

CONSTITUTION OF



MERCURY CX INCORPORATED

ABN: 57 865 211 307

A non-profit, member incorporated association, governed by the Australian Charities and Non-Profit Commission.

NAME

1. The name of the Incorporated Association is **Mercury CX Incorporated**, referred herein as "the Association".

DEFINITIONS

2. In these rules, unless the contrary intention appears:
 - "screen" means film, video, games and story content across all known platforms and formats;
 - "Board" means the Board of Directors of the Association;
 - "meeting" means a general meeting of members of the Association convened in accordance to these rules;
 - "Member" means a member of the Association;
 - "Organisation member" means and includes any incorporated or unincorporated entity or body which the Association has accepted as a member;
 - the "Act" means the Associations Incorporation Act, 1985;
the "Regulations" means the Associations Regulations, 1985.

AIMS AND OBJECTIVES

- 3.1 The aim of the Association is to generate, support and advocate for a creative, critical and informed screen culture and practice in South Australia.
- 3.2 The objectives of the Association are:
 - 3.2.1 to provide a focal point for screen practitioners to meet, produce and exhibit their work;
 - 3.2.2 to provide facilities, programs and resources for members and the general public relevant to the aim;
 - 3.2.3 to advocate for members and the general public relevant to this aim;
 - 3.2.4 to collaborate and liaise with individuals, organisations and communities relevant to this aim;
 - 3.2.5 to initiate, foster and develop diversity in Australian screen culture through the provision of support for screen practitioners and through exhibition;
 - 3.2.6 to provide access to affordable equipment and facilities, information resources and advice concerning production, distribution and exhibition for screen practitioners;
 - 3.2.7 to provide exhibition facilities and programs relevant to the aim;
 - 3.2.8 to embrace issues of representation in screen media through advocacy and collaboration with individuals, organisations and communities and by utilising relevant practitioner support and exhibition programs.

POWERS

4. The Association shall for the purpose of carrying out its aims and objectives, subject to powers conferred by section 25 of the Act and these rules:
 - 4.1 acquire, hold, lease, mortgage, deal with, and dispose of, any real or personal property;
 - 4.2 administer any property or trust;
 - 4.3 open and operate bank accounts;
 - 4.4 invest its moneys:
 - 4.4.1 in any security in which trust money may, by Act of Parliament, be vested;
 - 4.4.2 in any other manner authorised by the rules of the Association;
 - 4.5 borrow money upon such terms and conditions as the Association sees fit;
 - 4.6 give such security for the discharge of liabilities incurred by the Association as the Association sees fit;
 - 4.7 appoint agents to transact any business of the Association on its behalf;
 - 4.8 enter into any other contract it considers necessary or desirable.

MEMBERSHIP

- 5.1 There shall be the following classes of members:
 - 5.1.1 Ordinary, associate, honorary, and organisation members.
 - 5.1.2 Associate and honorary membership shall not entitle such members to vote at any general meeting. Entitlements attaching to such membership shall be determined by the Board from time to time.
- 5.2 Any organisation member shall from time to time nominate in writing a duly authorised representative (who must be a natural person) to exercise the rights of such organisation member pursuant to paragraph 20.2 hereof.
- 5.3 Any person applying for ordinary or organisation membership of the Association shall be ratified by the Board provided however that the Board may in its absolute discretion refuse any membership without having to give a reason therefore.

SUBSCRIPTIONS

- 6.1 The subscription fee for each class of membership shall be such sum as the Board shall determine from time to time.
- 6.2 The subscription fee for each class of membership shall be payable annually or at such time as the Board shall determine.
- 6.3 Any member whose subscription is outstanding in excess of 30 days from the date upon which the subscription falls due for payment shall cease to be a member of the Association, provided always that the Board may reinstate such a person's membership

on such terms as it thinks fit.

