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# **The rule book of Murchison Region Aboriginal Corporation (ICN 500)**

This rule book complies with the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act).

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## 1 Name

The name of the corporation is Murchison Region Aboriginal Corporation (the **corporation**).

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## 2 Objectives

### 2.1 Not for profit

- (a) The corporation may only operate on a not-for-profit basis.
- (b) The assets and income of the corporation must be applied solely in furtherance of its objectives set out at paragraph 2.2 below, and no portion shall be distributed directly or indirectly to the members of the corporation except as bona fide compensation for services rendered or expenses incurred on behalf of the corporation.

### 2.2 Corporation objectives

The corporation aims to:

- (a) promote, support, sponsor, engage in and facilitate the provision to Aboriginal people of health, housing and other services;
- (b) acquire, hold and manage land, buildings, fixtures, chattels and other property for the benefit of Aboriginal people in the Midwest and Gascoyne regions;
- (c) provide social, cultural, economic, political, educational and recreational services to Aboriginal organisations, groups, enterprises and individuals in the regions when those services are not provided by other bodies;
- (d) assist Aboriginal people in the Midwest and Gascoyne regions with relief from poverty, sickness, suffering, destitution, misfortune, distress and helplessness;
- (e) give effect to the principles of self-management and self-determination for Aboriginal people by:
  - (i) establishing, owning, investing in, sponsoring, maintaining, managing, leasing and otherwise fostering business enterprises and commercial ventures of any lawful kind; and
  - (ii) promoting, supporting and sponsoring the endeavours of Aboriginal organisations, groups, enterprises and individuals in the regions towards social, cultural and economic development;
- (f) promote, support, sponsor, engage in and facilitate the creation of opportunities for Aboriginal people in education, training, employment and private enterprise;
- (g) help and encourage Aboriginal people in the Midwest and Gascoyne regions to maintain, restore, revitalise and renew their traditional language and culture;
- (h) help build trust and friendship between Aboriginal people and the non-Aboriginal community;

- (i) join with other Aboriginal corporations in undertaking projects of mutual benefit; and
- (j) receive and spend grants of money from the Government of the Commonwealth or of the State or from other sources.

The Corporation operates in the Midwest and Gascoyne regions of Western Australia.

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## 3 Members

### 3.1 Who is eligible to be a member

A member must be:

- (a) at least 18 years of age; and
- (b) an Aboriginal or Torres Strait Islander person who is normally and permanently resident in the Midwest or Gascoyne regions of Western Australia.

**Note:** *normally and permanently resident* means to reside for a period of at least three months with an intention to reside permanently.

### 3.2 How to become a member

- (a) To become a member:
  - (i) a person must be eligible under rule 3.1;
  - (ii) a person must apply in writing to the corporation;
  - (iii) the person's written application must be approved by resolution at a directors' meeting; and
  - (iv) subject to 3.2(c), the person's name, address and date they became a member must be put on the register of members within 14 days of their application being approved.

**Note:** A person does not become a member until their name is entered on the corporation's register of members.

- (b) The directors may refuse to accept a membership application. If they do so, they must write to the applicant about the decision and the reasons for it.
- (c) The corporation must not enter a person on the register of members until after a general meeting has been held where:
  - (a) the person applies for membership after a notice has been given for an annual general meeting or a general meeting; and
  - (b) the annual general meeting or general meeting has not been held when the directors consider the person's application.

**Note:** An application for membership form template is at Schedule 1 of this rule book.

### **3.3 Membership fees**

There are no fees for membership or for the application of membership to the corporation.

### **3.4 Members' rights**

A member can:

- (a) attend, speak and vote at general meetings;
- (b) be made a director (if the member is eligible to become a director);
- (c) put forward resolutions at general meetings;
- (d) ask the directors to call a general meeting;
- (e) look at the register of members free of charge;
- (f) look at the minutes of members' meetings free of charge;
- (g) look at the rule book, or get a copy, free of charge;
- (h) raise a dispute and have a dispute settled in accordance with rule 12; and
- (i) inspect the books (including records of information and financial reports) of the corporation if authorised by the directors or by resolution passed at a general meeting.

### **3.5 Member's responsibilities**

A member must:

- (a) follow these rules; and
- (b) treat other members and corporation employees (including directors) with courtesy and respect.

### **3.6 Liability of members**

The members do not have to pay corporation debts if the corporation is wound up.

### **3.7 How to stop being a member**

- (a) A person stops being a member if:
  - (i) they resign in writing, in which case the register of members must be updated within 14 days after receiving the resignation in writing;
  - (ii) they die; or
  - (iii) their membership is cancelled in accordance with 3.8.

- (b) The person's name, address and date they stopped being a member must be put on the register of former members.

### **3.8 Cancelling membership**

- (a) A person's membership can be cancelled by special resolution of members at a general meeting if the member:
  - (i) can't be contacted for a continuous period of two years at the address for the member on the register and the corporation has made two or more reasonable attempts to contact the member at that address;
  - (ii) misbehaves, meaning the member has behaved in a manner significantly interfering with the operation of the corporation or of corporation meetings; or
  - (iii) is not an Aboriginal person.
- (b) The directors must give the person a copy of the special resolution cancelling their membership as soon as possible after the special resolution is passed, provided that in the case of 3.8(a)(i), the copy of the special resolution must be sent to the person's last known address.
- (c) The copy of the special resolution given under 3.8(b) may be given electronically.

### **3.9 Directors have limited right to remove members**

- (a) If a member is not eligible to be a member or stops being eligible for reasons other than those in rule 3.8, the directors can remove the member. To do this, the directors must do all of the following:
  - (i) give the member notice in writing of their intention to cancel the membership and the reasons for that intention; and
  - (ii) allow the member 14 days (after the date of the notice 3.9(a)(i)) to object in writing to the intended cancellation.
- (b) If the member:
  - (i) does not object to the intended cancellation, the directors must cancel the membership by a resolution at a directors' meeting; or
  - (ii) objects in writing to the intended cancellation, the member can only be removed by a resolution of members at a general meeting.
- (c) In either case, the directors must give a copy of the resolution to the member as soon as practicable after the resolution has passed, which may be given electronically.



