

# Constitution

Sunburnt Events Ltd

ACN: 673 113 392

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## **1. Name**

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The name of the Company is Sunburnt Events Ltd (the **Company**).

## **2. Purpose and Powers**

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- 2.1 The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a Charity.
- 2.2 The Purpose for which the Company is established is to advance culture, including by holding cultural events for the benefit of the community.
- 2.3 In order to achieve the Purpose the Company will, among other matters:
  - 2.3.1 enlist volunteers to run the regional Burning Man event;
  - 2.3.2 communicate and promote the regional Burning Man event as a gathering of participants, collaborating under the Ten Principles of the Burning Man Project (Appendix 1);
  - 2.3.3 conduct all activities in an environmentally sustainable manner;
  - 2.3.4 develop volunteer programs which provide workshops and training to the volunteers who will run the regional Burning Man event to ensure they are appropriately prepared for their role;
  - 2.3.5 operate to a high standard, all production matters for the regional Burning Man event, including but not limited to:
    - 2.3.5.1 site related contracts;
    - 2.3.5.2 event insurance, public liability insurance and cancellation insurance;
    - 2.3.5.3 safety upon entry;
    - 2.3.5.4 art installations; and
    - 2.3.5.5 communications about, and promotion of, the regional Burning Man event and the conduct of volunteers; and
  - 2.3.6 maintain, manage and nurture ongoing relationships with site-specific stakeholders, including but not limited to: traditional owners or custodians of the land; relevant Aboriginal Land Councils; law enforcement; forestry services; local councils; fire services; NSW Health; ambulance; and local community members.
- 2.4 Solely to carry out the Purpose, the Company may exercise all of the powers of an individual and a company under the Act

## **3. Not-For-Profit**

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- 3.1 The income and property of the Company must be applied solely towards the Purpose.
- 3.2 No part of the income or property of the Company may be paid or transferred directly or indirectly to the Member or Councillors by way of dividend, bonus or other profit distribution in their capacity as Member or Councillors.
- 3.3 Clause 3.2 does not stop the Company from making a payment:
  - 3.3.1 to the Member for goods or services provided or expenses properly incurred at fair and reasonable rates or rates more favourable to the Company;
  - 3.3.2 to the Member in carrying out the Company's Purpose;
  - 3.3.3 of premiums for insurance indemnifying Councillors to the extent allowed for by law and this Constitution; or
  - 3.3.4 with the prior approval of the Town Council, to a Councillor as reimbursement for out-of-pocket expenses properly incurred in performing a duty as Councillor.

## **4. Membership**

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### **4.1 General**

4.1.1 Sunburnt Arts Ltd is the sole Member of the Company.

4.1.2 The rights of the Member are not transferable.

### **4.2 Cessation of membership**

4.2.1 Sunburnt Arts Ltd will cease to be the Member on:

4.2.1.1 resignation; or

4.2.1.2 being dissolved or otherwise ceasing to exist.

4.2.2 If Sunburn Arts ceases to be the sole Member pursuant to clause 4.2.1, the Town Council may admit a new Member.

4.2.3 The Member may not be suspended or expelled while it is the sole Member.

## **5. Meetings and resolutions of the Member**

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### **5.1 Annual reporting to the Member**

5.1.1 The Company may, but is not required to hold any general meeting while it has a sole Member.

5.1.2 The Town Council must report to the Member annually in relation to the following matters:

5.1.2.1 provision of the annual financial statements, Town Council's report and any auditor's report;

5.1.2.2 anticipated Town Council vacancies and any proposed Councillor appointments;

5.1.2.3 the appointment of any auditor;

5.1.2.4 fixing of the auditor's remuneration; and

5.1.2.5 any questions for determination by the Member.

(the **Annual Report**).

### **5.2 Notice of the Annual Report**

Notice of the Annual Report and any questions for determination by the Member must be given:

5.2.1 to the Member's Representative; and

5.2.2 to every Councillor and any auditor for the time being of the Company.

### **5.3 Resolutions of the Member**

The Representative for the Member may pass a resolution in relation to any question for determination by the Member by signing a minute of the resolution.

