

**THIS IS THE ANNEXURE MARKED "A" REFERRED TO IN THE STATUTORY DECLARATION OF
MR COLVIN CROWE**
(NAME OF PUBLIC OFFICER)

MADE ON THE DAY OF 2019

BEFORE ME _____
(SIGNATURE OF WITNESS ON STATUTORY DECLARATION)

Constitution
of
Northern Centre for Contemporary Art Incorporated

Explanatory Statement for Proposed Amendments to the Constitution

Following the recommendation from the Department of Justice, the Constitution of the Northern Centre for Contemporary Art is proposed to be amended. The proposed amendment relates to the moving of clauses that were previously included as Schedule 1 and Schedule 2 into the body of the constitution. These amendments are underlined.

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Name of the Association

1. The name of the Association shall be Northern Centre for Contemporary Art Incorporated.

Purpose and Objects

2. The principal objects of The Association are:
 - 2.1. Promote, support and exhibit Northern Territory contemporary art practices.
 - 2.2. Manage the gallery, presenting a stimulating program of diverse work by contemporary artists.
 - 2.3. Facilitate access to information and advice relating to contemporary art practice and provide professional development activities.
 - 2.4. Develop audiences and enhance their access to and understanding of contemporary art.
 - 2.5. Increase professional, public and corporate support for the organisation's activities and continue to improve the effective management of the organisation.
 - 2.6. To provide membership open to all persons and organisations with an atmosphere of co-operation and skill sharing.

Minimum number of members

3. The Association must have at least the number of members specified in the Act.

Definitions

4. In this Constitution, unless the contrary intention appears:
 - 4.1 "Act" means the Associations Act and regulations made under that Act from time to time;
 - 4.2 "AGM" means Annual General Meeting convened in accordance with this Constitution;
 - 4.3 "Association" means the Northern Territory Centre for Contemporary Art Incorporated;
 - 4.4 Means the Board of Management of the Association;
 - 4.5 "Financial Institution" means an authorised deposit-taking institution within the meaning of section 5 of the Banking Act 1959 of the Commonwealth;
 - 4.6 "GM" means a General Meeting of members convened in accordance with this Constitution;
 - 4.7 "Member" means a member of the Association;

- 4.8 "Register of Members" means the register of the Association's members established and maintained under section 34 of the Act;
- 4.9 "Special Resolution" means a resolution, notice of which is given in accordance with this Constitution and passed in accordance with section 37 of the Act;
- 4.10 "SGM" means a Special General Meeting convened in accordance with this Constitution.

Powers of Association

- 5 For achieving its objects and purposes, the Association has the powers conferred by sections 11 and 13 of the Act.
- 6 Subject to the Act, the Association may do all things necessary or convenient for carrying out its objects or purposes, and in particular, may:
- 6.1 acquire, hold and dispose of real or personal property;
 - 6.2 open and operate accounts with financial institutions;
 - 6.3 invest its money in any security in which trust monies may lawfully be invested;
 - 6.4 raise and borrow money on the terms and in the manner it considers appropriate;
 - 6.5 secure the repayment of money raised or borrowed, or the payment of a debt or liability;
 - 6.6 appoint agents to transact business on its behalf;
 - 6.7 enter into any contract it considers necessary or desirable;
 - 6.8 establish any business entities or structures it considers necessary or desirable; and
 - 6.9 enter into any arrangement for union of interests, co-operation or reciprocal concessions with other organisations with a view to furthering the objectives of The Association.

Effect and Alteration of Constitution

- 7 This Constitution binds every member and the Association to the same extent as if every member and the Association had signed and sealed this Constitution and agreed to be bound by it.
- 8 Neither the incorporated name of the Association nor this Constitution shall be rescinded nor altered in any way unless by resolution passed at an AGM, GM or SM by a two-thirds majority of those members present and eligible to vote.

Patron

- 9 The Board of the Association may invite any person or persons to be a Patron of the Association for such period of time as shall be considered appropriate.

Membership

- 10 All persons who are interested in the furtherance of the objects of the Association may become members by making written application for membership on such a form as the Board shall from time to time prescribe and paying the prescribed membership fee.