### **3.10 The register of members and register of former members**

- (a) The register of members must contain the following information:
    - (ii) members' and former members' full names and addresses; and
    - (iii) the date when the members' names were put on the list.
  - (b) The register of former members must include the following information for any individual who stopped being a member of the corporation within the last 7 years:
    - (i) the same information as in 3.10(a); and
    - (ii) the date on which the individual stopped being a member.
  - (c) The register of members and register of former members:
    - (i) may be kept in one document or as two separate documents;
    - (ii) is kept at the corporation's document access address; and
    - (iii) is open for inspection by any person.
  - (d) The register of members must be available to members to inspect at the annual general meeting and members must:
    - (i) check their member entry; and
    - (ii) inform the corporation of any corrections required to that member entry.
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## **4 Meetings**

### **4.1 Annual general meeting**

The corporation must hold an annual general meeting within five months after the end of its financial year.

### **4.2 Annual general meeting business**

The business of each annual general meeting must include, where relevant:

- (a) confirming the minutes of the previous general meeting;
- (b) presenting reports (i.e. directors' report, financial report, general report);
- (c) allowing time for members to ask questions:
  - (i) about how the corporation is managed; and
  - (ii) of the auditor, if applicable; and
- (d) electing directors;
- (e) choosing an auditor and agreeing on the fee, if applicable; and
- (f) checking the information contained in the register of members is current.

### 4.3 Calling general meetings

- (a) The directors can by resolution call a general meeting (being members' meetings other than annual general meetings).
- (b) The members can ask the directors to call a general meeting, provided that the request must:
  - (i) be in writing;
  - (ii) state any resolutions to be proposed at the meeting;
  - (iii) subject to 4.3(c) be signed by the members making the request, who may sign on separate copies of the document setting out the request, provided the wording of the request is identical in each copy;
  - (iv) nominate a member to be the contact member on behalf of the members making the request; and
  - (v) be given to the corporation.
- (c) The request must be signed by the required number of members, as set out in the table below:

Number of members in corporation	Number of members needed to ask for a general meeting
2 to 10	1
11 to 29	3
30 to 50	5
51+	10% of members

- (d) Within 21 days of receiving the request, the directors must:
  - (i) if they agree to the request, call the meeting in accordance with 4.3(e); or
  - (ii) if they do not agree to the request, apply to the Registrar to deny the request in accordance with 4.3(f).
- (e) If the directors agree to the request, they must call the general meeting within 21 days of receiving the request. (Note: While the directors must call the meeting within 21 days, the meeting can be scheduled after the 21 days.)

- (f) A director may apply, on behalf of all the directors, to the Registrar for permission to deny the members' request to call a general meeting if the directors resolve that:
  - (i) the request is frivolous or unreasonable; or
  - (ii) complying with the request would be contrary to the interests of the members as a whole.
- (g) The directors' application to the registrar to deny the members' request must:
  - (i) be in writing;
  - (ii) set out the reasons why they wish to deny holding the meeting; and
  - (iii) be made within 21 days after the members' request for a meeting was made to the directors.
- (h) The directors must, as soon as practicable after making the request in 4.3(f), give the member nominated as the contact member under 4.3(b)(iv) notice that they have applied to the Registrar to deny the request.

#### **4.4 General meeting business**

General meetings are for:

- (a) confirming the minutes of the previous general meeting; and
- (b) anything else set out in the notice of the meeting.

#### **4.5 Notice for general meetings**

- (a) The corporation must give at least 21 days' notice before each general meeting.
- (b) The notice must be given in writing to:
  - (i) each member entitled to vote at the meeting;
  - (ii) each director;
  - (iii) the corporation's officers (if the corporation has officers);
  - (iv) the contact person or secretary; and
  - (v) the auditor (if the corporation has one).
- (c) The notice for each general meeting must set out:
  - (i) the place, date and time for the meeting;
  - (ii) the business of the meeting;

- (iii) if a special resolution is being proposed, what the special resolution is;
- (iv) if a member can appoint a proxy, the following information:
  - (A) that the member has a right to appoint a proxy; and
  - (B) whether the proxy needs to be a member of the corporation.
- (d) Notices must be given to each member individually if named in the register of members individually.
- (e) A notice can be given to a member:
  - (i) personally;
  - (ii) by post;
  - (iii) by fax number, electronic address or other electronic means if any is nominated by the member; or
  - (iv) in a manner which follows Aboriginal custom.
- (f) A notice for a general meeting:
  - (i) sent by post is taken to be given six days after it is posted; or
  - (ii) sent by fax, electronic address or other electronic means is taken to be given on the business day after it is sent.

#### **4.6 Members' resolutions**

- (a) The members can propose a resolution by giving notice of the proposed resolution to the corporation.
- (b) The notice must:
  - (i) be in writing;
  - (ii) set out the wording of the proposed resolution; and
  - (iii) be signed by the members proposing to move the resolution, who may sign on separate copies of the document setting out the request, provided the wording of the request is identical in each copy.

- (c) The number of members required to sign the proposed resolution is set out in the following table:

Number of members in corporation	Number of members needed to propose a resolution
2 to 10	1
11 to 29	3
30 to 50	5
51+	10% of members

- (d) The corporation must give notice of the resolution to its members at the same time (or as soon as practicable afterwards), and in the same way, as it gives notice of a general meeting under rule 4.5.
- (e) The corporation must consider the resolution at the next meeting that is held at least 28 days after the notice in 4.6(a) is given.

