

# ARTS AND CULTURAL EXCHANGE INC CONSTITUTION

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## **Contents:**

1. Name
2. Mission
3. Objects
4. Membership
5. Member's Liability
6. Discipline of Members
7. Disputes Between Members
8. Governance – By Board of Management
9. Sub-Committees
10. Executive Meetings
11. General Meeting
12. Office Bearers
13. Special Resolutions
14. Public Officer
15. Funds
16. Public Fund
17. Miscellaneous
18. Winding up of Association
19. Appendix

## **1. NAME**

The name of the Association shall be **Arts and Cultural Exchange Incorporated** (referred to in these rules as “The Association”).

## **2. MISSION**

- 2.1 The Association undertakes arts, community cultural development and innovative information practices to enhance participation, self-expression, economic independence and opportunity for socially excluded communities in Western Sydney.
- 2.2 The Association works collaboratively in Western Sydney to improve sustainable arts and information infrastructures and facilitate community development. The Association does this by supporting artists, groups and organisations to access and use their chosen artforms, with a focus on digital arts, multimedia and IT.
- 2.3 The Association aims to provide leadership in the intersection between arts and information technology, and seeks to promote development opportunities and recognition of the cultural contribution and innovative capacity of the Western Sydney region.

## **3. OBJECTS**

- 3.1 The Association focuses its activities and works in the Western Sydney region to:
  - 3.1.1 support and resource emerging, developing and established artists and artworkers, particularly those without access to the means for pursuing their artforms;
  - 3.1.2 resource and promote marginal, culturally-specific and new art forms, particularly those practiced by socially excluded communities and those which contribute to the evolution and growth of innovative practices in digital arts and multimedia;
  - 3.1.3 bridge the ‘digital divide’ through the provision and promotion of access to multimedia, digital arts and information technologies among ‘information poor’ communities and other community organisations working in this field;
  - 3.1.4 organise and support initiatives for excluded communities in the arts and community cultural/information development programs and projects, particularly those involving people from socially excluded communities, particularly those from Indigenous, non-English speaking, migrant and refugee backgrounds, young people, women and people with disabilities;
  - 3.1.5 undertake research, policy development and advocacy;
  - 3.1.6 work with business, industry, governments, agencies and community organisations to develop and promote the arts, community cultural development and infrastructure enhancement in Western Sydney;
  - 3.1.7 promote and develop sustainable infrastructures in the arts, community cultural development, digital arts and information development in cultural industries;

- 3.1.8 encourage viable employment and professional development opportunities for artists and artworkers in Western Sydney, including in marketing, audience development, distribution and promotion;
- 3.1.9 promote the development of audiences for a diversity of arts, cultural and information practices in the Western Sydney region;
- 3.1.10 develop expertise and leadership in relation to the intersection between arts, information, technology and community development;
- 3.1.11 provide opportunities for socially excluded communities to utilise the arts, community cultural development and information practices to enhance self-expression, self-esteem, identity and economic independence, with a focus on practices that empower them to exercise control over their own projects, activities, artwork and cultural production;
- 3.1.12 to promote the use of arts, community cultural development and information development practices that enhance positive community understandings of diversity;
- 3.1.13 promote Western Sydney arts, artists and community cultural development practice within and beyond the region, including internationally;
- 3.1.14 involve artists, artworkers and communities in the organisation and its activities.

#### **4. MEMBERSHIP**

- 4.1 Membership is open to all individuals over the age of 14 years and nine months and to all non-government organisations who can demonstrate a commitment to the objects and rules of the Association.
- 4.2 Members can either be:
  - (a) Individuals: any person who has paid the appropriate membership fees, agreed to the constitution and governing rules of the Association and whose application or appointment has been approved by the Board of Management; or
  - (b) Non-Government Organisations: who shall nominate a representative or delegate, and has paid the appropriate membership fees, agreed to the constitution and governing rules of the Association, and whose appointment has been approved by the Board of Management; or
  - (c) Nominated: any person who has been nominated by another member to be an honorary member of the Association in that financial year and has had the annual fee for that year waived by the Board of Management.
- 4.3 Individuals and organisations wishing to become members of the Association shall apply to the Board of Management in writing in the form set out in Appendix One (1) to these rules.
- 4.4 In order for applications to be accepted, they must first be approved by the Board of Management.

