

Land Groups Incorporation (Amendment) Act, 2009

CONSTITUTION OF THE _____ LAND GROUP (INCORPORATED)

1. NAME

The name of the group is the _____ Land Group (Incorporated). In the rest of Constitution it will be referred to as “the Land Group”.

2. LAND (s)

A physical description of the land and interests of the land group is contained in Form 3 that is attached to the ‘application for incorporation’ of the land group.

3. LAND TENURE SYSTEM

a) Land ownership issues whether they are matrilineal system or a patrilineal system of ownership.

Matrilineal

Patrilineal

b) Heritage of ownership of the customary land.

Son

Daughter

Others

If “others” please explain.

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4. MEMBERSHIP

(1) Membership of the land owning group is determined according to the customs of the area.

(2) The qualification for Membership of the Land Group is that a person recognizes himself or herself and is recognized in accordance with custom by other legitimate customary members fromClan/Village as being a member of the group seeking incorporation.

5. RECORDING OF MEMBERSHIP

- (1) It shall be a primary function of the Land Group Management Committee to maintain an up-to-date record of its members as recognized by the customs of the clan.
- (2) The record of members shall be updated by the Committee not less than once every year and shall remain in the custody of the Committee.
- (3) Except for future membership upon birth, before any addition to or amendment of the record of members shall be made by the Committee, such amendment should first be approved by the members at two separate meetings held at least one (1) month and not more than three (3) months apart.
- (4) Immediately following the decision of the land group to adopt the change of membership of the land group, the Committee shall:-
 - a) Record the names of the persons to be added to or deleted from the list of clan members, and
 - b) Record the date of decision of the land group to adopt the change of membership of the clan, and
 - c) Certify the changes to be made by signing in their own handwriting their respective signatures to each record of change of membership, and date such certificate on the date such changes were so recorded.

6. MANAGEMENT COMMITTEE

- (1) The Controlling Body of the Land Group is;
 - (a) titled the _____ Land Group Management Committee (referred to in the rest of this Constitution as the Committee);
 - (b) The composition of the Committee is not less than 6 and not more than 10 members of, including the following:

(c)	Position	Name	Signature
	Chairperson:	_____	_____
	Vice Chairperson:	_____	_____
	Treasurer:	_____	_____

Secretary: _____

Female Committee Member: _____

Female Committee Member: _____

- (2) All officers of the land group are to be elected by open ballot at the Group's general meeting and a Committee Member shall not take up office unless and until he/she subscribes to the Code of Conduct.
- (3) A person ceases to be a member of the Committee if he is removed by a resolution of the group in a general meeting, or
 - (a) He/She becomes unable to perform the functions of his office, whether through illness or any other cause; or
 - (b) He/She retires;
 - (c) Or is disqualified by virtue of being convicted for a crime involving fraud or dishonesty,
- (4) The Committee is responsible for the efficient conduct of the affairs of the land group and in particular shall:-
 - (a) Call meetings of the members sufficiently often to keep them well informed of the affairs of the group; and
 - (b) Make sure that suitable records of the meeting and other affairs of the land group are kept and looked after.

7. CODE OF CONDUCT

All committee members actions in conducting the affairs of the land group is subjected to the Code of Conduct as stipulated under Section 14B and Schedule six (6) of the ILG (Amended) Act, 2009. Any breach of the Code of Conduct warrants a penalty of K5,000 or imprisonment of six (6) years or both.

8. TERM OF THE COMMITTEE MEMBERS

1. The committee members are allowed three (3) years and may seek re-election in the third year for a second term in the office.
2. The committee members are only allowed to serve two (2) terms in the office but subject to good governance and compliance to the Code of Conduct as stipulated under Section 14B (3) and Schedule 6 of the ILG Act 2009 as amended.

9. MANNER IN WHICH THE GROUP ACTS

- (1) The land group acts in the following manner:-
 - (a) Before taking any important decision affecting the land group or its property, the Committee shall convene a meeting and give notice to the members stating:-
 - (i) When and where the land group will meet; and
 - (ii) The nature of the matter to be dealt with at the meeting.
 - (b) Notice given under paragraph (a) must be sufficient to allow the members of the land group resident in Clan/Village to attend the meeting, and normally should not be less than seven (7) days in advance.
 - (c) The matter on which the land group proposes to act shall be fully discussed at the meeting and a decision reached on the matter by the requisite majority of votes stated under this Constitution or the Act.
 - (d) A decision reached in accordance with paragraphs (a), (b) and (c) shall not be invalidated by reason of the absence from the meeting of any individual member or members of the land group, provided however that the necessary quorum as required under the Act has been met.
 - (e) When a decision is reached in the above manner, that decision is the decision of the land group, and is sufficient authority for the Committee to act on behalf of the land group.
- (2) The acts of the land group are evidenced by the members of the committee completing and signing the certificate on Form 3.

10. MEETINGS GENERALLY

10.1 Timing

- 1) The group shall in each year hold a general meeting as its annual general meeting in addition of any other meetings in that year, and shall specify the meeting as such in the notices calling it.
- 2) Not more than fifteen months shall elapse between the date of one annual general meeting of the group and the next.
- 3) Notice of the dates on which any general meeting of the group is to be held shall be given to all members not less than two weeks in advance.