#### 4.7 Quorum at general meetings

- (a) The quorum for a general meeting is set out in the following table:

Number of members in corporation	Number of members required for quorum
1 to 10	2
11+	The lesser of: <ul style="list-style-type: none"> <li>• 10 members; or</li> <li>• the greater of: <ul style="list-style-type: none"> <li>– number of members holding 10% of the voting rights; or</li> <li>– 2 members.</li> </ul> </li> </ul>
91+	10

- (b) In determining whether a quorum is present, count:
- members attending in their capacity as members;
  - members attending in their capacity as proxies; and
  - individuals attending as proxies.

- (c) The quorum must be present during the whole meeting.
- (d) If there is no quorum after one hour of the meeting start time, the meeting is adjourned until the next week at the same time and day. If there is still no quorum after one hour of the adjourned meeting start time, the meeting is cancelled.

#### **4.8 Chairing general meetings**

- (a) The chairperson will chair general meetings.
- (b) If the chairperson is not available, the directors can elect someone to chair the meeting.
- (c) If the directors do not elect a chairperson, the members must elect a chairperson.

#### **4.9 Using technology**

- (a) General meetings and annual general meetings can be held at more than one place using any technology that gives members as a whole a reasonable opportunity to participate .
- (b) The type of technology to be used must be set out in the notice of meeting.

#### **4.10 Voting**

- (a) Each member has one vote, both on a show of hands and a poll.
- (b) The chair has one vote (if he or she is a member) plus a casting vote.
- (c) A challenge to a right to vote at a general meeting may only be made at the meeting and must be determined by the chair, whose decision is final.
- (d) A resolution must be decided by a majority on a show of hands unless a poll is demanded. (**Note:** A poll is a formal vote that is counted—for example, by writing on a voting paper or placing marbles in labelled jars.)
- (e) The chair declares the results of the vote on a show of hands, or on a poll when a poll is demanded.

#### **4.11 Demanding a poll**

- (a) Either the chairperson or any member entitled to vote on the resolution can demand a poll.
- (b) A poll can be held instead of, or immediately after, a vote on a show of hands.
- (c) A poll demanded on any matter must be taken immediately.
- (d) The chair of the meeting directs how the poll will be taken.

#### **4.12 Proxies**

- (a) The members can appoint one person (including another member) as proxy to attend meetings and vote for them.
- (b) Proxies appointed to attend and vote for members have the same rights as a member to:
  - (i) speak at the meeting;
  - (ii) vote (as allowed under the appointment); and
  - (iii) join in a demand for a poll.
- (c) A proxy appointment must:
  - (i) be in the form provided at Schedule 2 of the rule book signed by the member appointing the proxy; and
  - (ii) contain:
    - (A) the member's name and address;
    - (B) the corporation's name;
    - (C) the proxy's name; and
    - (D) the meetings at which the proxy may attend under the appointment.
- (d) The corporation must receive the proxy's appointment at least 48 hours before the meeting for which the proxy is appointed.
- (e) A person must not be a proxy for more than three members.

**Note:** An Appointment of Proxy form template is at Schedule 2 of this rule book.

#### **4.13 Other persons**

The chairperson may allow any person to attend general meetings and annual general meetings, but they cannot vote and move resolutions.

#### **4.14 Cancelling general meetings**

- (a) Subject to 4.14(b), the directors can cancel and reschedule a general meeting if they think there are exceptional reasons for doing so (such as the death of a community member or a natural disaster).
- (b) Subject to rule 4.14(c), the directors may cancel a general meeting by resolution.
- (c) The directors must give each member reasonable written notice of the cancellation of the general meeting.

- (d) Subject to 4.14(e), the directors must reschedule the meeting to be held within two (2) months of the date that the general meeting cancelled under rule 4.14(b) was due to occur.
  - (e) The directors may reschedule the general meeting either:
    - (i) by providing notice of the rescheduled meeting in accordance with rule 4.5; or
    - (ii) if notice of the rescheduled meeting will be shorter than the 21 days required under 4.5, by obtaining the agreement before the rescheduled meeting of:
      - (A) all members, if the rescheduled meeting is an annual general meeting; or
      - (B) 95% of members, if the rescheduled meeting is a general meeting.
- 

## **5 Directors**

### **5.1 Role of directors**

The business of the corporation is to be managed by, or under the direction of, the directors. The directors may exercise all the powers of the corporation except any that the CATSI Act or this rule book requires the corporation to exercise in a general meeting.

### **5.2 Number of directors**

- (a) The corporation must have up to five (5) member directors drawn from the membership base.
- (b) The corporation must have two (2) member directors drawn from the emerging leader category.
- (c) The directors must also endeavour to appoint one (1) independent specialist director.

### **5.3 Classes of directors**

There are three classes of directors:

- (a) member directors;
- (b) emerging leader directors; and
- (c) an independent specialist director.



#### 5.4 Eligibility of directors

- (a) An individual is eligible for appointment as a member director or emerging leader director if they are an individual who is:
  - (i) a member of the corporation, other than an independent director appointed in accordance with 5.10; and
  - (ii) subject to rule 5.5, able to demonstrate the following qualifications and requirements:
    - (A) financial literacy;
    - (B) leadership experience;
    - (C) experience with directorships and boards;
    - (D) commitment to uphold all the legal duties, responsibilities and obligations of a director;
    - (E) absence of conflicting commitments, noting this requirement does not exclude a tenant of the corporation;
    - (F) is of high repute and recognised integrity and has not been convicted in a criminal proceeding (unless that conviction has been spent) or named a subject of a pending criminal proceeding (excluding traffic violations and other minor offences). Such person must not have had a finding against them in any proceedings for misuse of funds, misappropriation of funds, dishonest conduct or other similar, or related, matters, nor any offences or penalties relating to insolvencies;
    - (G) can produce an acceptable National Police Certificate that is at most 12 months old; and
    - (H) has demonstrated the capacity and capability to manage electronic communication, primarily email, to enable the corporation's work to continue in between board meetings.
- (b) No more than two (2) people constituting immediate family of a director may be eligible to stand for election as a director, where **immediate family** means any living person related to a director in any of the following ways:
  - (i) grandfather;
  - (ii) grandmother;
  - (iii) father;
  - (iv) mother;
  - (v) husband;
  - (vi) wife;

