

Constitution

M16 Incorporated

Amended at Annual General Meeting 28 March 2023

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Name

The name of the Association shall be M16 Incorporated (hereafter referred to as M16).

1. Objects

- a) to promote the arts as an intrinsic part of the community, both in Canberra and the surrounding region;
- b) to provide a dynamic and supportive environment for artists, arts groups and arts organisations to practise and exhibit their art; and
- c) to provide access to a working art space and gallery so that the general public can engage directly with the contemporary arts and artists.

2. Powers

- a) to purchase, take on a lease or in exchange, and to hire or otherwise acquire any real or personal property that may be deemed necessary for the Objects of M16;
- b) to take such steps from time to time as the Board or the Members at a General or Special meeting may deem to expedient to procure and accept contributions to the funds of the Association, whether by way of gifts, donations, subscriptions or otherwise;
- c) to print and publish such newspapers, periodicals, books, leaflets, or other documents as the Board may think advisable to further the Objects of M16;
- d) to borrow and raise money in such a manner and on such terms as the Board may think fit or as may be approved or directed by resolutions at a General or Special meeting; and to secure the repayment of money so raised or borrowed or the payment of debt or liability of M16 by giving mortgages, charges or securities upon or over all or any of the real or personal property of the Association;
- e) to invest any moneys of the Association in such a manner as the Board may from time to time determine, but subject to the *Trustee Act 1957*;
- f) to make gifts, subscriptions, or donations to any funds, authorities or institutions;
- g) to employ such persons as considered necessary for the Objects of M16 and the payment to them of salaries and the dismissal of any such staff;
- h) to enter any arrangements with any governments or authorities, municipal, territorial, state, local or otherwise that may seem to the Board or to the Members in a General or Special meeting consistent with the Objects of the Association;

- i) establish and support, or aid in the establishment or support, of associations, institutions, funds, trusts, schemes, and conveniences calculated to benefit employees or past employees of M16 and their dependants, and to make payments towards insurance in relation to any of those purposes;
- j) to establish and support or aid in the establishment or support, of any association formed for any of the Objects of M16;
- k) to do all such other lawful things as are necessary, incidental or conducive to the attainment of the Objects of M16.

3. Membership

- a) membership shall be available to all persons or organisations to whom the Association has granted tenancy in accordance with the Objects of M16 upon payment of all necessary fees;
- b) membership may also be granted to other persons or organisations who can provide skills in support of the Objects of the Association upon payment of all necessary fees;
- c) a Member shall, upon admission to membership and unless their membership otherwise ceases in accordance with this Constitution remain a member as long as they have paid their Membership Fee;
- d) a Member of the Association may, subject to 28 days notice, resign from the Association by delivering or sending by post to the Manager/Administrator a written notice of resignation or by forfeiting their bond in lieu of notice;
- e) a right, privilege, or obligation of a Member –
 - i) is not capable of being transferred or transmitted to another person or organisation; and
 - ii) terminates upon the cessation of their membership.
- f) a Member ceases to be a member of M16 if they –
 - i) die;
 - ii) resign in accordance with the provisions of this Constitution;
 - iii) is expelled for reasons outlined in Paragraph 5.
- g) a Member of the Association is not liable to contribute to the payment of the liabilities of the Association on a winding up.
- h) non-voting associate membership shall be available and granted after payment of an annual fee, to those people or organisations with an interest in the arts and a commitment to assist M16 in pursuing its goals.

4. Annual Membership Fee

- a) a Membership Fee is set by the Board annually and charged to the Member at the beginning of the calendar year;
- b) a Member is only a Financial Member if they have paid their Membership Fee and their rental account is not in arrears by more than 28 days.

5. Expulsion

- a) the Board may revoke a Member's tenancy and membership of M16 if the use of their studio jeopardises the financial viability of M16, exposes M16 to legal liabilities, or adversely affects other tenants' use of their studio;
- b) conditions that may lead to expulsion include, but are not limited to –
 - i) unpaid rent in excess of 28 days studio rental;
 - ii) unapproved structural modifications to the studio;
 - iii) breaches of security through the use of the tenant's key by non-tenants of M16;
 - iv) breaches of OH&S requirements by the tenant or persons engaged by the tenant;
 - v) pressure on communal facilities and resources by the tenant or persons engaged by the tenant;
 - vi) excessive or hazardous activities which may adversely affect other tenant's use of their studio.
- c) expulsion of a Member will take effect fourteen (14) days after the service of a notice;
- d) the notice will state the reasons why the Board is expelling the Member and provide the Member with the opportunity to appeal against the expulsion within fourteen (14) days after the service of the notice;
- e) if the Member appeals against the expulsion, their appeal will be considered at the next available Board Meeting, with the Member present to argue their case. If the expulsion still holds, it will take effect after conclusion of the Meeting.