### **5.4 Meetings with the Member**

5.4.1 Either:

5.4.1.1 a Councillor;

5.4.1.2 the Member's Representative; or

5.4.1.3 any auditor appointed by the Company;

may ask the Secretary to convene a meeting between any of the Member, the Town Council and any auditor appointed by the Company, to discuss matters including the Annual Report and any questions for determination by the Member.

5.4.2 The Secretary must convene a meeting as soon as practicable and within 30 days after any request is made pursuant to clause 5.4.1.

## 5.5 **Representative**

- 5.5.1 The Member must appoint an individual as its Representative. The appointment may be a standing one.
- 5.5.2 A Representative may exercise any and all powers of the Member subject to the direction of the board of the Member. The appointment may be made by reference to a position held.
- 5.5.3 The Member may appoint more than one Representative but only one Representative may exercise the Member's powers at any one time.

## 5.6 **Liability of Member**

The Member's liability is limited to the Guaranteed Amount of \$2.

# 6. **Appointment and Removal of Councillors**

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## 6.1 **Number and composition of Councillors**

- 6.1.1 At all times, the Company must have at least three Councillors.
- 6.1.2 The Town Council will comprise up to seven Councillors, including:
  - 6.1.2.1 up to five Councillors with voting rights; and
  - 6.1.2.2 up to two Councillors without voting rights.
- 6.1.3 The Town Council may, at its sole discretion, reserve the position of one Councillor without voting rights for a person who identifies as an Aboriginal or Torres Strait Islander.
- 6.1.4 Councillors without voting rights are not officers for the purpose of the Act or Responsible Persons for the purpose of the ACNC Legislation, unless the Councillor is also an Office Bearer.

## 6.2 **Eligibility**

- 6.2.1 Any natural person committed to the Purpose is eligible to be a Councillor provided the person:
  - 6.2.1.1 has consented in writing to be a Councillor;
  - 6.2.1.2 has suitable qualifications, skills and experience to discharge the functions of a Councillor, as determined by the Town Council from time to time;
  - 6.2.1.3 for a Councillor with Voting rights, is a Director; and
  - 6.2.1.4 is not ineligible to be a Councillor under:
    - 6.2.1.4.1 the Act; or
    - 6.2.1.4.2 the ACNC Legislation.
- 6.2.2 Clause 6.2.1.4.2 will not apply to disqualify a person if an exemption is obtained from the ACNC Commissioner.

## 6.3 **Appointment of Councillors**

- 6.3.1 The membership of the Member may elect a person to be a Councillor by resolution.
- 6.3.2 If there are less than three Councillors or if there are insufficient nominations for the Town Council, the Member may appoint Councillors so that there are three Councillors.
- 6.3.3 The Member may appoint a person to fill a casual vacancy.

## 6.4 **Term of office**

The term of office of a Councillor appointed by the Member or the Town Council:

- 6.4.1 is three years (unless a different period is specified in the resolution);
- 6.4.2 commences on the date of appointment; and

- 6.4.3 expires at the end of the period specified in the resolution or if there is no period specified then at the conclusion of the third year following their appointment.

## 6.5 **Ceasing to be a Councillor**

A person stops being a Councillor, and a casual vacancy is created, if they:

- 6.5.1 resign by written notice to the Company;
- 6.5.2 are removed by the Member or in accordance with the Act;
- 6.5.3 are removed in accordance with clause 6.6;
- 6.5.4 are absent without leave of the Town Council, from:
  - 6.5.4.1 three consecutive Town Council meetings; or
  - 6.5.4.2 four Town Council meetings over 12 months (or as determined by the Town Council);
- 6.5.5 die, or become subject to a Court order to receive treatment or have their finances managed by another person due to being of unsound mind or having a mental illness;
- 6.5.6 are directly or indirectly interested in any contract or proposed contract with the Company and fail to declare the nature of the interest as required by the Act; or
- 6.5.7 become ineligible to be a Councillor under the Act or the ACNC Legislation.