- (vii) de-facto partner;
  - (viii) son;
  - (ix) daughter;
  - (x) sister;
  - (xi) brother; or
  - (xii) step-child.
- (c) A person is not eligible to become a director if the person:
- (i) is under the age of 18 years;
  - (ii) is an employee or a contractor of the corporation;
  - (iii) is a current or former tenant and the corporation is taking legal action against them over a current or vacated tenancy matter;
  - (iv) has been disqualified from managing corporations under Part 6-5 of the CATSI Act;
  - (v) has been bankrupt and the bankruptcy was discharged within less than ten (10) years from the potential date of appointment; or
  - (vi) is a current or former tenant and has more than \$300 in outstanding debt to the corporation, in which case the chairperson and vice chairperson of the corporation may provide an exemption to this rule subject to the circumstances surrounding that debt.

## **5.5 Emerging leader director**

- (a) If a nominee for a member director is not able to demonstrate every qualification set out in 5.4(a)(ii) but expresses a willingness to learn and attain those qualifications, the directors, in their discretion, may accept the person's nomination for the emerging leader director category subject to the following conditions:
- (i) the nominee must either undertake appropriate training or, with the full support and encouragement of the corporation, undertake professional development and mentoring arranged by the corporation;
  - (ii) the nominee may act as an emerging leader director for two (2) years while undertaking the training; and
  - (iii) the nominee will then be eligible to nominate for appointment as a member director.
- (b) If at any time the number of emerging leader directors is less than two (2), the directors may at any time appoint, by resolution, one (1) or two (1) emerging leader directors to fill the vacancy or vacancies, as the case may be.
- (c) The appointment of the emerging leader director must be ratified at the next general meeting or annual general meeting.

- (d) A member appointed under the emerging leader director category will have all the rights and responsibilities of a director and commits to participating in induction, appropriate training, mentoring and professional development during the two year tenure set out in 5.5(a)(ii).

## **5.6 Majority of director requirements**

- (a) A majority of directors of the corporation must:
  - (i) be individuals who are Aboriginal people; and
  - (ii) ordinarily reside in Australia.

## **5.7 How to become a member director**

- (a) Candidates for a member director position:
  - (i) must apply to the corporation for nomination as a member director;
  - (ii) if nominated, will be invited to present to members at the beginning of the annual general meeting at which they are to be elected on what skills, experience and knowledge they can bring to the corporation's board; and
  - (iii) may attend the annual general meeting via video link.
- (b) Voting for member directors must be by secret ballot.
- (c) Each member attending the annual general meeting:
  - (i) will receive a ballot paper to vote; and
  - (ii) is entitled to the number of votes that equals the number of member director vacancies on the board.
- (d) Each member director nominee must receive three (3) votes to fill a member director vacancy.
- (e) Any person to be appointed as a member director or emerging leader director must first obtain a Director Identification Number in accordance with Part 6-7A of the CATSI Act.

**Note:** A consent form template that may be used for a director's consent to act is at Schedule 3 of this rule book.

## **5.8 Directors' terms of appointment**

- (a) Half the number of directors is appointed on a rotational basis at the annual general meeting for a term of two years so that:
  - (i) half the number of directors is appointed in one year (including ratifying the appointment of an emerging leader director and independent director, if applicable); and

- (ii) half the number of directors will be appointed in the next year (including ratifying the appointment of an emerging leader director and independent director, if applicable).
- (b) Any unallocated member director position will be filled in accordance with 5.11(d).

#### **5.9 How to become an office bearer (chairperson and vice chairperson)**

- (a) The corporation has a chairperson and a vice chairperson who are the office bearers.
- (b) The office bearers must be elected annually by the directors of the corporation at the first directors' meeting held after each annual general meeting.
- (c) Nominees for office bearer positions must attend the meeting, in person or via video link, in which the chairperson or vice chairperson are to be elected.
- (d) The directors may remove a person as an office bearer at any time by resolution at a directors meeting.

#### **5.10 How to become an independent director**

- (a) The directors will appoint, by resolution, one (1) independent director, who may or may not be a member of the corporation.
- (b) The appointment of the independent director must be ratified at the next general meeting or annual general meeting.
- (c) The independent director may be selected for their independence or skills in accounting, financial management, corporate governance, law or a field relating to the corporation's activities.
- (d) Nominees for an independent director position are subject to the same eligibility requirements as detailed in rule 5.4, excluding the requirement to be a member of the corporation under 5.4(a)(i).
- (e) An independent director is appointed for a term:
  - (i) specified in writing by the directors in their appointment; and
  - (ii) not exceeding two (2) years.
- (f) An independent director is eligible for re-appointment upon expiry of their term of appointment under 5.10(e).
- (g) An independent director must give the corporation their consent in writing to be a director before being appointed.

#### **5.11 How to fill member director vacancies**

- (a) If at any time the number of directors is less than five (5) (whether by way of original or casual vacancy), the directors may appoint a member or members to fill the vacancy or vacancies, as the case may be.
- (b) A member appointed to fill a casual vacancy must be normally and permanently resident in the same region as the previous director whose position is being filled.