RESIGNATION

7. A member may resign from membership of the Association by giving written notice hereof to the secretary or public officer of the Association. Any member so resigning shall be liable for any outstanding subscriptions and such amount shall be recoverable as a debt to the Association.

EXPULSION OF A MEMBER

- 8.1 Subject to giving a member an opportunity to be heard or to make a written submission, the Board may resolve to expel a member upon a charge of misconduct detrimental to the interests of the Association.
- 8.2 Particulars of the charge shall be communicated to the member at least one calendar month before the meeting of the Board at which the matter will be determined.
- 8.3 The determination of the Board shall be communicated to the member, and in the event of an adverse determination the member shall subject to paragraph 8.4 cease to be a member within 14 days after the determination of the Board has been communicated to the member.
- 8.4 It shall be open to a member to appeal to the Association in general meeting against the expulsion. The intention to appeal shall be communicated to the Secretary or Public Officer of the Association within 14 days after the determination of the Board has been communicated to the member.
- 9 In the event of an appeal under paragraph 8.4 the appellant's membership of the Association shall not be terminated unless the determination of the Board to expel the member is upheld after the appellant has been heard, and in such event membership shall be terminated at the date on which the determination of the Board is upheld.

THE BOARD OF DIRECTORS

- 9.1 The affairs of the Association shall be managed and controlled exclusively by a Board elected by members of the Association in accordance with the rules herein. In addition to any powers and authorities conferred by these rules, the Board may exercise such powers and do all such things as are within the objects of the Association and are not by the Act or by these rules required to be done in general meeting.
- 9.2 The Board may convene any subcommittee, the members of which may be elected or appointed to consult with and provide advice to the Board on policy issues and priorities relevant to the Association's aims and objectives
- 9.3 The Board shall have the power to appoint such officers and employees as are required to carry out the objects of the Association, including a Public Officer required by the Act and may delegate any of its powers to such officers and employees.
- 9.4 The Board shall comprise not less than six and not more than nine elected members. The Chairperson shall be elected by the Board members. In addition, the Board may

for such period as it deems fit, co-opt persons as it deems appropriate to serve on the Board.

- 9.5 The term of membership shall be 24 months and shall commence on the date of the first meeting of the Board after the Association's annual general meeting. At each annual general meeting half of the elected members of the Board shall resign and shall be eligible for election. No elected Board member may stand for election for any more than three (3) consecutive terms of office, nor may a member be co-opted to the Board immediately after having served three (3) consecutive terms, for the period of one (1) term.
- 9.6 The Board may appoint an ordinary member to fill a casual vacancy, and such a Board member shall hold office until the next annual general meeting of the Association and shall be eligible for re-election.
- 9.7 No member of the Association shall be eligible to stand for election unless a member of the Association has nominated that member at least 14 days before the meeting by delivering the nomination of the person to the secretary of the Association. The nomination shall be signed by the proposer and by the nominee to signify a willingness to stand for election.
- 9.8 Call for nominations to the Board shall be sent to members of the Association with the notice calling the meeting at which the election is to take place.
- 9.9 If less than or only the required number of persons are nominated to fill the existing vacancies, the Secretary shall report accordingly to the annual general meeting, and the Chairperson shall declare such persons duly elected as Board members. If the required number of nominations is not received by the Secretary 14 days before the meeting at which the election is to take place, additional nominations for the positions which have not been filled may be accepted at the meeting at which the election is to take place.
- 9.10 The election of Board members shall be by secret ballot.

DISQUALIFICATION OF BOARD MEMBERS

10. The office of a Board member shall become vacant if a Board member:
- 10.1 dies, resigns or is expelled as a member of the Association;
- 10.2 is disqualified by the Act;
- 10.3 is expelled under these rules;
- 10.4 is permanently incapacitated by ill health;
- 10.5 is absent without apology from more than three (3) consecutive Board meetings in a financial year.

PROCEEDINGS OF THE BOARD

- 11.1 The Board shall normally meet at monthly intervals, or as it sees fit, in order to

conduct the business of the Association.