## 6.6 **Discipline of a Director:**

- 6.6.1 The Town Council may take disciplinary action against a Councillor if it believes there are sufficient grounds to do so, including a breach of the Company's Code of Conduct.
- 6.6.2 The Town Council may only resolve to take disciplinary action against a Councillor in a Town Council meeting.
- 6.6.3 If the Town Council intends to consider a resolution to discipline a Councillor, it must notify the Councillor (in writing) who is the subject of the proposed resolution 7 days prior to the relevant board meeting:
  - 6.6.3.1 of the date, place and time of the meeting where the resolution will be considered;
  - 6.6.3.2 of the intended resolution and the grounds on which it is based; and
  - 6.6.3.3 that they may attend the meeting and give an oral or written explanation or submission before the resolution is voted on.
- 6.6.4 After considering any oral or written explanation or submission, the Town Council may resolve to:
  - 6.6.4.1 take no further action;
  - 6.6.4.2 formally warn the Councillor;
  - 6.6.4.3 issue a formal motion of censure; or
  - 6.6.4.4 refer the matter to an unbiased independent decision maker who will determine whether a serious breach of the Code of Conduct

## 6.7 **Leave of absence**

- 6.7.1 Councillors are entitled to request a leave of absence from Town Council meetings for a maximum period of two months, subject to approval by the Town Council.
- 6.7.2 Leave of absence requests must be made in writing to the Town Council and cannot be granted retrospectively, unless there are extenuating circumstances (as agreed by the Town Council from time to time) which give rise to a retrospective approval.
- 6.7.3 The Town Council will consider any request for a leave of absence at its next scheduled meeting (unless there are extenuating circumstances (as agreed by the Town Council from time to time)).
- 6.7.4 A Councillor on an approved leave of absence:

- 6.7.4.1 is not counted for the purpose of forming a quorum in accordance with clause 8.3.2 or passing resolutions without meetings in accordance with clause 8.7;
- 6.7.4.2 will be recorded in Town Council meeting minutes as a Councillor on an approved leave of absence;
- 6.7.4.3 will not receive minutes of Town Council meetings or general meetings but will have access to previous minutes when they return to the Town Council; and
- 6.7.4.4 will be recorded as being on an approved leave of absence in the Company's Annual Report.

## **6.8 Insufficient Councillors**

If the number of Councillors is less than three, the remaining Councillors may, except in an emergency, act only to request that the Member appoints a Councillor (or Councillors) or to appoint a Councillor pursuant to clause 6.3.2.

## **6.9 Defects in appointment of Councillors**

An act done by, or with the participation of, a person acting as a Councillor or member of a committee is valid even if it is later discovered that:

- 6.9.1 there was a defect in the appointment of the person; or
- 6.9.2 the person was disqualified from continuing in office, voting or taking the relevant step.

## **7. Dispute Resolution**

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### **7.1 The Company's Code of Conduct will determine the procedure to be followed to determine any dispute arising between:**

- 7.1.1 a Member and another Member;
- 7.1.2 a Member and the Board; and
- 7.1.3 a Member and the Company.

### **7.2 The Board will be subject to the following:**

- 7.2.1 a Member may appoint any Person to act on behalf of the Member in the dispute resolution procedure;
- 7.2.2 each party to the dispute has been given an opportunity to be heard on the matter which is the subject of the dispute; and
- 7.2.3 the outcome of the dispute must not be determined by a biased decision-maker.

## **8. Town Council Decision Making**

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### **8.1 Convening Town Council meetings**

A Councillor may convene or ask the Secretary to convene a Town Council meeting in accordance with this clause 7.

### **8.2 Notice of Town Council meetings**

- 8.2.1 Written notice of Town Council meetings must be given to every Councillor at least 48 hours prior to the meeting (unless the Town Council unanimously waives this requirement).
- 8.2.2 A notice of a Town Council meeting:
  - 8.2.2.1 must specify the place, day and time of the meeting;
  - 8.2.2.2 must if technology is to be used, provide sufficient information to allow the Councillors to participate by means of the technology; and
  - 8.2.2.3 does not need to specify the nature of the business to be transacted at the meeting.



### **8.3 Quorum for Town Council meetings**

- 8.3.1 No business may be transacted at any Town Council meeting unless a quorum is present.
- 8.3.2 A quorum of Councillors for Town Council meetings is a majority of the total number of Councillors.

### **8.4 Use of technology in Town Council meetings**

- 8.4.1 The Town Council may hold its meetings using any technology that is agreed to by the Town Council.
- 8.4.2 The use of any technology must give the Councillor a reasonable opportunity to participate including a reasonable opportunity to exercise a right to speak.
- 8.4.3 The Town Council's agreement may be a standing one.
- 8.4.4 A Councillor who attends by technology is deemed to be present in person at the meeting.