- 4.5 The Board of Management shall determine whether or not to accept an application for membership.
- 4.6 Members shall pay such fees as are determined by the Association at a general meeting.
- 4.7 A register of members shall be kept by the Association showing the name, address and date of commencement of membership for each member. Provision for noting the date of cessation of membership shall also be contained in the register.
- 4.8 Membership shall cease upon:
- (a) death,
  - (b) resignation, (which must be delivered in writing after all fees and dues have been paid).
  - (c) expulsion or failure to pay outstanding membership fees within three months of the due date. (The latter can be waived by the Board of Management where it sees fit).
  - (d) The decision of Board of Management that a member's membership should be revoked.
- 4.9 Membership fees shall fall due on the first day of each financial year of the Association. The financial year of the Association shall run from January 1<sup>st</sup> to December 31<sup>st</sup> or such other period as is determined by the Board of Management.
- 4.10 Rights and privileges held by a member of the Association may not be transferred or transmitted to another person in the Association, and terminate upon cessation of the person's membership.

## **5. MEMBERS' LIABILITY**

- 5.1 The members of the Association shall have no liability to contribute towards the payment of debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association except to the amount of unpaid membership fees.

## **6. DISCIPLINE OF MEMBERS**

- 6.1 A complaint may be made to the Board of Management by any person that a member of the Association has:
- (a) persistently refused or neglected to comply with a provision or provisions of the rules or policies; or
  - (b) persistently and wilfully acted in a manner prejudicial to the interests of the Association
- 6.2 On receiving such a complaint the Board of Management:
- (a) Must advise the member in writing of the complaint, and

- (b) Must give the member at least 14 days in which to make submissions to the Board of Management in connection with the complaint, and
  - (c) Must take into consideration any submissions made by the member in connection with the complaint.
- 6.3 The Board of Management may expel the member from the Association or suspend the member from Membership of the Association if, after considering the complaint and any submissions made by the member in connection with the complaint it is satisfied that the facts alleged in the complaint have been proved.
- 6.4 If the Board of Management expels or suspends a member, the Secretary must, within seven (7) days after the decision is taken, advise the member in writing of the decision and of their right of appeal under the rules.
- 6.5 A member who wishes to appeal against a decision expelling or suspending them may do so by notifying the Secretary in writing within fourteen (14) days of the decision being taken.
- 6.6 Upon receiving such a notice of appeal by a member the Secretary shall within twenty-eight (28) days of receiving the notice of appeal call a Special General Meeting of the Association at which meeting the sole item of business shall be consideration of the appeal.
- 6.7 A representative from the Board of Management and the member (or their nominated delegate in the case of an organisational member) who lodged the appeal shall both have a right to address the special general meeting.
- 6.8 A secret ballot shall be held at such a Special General Meeting to confirm or revoke the decision to expel or suspend a member.

## **7. DISPUTES BETWEEN MEMBERS**

- 7.1 In the event of a dispute arising between members (in their capacity as members), or between a member of the Association, or a member and the Board of Management the following procedure shall apply:
- (a) Each party to the dispute shall nominate a representative who is not directly involved in the dispute to attempt to resolve the dispute by negotiation.
  - (b) Should the nominated representatives be unable to resolve the dispute within fourteen (14) days (or such other period less than twenty eight (28) days as they may agree upon) the dispute shall be referred to the Sydney - City Community Justice Centre for mediation in accordance with the Community Justice Centre Act 1983.
  - (c) Each party shall bear their own costs for mediation under this rule.