- 11.2 Questions arising at any meeting shall be decided by a majority of votes, and in the event of equality of votes the Chairperson shall have a casting vote.
- 11.3 A quorum for a meeting of the Board shall be five (5) members.
- 11.4 A member of the Board who has a personal or pecuniary interest in any contract with the Association or any other matter considered or determined by the Board must disclose that interest to the Board as required by the Act and is unable to exercise a valid vote with respect to that matter.
- 11.5 Any member may make representations to the Board of Directors.

FINANCIAL YEAR

- 12. The financial year of the Association shall be a period of 12 months ending on 31 December of each year.

BORROWING POWERS

- 13.1 Subject to Section 53 of the Act the Association may invite and accept deposits from any person on such terms and conditions as may be determined by the Board from time to time.
- 13.2 Subject to this rule the Association may borrow moneys from banks or other financial institutions upon such terms and conditions as the Board sees fit, and may secure repayments thereof by charging the property of the Association.

RULES

- 14.1 Subject to approval by a resolution of the members of the Association at a General Meeting, these rules may be altered (including an alteration to name) or be rescinded and replaced by substituted rules. Such an alteration shall be registered with the Commission as required by the Act.
- 14.2 The registered rules shall bind the Association and every member to the same extent as if they had respectively signed and sealed them and agreed to be bound by all the provisions thereof.

THE SEAL

- 15.1 The Association shall have a common seal upon which the corporate name shall appear in legible characters.
- 15.2 The seal shall not be used without the express authorisation of the Board, and every use of the seal shall be recorded in the minute book of the Association. The affixing of the seal shall be witnessed by two members of the Board, one of whom shall be the Chairperson or Secretary.
- 15.3 The seal shall be kept in the custody of the Secretary or such other person as the Board shall from time to time decide.

MEETINGS

- 16.1 The Board may call a special general meeting of the Association at any time and shall call an annual general meeting in accordance with the Act.
- 16.2 Annual general meetings shall be held within the first five (5) months of the Association's financial year.
- 16.3 Upon requisition in writing of at least twenty (20) members of the Association, (all of whom shall have been members for no less than 28 days prior to the requisition) the Board shall within one month of the receipt of the requisition, convene a special general meeting for the purpose specified in the requisition.
- 16.4 Every requisition for a special general meeting shall be signed by the members making the same and shall state in clear terms the purpose of the meeting.
- 16.5 If a special general meeting is not convened within one month as required by paragraph 16.3 the requisitionists may convene a special general meeting. Such a meeting shall be convened in the same manner as a meeting convened by the Board, and for this purpose the Board shall ensure that the requisitions are supplied free of charge with particulars of the members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting the meeting shall be borne by the Association.
- 16.6 Subject to paragraph 16.7 at least 28 days' notice of any general meeting shall be given to members. The notice shall set out the time and where the meeting will be held, and particulars of the nature and order of the business to be transacted at the meeting.
- 16.7 Notice of a meeting at which a special resolution is to be proposed shall be given at least 28 days prior to the date of the meeting.
- 16.8 A notice may be given by the Association to any member by serving the member with the notice personally, or by sending it to the address appearing in the register of members.
- 16.9 Where a notice is sent by post, service of the notice shall be deemed to be affected if it is properly addressed and posted to the member by ordinary prepaid mail.

ANNUAL GENERAL MEETING

17. The Annual General Meeting shall be held for the purpose of:
 - 17.1 receiving the report from the Board on the activities of the past year;
 - 17.2 receiving the audited accounts of the Association;
 - 17.3 electing the Board and sub-committee members (if required);
 - 17.4 appointing auditors;
 - 17.5 determining any other business requiring the consideration of the Association.