### **8.5 Chairperson of Town Council meetings**

At the start of each Town Council meeting, the Town Council will appoint a Councillor to preside as chairperson for the meeting in accordance with its chairperson rotation policy.

### **8.6 Voting at Town Council meetings**

- 8.6.1 A question arising at a Town Council meeting is to be decided by a majority of votes of Councillors present and entitled to vote.
- 8.6.2 The chairperson has a deliberative vote. If the votes cast on a motion are equal the motion will be lost.

### **8.7 Resolutions without meetings**

- 8.7.1 A Town Council resolution may be passed without a meeting if all of the Councillors entitled to vote on the resolution sign a notice stating that they are in favour of the resolution.
- 8.7.2 The resolution is passed at the time when the last Councillor necessary to constitute unanimous consent in favour of the resolution signs.
- 8.7.3 For the purpose of this clause:
  - 8.7.3.1 the notice must include the wording of the resolution;
  - 8.7.3.2 the notice may be distributed by any means;
  - 8.7.3.3 separate copies of the notice may be signed; and
  - 8.7.3.4 the resolution fails if it has not achieved unanimous consent within 72 hours after the notice was given.
- 8.7.4 Resolutions without meetings must be recorded in the minutes of the next Town Council meeting.

## **9. Councillors' Powers and Duties**

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### **9.1 Powers of the Town Council**

- 9.1.1 The Councillors are responsible for managing the business of the Company and furthering the Purpose.
- 9.1.2 The Councillors may exercise all the powers of the Company that are not, by the Act or by this Constitution, required to be exercised by the Member.
- 9.1.3 The Town Council cannot remove a Councillor or auditor.
- 9.1.4 The Town Council may delegate any of its powers to one or more Councillors, a committee, or any other person.
- 9.1.5 The Town Council may specify terms of the delegation (including the power to further delegate) and revoke a delegation.

## 9.2 **Duties of Councillors**

Councillors must comply with any duties imposed on them by the Act and with the duties described in governance standard 5 of the ACNC Legislation.

## 9.3 **Establishment of committees**

9.3.1 The Town Council has established a standing committee – the Finance Committee which is to be constituted in accordance with, and comply with, the Finance Committee Terms of Reference as amended by the Town Council from time to time.

9.3.2 The Town Council may establish other committees.

9.3.3 A committee may include, or be comprised of, non-Councillors.

9.3.4 The meetings and proceedings of committees are:

9.3.4.1 subject to any terms of reference and/or delegation; and

9.3.4.2 otherwise governed as far as possible by the provisions of this Constitution which regulate the proceedings of the Town Council.

## 9.4 **By-laws**

9.4.1 The Town Council may make regulations or by-laws for the general conduct and management of the Company and the business of the Town Council.

9.4.2 The Town Council may revoke and alter by-laws or regulations as it deems fit.

# 10. **Councillors' Interests**

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## 10.1 **Conflicts of interest**

10.1.1 A Councillor must disclose the nature and extent of any perceived or actual material conflict of interest to the other Councillors (or the Member if the other Councillors share that conflict).

10.1.2 A Councillor who has a material personal interest in a matter that is being considered by the Town Council:

10.1.2.1 must not be present while the matter is being considered at a Town Council meeting; or

10.1.2.2 vote on the matter;

unless permitted by clause 10.1.3.

10.1.3 Provided the Town Council approves and it is permitted by law, a Councillor may be present or vote if:

10.1.3.1 the interest relates to an insurance contract that insures, or would insure, the Councillor against liabilities that the Councillor incurs as an officer of the Company;

10.1.3.2 the interest relates to any payment by the Company under clause 12 in respect of an indemnity permitted under the Act or any contract relating to such an indemnity;

10.1.3.3 the Australian Securities and Investments Commission makes an order allowing the Councillor to vote on the matter;

10.1.3.4 the interest relates to a contract the Company is proposing to enter into that:

10.1.3.4.1 is subject to approval by the Member; and

10.1.3.4.2 will not impose any obligation on the Company if it is not approved by the Member;

10.1.3.5 the Councillors who do not have a material personal interest in the matter pass a resolution that:

10.1.3.5.1 identifies the Councillor, the nature and extent of the Councillor's interest in the matter and how it relates to the

affairs of the Company, and

10.1.3.5.2 states that those Councillors are satisfied that the interest should not stop the Councillor from voting or being present; or

10.1.3.6 the interest arises merely because the Councillor has a right of subrogation in relation to a guarantee or indemnity referred to in clause 10.1.3.5.