6. Management

- a) the affairs of M16 shall be managed by a Board of Management (herein defined as the 'Board') elected by Members at the Annual General Meeting;
- b) the Board –
- i) The Board shall consist of up to three tenant members and up to eight other members of the Association who have an interest in the goals of the association, and have appropriate skills in accordance with paragraph 3b and 6b (v) of this Constitution;
 - ii) shall control and manage the business affairs of M16;
 - iii) may subject to this Constitution, exercise all such powers and functions other than the powers and functions to be exercised by Members at an Annual General Meeting;
 - iv) subject to the *Associations' Incorporation Act 1991* and this Constitution, has power to perform all such acts and things as appear to the Board necessary for the proper management of the business and affairs of M16;
 - v) collectively the Board should possess expertise in key areas related to the governance of M16, including, but not limited to: law, government relations, financial management, sponsorship and fundraising, artistic direction, business development, audience development and research, marketing and communications.
 - vi) must comply with procedures endorsed at an Annual General Meeting that set out how to deal with conflicts of interests.
- c) the Board shall have the following Officers –
- i) Chairperson;
 - ii) Secretary; and
 - iii) Treasurer.

Officers shall be elected by Board members and hold office until the close of the next Annual General Meeting.

- d) the role of each Officer is as follows -
- i) the Chairperson shall where possible preside over all meetings of M16, and at meetings held under its auspices. The Chairperson shall be responsible for the maintenance of order, and the proper conduct of business and observance of the Constitution of M16;
 - ii) the Secretary shall in person, or by deputy, attend such meetings of M16, keep Minutes of the proceedings, and read and file all communications and other papers, issue notice of meetings when

directed, conduct the correspondence of the Board, and perform such duties as may be directed by the Board;

iii) the Treasurer shall be responsible for the keeping of accurate accounts of all money belonging to the funds of M16, shall accept all money of M16 and be responsible for banking same as soon as possible after receipt. At the Annual General Meeting the Treasurer shall present a properly audited financial statement.

e) further to the powers of the Board in paragraph b) above, the Board –

i) shall have the power to appoint sub-committees for the purpose of carrying out functions of M16 as the Board directs. Such sub-committees may include non-members and staff of M16 but must include at least one Member of M16 who is responsible for that sub-committee;

ii) each member of the Board shall subject to this Constitution, hold office until conclusion of the Annual General Meeting following the date of the member's election, but is eligible for re-election;

iii) the Board may delegate to the Manager/Administrator of M16 and a delegation may be subject to such condition or limitations as to the exercise of any function, or as time or circumstances, as may be specified in the delegation;

iv) notwithstanding any delegation under the above paragraph, the Board may continue to exercise any function delegated.

f) every Financial Member of M16 shall be eligible for nomination to the Board;

g) The Board shall meet as often as necessary but at least four times per year. The Executive Officers of the Board should meet with the manager/ administrator as often as necessary but at least eight times during the year to ensure the implementation of Board decisions.

h) casual vacancies occurring on the Board may be filled by co-option of Financial Members of M16;

i) the continuing Board members may act notwithstanding any vacancy in their number;

j) the quorum for meetings of the Board shall number half plus one of the number of Board members from time to time;

k) a resolution in writing and signed by all members of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted;

l) true and accurate Minutes shall be kept of all meeting of the Board by the Secretary or by the person nominated for that purpose by the Board;

- m) all acts done in good faith at any meeting of the Board or by any person acting as a member of the Board shall, notwithstanding that afterwards it shall be discovered that there was some defect in the appointment of any such member acting as aforesaid or that they or any of them were disqualified, be as valid as if such person had been duly appointed and qualified as a member of the Board;
- n) questions arising at any meeting of the Board shall be decided by a majority of votes of the members of the Board then present;
- o) oral or written notice of a meeting of the Board shall be given by the Secretary to each member of the Board at least 48 hours before the time appointed for the holding of the meeting;
- p) matters of business to be discussed at a Board meeting must be provided to the Secretary 48 hours before the scheduled meeting so that an Agenda can be prepared for the meeting. Other matters can be discussed at the meeting after the Agenda items have been dealt with and with the consent of the Board members present;
- q) for the purposes of this Constitution, a vacancy in the office of a member of the Board occurs if the member –
 - i) dies;
 - ii) ceased to be a Member of the Association;
 - iii) resigns from office;
 - iv) is absent for three consecutive Board meetings without prior consent of the Board.