PROCEEDINGS OF MEETINGS

- 18.1 Fifteen (15) members present shall constitute a quorum at any general meeting.
- 18.2 If within 30 minutes after the time appointed for the meeting a quorum of members is not present, a meeting convened upon the requisition of members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the members present shall form a quorum.
- 18.3 The Chairperson, or if there shall be no Chairperson, one of the Board members chosen by the meeting shall preside as Chairperson at every general meeting of the Association.
- 18.4 If there is no such Chairperson present within 5 minutes after the time appointed for holding the meeting, the members present may choose one of their number to be the Chairperson.
- 18.5 The Chairperson may with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at the adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 18.6 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as if the meeting were an original meeting of members.
- 18.7 At any general meeting, any resolution put to a vote shall be decided by a show of hands, and a declaration by the Chairperson of the meeting that a resolution has been carried or lost, shall, unless a poll is demanded, be conclusive evidence of the fact, without the requirement of proof of the number or proportion of the votes recorded in favour, or against, the resolution.
- 18.8 If a poll is demanded by the Chairperson of the meeting or by three (3) or more members present personally, or by proxy, it shall be taken in such manner as the Chairperson directs. The result of such poll shall be the resolution of a majority of not less than three quarters (75%) of the members, who being entitled to do so, vote personally or by proxy at the meeting.
- 18.9 A poll demanded on the election of a Chairperson of a meeting or any question of an adjournment, shall be taken at the meeting without adjournment.

MINUTES

- 19.1 Proper minutes of all proceedings of the Association and of meetings of the Board, shall be entered within one month after the relevant meeting in minute books kept for the purpose.
- 19.2 The minutes kept pursuant to this rule shall be signed by the Chairperson of the relevant meeting or by the Chairperson of the next succeeding meeting.
- 19.3 Where the minutes are entered and signed they shall until the contrary is proved be

evidence that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all appointments made at the meeting shall be deemed to be valid.

VOTING RIGHTS

- 20.1 Subject to these rules each member (including organisation members) present in person or by proxy shall be entitled to one vote.
- 20.2 A member shall have been a member of the Association for not less than 28 days prior the annual general meeting or a special general meeting to be entitled to vote.
- 20.3 A member being an organisation member shall be entitled to appoint one person to represent it at a particular meeting or all meetings of the Association. The person shall be appointed by the organisation member by a resolution of its board or committee of management (as the case may be) which shall be authenticated under seal or under an authority acceptable to the Association. Such person shall be deemed to be a member of the Association for all purposes until the authority to represent the organisation member is revoked by the organisation or the membership of the organisation is revoked by virtue of paragraphs 7 or 8.1 hereof.

PROXIES

- 21.1 A member (including organisation members) of the Association shall be entitled to appoint in writing a natural person who is also a member of the Association to be the member's proxy, and attend and vote at any meeting of the Association.
- 21.2 No member, other than the Chairperson of the relevant general meeting, shall represent more than four (4) members by proxy.
- 21.3 The instrument appointing a proxy shall be in writing under the hand of the appointer or his or her attorney or if such appointer is a corporation under its common seal or the hand of its attorney.
- 21.4 The instrument appointing a proxy shall be lodged at the office of the Association not less than 24 hours prior to the meeting at which the proxy vote is proposed to be exercised.

ACCOUNTS

22. The Association shall keep such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association.

INDEMNITY

23. Members of the Board of Management will be indemnified out of the assets of the Association in respect of their duties and obligations as Board Members.

WINDING UP

24. The Association may be wound up in the manner provided by the Act.

APPLICATION OF SURPLUS ASSETS

25. If upon the winding-up or dissolution of this organisation, there remains after the satisfaction of all its debts and liabilities, any property, the property shall not be paid to or distributed among its members, but shall be given or transferred to some other organisation or organisations having objects similar to the objects of this organisation, and whose rules shall prohibit the distribution of its or their income among its or their members, such organisation or organisations to be eligible for tax deductibility of donations under Subdivision 30-B, section 30-100 of the *Income Tax Assessment Act 1997* and listed on the Register of Cultural Organisations maintained under the Act.