## **10.2 Permissible conduct**

10.2.1 Provided a Councillor complies with clause 10.1 they may:

10.2.1 hold any other position in the Company, except that of auditor;

10.2.2 hold any office or place of profit in any other entity promoted by the Company or in which it has an interest of any kind;

10.2.3 enter into a contract or arrangement with the Company;

10.2.4 act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;

10.2.5 sign or participate in the execution of a document by or on behalf of the Company; and

10.2.6 do any of the above despite the fiduciary relationship of the Councillor's office:

10.2.6.1 without any liability to account to the Company for any direct or indirect benefit accruing to the Councillor; and

10.2.6.2 without affecting the validity of any contract or arrangement.

## **11. Office Bearers**

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### **11.1 Appointment of Office Bearers**

11.1.1 From time to time as required, the Town Council must elect the following Office Bearers from among the Town Council for a term of office for a period of up to three years (as the Town Council deems fit):

11.1.1.1 a Chair; and

11.1.1.2 a Deputy Chair.

11.1.2 The Town Council may appoint other positions (if any) as determined by the Town Council.

11.1.3 Office Bearers of the Company hold office until the earlier of:

11.1.3.1 the end of the third year following their appointment; or

11.1.3.2 the end of their term as Councillor.

11.1.4 An Office Bearer may be elected for more than one successive term.

11.1.5 The Town Council may remove or suspend a person from holding any Office Bearer position by resolution passed at a Town Council meeting provided:

11.1.5.1 the resolution is passed by not less than two-thirds of the Councillors present; and

11.1.5.2 at least 21 days' notice in writing of the resolution has been given to the Secretary and to the person who is the subject of the resolution.

### **11.2 Secretary**

11.2.1 The Town Council must appoint at least one Secretary, who may also be a Councillor.

11.2.2 The Secretary is to be appointed on such terms and conditions as the Town Council deems fit.

11.2.3 A person may not be appointed as Secretary unless the person:

11.2.3.1 consents in writing to being appointed as Secretary;

11.2.3.2 is at least 18 years of age; and

11.2.3.3 is resident in Australia.

11.2.4 The Town Council may suspend or remove a Secretary.

### **11.3 Treasurer**

11.3.1 There must be at least one Treasurer, who may also be a Councillor.

11.3.2 The Treasurer is to be appointed on such terms and conditions as the Town Council deems fit.

11.3.3 The Treasurer must:

11.3.3.1 arrange for the collection and receipt of all monies due to the Company and arrange for all payments authorised by the Company to be made;

11.3.3.2 ensure that the financial records of the Company are kept in accordance with the requirements of the Act and the ACNC Legislation; and

11.3.3.3 coordinate the preparation of the financial statements of the Company and their certification by the Town Council prior to their inclusion in the Annual Report of the Company.

11.3.4 The Treasurer must ensure that at least one other Town Council member has access to the accounts and financial records of the Company.

## **12. Indemnities and Insurance**

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12.1 The Company indemnifies every present and past Councillor and executive officer of the Company to the full extent permitted by law against all losses and liabilities incurred as a result of their position as an officer of the Company.

12.2 This indemnity:

12.2.1 is a continuing obligation and is enforceable even if the person has ceased to be an officer of the company; and

12.2.2 is not subject to any requirement to first incur an expense or make a payment.

12.3 The Company may, to the extent permitted by law, pay or agree to pay, a premium in respect of a contract insuring its officers.

12.4 Nothing in this clause 12 limits the Company's ability to indemnify or pay for insurance for any person not expressly covered by this clause.

## **13. Administration**

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### **13.1 Minutes and records**

13.1.1 The Town Council must ensure that:

13.1.1.1 minutes of all meetings convened pursuant to clause 5.4, Town Council meetings and committee meetings; and

13.1.1.2 records of resolutions passed by the Member, Councillors and committees without a meeting;

are recorded and kept with the Company's records as soon as practicable (being no later than one month after the meeting or passing of the resolution).