7. Public Officer

- a) the Board shall appoint a Public Officer (who is a person resident in the Australian Capital Territory) and that person shall continue as Public Officer until they resign by notice in writing to the Board;
- b) the Public Officer will notify the Registrar-General's Office of their appointment within 14 days. This notice will state the date of appointment, full name and residential address. A change of address will be notified within 14 days;
- c) the Public Officer will file within three months after incorporation a copy of the Constitution certified by a statutory declaration to be a true copy.

8. Income and Property

- a) the funds of M16 shall be derived from members annual Membership Fees, donations and such other sources as the Board determines;
- b) the income and property of M16, however derived, shall be applied solely to the promotion of the Objects of M16 and no portion thereof shall be paid or transferred, directly or indirectly, by dividend, bonus, or otherwise, to any Member or staff of M16;
- c) this does not prevent the payment in good faith to a Member or staff of M16 of –
 - i) remuneration in return for services actually rendered to M16 by a Member or staff or for goods supplied to M16 by a Member or staff in the ordinary course of business;
 - ii) interest at the current bank overdraft rate on money lent; or
 - iii) a reasonable and proper sum by way of rent for premises or equipment to let to M16 by a Member or staff.
- d) M16 may retain a representative collection of work produced by Members, contractors and participants in artists-in-residence and related programs of M16 and, in the event of winding up of M16, this collection shall not be sold but shall be bequeathed to a gallery or collection nominated by the Board.

9. Accounts, Finance and Audit

- a) true accounts shall be kept –
 - i) of all sums of money received and expended by M16 and the manner in respect of which the receipt or expenditure takes place;
 - ii) of the property, credits and liabilities of M16.
- b) the financial year of M16 shall be the period commencing on the first day of January in each year and ending on the thirty first day of December next following unless a period of greater or less than twelve months has been fixed by the Board;
- c) M16 shall cause to be opened with such financial institution as the Board selects an account or accounts in the name of M16 into which all moneys received shall be paid as soon as possible after receipt thereof;
- d) no cheques shall be drawn or withdrawals shall be made on M16's account or accounts except for payment of expenditure that has been authorised by such persons as the Board shall from time to time nominate for that purpose;
- e) all cheques, drafts, bills of exchange, promisory notes, and other negotiable instruments shall be signed by such persons as the Board shall from time to time nominate for that purpose;

- f) no reimbursements shall be made to any such person for purchases made on behalf of M16 unless such purchases have been authorised by the Board;
- g) the Auditor –
 - i) has the right of access to all accounts, books, records, vouchers and documents of M16;
 - ii) may require of the staff or the Board such information and explanations as may be necessary for the performance of their duties as Auditor;
 - iii) can not be a Member or Public Officer of M16.
- h) a balance sheet will be prepared at least twice in each period of twelve months, with one of those produced at the end of the twelve month period;
- i) the balance sheet produced at the end of the twelve month period will be filed with the Registrar-General's Office by the Public Officer within three months after preparation.

10. Public Fund

- a) donations will be deposited into the Public Fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of M16 and will only be used to further M16's Objects. Investment of monies in this Fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office;
- b) the Fund will be administered by a management committee or a sub-committee of management, a majority of whom, because of their tenure of some public office or professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objective of M16;
- c) no monies/assets in the Fund will be distributed to Members or office bearers of M16, except as reimbursement of out-of-pocket expenses incurred on behalf of the Fund or proper remuneration for administrative services;
- d) if, upon the winding up or dissolution of the Public Fund there remains after satisfaction of all its debts and liability, any property or funds, the property or funds shall not be paid or distributed among the Members of M16 but shall be given or transferred to some other fund, authority or institution having objects similar to the Objects of this Public Fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution is to be eligible for tax deductibility of donations under subdivision 30-B, section 30-100, of the *The Income Tax Assessment Act 1997*;

e) any proposed amendments or alterations to the provisions for the Public Fund will be notified to the Department responsible for the administration of the Register of Cultural Organisations to assess the effect of any amendments on the Public Fund's continuing deductible gift recipient status.