## **8. GOVERNANCE – BY BOARD OF MANAGEMENT**

- 8.1 The Association shall have its affairs managed by a Board of Management.
- 8.2 The Board of Management shall:
- (a) Control and manage the affairs of the Association, and
  - (b) Exercise all such functions as may be exercised by the Association, other than those functions that are required by these rules to be exercised by a General Meeting of members of the Association; and
  - (c) Perform all such duties as appear to the Board of Management to be necessary or desirable for the proper management of the affairs of the Association.
  - (d) There shall be up to ten (10) Board of Management members, all being Individual members, elected at Annual General Meetings.
  - (e) Nominations for election as Board of Management members are to be made at least one (1) week in prior to the Annual General Meeting and must be seconded by a member. If insufficient nominations are received nominations may be accepted at the Annual General Meeting.
  - (f) Any casual vacancies occurring in the Board of Management may be filled by a vote of the Board of Management. All Individual members, including members who are at the time ineligible to stand for election to the Board of Management for a third consecutive Term shall be eligible for appointment to fill a casual vacancy. Casual vacancy appointments shall continue until the next Annual General Meeting.
- 8.3 The office bearers shall consist of a Chairperson, Vice Chairperson, Secretary, Treasurer and Assistant Treasurer. Office bearers shall be elected at the first meeting of the Board of Management following the Annual General Meeting. The office bearers shall form the Executive of the Association.
- 8.4 Each member of the Board of Management shall hold office from the date of their election at an Annual General Meeting until the third consecutive Annual General Meeting ('Term').
- 8.5 Retiring Board of Management members are eligible for re-election other than for a third or more consecutive Term.
- 8.6 The Board of Management shall meet as often as necessary to conduct the business of the Association and generally not less than once every three (3) months.
- 8.7 The quorum for meetings of the Board of Management shall be one half plus one (1) the number of Board of Management members. If within half an hour of the appointed time for a meeting a quorum is not present, the meeting shall be adjourned until the same day and time in the following week.
- 8.8 Members of the Board of Management shall be given at least seven (7) days notice of ordinary Board of Management meetings and at least twenty-four (24) hours notice of emergency Board of Management meetings, such notice to be given at the previous meeting or by mail or telephone.

- 8.9 A member of the Board of Management shall not be appointed to any salaried office of the Association or any office paid by fees, and no remuneration or other benefit in money or money's work shall be given by the Association to any member of the Board of Management except as:-
- (a) Repayment of out-of-pocket expenses;
  - (b) Interest at a rate not exceeding interest at the rate for the time being which is or would be charged by the Association's bankers for money lent to the Association; and
  - (c) Reasonable and proper rent for premises let to The Association.
- 8.10 A member of The Association shall cease to hold office:
- (a) Upon resignation in writing;
  - (b) Upon removal as a member of The Association;
  - (c) Upon Absence from three (3) successive Board of Management meetings without approval by the Board of Management, or provision of apologies;
  - (d) If the member holds an office of profit in The Association;
  - (e) If the member is directly or indirectly interested in any contract or proposed contract with The Association.
- 8.11 The Board of Management may function validly provided its number is not reduced below the quorum. Should Board of Management numbers fall below the quorum, the remaining Board of Management members may act only to appoint new Board of Management members.
- 8.12 Questions arising at any meeting of the Board of Management shall be decided by the majority of votes of those present. In case of an equality of votes the person appointed to chair the meeting shall have a second or casting vote.
- 8.13 Board of Management members are required to declare a conflict of interest or possible conflict of interest that exists with regard to any matter that is the subject of discussion by the Board of Management and to leave the meeting during the period of discussion of that matter, should it be requested by the majority of members present.
- 8.14 (1) A committee meeting (including Board of Management, executive and sub-committee meetings) may be held at 2 or more venues using any technology approved by the committee (the Board of Management, executive or sub-committee as the case may be) that gives each of the committee's members (or members of the Board of Management, executive or sub-committee as the case may be) a reasonable opportunity to participate.

- (2) A committee member (or member of the Board of Management, executive or sub-committee as the case may be) who participates in a committee meeting (or Board of Management, executive and sub-committee meeting as the case may be) using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **9. SUB-COMMITTEES**

- 9.1 The Board of Management may form sub-committees for such purposes as required.
- 9.2 Each sub-committee shall include at least one Board of Management member and other persons as the Board of Management nominates, and / or by another process of nomination approved by the Board of Management.
- 9.3 Sub-committees may only make recommendations to the Board of Management.
- 9.4 The level of responsibility, and decision-making capacity of sub-committees is determined by Board of Management.

## **10. EXECUTIVE COMMITTEES**

- 10.1 The Executive shall meet as required between Board of Management meetings to conduct urgent business prior to the next scheduled Board of Management meeting.
- 10.2 Executive members will be given at least twenty-four (24) hours notice by telephone of an Executive meeting.
- 10.3 Minutes of Executive meetings shall be tabled at the Board of Management.
- 10.4 The quorum for an Executive meeting shall be half plus one (1) the number of the Executive Committee.