13.1.2 The Company must ensure that minutes of a Town Council or meeting convened pursuant to clause 5.4 are signed within a reasonable time by the chairperson of the meeting or of the next meeting.

### **13.2 The Member's access to Company records**

The Company must give the Member access to Company records as required by the Act.

### **13.3 Common seal**

The Company does not have a common seal.

#### **13.4 Execution of documents**

The Company may execute documents by the signature of:

13.4.1 two Councillors;

13.4.2 one Councillor and the Secretary; or

13.4.3 such other persons appointed by the Town Council for that purpose.

### **14. Records, Accounting and Audit**

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#### **14.1 Accounts and other records of the Company**

14.1.1 The Town Council must:

14.1.1.1 ensure that proper financial records are kept in accordance with all legal and regulatory requirements;

14.1.1.2 ensure that records of its operations are kept; and

14.1.1.3 take reasonable steps to ensure that the Company's records are kept safe.

14.1.2 The Company must retain its records for at least seven years.

#### **14.2 Audit**

14.2.1 If required by law, the Company must appoint and remunerate an auditor.

14.2.2 Any auditor is entitled to attend any meeting with the Member convened pursuant to clause 5.4 and to be heard by the Member on any business of the meeting that concerns the auditor in their capacity as auditor.

14.2.3 The Company may give any auditor all communications provided to the Member;

14.2.3.1 under clause 5.1; and

14.2.3.2 in connection with any meeting convened pursuant to clause 5.4.

#### **14.3 Financial year**

The financial year will begin on 1 July and end on 30 June, unless the Town Council passes a resolution to change the financial year.

### **15. Amending this Constitution**

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15.1 The Company may only alter this Constitution by resolution of the Member in accordance with the Act.

15.2 The Member must not pass a resolution that amends this Constitution if passing it causes the Company to no longer be a Charity.

### **16. Notices**

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16.1 The Company may give notice (subject to any election or request made by a Member in accordance with the Act) and any communication personally, by post, email or other electronic means.

16.2 Notices can be served on the Member or Councillors personally, by post, email or other electronic means.

16.3 Notices are deemed to be received:

16.3.1 in the case of a properly addressed and posted notice, five Business Days after the date of posting; and

16.3.2 in the case of a notice sent by email or other electronic means, at the time of sending.

16.4 The non-receipt of notice or a failure to give notice, does not invalidate any thing done or resolution passed at the meeting if:

16.4.1 the non-receipt or failure occurred by accident or error;

16.4.2 the individual waives notice before or after the meeting (including by attending the

meeting); or

16.4.3 the individual notifies the Company of their agreement to that thing or resolution before or after the meeting.

16.4.4 In calculating a period of notice, both the days on which the notice is given or taken to be given and the day of the meeting must be included.

## 17. Winding up

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### 17.1 General

The Company may only be wound up in accordance with the Act.

### 17.2 Contribution of the Member on winding up

If required, the Member must contribute an amount (not more than the Guaranteed Amount) to the assets of the Company if it is wound up while they are the Member, or within one year of the Member ceasing to be the Member, for the:

17.2.1 payment of the debts and liabilities of the Company incurred before they ceased to be the Member; and/or

17.2.2 costs, charges and expenses of winding up.

17.2.3 If on the winding up of the Company or dissolution of the Company, there is a surplus of assets after satisfying all the Company's liabilities and expenses, the surplus:

17.2.3.1 must not be paid or distributed to a Member in their capacity as a Member; and

17.2.3.2 must be given or transferred to a Charity or Charities (the **recipient**) which:

17.2.3.2.1 has similar objects to those of the Company as described in this Constitution; and

17.2.3.2.2 prohibits the distribution of profit or gain to its Members in their capacity as Members.

17.2.4 The Member must decide before any winding up or dissolution which Charity or Charities will receive a distribution. If the Member fails to decide, the matter must be determined by application to the Supreme Court in the State of New South Wales.

## 18. Interpretation

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### 18.1 Definitions

In this Constitution:

“**ACNC**” means the Australian Charities and Not-for-profits Commission.

