

**COMPANIES ACT 2014**  
**FORM OF CONSTITUTION OF COMPANY LIMITED BY GUARANTEE**  
**CONSTITUTION**  
**OF**  
**CRAWFORD ART GALLERY CORK**

1. The name of the company is: CRAWFORD ART GALLERY CORK.
2. The company is a company limited by guarantee, registered under Part 18 of the Companies Act, 2014 (“the Act”).
- 3.1 The main objects for which the company is established are:-
  - (a) to advance education by developing and promoting the practice of art, sculpture and design and in the fine arts and applied arts generally and to promote the Crawford Art Gallery Cork as an educational centre for the arts and as a major cultural and artistic centre.
  - (b) to advance education by providing facilities for cultural and artistic exhibitions, performances, displays, demonstrations, conferences, lectures, tours, visits, functions and related activities and to engage in the promotion of such cultural and artistic activities.
- 3.2 The Company shall in addition to the powers conferred on it by law have the following powers which are exclusively subsidiary and ancillary to the main objects and which powers may only be exercised in promoting the main objects. Any income generated by the exercise of these powers is to be applied for the promotion of the main objects:
  - (a) To provide on a fee basis, but free of charge if appropriate, facilities for exhibitions, demonstrations, displays, conferences, lectures, tours, visits, functions of an artistic nature.
  - (b) To promote and encourage public awareness and appreciation of culture and the arts generally and of the activities of the Gallery particularly.
  - (c) To purchase, manufacture, make, hire, borrow or accept any equipment, fittings, furnishings or effects and personal property of every description required for the purposes of the company.
  - (d) To enter into arrangements, agreements, contracts and engagements with individuals, administrators, managers, impresarios, artistic directors, cultural or artistic groups, unincorporated associations or societies, statutory or corporate bodies, State or semi-State bodies or other persons or authorities necessary and proper for the carrying into effect of the objects set out in this Memorandum and, subject to the terms of such arrangements, agreements, contracts and engagements to sell any resulting rights acquired by the company as it thinks fit.

- (e) To carry out research, investigations and experimental work of every description in relation to any of the objects herein mentioned.
- (f) To advise and co-operate as appropriate with Government Departments, the National Gallery of Ireland, the National Museum of Ireland, the Irish Museum of Modern Art, an Chomhairle Ealaion, the Office of Public Works in Ireland, Local Authorities and other bodies or persons on any matters concerned directly or indirectly with the main objects of the company.
- (g) To provide that any income derived by the company from the operation of the Crawford Art Gallery Cork shall be used exclusively for its continued development as a major cultural and artistic centre.
- (h) To provide administrative and secretarial services at the request of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, to any charitable or other trust or body which may exist or be established to raise finance for cultural and artistic purposes.
- (i) To admit the public or private groups or persons to the Crawford Art Gallery Cork.
- (j) To solicit, collect and receive subscriptions or gifts of all descriptions whether absolute or conditional for the purposes of the company and to accept donations upon any special trusts within the limits of the objects for which the company is established.
- (k) To apply to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, the Government or to any Minister thereof or any other person or body for the advance of money by way of grant to finance the work of the company and to apply such money accordingly subject to any conditions or restrictions which may be attached to such grant.
- (l) To purchase, take on lease or letting, or in exchange, to hire or otherwise acquire any real or personal property which the company may consider necessary for the promotion of its objects and to construct, maintain, erect and alter any lands, buildings or erections necessary or convenient for the purposes of the company.
- (m) To enter into such policies of insurance, assurance or otherwise as shall adequately cover the buildings, undertakings, employees, patrons and all others in any way using the facilities of the company in any manner whatsoever against all and every description of risk, unless the risk involved is otherwise covered satisfactorily.
- (n) To sell, improve, manage, develop and exchange, let, mortgage, dispose of or turn to account all or any of the property or assets of the company as may be thought expedient with a view to the promotion of its objects.
- (o) To borrow or raise money, or secure the payment of money, in such manner as the company shall think fit, and to mortgage or charge all or any of the property

of rights of the company, both present and future, and to repay and redeem any such securities. PROVIDED ALWAYS that the consent of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media and the Minister for Finance shall be obtained before any money shall be borrowed or raised by the company and provided further that no mortgage or charge may be created which is secured by the premises of the Gallery.