Membership Classes

- 11 There are four classes of membership of the Association and they are:

- 11.1 General Member;
- 11.2 Life Member;
- 11.3 Honorary Member; and
- 11.4 Affiliate Member.

- 12 The Board shall have the power to create new classes of membership.

General Members

- 13 A General Member is a person who is not a Life Member, Honorary Member or Affiliate Member.

Life Members

- 14 A Life Member is a member of The Association for life who has Life Membership bestowed in an honorary capacity by the Board for exceptional services rendered to The Association.

Honorary Members

- 15 Honorary Membership may be conferred by the Board or at a GM by a majority of those members present and eligible to vote, persons who by virtue of their special qualities or otherwise could assist in achieving the objects of the Association.

- 16 Honorary Members shall be entitled to enjoy all the benefits and privileges of membership of the Association and shall be exempt from payment of subscriptions.

- 17 The membership of Honorary Members shall be reviewed annually by the Board.

Affiliate Membership

- 18 Any organisation, company, corporation, institution or person interested in the objects of the Association shall be eligible to apply for Affiliate Membership.

- 19 An Affiliate Member is not eligible to vote at any GM of the Association or be elected to the Board.

Approval of Board

- 20 The Board must consider any application made under clause 12 at the next available Board meeting and must accept or reject the application at that meeting or the next.
- 21 If an application is rejected, the applicant may appeal against the decision by giving notice to the Secretary within 14 days after being advised of the rejection.
- 22 If an applicant gives notice of an appeal against the rejection of his or her application, the Board must reconsider the application at the next Board meeting after receipt of the notice of appeal.
- 23 If after reconsidering an application the Board reaffirms its decision to reject the application, the decision is final.

Subscriptions

- 24 The Board shall fix annual subscription rates for all classes of membership.
- 25 Annual subscription rates shall take effect from the date specified by the Board.
- 26 Subscriptions shall become due on the first of July each year or on a member's anniversary of joining and shall be paid within 3 months of the date on which they become due for the ensuing 12 months.
- 27 Members who do not renew their subscriptions within 3 months shall, in the absence of a decision of the Board to waive payment on the basis of special reasons or circumstances, cease to be members of The Association. Such persons may re-apply for membership on payment of the annual subscription.
- 28 The Board shall have the authority to reduce or waive a person's prescribed subscription in special circumstances.

Member Benefits

- 29 Subject to Clause 19 (Affiliate member not eligible to vote) and Clause 49 (No paid employee on Board) all general members, life members, and honorary members shall be entitled to enjoy all the benefits and privileges of Membership of the Association including the right to vote at all G and S Meetings and to be elected to the Board.

General Rights of Members

- 30 A member may exercise the rights of membership when his or her name is entered in the register of members.
- 31 A right of membership of the Association:
 - 31.1 is not capable of being transferred or transmitted to another person; and
 - 31.2 terminates on the cessation of membership whether by death, resignation or otherwise.

Access to information of Association

32 The following must be available for inspection by members:

- 32.1 a copy of this Constitution;
- 32.2 minutes of General Meetings;
- 32.3 annual reports and annual financial reports;
- 32.4 confirmed minutes of Board Meetings;
- 32.5 register of Members.

Raising grievances and complaints

33 A member may raise a grievance or complaint about a committee member, the Board or another member of the Association.

34 The grievance or complaint must be dealt with by the procedures set out in clause 35, wherein rules of natural justice have been observed.

35 This clause applies to disputes between:

35.1 a member and another member; or

35.2 a member and the Board.

36 Within 14 days after the dispute comes to the attention of the parties to the dispute, they must meet and discuss the matter in dispute, and, if possible, resolve the dispute.

37 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days after the meeting, hold another meeting in the presence of a mediator.

38 The mediator must be –

38.1 a person chosen by agreement between the parties; or

38.2 in the absence of agreement:

38.2.1 for a dispute between a member and another member – a person appointed by the Board; or

38.2.2 for a dispute between a member and the Board – a person who is a mediator appointed or employed by the department administering the Act.

39 A member of the Association can be a mediator.

40 The mediator cannot be a party to the dispute.

41 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

42 The mediator, in conducting the mediation, must:

42.1 give the parties to the mediation process every opportunity to be heard:

42.2 allow due consideration by all parties of any written statement submitted by any party; and

42.3 ensure natural justice is accorded to the parties to the dispute throughout the mediation process.