“**ACNC Legislation**” means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (Cth).

“**Act**” means the *Corporations Act 2001* (Cth).

“**Annual Report**” means a report provided once in every calendar year to the sole Member pursuant to clause 5.1.2.

“**auditor**” may mean a reviewer, if permitted by the Act or ACNC Legislation.

“**Burning Man Project**” is a registered Non-profit California Public Benefit Corporation exempt from federal income tax under section 501(c)(3) of Title 26 of the United States of America Code.

“**chairperson**” means the person chairing a meeting.

“**Chair**” means the person appointed to the position of Chair under clause 11.

“**Charity**” means a charity registered under the ACNC Legislation.

“**Code of Conduct**” means the Company's Code of Conduct as amended by the Town Council from Time to Time.

**“day”** means calendar day.

**“Finance Committee”** means the committee referred to in clause 9.3.

**“Guaranteed Amount”** means the amount set out in clause 5.6.

**“Member”** means the sole Member set out in clause 4.1.1.

**“Office Bearer”** means the Chair, Deputy Chair, Secretary and Treasurer.

**“person”** includes a natural person and a corporation within the meaning of s 57A of the Act.

**“Purpose”** means the purpose set out in clause 2.

**“Representative”** means a person appointed to represent a corporate Member in accordance with clause 5.5.

**“Town Council”** means the group of individuals that are responsible for the governance, strategy and management of the Company and is the “Town Council” for the purposes of the Act.

## 18.2 Interpretation

In this Constitution:

18.2.1 If an expression in the Constitution has a meaning in the Act, the meaning from the Act will apply to the expression - except where a contrary intention appears in this Constitution.

18.2.2 A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

## 18.3 Exclusion of replaceable rules

18.3.1 The replaceable rules contained in the Act do not apply to the Company.

18.3.2 If at any time, the company is not a Charity, the Act (unless it is a replaceable rule) overrides any part of this Constitution or policy of the Company to the extent of any inconsistency.

## 19. Transitional Provisions

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The following clauses apply notwithstanding anything to the contrary in this Constitution.

### 19.1 Member

The first Member is Sunburnt Arts Ltd.

### 19.2 Councillors

The first Councillors are those named as Directors in the application for the Company's registration under the Act

## Appendix 1. Ten Principles of Burning Man

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**Radical Inclusion** Anyone may be a part of Burning Man. We welcome and respect the stranger. No prerequisites exist for participation in our community.

**Gifting** Burning Man is devoted to acts of gift giving. The value of a gift is unconditional. Gifting does not contemplate a return or an exchange for something of equal value.

**Decommodification** In order to preserve the spirit of gifting, our community seeks to create social environments that are unmediated by commercial sponsorships, transactions, or advertising. We stand ready to protect our culture from such exploitation. We resist the substitution of consumption for participatory experience.

**Radical Self Reliance** Burning Man encourages the individual to discover, exercise and rely on his or her inner resources.

**Radical Self Expresssion** Radical self-expression arises from the unique gifts of the individual. No one other than the individual or a collaborating group can determine its content. It is offered as a gift to others. In this spirit, the giver should respect the rights and liberties of the recipient.

**Communal Effort** Our community values creative cooperation and collaboration. We strive to produce, promote and protect social networks, public spaces, works of art, and methods of communication that support such interaction.

**Civic Responsibility** We value civil society. Community members who organize events should assume responsibility for public welfare and endeavor to communicate civic responsibilities to participants. They must also assume responsibility for conducting events in accordance with local, state and federal laws.

**Leave No Trace** Our community respects the environment. We are committed to leaving no physical trace of our activities wherever we gather. We clean up after ourselves and endeavor, whenever possible, to leave such places in a better state than when we found them.

**Participation** Our community is committed to a radically participatory ethic. We believe that transformative change, whether in the individual or in society, can occur only through the medium of deeply personal participation. We achieve being through doing. Everyone is invited to work. Everyone is invited to play. We make the world real through actions that open the heart.

**Immediacy** Immediate experience is, in many ways, the most important touchstone of value in our culture. We seek to overcome barriers that stand between us and a recognition of our inner selves, the reality of those around us, participation in society, and contact with a natural world exceeding human powers. No idea can substitute for this experience.