- (c) A director appointed under 5.11(a) as a casual vacancy:
  - (i) holds office until the end of the annual general meeting at which the person he or she was appointed to replace would otherwise have completed their term of office; and
  - (ii) will be eligible for re-election.
- (d) A director appointed under 5.11(a) as an original vacancy:
  - (i) holds office for a period of 12 months or until the next annual general meeting; and
  - (ii) will be eligible for re-election.
- (e) The directors can appoint a person as a director to make up a quorum at a directors' meeting, however that person's appointment must be confirmed by resolution at the next annual general meeting or they must cease acting as a director.

## **5.12 Alternate directors**

Alternate directors are not allowed.

## **5.13 Requirement to notify Registrar**

- (a) The corporation must notify the registrar of any change in director details within 28 days after a director is appointed or ceases acting as a director.

## **5.14 How to cease acting as a director**

- (a) A person ceases acting as a director if:
  - (i) the person dies;
  - (ii) the person resigns in writing as a director;
  - (iii) the term of the person's appointment as a director expires;
  - (iv) the person stops being a permanent resident in any of the corporation's regions (unless they were appointed under rule 5.10);
  - (v) person is convicted of a criminal offence;
  - (vi) subject to 5.15, the person is removed as a director by the members or the other directors;
  - (vii) the person becomes an employee or contractor of the corporation;
  - (viii) subject to 5.15, the person is no longer a member of the corporation; or
  - (ix) the person is disqualified from managing a corporation under Part 6-5 of the CATSI Act.

### 5.15 How to remove a director

- (a) A director may be removed by members provided that:
  - (i) the members must give notice of a resolution to remove a director at least 21 days before the next general meeting (unless the corporation calls a meeting after the giving of the notice and that meeting will be held within 21 days of the notice);
  - (ii) the corporation must give the director concerned a copy of the notice as soon as possible; and
  - (iii) the director concerned can put their case by:
    - (A) giving the corporation a written statement for circulation to all members entitled to the notice of meeting; and
    - (B) speaking at the meeting.
- (b) The directors may remove another director provided that:
  - (i) the directors can only remove a director if the director fails to attend three or more consecutive directors' meetings without a reasonable excuse;
  - (ii) the directors must give the director concerned a notice in writing stating that:
    - (A) the directors intend to remove the director; and
    - (B) the director concerned has 14 days from the date of the notice to object in writing; and
  - (iii) if the director concerned:
    - (A) does not object, the directors must remove the director concerned from office; or
    - (B) objects, the director concerned must only be removed by resolution at a general meeting under rule 5.15(a).

### 5.16 Directors' and officers' duties

- (a) Directors and officers are subject to the following duties (among others):
  - (i) a duty of care and diligence;
  - (ii) a duty of good faith;
  - (iii) a duty not to improperly use their position or information; and
  - (iv) a duty not to trade while insolvent.

**Note:** For more information on duties of directors and officers see [www.oric.gov.au](http://www.oric.gov.au).

### **5.17 Conflict of interest (material personal interest duty)**

- (a) A director who has, or thinks they may have, a conflict of interest in a corporation matter must tell the other directors.
- (b) The director must give notice of the nature and extent of the interest in the corporation matter, including:
  - (i) what the interest is; and
  - (ii) how it relates to the corporation.
- (c) The director must give notice either:
  - (i) at a directors' meeting (orally or in writing); or
  - (ii) to the other directors individually in writing, in which case the notice must be tabled at the next directors' meeting.
- (d) The nature and extent of the director's interest must be recorded in the meeting minutes at which the notice of the interest is tabled or given.
- (e) Subject to rule 5.17(f), a director who has a conflict of interest must not:
  - (i) be present at the directors' meeting while the corporation matter in which the director has an interest is being considered; or
  - (ii) vote on that matter.
- (f) A conflicted director must not attend and vote in that part of a director's meeting involving a matter in which they have an interest unless the Registrar makes a declaration or order allowing the conflicted director to be:
  - (i) present at the meeting;
  - (ii) to vote; or
  - (iii) to be both present at the meeting and vote.

### **5.18 Payment**

- (a) Directors may be remunerated for:
  - (i) attending directors' meetings;
  - (ii) attending committee meetings;
  - (iii) attending general meetings of the corporation; and
  - (iv) expenses incurred in connection with the corporation's business.
- (b) Director remuneration must be determined by members' resolution in a general meeting.

### **5.19 Delegation**

- (a) The directors can, by resolution, delegate any of their powers (including the power to vote on director resolutions) to:
  - (i) another director;
  - (ii) a committee of directors;
  - (iii) an employee of the corporation; or
  - (iv) any other person.
- (b) The delegation must be in writing and specify the delegation period and the delegated powers.
- (c) The terms of reference for any delegation must be re-approved by the board annually.
- (d) The delegate must follow any directions of the directors when exercising the delegated powers.

### **5.20 Finance Committee**

- (a) A Finance Committee is established by a standing delegation.
- (b) The Finance Committee must meet at least once every three months.
- (c) The terms of reference for the standing delegation to the Finance Committee must be re-approved by the board annually.

### **5.21 Governance & Risk Committee**

- (a) A Governance & Risk Committee is established by a standing delegation.
- (b) The Governance & Risk Committee must meet at least once every six months, and otherwise as required.
- (c) The terms of reference for the standing delegation to the Governance & Risk Committee must be re-approved by the board annually.

### **5.22 Related party benefit**

- (a) If the corporation wants to give a financial benefit to a director or related party (such as a spouse of a director) it must:
  - (i) get prior approval of the members; and
  - (ii) provide the benefit within 15 months after obtaining the approval.
- (b) The procedure for obtaining member approval is set out in part 6.6 of the CATSI Act.



### **5.23 Directors' meetings**

- (a) The directors must meet at least once every three months.
- (b) The directors will usually decide at a directors' meeting when and where the next directors' meeting will be.
- (c) A director may call a directors' meeting by giving reasonable notice to all directors.

### **5.24 Quorum for directors' meetings**

A majority of the directors must be present at all times during the meeting.