- (p) To invest in such ways as shall seem desirable to the Directors any moneys of the Company not immediately required for the use in connection with its main objects and to place any such moneys on deposit with bankers and others; subject nevertheless as regards the making of investment to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided; prior permission to be obtained from the Revenue Commissioners where the Company intends to accumulate funds over a period in excess of two years for any purpose.
- (q) To apply for or acquire licenses of every description for the sale of intoxicating liquor, minerals, tobacco or sweets and to apply for or acquire restaurant certificates, refreshment house acquired restaurant certificates, refreshment house licenses or other similar certificates or licenses and to carry on such business as vintners, bar owners, publicans, refreshment house keepers or restaurateurs and to provide catering and refreshment facilities for persons attending the Gallery and to engage in catering activities.
- (r) To acquire copyrights, inventions, rights of production, licenses and privileges, and other rights and interests in the publication, display, sale, recording, presentation and reproduction of pictures, sculpture, art and other works, to deal with such rights and interests, to grant licenses or copyrights in respect of any property of the company.
- (s) To engage in any kind of publicity for the purposes of fostering the objects of the company, and to print, publish, distribute and sell and arrange the printing, publication, distribution and sale of any literature, catalogues, programmes, music, periodicals, books or leaflets as the company may think fit.
- (t) To engage directly or indirectly, by concession or otherwise, in display, exhibition and sale of materials, goods and services as the company may think appropriate having regard to the cultural and artistic character of the Gallery and the necessary pre-eminence of its cultural and artistic activities.
- (u) To employ a chief executive and such other numbers and grades of personnel as the company may, subject to the approval of the Minister for Finance, think fit including agents either within or outside the State and remunerate any person, firm or company rendering services to the company either by payment or otherwise, and to prepare and implement with the approval of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, given after consultation with the Minister for Finance, a scheme or schemes for the granting of pensions,

gratuities and other allowances on retirement to or in respect of the whole-time staff including the chief executive of the company and to pay all or any of the expenses incurred in connection with the formation, promotion, incorporation or administration of the company, the remuneration, tenure of office and other conditions of service of every officer and servant appointed or engaged by the company shall be such as the company, with the approval of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, given after consultation with the Minister for Finance, shall determine.

- (v) To maintain and operate banking accounts and to draw, accept, endorse and issue cheques and other negotiable or transferable instruments.
- (w) To do all or any of the above things as principals, agents, contractors, trustees or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others and to do all such other things as are incidental or conducive to the attainment of the objects of the company.
- (x) None of the foregoing sub-clauses or any objects specified therein or any power thereby conferred shall be deemed subsidiary or ancillary to any other sub-clause, object or power or in any way limited or restricted by reference to or inference from the terms of any other sub-clause, object or power or by the name of the company.
- (y) Provided also that in case the company shall take or hold any property upon or subject to any charitable or other trust the company shall not sell, mortgage, charge or lease the same without such authority, approval or consent, as may be required by law, nor otherwise deal with the same save in accordance with the law for the time being applicable to such trusts.
- (z) Provided that the company shall not support with any of its funds any object or endeavor to impose on or procure to be observed by its members or others any regulations, restrictions or conditions which if an object of the company would make it a Trade Union.

3.3 The income and property of the company shall be applied solely towards the promotion of main object(s) as set forth in this Constitution. No portion of the company's income and property shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to members of the company. No charity trustee shall be appointed to any office of the Company paid by salary or fees, or receive any remuneration or other benefit in money or money's worth from the company. However, nothing shall prevent any payment in good faith by the company of:

- a) reasonable and proper remuneration to any member or servant of the company (not being a charity trustee) for any services rendered to the company;

- b) interest at a rate not exceeding 1% above the Euro Interbank Offered Rate (Euribor) per annum on money lent by charity trustees or other members of the company to the company;
- c) reasonable and proper rent for premises demised and let by any member of the company (including any charity trustee) to the company;
- d) reasonable and proper out-of-pocket expenses incurred by any charity trustee in connection with their attendance to any matter affecting the company;
- e) fees, remuneration or other benefit in money or money's worth to any Company of which a charity trustee may be a member holding not more than one hundredth part of the issued capital of such Company;
- (f) payment by the company to a person pursuant to an agreement entered into in compliance with section 89 of the Charities Act, 2009 (as for the time being amended, extended or replaced).

- 3.4 The organisation must ensure that the Charities Regulator has a copy of its most recent governing instrument. If it is proposed to make an amendment to the Governing Instrument of the organisation which requires the prior approval of the Charities Regulator, advance notice in writing of the proposed changes must be given to the Charities Regulator for approval, and the amendment shall not take effect until such approval is received. Furthermore no amendments shall be made to the extent they would alter the effect of clauses 3.3 and 3.6 and such that there would be non – compliance with the requirements of section 971 / 1180 of the Companies Act 2014 without the consent of the Charities Regulator.
- 3.5 A copy of every Balance Sheet (including every document required by law to be annexed thereto) which is to be laid before the Annual General Meeting of the company together with a copy of the Directors' report and Auditors' report shall, not less than 21 days before the date of the Annual General Meeting be sent to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media and every Balance Sheet (including every document required by law to be annexed thereto) and every Directors' report and every Auditors' report shall be available for production to an inspection by the Controller and Auditor General who shall at all times have access to the books and records of the company. A copy of the Annual Audited Accounts shall be made available to the Revenue Commissioners on request being made therefore.
- 3.6 If upon the winding up or dissolution of the company there remains, after satisfaction of all debts and liabilities, any property whatsoever, it shall not be paid to or distributed among the members of the company. But shall be given or transferred to another company whose objects are the promotion of charity and which has main objects similar to the main objects of the company which other company also meets the requirements of paragraph (b) of section 971 (1) 1180 (1) of the Companies Act 2014, such company to be determined by the members of this company at or before the time of dissolution, or in default thereof by such Judge of the High Court as may have or acquire jurisdiction in the matter, and if and so far as effect cannot be given to such provision, then to some