## **11. GENERAL MEETINGS**

- 11.1 An Annual General Meeting of The Association shall be held each year within six (6) months from the end of the financial year of The Association (except for the first Annual General Meeting, which shall be held within two months from the end of the first financial year and within 18 months of incorporation). Notwithstanding any other rules, the Annual General Meeting shall be held within such period as is required by the Regulations under the Charitable Collections Act.
- 11.2 The Board of Management may, whenever it thinks fit, convene a special general meeting of the Association. A special general meeting must be convened by the Board of Management within two months of receiving a written request to do so from at least five members of the Association.
- 11.3 At least fourteen (14) days notice of all general meetings shall be given to members. In the case of general meetings where a special resolution is to be proposed, notice of the meeting shall be given to members at least 21 days prior to the meeting. Notice may be given at the previous general meeting, by mail, or telephone.

11.4 In the case of the Annual General Meeting the following business shall be transacted;

- (a) Confirmation of the minutes of the last Annual General Meeting and any recent special general meeting;
- (b) Receipt of the Board of Management's report upon the activities of The Association in the last financial year;
- (c) Election of members of the Board of Management;
- (d) Receipt and consideration of a statement from the Board of Management which is not misleading and gives a true and fair view for the last financial year of The Association's:
  - (i) Income and expenditure
  - (ii) Assets and liabilities
  - (iii) Mortgages, charges and other securities
  - (iv) Trust properties

11.5 The quorum for a general meeting shall be eight (8) members present in person. If within half an hour of the appointed time for a meeting a quorum is not present the meeting shall be adjourned until the same day and time in the following week.

11.6 Voting at general meetings shall be by a show of hands, unless a secret ballot is demanded by five members present. Decisions shall be made by a simple majority vote except for those matters, which must be decided by special resolution where a three-quarter majority is required.

11.7 All votes shall be given personally and there shall be no voting by proxy.

11.8 In the case of an equality of votes, the person appointed to Chair the meeting shall have a second or casting vote.

11.9 Candidates for election as office bearers or other Board of Management members must be members of the Association. Nominations for such positions may be made at the Annual General Meeting or in such other ways as may be determined by the Association at a general meeting.

11.10 Members of the Association who have items of business they wish considered at a General Meeting shall give written notice of such business to the Secretary at least seven (7) days prior to the General Meeting.

## **12. OFFICE BEARERS**

12.1 The Chairperson or, in the Chairperson's absence, the Vice Chairperson, shall act as Chairperson at each general meeting and Board of Management meeting of The Association.

12.2 If the Chairperson and Vice Chairperson are absent from a meeting or unwilling to act, the members present at the meeting shall elect one of their number to act as Chairperson.

- 12.3 The Secretary shall ensure that the records of the business of the Association including the rules, register of members, minutes of all general and Board of Management meetings and a file of correspondence are kept. These records shall be available for inspection by any member and shall be kept by the Association.
- 12.4 The Treasurer shall ensure that all money received by the Association is paid into an account in the Association's name. Major or usual expenditures shall be authorised in advance by the Board of Management or a general meeting.
- 12.5 The Treasurer shall ensure that correct books and accounts are kept showing the financial affairs of the Association including full details of all receipts and expenditure connected with the activities of the Association and that these are made available to the Association's auditors in line with the requirements of the Annual General Meetings and funding bodies.
- 12.6 The Assistant Treasurer shall provide assistance to the Treasurer in ensuring that correct books and accounts are kept showing the financial affairs of the Association including full details of all receipts and expenditure connected with the activities of the Association and that these are made available to the Association's auditors in line with the requirements of the Annual General Meetings and funding bodies. Additionally, the Assistant Treasurer shall act in the position of Treasurer in instances where the Treasurer is on leave or temporarily unable to serve in the position.

### **13. SPECIAL RESOLUTIONS**

- 13.1 A special resolution must be passed by a general meeting of The Association to effect the following changes:
- (a) A change in the Association name;
  - (b) A change of the Association rules;
  - (c) A change of the Association objects;
  - (d) An amalgamation with another incorporated association;
  - (e) To voluntarily wind up the Association and distribute its property;
  - (f) To apply for registration as a company or cooperative;
- 13.2 A special resolution shall be passed in the following manner:
- (a) A notice must be sent to all members advising that a general meeting is to be held to consider a special resolution;
  - (b) The notice must give details of the proposed special resolution and give at least 21 days' notice of the meeting;
  - (c) a quorum must be present at the meeting;
  - (d) at least three-quarters of those present must vote in favour of the resolution;
  - (e) in situations where it is not possible or practicable for a resolution to be passed as described above, a request may be made to the Minister of the Crown for the time being administering the Associations Incorporation Act 2009 (NSW) or their nominated delegate for permission to pass the resolution in some other way.
- 13.3 Where the statement of objects or these rules are amended such amendment shall be of no effect unless the Minister of the Crown for the time being administering the Associations Incorporation Act, 2009 (NSWS), or their nominated delegate has been notified of the amendment and has signified his approval to such amendment being made.