11. Annual General Meeting

a) M16 shall, in each year, hold an Annual General Meeting;

b) the Annual General Meeting shall be held on such a day, not later than three months after the close of the financial year of M16, as the Board may determine. If in any year the Board fails to make such a determination the next ensuing Special General Meeting called in accordance with this Constitution shall also be the Annual General Meeting in respect of that year;

c) the ordinary business of the Annual General Meeting shall be –

i) to confirm the minutes of the last preceding Annual General Meeting;

ii) to receive reports, audited balance sheet and statement of accounts in respect of the preceding financial year;

iii) to elect the Board and Auditor of M16.

d) the Annual General Meeting may consider other business brought forward by the Board or, by leave of Financial Members present by other Members;

e) M16 shall give at least fourteen days notice in writing to Members of the place, day and time for holding of the Annual General Meeting and notice of motion;

f) all Members of M16 shall be entitled to speak at the Annual General Meeting but only Financial Members who are present at the meeting shall have a vote;

g) voting at the Annual General Meeting shall be by a member voting in person or by proxy and on a show of hands every person present who is a Member or a representative of a Member will have one vote and on a poll every Member present in person or by proxy will have one vote with questions being decided by a majority of Members so voting.;

h) The instrument appointing a proxy must be in writing under the hand of the appointer or either under seal or under the hand of an officer or attorney duly authorised. The signature of the appointer must be witnessed by a person other than the proxy. The instrument appointing a proxy will be deemed to confer authority to demand or join in demanding a poll. A Member will be entitled to instruct his or her proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as he or she thinks fit. The

instrument appointing a proxy may be in the following form or in a common or usual form.

I,..... being a Member of M16 hereby appoint

.....of

.....Or.....

.....failing him/her of

.....as my proxy to vote for me on my behalf

at the (annual

general or special general as the case may be) meeting of M16 to be

held on the

.....day of.....and at any

adjournment.

My proxy is hereby authorised to vote *in favour of/*against the following resolutions:

Signed thisday of 20.....

Note: in the event of the Member desiring to vote for or against any resolution it must instruct its

proxy accordingly, unless otherwise instructed, the proxy may vote as he or she thinks fit.

(i) The instrument appointing a proxy must be deposited at place specified for that purpose in the notice convening the meeting, not less than forty eight (48) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty four (24) hours before the time appointed for the taking of the poll, and in default the instrument of proxy must not be treated as valid.

j) the accidental omission to give notice of a Meeting to, or the non-receipt of a notice of a Meeting by any person entitled to receive notice shall not invalidate the proceedings of any Meetings;

k) the quorum for the Annual General Meeting shall be twelve (12) Financial Members present personally or by proxy

12. Special General Meeting

a) all business that is transacted at a Special General Meeting and all business that is transacted at the Annual General Meeting, with the exception of that specifically referred to in paragraph 11.c) as being the ordinary business of the Annual General Meeting, shall be deemed as special business;

b) a Special General Meeting may be called by the Board and shall be called by the Secretary so as to be held within one (1) month after receipt by the Secretary of a request by any seven (7) Financial Members specifying the business to be dealt with;

c) paragraph 11.d), 11.e), 11.f), 11.g) and 11.h) 11.i) 11.j) and 11.k) of this Constitution applying to Annual General Meeting shall also apply to a Special General Meeting.

13. Alterations to the Constitution

- a) this Constitution may be amended by resolution passed by a three quarters majority of Financial Members present at either an Annual General Meeting or Special General Meeting;
- b) 21 days notice of the amendment shall be included in the notice calling the Meeting;
- c) an amendment is of no effect until a copy of the alteration is lodged with the Registrar-General's Office.

14. Common Seal

- a) the Common Seal shall be in the form of a rubber stamp, inscribed with the name of the Association encircling the words "Common Seal";
- b) the Seal shall not be affixed except by the authority of the Board to any instrument which must be signed by at least two (2) members of the Board.

15. Winding Up

- a) if, upon winding up or dissolution of M16, there remains after the satisfaction of all debts and liabilities any property whatsoever the same shall not be paid to or distributed among Members but shall be given or transferred to some other organisation having similar Objects to M16, and whose rules prohibit the distribution of its income and property among its members;
- b) in the event of a winding up or dissolution of M16, the Members or Board of M16 shall not be liable to contribute any amount for payment of the debts and liabilities of M16 and costs, charges and expenses or winding up or dissolution.

16. Inspection of Documents

- a) the records, books and other documents of M16 shall be open to inspection at the Office of M16, free of charge, by a Member during Office hours, subject to prior approval by the Board. Such a request should be notified in writing to the Board so that the request can be considered at the next Board meeting;
- b) the records, books and other documents related to individual members will only be open to inspection if agreed by the individual member concerned.

17. Notices

a) a notice may be served by or on behalf of M16 upon any Member either personally, by email to an address provided by the member to the Board or by sending it through the post in a prepaid letter addressed to the Member's usual or last know address;

b) the Secretary shall, at least fourteen (14) days before the date fixed for holding a General Meeting cause to be publicly notified in the Australian Capital Territory the place, day and time of holding the Meeting, and the nature of the business to be transacted.