### **5.25 Chairing directors' meetings**

- (a) The chairperson or, in the absence of the chairperson, the vice chairperson must chair directors' meetings.
- (b) If both the chairperson and the vice chairperson are absent, the directors can elect a director to chair that meeting.

### **5.26 Using technology**

- (a) Directors' meetings and meetings of a committee of directors can be held using any technology, provided all directors consent.
- (b) The consent of a director under 5.26(a) can be a standing consent.

### **5.27 Resolutions at directors' meetings**

- (a) A resolution of directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.
- (b) The person chairing the meeting under 5.25 has a vote, plus a casting vote (if needed).
- (c) Resolutions can be passed by a committee of directors as provided for in that committee's terms of reference.

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## **6 Contact person or secretary**

- (a) The contact person or secretary must be at least 18 years old.
- (b) The directors appoint the contact person or the secretary by resolution at a directors' meeting.
- (c) The directors decide the contact person or secretary's pay and terms and conditions of employment, if any.
- (d) The contact person or secretary must pass on any correspondence received by them to at least one of the directors within 14 days after receiving the correspondence.

- (e) The contact person or secretary must give the corporation their consent in writing to become the contact person or secretary.
- (f) The corporation must send the registrar a contact person or secretary's personal details within 28 days after they are appointed. The corporation must use the Registrar's *Notification of a change to corporation officers' details* form.

**Note:** small and medium-sized corporations have a contact person; large corporations have a secretary.

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## 7 Records

- (a) The corporation must keep:
  - (i) minutes of meetings (in writing, or as an audio or video recording);
  - (ii) an up-to-date copy of the rule book (the corporation's 'constitution');
  - (iii) written records relating to the:
    - (A) names and addresses of directors, officers and the contact person or secretary of the corporation (as applicable);
    - (B) the corporation's registered office (if any); and
    - (C) the corporation's document access address (if any); and
  - (iv) a register of members and register of former members; and
  - (v) written financial records.
- (b) They must be kept at the corporation's document access address (for a small to medium corporation) or registered office (for a large corporation).

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## 8 Finances

- (a) The corporation must keep written financial records that:
  - (i) correctly record and explain its transactions, financial position and performance; and
  - (ii) would enable true and fair financial reports to be prepared and audited.
- (b) Financial records must be retained for 7 years after the transaction covered by the records is completed.
- (c) The corporation must follow the procedures set out below:
  - (i) The corporation must give receipts for all money it receives in cash.

- (ii) All money received by the corporation must be promptly deposited into the corporation's bank account.
  - (iii) All accounts must be approved for payment by resolution at a directors' meeting, or under a properly delegated authority given by the directors.
  - (iv) All cheques, withdrawal forms and other banking documents must be signed by at least two directors, or under a properly delegated authority given by the directors.
  - (v) All payments made out of the corporation's money must be supported by adequate documents, which explain the nature and purpose of the payments.
  - (vi) The corporation must keep adequate records for all cash withdrawals from the corporation's bank accounts (i.e. records that show the cash was used for a proper purpose and in accordance with the corporation's objectives).
- 

## **9 Application of funds**

- (a) The directors can only use the money and property of the corporation to carry out the corporation's business.
  - (b) The directors cannot give or lend money and property to members of the corporation.
  - (c) This rule does not apply to the corporation when making reasonable payment to a member:
    - (i) in their capacity as an employee; or
    - (ii) under a contract for goods or services provided.
- 

## **10 Powers of the corporation**

- (a) Subject to the CATSI Act and this rule book, the corporation has the power to do anything lawful to carry out the objectives of the corporation.
- (b) Subject to 10(c), the corporation's members will be advised in writing every six months where, by directors' resolution, an asset of the corporation consisting of, or including, land is:
  - (i) purchased or disposed of;
  - (ii) made subject to a charge, mortgage, pledge or encumbrance; or
  - (iii) otherwise dealt with.
- (c) Members will be advised within 28 days following the end of every six month period (i.e. 30 June and 31 December) of any purchase or disposal of any asset which consists of, or includes, land.

- (d) Prior to directors approving by resolution the purchase of an asset which consists of, or includes, land:
    - (i) the corporation must obtain a formal valuation from a licensed real estate valuer in the State of Western Australia; and
    - (ii) the price the corporation pays for the asset cannot exceed the valuation range provided by the licensed real estate valuer.
- 

## **11 Management of corporation owned properties**

- (a) Subject to rule 10 and rule 11(b), the corporation may sell a property it owns to a tenant, an interested individual or on the open market, provided that:
    - (i) a formal valuation by a licensed real estate valuer in the State of Western Australia is received; and
    - (ii) the property is sold for not less than the formal valuation.
  - (b) If the property is part of any asset management or divestment strategy the board approves and implements, the board by resolution can approve the disposal of any asset which consists of, or includes, land at a price below the valuation referred to in 11(a)(i), provided that the sale price is not less than 75% of that valuation.
  - (c) The properties owned or managed by the corporation must:
    - (i) only be rented to eligible applicants from the corporation's waiting list in accordance with the corporation's policy guidelines; and
    - (ii) not be rented to employees of the corporation as part of any remuneration or employment agreement.
- 

## **12 Dispute resolution**

### **12.1 Dispute resolution process**

- (a) The dispute resolution process is as follows:
  - (i) If a dispute arises, the parties must first try to resolve it themselves.
  - (ii) If the dispute is not resolved within ten business days of arising, any party may give a dispute notice to the other parties.
  - (iii) The dispute notice must be in writing, provided to the corporation and must say what the dispute is about.
  - (iv) Subject to 12.2, if the dispute is about the CATSI Act or the corporation's rules, the directors or any of the dispute parties may ask the registrar for an opinion.