## **14. PUBLIC OFFICER**

- 14.1 The Board of Management shall ensure that a person is appointed as Public Officer.
- 14.2 The first Public Officer shall be the person who completed the application for incorporation of The Association.
- 14.3 The Board of Management may at any time remove the Public officer and appoint a new Public Officer provided the person appointed is 18 years of age or older and a resident of New South Wales.
- 14.4 The Public officer shall be deemed to have vacated their position in the following circumstances:
- (a) Death
  - (b) Resignation
  - (c) Removal by the Board of Management or at a general meeting
  - (d) Bankruptcy of financial insolvency
  - (e) Residency outside New South Wales
- 14.5 When a vacancy occurs in the position of Public Officer, the Board of Management shall within 14 days notify the Corporate Affairs Commission by the prescribed form and appoint a new Public Officer.
- 14.6 The Public Officer is required to notify Consumer Affairs by the prescribed form in the following manner:
- (a) Appointment (within 14 days)
  - (b) A change of residential address (within 14 days)
  - (c) A change in the Association's objects or rules (within one month)
  - (d) A change in the membership of the Board of Management (within 14 days)
  - (e) Of the Association's financial affairs (within one month after the Annual General Meeting)
  - (f) A change in the Association's name (within one month)

## **15. FUNDS**

- 15.1 The funds of the Association shall be derived from the fees of members, donations, grants and such other sources approved by the Association.
- 15.2 All accounts shall be presented to and passed for payment at a meeting of the Board of Management and full details of the approval shall be entered in the minute book.
- 15.3 Payments on behalf of the Association shall be made by cheque, electronic funds transfer or through a petty cash system.
- 15.4 Cheques and electronic funds transfers shall be signed or approved by two (2) signatories authorised by the Board of Management.

15.5 Major or unusual expenditure shall be authorised in advance by the Board of Management, or the Executive.

15.6 The Association shall appoint an auditor or auditors:

- (a) The auditor or auditors shall be elected at the Annual General Meeting. They shall examine all accounts, vouchers, receipts, books, etc and furnish a report thereon to the members at the Annual General Meeting. Audits shall be conducted at regular intervals of not more than twelve months.
- (b) An auditor shall not be a member or closely related to a member of the Board of Management.
- (c) Subject to paragraph (iv) hereof the Association must be given notification of the intention to nominate an auditor to replace the current auditor. Notification shall be given to the Secretary at least twenty one (21) days before the Annual General Meeting. The Secretary shall send a copy of the nomination to the current auditor at least seven (7) days before the Annual General Meeting. The current Auditor shall be entitled to attend the Annual General Meeting and if he or she so wishes, be heard at such Annual General Meeting.
- (d) Where the current Auditor submits his or her resignation, or has notified the Secretary of his or her intention not to seek re-election as Auditor, section (iii) hereof shall not apply.

## **16. PUBLIC FUND**

16.1 A Public Fund will be maintained as a means whereby the public can contribute financially to the Association. It will be managed and maintained in the following way:

- 16.1.1 The Public Fund will be managed by a sub-committee of the Board of Management of the Association, the majority on this sub-committee being 'responsible persons' as defined by the Australian Tax Office with regard to public funds.
- 16.1.2 This Public Fund sub-committee shall be elected by, and accountable to the Board of Management of the Association, and shall be operated according to the rules of sub- committees as outlined in section 9.
- 16.1.3 The Public Fund will be maintained by the public fund sub-committee, who will ensure that:
  - (a) Any money or gifts donated to the Public Fund will be used for the purposes of community cultural development and the promotion of community arts only.
  - (b) Any money or gifts donated to the Public Fund will be kept in a separate financial account.
  - (c) The public fund is managed according to the taxation rulings set by the Australian Taxation Office.