- 4) The chairman of the committee, (or in his absence, the vice chairman) shall preside at all meetings of the group subsequent to the meeting at which this constitution was adopted.
- 5) The accidental omission to give notice of a meeting to, or the non-receipt of a notice by, any person entitled to receive it shall not invalidate the proceedings at the meeting.

10.2 Quorum

- 1) The quorum for a general meeting of the group shall be not less than sixty percent of the total number of members of the group.
- 2) The person presiding at a meeting may, whether or not a quorum is present, adjourn the meeting from time to time, and from place to place: provided that , if a meeting at which a quorum is not present is adjourned notice of adjourned meeting shall be given in the same way as notice of the original meeting.

10.3 Resolution

- 1) At a general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless not less than sixty percent of the members present agree to a demand for a ballot.
- 2) Unless a ballot be demanded, a declaration by the chairperson of the meeting that a resolution on a show of hands is carried, or lost , and an entry to that effect in the book containing the minutes of the proceedings shall be conclusive evidence of the fact.
- 3) In the case of an equality of votes, whether on show of hands or on a ballot, the chairperson of the meeting shall be entitled to a second or casting vote.

10.4 Right to Vote

- 1) No member shall be entitled to vote at any general meeting otherwise than in person unless he/she is recorded in the register of members as being under disability. A proxy for a member under a disability need not be a member of the group.
- 2) Except with the approval of the Registrar, nominations for office under the constitution of the group shall be of members only, and may be made and seconded by members only, and no member may nominate or second a nomination himself.

11. POWERS

- 1) The land group has all the powers conferred by the Land Group Incorporation Act Chapter No.147. The land group shall not dispose of the absolute ownership of the group land, except on dissolution.
- 2) The powers referred to above are those in Section 13 of the Act, which are that the land group can:
 - (a) Acquire, hold, and dispose of customary land in a customary manner;
 - (b) Register its land in accordance with the provisions in the Land Registration (Amendment) Act, 2009;
 - (c) Acquire, hold and dispose of rights in non customary land
 - (d) Use and manage its land, or enter into agreements for its use or management;
 - (e) Borrow money for its land development; and
 - (f) Distribute or apply any products, profits or income from its land to its members.
- 3) The land group is entitled to establish and maintain a fund determined from time to time by its members as being sufficient for;
 - (a) Management of the property
 - (b) Capital improvements
 - (c) Investments, and
 - (d) Discharge of other obligations
- 4) The power to receive, distribute or apply any products, profits or income from the group's land or any other income accruing to the land group by virtue of its being a land group, can be exercised only by the Committee in accordance with this constitution, and any attempt by an individual member or members of the land group to exercise these powers shall be invalid. Any loss, damage or deprivation of any money or property or the use thereof caused by or arising from the actions of any individual member or members acting invalidly shall be actionable by such members suffering such loss, damage or deprivation against the perpetrators of such invalid action in the court of Papua New Guinea.

- 5) The land group's power to lease land owned by it, or enter into a similar agreement disposing of the use of such land, or to enter into an agreement for the use of such land, or to enter into an agreement for the management of such land, is subject to the condition that the terms of any such lease or agreement have been set out in a written document which has been approved by a decision of the land group reached in accordance with the requirements of Clause 5 of this Constitution.
- 6) Upon the adoption of this constitution by the clan members, all members are deemed to subject themselves to the full jurisdiction of the laws of Papua New Guinea, and without limiting the generality of the foregoing, it shall not be necessary for any court of law to enquire as to whether any member appearing before it consented to the jurisdiction of the court.

12. CUSTOM WHICH APPLIES

The land group shall act in accordance with the customs of the people, but on incorporation, custom ceases to apply.

13.. DISPUTE SETTLEMENT AUTHORITY

(1) The Dispute Settlement Authority of the land group (incorporated) is made up of the following appointees;

<u>Name</u>	<u>Status</u>	<u>Village</u>
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(Note: No members of the Management Committee should be included on the Dispute Settlement Authority (DSA). The DSA should be an independent and a neutral body to deliberate on the ILG's disputes)

14. ACTS OF LAND GROUP BINDING ON ALL MEMBERS

Any acts taken by the Land Group and or the Management Committee in accordance with this Constitution are binding on all members of the Land Group.

15. RULE MAKING POWER

- (1) The Committee may make rules applying to the internal affairs of the group.
- (2) Any rules made under Sub-Clause (1) shall:
 - (a) Be in writing; and
 - (b) Be in the _____ language and a rule shall only take effect if it has been approved by a decision of the land group reached in accordance with the requirements of this Constitution.
- (3) A rule which is inconsistent with this Constitution is invalid.

16. ADOPTION OF THIS CONSTITUTION

- (1) A meeting shall be duly convened by the members of the land group at a time and place to be nominated by the Committee members
- (2) If agreed to the provisions of the Constitution they shall adopt the constitution.
- (3) The Committee shall be duly authorized to certify the adoption of the Constitution on behalf of the Members and are required to annex such certification to the constitution including a record of the consensus decision taken at the meeting called for the purpose of adoption of the constitution, whereupon the constitution shall be adopted.

17. ADDRESS FOR SERVICE

The address for service of documents on the land group is:
