA Inc.
- 7) Each group must hold its annual meeting prior to the Association (CEMA Inc.) annual general meeting.
- 8) At group annual meetings the group shall appoint a chairperson to preside over the election of office bearers.
- 9) The group convenor shall preside at group meetings.
- 10) The group secretary shall:
 - a) keep a record of the activities of the group and of the decisions made at group meetings;
 - b) attend to group correspondence;
 - c) attend to business connected with group activities.
- 11) The group treasurer or secretary/treasurer shall:
 - a) be responsible for all group funds and accounts;
 - b) be responsible for seeing that subscriptions have been paid by all group members;
 - c) provide annual financial report and copies of relevant bank statements to the CEMA Inc. Treasurer at the CEMA Inc. AGM.
- 12) A copy of the constitution shall be retained by each group and by the general secretary.

APPENDIX 1

Statutory and General Information

Name of Association: Portland C.E.M.A. Incorporated (short for “Portland Council for the Encouragement of Music and the Arts Incorporated”)

Registered Address: Cnr Bentinck and Glenelg Streets, Portland Victoria 3305

Postal Address: PO Box 385, Portland, Victoria 3305

Incorporated: May 19 1986

A.R.N.: A0009330V

A.B.N.: 67 600 114 864

G.S.T.: Not Registered

Endorsed as a deductible gift recipient under sub-division 30-BA of the Income Assessment Act 1997, effective 1 July 2000.

Endorsed as an income tax exempt charitable entity under sub-division 50-B of the Income Assessment Act 1997, effective 1 July 2000.