- (v) The directors must help the parties resolve the dispute within 20 business days after the corporation receives the notice in 12.1(a)(ii).
- (vi) If the directors cannot resolve the dispute under 12.1(a)(v), the dispute must be put to the members to resolve at a general meeting.
- (b) The directors or any of the dispute parties may ask the Registrar for assistance.

## **12.2 Seeking assistance from the Registrar**

- (a) If a dispute, or any part of a dispute, relates to the meaning of any provision of the CATSI Act or the corporation's rule book, the directors or any party to the dispute may seek an opinion from the Registrar about the correct meaning of the relevant provision.
- (b) The Registrar's opinion will not be binding on the parties to a dispute.
- (c) The right to request assistance from the Registrar does not create a right to request a formal mediation. However, in an appropriate case the Registrar may provide assistance in having the matter resolved.

**Note:** For more information on members' rights see rule 3.4.

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## **13 Changing the rule book**

- (a) The rule book can be changed by the members passing a special resolution at a general meeting.
- (b) Any proposed changes to the rule book must be set out in the notice for the general meeting referred to in 13(a).
- (c) Within 28 days after the resolution is passed, the corporation must send the registrar:
  - (i) a copy of the special resolution;
  - (ii) a copy of the minutes of the general meeting at which the special resolution was passed and that relate to the passing of the special resolution;
  - (iii) a directors' statement signed by two directors of the corporation stating that the special resolution was passed in accordance with the corporation's rule book; and
  - (iv) a copy of the rule book changes.
- (d) The changes to the rule book take effect when they are registered by the registrar.

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## 14 Gifts and contributions

- (a) The corporation shall maintain for the principal purpose of the corporation a gift fund to be named 'The Murchison Region Aboriginal Corporation Gift Fund'.
- (b) The fund can:
  - (i) receive gifts of money or property for the purpose of the objectives of the corporation; and
  - (ii) have credited to it any money received by the corporation because of those gifts.
- (c) The fund cannot receive any money or property other than as stated in 14(b).
- (d) The corporation must use gifts made to the fund, and any money received because of those gifts, only for the principal purpose of the corporation.
- (e) Receipts issued for gifts to the fund must state:
  - (i) the full name of the corporation;
  - (ii) the Indigenous Corporation Number (ICN) and the Australian Business Number of the corporation; and
  - (iii) the fact that the receipt is for a gift.
- (f) Under subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth), any surplus assets of the gift fund must be transferred to another fund, authority or institution which has similar objectives to the corporation as soon as the fund is:
  - (i) wound up; or
  - (ii) the corporation's endorsement as a deductible gift recipient is revoked.
- (g) The fund, authority or institution referred to in 14(f) must also be able to receive tax deductible gifts under division 30 of the *Income Tax Assessment Act 1997* (Cth).

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## 15 Winding up

- (a) The winding up of the corporation must be done in accordance with the CATSI Act.
- (b) If the winding up is ordered by a Court (as defined under the CATSI Act), the members may pass a special resolution relating to the distribution of any surplus assets of the corporation after:
  - (i) the corporation is wound up; and
  - (ii) all debts and liabilities have been taken care of and the costs of winding up have been paid.
- (c) The distribution of surplus assets must not be made to any member or to any person to be held on trust for any member.
- (d) All remaining community housing assets on the corporation's winding up must be transferred to another registered Community Housing Provider in Western Australia or to the Housing Authority.
- (e) All other remaining assets on the corporation's winding up must be transferred to another charitable organisation with similar purposes, which has rules prohibiting the distribution of its assets and income to its members.

### 15.1 Community Housing Provider

- (i) A Community Housing Provider is defined as an organisation that provides community housing.

### 15.2 Registered

- (i) Registered means a community housing provider that has successfully achieved registration under the Community Housing Regulatory Framework.

### 15.3 Community Housing assets

- (a) **Community housing assets are defined as:**
  - (i) Land/or premises transferred to the corporation by the Housing Authority, but does not include land or land and premises that the Housing Authority sells at market value to the corporation;
  - (ii) Land and/or premises acquired by the corporation wholly or partly with funding provided by the Housing Authority, including but not limited to where such funding is comprised of:
    - (A) Funding provided directly by the Housing Authority
    - (B) GST input tax credits claimed by the corporation in connection with any supplies which are funded wholly or in part by the Housing Authority;

- (iii) A legal interest in land and/or premises acquired by the corporation wholly or partly with funding provided or where the acquisition is facilitated by the Housing Authority;
- (iv) Land and/or premises acquired by the corporation wholly or in part with borrowings leveraged off or cash flow generated from any assets in the corporation's portfolio in which the Housing Authority has or had an interest;
- (v) Land and/or premises where the Housing Authority is identified as having an interest in any legal agreement;
- (vi) Land and/or premises procured with the proceeds of sale of land and/or premises in which the Housing Authority has previously had an interest in; or
- (vii) Housing constructed by the Housing Authority or improvements made on land and/or premises by the Housing Authority

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## 16 Chief Executive Officer

- (a) Subject to 16(e), the directors must appoint a full-time chief executive officer who is primarily and directly responsible to the directors for the general and overall management of the corporation and whose role is to manage the day-to-day operations of the corporation and to promote the objects for which the corporation is established.
- (b) The chief executive officer must report to the directors through the chairperson on the operations of the corporation in such form and frequency as the directors determine.
- (c) The chief executive officer must be engaged under a contract of employment specifying all relevant matters, including powers and duties, term of the contract, and remuneration.
- (d) The directors must take all steps necessary to ensure the separation of powers between the directors and the chief executive officer and so enable the chief executive officer to act independently in the management of the day-to-day operations of the corporation within the policy framework set by the directors.
- (e) The appointment of a person to the position of chief executive officer must be by resolution of a majority of at least two-thirds (2/3) of the directors.
- (f) A person appointed to the position of chief executive officer must be terminated from the position if:
  - (i) the person becomes eligible for dismissal under the *Fair Work Act 2009* (Cth);
  - (ii) the person becomes bankrupt or insolvent under administration;
  - (iii) the person becomes incapable of holding office because of a penalty disqualification by a Court;
  - (iv) the person resigns from office; or