43 The mediator must not determine the dispute.

44 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

Termination of membership

45 Membership of the Association may be terminated by:

45.1 a notice of resignation addressed and posted to the Association;

45.2 non-payment of the annual membership fee within the time allowed under clause 27, or

45.3 expulsion in accordance with clause 46, wherein rules of natural justice have been observed.

46 If the Board considers that a member should be suspended or expelled because his or her conduct is detrimental to the interests of the Association, the Board must give notice of the proposed suspension or expulsion to the member.

47 The notice must be in writing and include:

47.1 the time, date and place of the Board meeting at which the question of that suspension or expulsion will be decided; and

47.2 the particulars of the conduct; and

47.3 be given to the member not less than 30 days before the date of the Board meeting referred to in paragraph 2.1.

48 At the meeting, the Board must afford the member a reasonable opportunity to be heard or to make representations in writing.

49 The Board may suspend or expel or decline to suspend or expel the member from the Association and must give written notice of the decision and the reason for it to the member.

50 Subject to paragraphs 6-9, the decision to suspend or expel a member takes effect 14 days after the day on which notice of the decision is given to the member.

Appeals against suspension or expulsion

51 A member who is suspended or expelled under paragraphs 1-5 may appeal against that suspension or expulsion by giving notice to the Secretary within 14 days after receipt of the Board's decision.

52 The appeal must be considered at a General Meeting of the Association and the member must be afforded a reasonable opportunity to be heard at the meeting or to make representations in writing prior to the meeting for circulation at the meeting.

53 The members present at the General Meeting must, by resolution, either confirm or set aside the decision of the Board to suspend or expel the member.

54 The member is not suspended or does not cease to be a member until the decision of the Board to suspend or expel him or her is confirmed by a resolution of the members.

Death of member or whereabouts unknown

55 If a member dies or the whereabouts of a member are unknown, the Board must cancel the member's membership.

The Board

Role and powers

56 The governance, management and control of the Association and its property, effects and affairs shall be vested in the Board.

57 The Board may exercise all the powers of the Association except those matters that the Act or this Constitution requires the Association to determine through a GM of members.

58 The Board shall have the authority to make, alter and rescind By-Laws to fulfil the Objects of the Constitution.

Composition of Board

59 The Board consists of:

59.1 Office Bearers comprising:

59.1.1 a President;

59.1.2 a Public Officer;

59.1.3 a Secretary;

59.1.4 a Treasurer; and

59.2 a minimum of 2 general members

60 The quorum necessary for the transaction of business by the Board is three with a minimum of two being Office Bearers.

61 Meetings may be conducted in person, by video or teleconference, or by email.

62 A nominations committee shall review all nominations for board positions prior to the AGM.

Delegation

63 The Board may delegate to a subcommittee or staff any of its powers and functions other than:

63.1 this power of delegation; or

63.2 a duty imposed on the Board by the Act or any other law.

64 The delegation must be in writing and may be subject to the conditions and limitations the Board considers appropriate.

65 The Board may, in writing, revoke wholly or in part the delegation.

Eligibility of Board members

66 A Board member must be a member who is 18 years or over.

67 Board members must be elected to the Board at an AGM or appointed under clauses 64 or 65.

68 Notwithstanding any other clauses of this Constitution, no remunerated employees of the Association shall be eligible to be elected or appointed to the Board while so employed.

Nominations for election to the Board

69 Nominations for the Board may be made on written nomination signed by the nominee and one other financial member and submitted to the Secretary not less than 10 days before the AGM.

Retirement of Board members

70 A Board member holds office until the next AGM unless the member vacates the office under clause 60 or is removed under clause 61.

71 At an AGM the office of each Board member becomes vacant and elections for a new Board must be held.

72 Members may serve consecutive terms on the Board.

Election by default

73 If the number of persons nominated for election to the Board under clause 58 does not exceed the number of vacancies to be filled, the Chairperson or the appointed Returning Officer must declare the persons to be duly elected as members of the Board at the AGM.

74 If vacancies remain on the Board after the declaration under clause 50, additional nominations of Board members may be accepted from the floor of the Annual General Meeting.