charitable object. Final accounts will be prepared and submitted that will include a section that identifies and values any assets transferred along with the details of the recipients and the terms of the transfer.

4. The liability of the members is limited.
5. Every member of the company undertakes to contribute to the assets of the company, in the event of the same being wound up while he or she is a member, or within one year after he or she ceases to be a member, for payment of the debts and liabilities of the company contracted before he or she ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding three euros (€3)

## **ARTICLES OF ASSOCIATION**

The following Regulations shall apply to the company:

### **MEMBERS**

1. The number of members with which the company proposes to be registered is twelve but the Directors may from time to time, with the consent of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, register an increase in members or decrease in members and shall, if so directed by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, register such increase or decrease, provided that the minimum number of members is eight. The subscribers to the Memorandum of Association and such other persons as the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media shall be members.
2. The optional provisions of the Act (as defined by subsection (2)(a) of section 1177 of the Act) shall apply to the company save and so far as they are excluded or modified by this Constitution and such optional provisions together with the provisions of this Constitution shall constitute the regulation of the company.
3. Members shall cease to be members of the company as soon as their term of office as Directors ceased for any of the reasons set out in Article 13 or is terminated by the happening of any of the events enumerated in Article 16

### **GENERAL MEETINGS**

4. No business shall be transacted at any general meeting unless a quorum of members entitled to vote is present at the time when the meeting proceeds to business; save as herein otherwise provided, four members present in person shall be a quorum.
5. The directors of the company shall, on the requisition of one or more members holding, or together holding, at the date of the deposit of the requisition, not less than

10 per cent of the total voting rights of all the members having, at the date of the deposit, the right to vote at general meetings of the Company, forthwith proceed duly to convene an extraordinary general meeting of the Company.

6. If within fifteen 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; in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within fifteen minutes from the time appointed for the meeting, the members present shall be a quorum.
7. The Chairman of the Board of Directors shall preside as Chairman at every meeting of the company, or if there is no such Chairman, or if he/she is not present within fifteen minutes from the time appointed for the meeting, the Directors present shall elect one of their number to be Chairman of the meeting.
8. At any general meeting a resolution put to the vote of the meeting shall be decided by majority on a show of hands. Any resolution which concerns or is related to any of the objects set forth in clause 3(k),(l) and (m) of the Memorandum of Association shall be declared carried by the Chairman only if there is a unanimous vote in favour of the resolution.
9. Subsection (5) of section 180 of the Act shall be applied such that only those members who are entitled to receive notice of general meeting shall be given same and subsection (1)(a) of the said section shall be read accordingly.
10. The provision of notice of general meetings shall be permitted via electronic means and furthermore the provisions of subsection (5) of section 218 of the Act shall apply to the Company.
11. Votes must be given personally and the provisions of S1205 shall be read accordingly.

#### **DIRECTORS**

12. The Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media shall appoint the Board of the Directors who shall be the same persons as the members for the time being and shall appoint one of their number to be Chairman. The number of Directors so appointed shall be twelve; Cork City Council and Cork County Council will nominate one member each for appointment by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media and the Cork City Council Chief Executive shall be appointed on an *ex-officio* basis.
13. The Chairman and other Directors of the company are honorary officers and shall not be entitled to be remunerated. The Directors may be paid or refunded all

travelling, hotel and other expenses properly incurred by them in attending and in the returning from meetings of the Directors, or in connection with the business of the company.