- (v) by reason of infirmity, absence or any other reason, a majority of at least two-thirds (2/3) of the directors is of the opinion that the person has ceased to effectively carry out the duties of the position.
- 

## 17 CATSI Act

A reference to the CATSI Act in this rule book is a reference to the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

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## Schedule 1      Application for membership form

### Application for Membership

#### Murchison Region Aboriginal Corporation (ICN 500)

I, \_\_\_\_\_

*(first name of applicant)*

*(last name of applicant)*

of

*(address of applicant)*

\_\_\_\_\_

*(Date of birth)*

\_\_\_\_\_

*(phone number)*

\_\_\_\_\_

*(email address)*

hereby apply for membership of the Murchison Region Aboriginal Corporation (**corporation**).

I declare that I am eligible for membership under rule 3.1 of the rule book of the corporation and am willing to be bound by the rules of the corporation.

My contact details are:

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

Signed: \_\_\_\_\_

*(signature of applicant)*

Date: \_\_\_\_\_

#### Office use only

Application received	Date:
Application tabled at directors' meeting held	Date:
Directors confirmed applicant is eligible for membership	Yes / No
Directors approve the application	Yes / No
Entered on register of members	Date:
Applicant notified of directors' decision	Date:

\_\_\_\_\_  
*Chairperson's signature*

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## Schedule 2 Appointment of proxy form

### Appointment of Proxy

#### Murchison Region Aboriginal Corporation (ICN 500)

I, \_\_\_\_\_  
(full name of member)

of

\_\_\_\_\_  
(address of member)

being a member of Murchison Region Aboriginal Corporation hereby appoint

\_\_\_\_\_  
(full name of proxy)

of

\_\_\_\_\_  
(address of proxy)

as my proxy to vote for me on my behalf at the general meeting of the corporation  
(annual general meeting or other general meeting, as the case may be) to be

held on the \_\_\_\_\_ day of \_\_\_\_\_ 20

\_\_\_\_\_ and at any adjournment of that meeting.

Optional—if the member wishes to specify the way the proxy is to vote on a particular resolution, include instructions here:

\_\_\_\_\_

Signed: \_\_\_\_\_  
(signature of member appointing proxy)

Date: \_\_\_\_\_

NOTE: A proxy vote may be given to any person or to a member of the corporation.

Please return your completed form to the corporation **at least 48 hours before** the meeting.

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## Schedule 3      Consent to act as a director form

### Consent to Become a Director

I, \_\_\_\_\_ (full name of person)

of \_\_\_\_\_ (home address)

give consent to become a member director / emerging leader director / independent specialist director (*delete as appropriate*) of Murchison Region Aboriginal Corporation.

Date of birth: \_\_\_\_\_ Place of birth: \_\_\_\_\_

I also acknowledge that a person is automatically disqualified from managing corporations for the term set out in sections 279-5 and 279-10 of the CATSI Act if they:

- have been convicted of an offence under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) that is punishable by imprisonment for more than 12 months;
- have been convicted of an offence involving dishonesty that is punishable by imprisonment for at least three months;
- have been convicted of an offence against the law of a foreign country that is punishable by imprisonment for more than 12 months;
- are an undischarged bankrupt;
- have signed a personal insolvency agreement and have not kept the agreement; and
- have been disqualified under the *Corporations Act 2001* (Cth) from managing corporations,

and I will notify the corporation if any of the above events occur after my appointment.

By signing this consent form to become a director of Murchison Region Aboriginal Corporation, the nominee for a director position confirms that they are eligible for appointment as a director under rule 5.4, as modified by rule 5.5 in the case of an emerging leader director or rule 5.10 in the case of an independent specialist director.

A nominee who is elected as a director at an annual general meeting and who subsequently fails to declare a material personal interest as stated in rule 5.17 will be ineligible to continue as a director and will be removed as a director of the corporation.

Signed: \_\_\_\_\_

Date \_\_\_\_\_

NOTE: This form should be completed and given to the corporation before the person is appointed as a director –section 246-10(1) of the CATSI Act.

## Supplementary information and consent form

I,

---

*(full name)*

of

---

*(home address)*

I **have/have not** been declared bankrupt.

*(please circle)*

In nominating to become a member director / emerging leader director / independent specialist director (*delete as appropriate*) of Murchison Region Aboriginal Corporation (**MRAC**), I give consent to MRAC undertaking a bankruptcy search on me for the purposes of determining my eligibility to become a director of the corporation.

I **have/have not** ever entered into a deed of assignment, composition, or a scheme

*(please circle)*

of arrangement with  
creditors.

Please provide details of any bankruptcy, deeds of assignment, compositions, or schemes of arrangements with creditors below.

*Note: This does not necessarily exclude members being appointed as Directors and is required for Association Liability insurance requirements. If insufficient room, please attach an additional page.*

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I understand I need to provide a National Police Clearance not more than 12 months old by close of business [•] to determine my eligibility to nominate as a director of MRAC.

I understand this consent form must be provided by close of business [•] to determine my eligibility to nominate as a MRAC Director.

I confirm I have the capacity and capability to manage electronic communication, primarily email, to enable the corporation's work to continue in between Board meetings.

I confirm I meet the eligibility requirements as detailed in rule 5.4, as modified by rule 5.5 in the case of an emerging leader director or rule 5.10 in the case of an independent specialist director.

I understand the above information is only collected for the purposes of eligibility for a MRAC Directorship and to provide accurate information for any MRAC insurance proposals and for no other purpose.

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**Signature of nominee**

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**Date**