75 If the nominations from the floor do not exceed the number of remaining vacancies, the Chairperson or the appointed Returning Officer must declare those persons to be duly elected as members of the Board.

76 If the nominations from the floor are less than the number of remaining vacancies, the unfilled vacancies are taken to be casual vacancies and must be filled by the new Board in accordance with clause 64.

Election by ballot

- 77 If the number of nominations exceeds the number of vacancies on the Board, ballots for those positions must be conducted.
- 78 The ballot must be conducted in a manner determined from time to time by resolution at a General Meeting.
- 79 The members chosen by ballot must be declared by the Chairperson or the appointed Returning Officer to be duly elected as members of the Board.

Vacating office

- 80 The office of a Board member becomes vacant if:
- 80.1 the member:
 - 80.1.1 is disqualified from being a Board member under section 30 or 40 of the Act;
 - 80.1.2 resigns by giving written notice to the Board;
 - 80.1.3 dies or is rendered permanently incapable of performing the duties of office by mental or physical ill-health; or
 - 80.1.4 ceases to be a member of the Association.
 - 80.2 the member, having received meeting notice, is absent from more than:
 - 80.2.1 three (3) consecutive Board meetings; or
 - 80.2.2 three (3) Board meetings in the same financial year without tendering an apology to the Chairperson; or
 - 80.2.3 unless the Board specifically resolves to the contrary.

Removal of Board member

- 81 The Association, through a SGM of members, may remove any Board member before the member's term of office ends.
- 82 If a vacancy arises through removal under clause 62, an election must be held to fill the vacancy.

Appointments to Board

- 83 The Board shall have authority to appoint a member of the Association to fill any casual vacancy occurring on the Board or in any office on the Board, and any person so appointed shall hold office for the term of such appointment but no later than the next AGM.
- 84 The Board shall have the authority to appoint a member of the Association who by virtue of their special qualities or otherwise could assist in achieving the objects of the Association to the Board of the Association. Any person so appointed shall be in

addition to elected members, and shall hold office for the term of such appointment but no later than the next AGM.

Collective responsibility of Board

85 As soon as practicable after being elected to the Board, each Board member must become familiar with the Act. The Board is collectively responsible for ensuring the Association complies with the Act.

Chair

86 In the absence of the Chairperson the members present shall elect one of their members as Chairperson.

Public Officer

87 The Public Officer must ensure that documents are filed with the Commissioner of Consumer Affairs in accordance with the Act.

88 The Public Officer must keep a current copy of the Constitution of The Association.

Meetings of Board

Frequency and calling of meetings

89 The Board must meet for the conduct of business not less than 4 times in each financial year.

90 Meetings may be conducted in person, by video or teleconference, or by email.

91 The Chairperson, or at least half the Board members, may at any time convene a SM of the Board.

Voting and decision making

92 Each Board member present at the meeting has a deliberative vote.

93 A question arising at a Board meeting must be decided by a majority of votes.

94 If there is no majority, the person presiding at the meeting has a casting vote in addition to a deliberative vote.

Quorum

95 The quorum necessary to transact Board business is three at least two of which shall be Office Bearers.

Disclosure of interest

96 A Board member who has a direct or indirect pecuniary interest in a contract, or proposed contract, with the Association must disclose the nature and extent of the interest to the Board in accordance with section 31 of the Act.

97 The Secretary must record the disclosure in the minutes of the meeting.

98 The Chairperson must ensure a Board member who has a direct or indirect pecuniary interest in a contract, or proposed contract, complies with section 32 of the Act.

General Meetings

Annual General Meeting (AGM)

99 The AGM of members shall be held within 5 months after the end of the Association's financial year.

100 At the AGM:

100.1 the Annual Report, Audited Balance Sheet and Financial Statements for the year ended 31 December preceding shall be presented;

100.2 the Board shall be elected or appointed; and

100.3 the Auditor shall be appointed.

General Meetings

101 The Board may convene a GM whenever it thinks fit.

Special Meeting

102 A SM shall be called on a written request to the Chairperson signed by at least six persons eligible to vote.

103 Such meeting shall be held at a date appointed by the Board which shall be a date not later than twenty eight days after receipt of such request.