- (d) Money donated to the Public Fund is not distributed to any member of staff, the Board of Management, members, or managers of the fund, except for either:
  - (i) reimbursement for out-of-pocket expenses incurred on behalf of the fund, or
  - (ii) remuneration for administrative services.
- (e) All money and property donated to the Association and any interest accrued on these is kept in the Public Fund.
- (f) There is no other money or property kept in the public fund.
- (g) The public fund is maintained according to any Government rules agreed upon.
- (h) No donations are accepted on behalf of other organisations.
- (i) The account is audited by the auditor or auditor selected at the Annual General Meeting. All auditing will be conducted according to the conditions stipulated in Article 15.5 of this constitution.

16.2 The Public Fund sub-committee will adhere to the ongoing responsibilities and reporting requirements of registered cultural organisations regarding public funds.

16.3 Upon winding-up or dissolution of the Public Fund, all money and property will be transferred to an existing public fund that is maintained by a registered cultural organisation under the same or similar principles and adhering to the Government regulations concerning the management and dissolution of public funds so that no money or property may be distributed to members or staff of the organisation.

## 17. MISCELLANEOUS

- (a) The Association shall effect and maintain insurance as is required under The Association's Incorporation Act together with any other insurance, which may be required by law or regraded as necessary by The Association.
- (b) The Common Seal of The Association shall be kept in the custody of the Public Officer and shall only be affixed to a document with the approval of the Board of Management. The stamping of the Common Seal shall be witnessed either by the signatures of two members of the Board of Management or one (1) member of the Board of Management and the Public Officer or Secretary.
- (c) The Association may at any time pass a special resolution determining how any surplus property is to be distributed in the event that The Association should be wound up. The distribution of surplus property shall be in accordance with Section 53 of the Associations Incorporation Act 1984 and Section 78(1) (a) and (11) of the Income Tax Assessment Act.
- (d) Service of documents on the Association is affected by serving them on the Public officer by serving them personally on two members of the Board of Management.

## **18. WINDING UP OF ASSOCIATION**

- (a) If upon the winding up or dissolution of the Association there remains, after satisfaction of all debts and liabilities, any property (other than property acquired through funding bodies which shall be returned to them where appropriate), it shall be given or transferred to some other incorporated institution or institutions, having objects similar to the objects of the Association. Such institution or institutions are to be determined by the Board of Management before the time of dissolution, or in default thereof by the Supreme Court of New South Wales and if so far as effect cannot be given to the aforesaid provision then some charitable object. No money or properties are to be distributed to any member of staff or the Association, unless it is repayment for out of pocket expenses.

**APPLICATION FOR MEMBERSHIP**

**Being a member of ACE means:**

- You support the aims and objectives of Arts and Cultural Exchange Inc.
- You will have input into a dynamic community cultural and community information / media organisation.
- You are supporting socially-excluded communities and artists across Western Sydney.
- You will have access to advice, support and assistance in relation to arts, culture and community development in Western Sydney.
- You will be able to remain informed about Western Sydney arts, community cultural, information and technology projects and programs.
- You will receive monthly newsletter containing information about projects and programs, invitations to events, a copy of the annual report, and information about training and professional development through ACE Projects

**Application for Membership of Arts and Cultural Exchange Inc.**

*Please note: All applications must be approved by the ACE Board of Management.*

New Member

Renewal

**Individual OR Organisation / Group Membership**

Name: \_\_\_\_\_

Organisation (if applicable): \_\_\_\_\_

Postal Address: \_\_\_\_\_

\_\_\_\_\_ Post Code: \_\_\_\_\_

Phone: (h) \_\_\_\_\_ (w) \_\_\_\_\_ (m) \_\_\_\_\_

Email: \_\_\_\_\_

**Membership Fees (please tick appropriate box):**

Individual (Paid): \$30.00

Individual (Unpaid):

Organisation: \$80.00

**I hereby apply for membership of Arts and Cultural Exchange Inc. I agree to abide by the constitutional aims and objectives.**

Signed: \_\_\_\_\_ (applicant) Date: \_\_\_\_\_

**OFFICE USE ONLY:**

Proposed: \_\_\_\_\_ Seconded: \_\_\_\_\_

Membership fee receipt reference: \_\_\_\_\_

Date Approved by Board of Management: \_\_\_\_\_