104 Only the business for which that SM was called shall be discussed.

Notices of General Meetings

105 In order that an AGM, GM or SM may be properly convened, the Chairperson or a person nominated by the Chairperson, shall give at least 14 days notice thereof.

106 The notice of meeting must specify when, where and how the meeting is to be held and the business to be transacted at the meeting.

107 Notice of a meeting shall be deemed sufficient if it is posted on the Association's website.

Special resolutions

108 A special resolution may be moved at any GM of the Association.

109 The Secretary or person nominated by the Board must give all members not less than 21 days notice of the meeting at which a special resolution is to be proposed.

110 The notice must include the resolution to be proposed and the intention to propose the resolution as a special resolution.

Quorum at General Meetings

111 At a General Meeting, the majority members present and eligible to vote constitutes a quorum.

Lack of quorum

112 If within thirty (30) minutes from the time appointed for the meeting a quorum is not present, the meeting if convened upon the requisition of members, shall be dissolved.

113 In any other case it shall stand adjourned until the same day in the next week at the same time and place or to such other day and such other time as the Board may determine and if at the adjourned meeting a quorum is not present within thirty (30) minutes of the time appointed for the meeting, the members present shall constitute a quorum.

Voting

114 Except as may otherwise be provided in this Constitution an issue put to a vote at an AGM, GM, or SM shall be decided by a simple majority of those members present, in person or by teleconference or videoconference or by proxy, and who are eligible to vote.

115 Each member eligible to vote shall be entitled to a deliberative vote and where there is a tied vote the Chairperson shall have a casting vote.

116 All members over the age of eighteen years, and a parent or guardian of a financial member who is under the age of 18 years, and a guardian of an incapacitated financial member, shall be eligible to vote at all General and Special meetings.

Proxies

117 A member may appoint in writing another member to be the proxy of the appointing member to attend and vote on behalf of the appointing member at any General Meeting.

Financial Management

Financial year

118 The Association's financial year shall end each 31 December annually.

Funds and accounts

119 In addition to the powers implied in favour of the Associations by the Act for the time being in force the Association shall have power:

119.1 To open and operate such bank account or accounts in the name of The Association as the Board of Management shall think fit, to be operated on each occasion by any two persons designated by the Board as being persons who are authorised signatories of The Association for that purpose;

119.2 To invest its funds in the name of the Association or of a Trustee or Trustees on behalf of the Association in or upon such shares, securities or investments as may be approved by the Board.

- 119.3 To borrow money upon such terms and in such manner and upon such security (if any) as may be approved by the Board for any purpose which in the opinion of the Board will assist or enable the Association to carry out directly or indirectly the objects and purposes of the Association.
- 119.4 The income and property of the Association whensoever derived shall be applied solely towards the promotion of the objects of the Association and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever by way of profit to the members or to relatives of members of the Association PROVIDED THAT nothing herein shall prevent the payment in good faith to any officer or servant of the Association in return for any service actually rendered to the Association or reasonable and proper rent for premises let by any member of the Association.

Accounts and audits

- 120 The responsibility of the Board under clause 66 for ensuring compliance with the Act includes :
- 120.1 the keeping of accounting records;
- 120.2 the preparation and presentation of the Association's annual statement of accounts; and
- 120.3 the auditing of the Association's accounts.
- 120.4 The Auditor or Auditors of the Association shall be appointed at the Annual General Meeting

Common seal

- 121 The members of the Board shall be the seal holders.
- 122 The seal of the Association shall only be affixed to any instrument by authority of a resolution of the Board and in the presence of two seal holders and those seal holders shall sign every instrument to which the seal of the Association is fixed in their presence.
- 123 A person nominated by the Board will record every use of that common seal and ensure that the common seal is kept in safe custody at all times.

Distribution of surplus assets on winding up

- 124 The Association shall apply, in terms of the Act, for dissolution, on the vote of three fourths majority of the members present and eligible to vote at a SM called to consider such action.
- 125 If on the winding up or dissolution of the Association, and after satisfaction of all its debts and liabilities, there remains any assets, the assets must not be distributed to the members or former members.
- 126 If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made:

- 126.1 Gifts of money or property for the principal purpose of the organisation.
- 126.2 Contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation.
- 126.3 Money received by the organisation because of such gifts and contributions.