14. Each Director shall hold office on such terms as the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media may from time to time decide. Each Director so appointed shall hold office for a period of five years unless he/she is removed from office or retires in accordance with the provisions of these Articles. On the expiration of the said five year term, he/she shall be eligible for re-appointment and the provisions of S1196 shall not apply to this company.
15. Together with the provisions of section 148 of the Act, the office of a Director shall be vacated if:-
  - Receipt by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media of his/her resignation in writing or
  - he or she makes any arrangement or composition with his or her creditors generally or
  - where a director is directly or indirectly interested in any contract with the Company and fails to declare the nature of his or interests in the manner required by section 231 of the Act or
  - his/her being requested in writing by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media or
  - his/her death or
  - he/she is nominated as a member of Seanad Eireann or
  - he/she is nominated as a candidate for election to either House of the Oireachtas or to the Assembly of the European Communities or
  - he/she is regarded pursuant to Section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977 as having been elected to such Assembly to fill a vacancy.
16. Whenever there is a vacancy on the Board of Directors the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media may appoint a Director to fill such vacancy and shall at the same time give notice to the company of such appointment.
17. In addition to the provisions of subsection (6) of section 161 of the Act, the following provisions shall be applicable to the company in relation to a meeting of the directors or of a committee of directors, at the commencement of the meeting each Director must acknowledge his or her presence and that he or she accepts that the conversation shall be deemed to be a meeting of the Directors and a Director may not cease to take part in the meeting by disconnecting his or her telephone or other means of communication unless he or she has previously obtained the consent of the



Chairman of the meeting, and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he or she has previously obtained the express consent of the Chairman of the meeting to leave the meeting as aforesaid.

18. The business of the company shall be managed by the Directors, who may pay all expenses incurred in promoting and registering the company, and may exercise all such powers of the company as are not by the Act, or by these Articles required to be exercised by the company in general meeting, subject by the company in general meeting, subject nevertheless to the provisions of the Act and of these Articles and to such directions being not inconsistent with the aforesaid provisions, as may be given by the company in general meeting; but no directions given by the company in general meeting shall invalidate any prior act of the Directors which would have been valid if that direction had not been given.
19. The Directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the purposes and with powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such powers or attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in him or her.
20. The Directors shall appoint a Chief Executive who shall be known as the Director, Crawford Art Gallery Cork, who shall not be a Director of the company but who may act as secretary of the company. The remuneration, terms of office and other conditions of the office of the Chief Executive and of every officer and servant appointed or engaged by the company shall be such as the company with the approval of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, given after consultation with the Minister for Finance, shall determine. The Chief Executive shall be subject to the Board of Directors and shall manage the day-to-day running of the Gallery in accordance with their directions.
21. Where a person employed by the company is nominated as a member of Seanad Éireann, or nominated as a candidate for election to either House of the Oireachtas or to the Assembly of the European union, or regarded pursuant to Section 15 (inserted by the European Assembly Elections Act, 1977), as having been elected to such Assembly to fill a vacancy, he/she shall thereupon stand seconded from employment

by the company and shall not be paid by, or be entitled to receive from the company any remuneration or allowances.

22. A Director shall disclose any interest he/she may have in any contract into which the company is about to enter. A Director may not vote in respect of any contract in which he/she is interested or any matter arising there out.
23. A Director shall declare interest in any matter with which he or she has connections of a kind which might lead to a situation where they would stand to benefit, directly or indirectly, from their role as a Director or from the operations of the company. Having had an opportunity to make a statement to the Board on the matter and to answer questions put (in order that the board should not be deprived of the benefit of the Member's particular knowledge), a Director having declared such an interest shall withdraw from the discussion (whether at plenary session or in sub-committee) at the signal of the Chairman. The Director may be informed privately of the decision, once taken, but after the return of that Director to that meeting no further discussion of the item shall take place.
24. The Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media may upon giving notice in writing, a copy of which shall be given to the company, remove any Director from office and section 146 shall be read accordingly.
25. The quorum necessary for the transaction of the business of the Director shall be four and the provisions of S160(6) shall be modified accordingly.
26. Together with the provisions of S160(7) the Directors shall inform the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media if their numbers become reduced below the number fixed by or pursuant to the Articles of the company as the necessary quorum of Directors.
27. If at any meeting the Chairman is not present within fifteen minutes after the time appointed for holding the same, the directors present may choose one of their members to be Chairman of that meeting.
28. A committee may elect a Chairman of its meetings; if no such Chairman is elected, or if at any meeting the Chairman is not present within fifteen minutes after the time appointed for holding the same, the members present may choose one of their members to be Chairman of the meeting.
29. Every director, managing director, agent, secretary and other officer for the time being of the company shall be indemnified out of the assets of the company against any liability incurred by him or her in defending any proceedings, whether civil or

criminal, in relation to his or her acts while acting in such office, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application in which relief is granted to him or her by the court.

#### **BORROWING POWERS**

30. Subject to the provisions of Clause 3.2(m) of the Memorandum of Association, the Directors may exercise all the powers of the company to borrow money and to mortgage or charge its undertaking and property or any part thereof, and to issue debentures, debenture stock and other securities, whether outright as security for any debt, liability or obligation of the company or if any third party provided however that no mortgage or charge shall be created which is secured by the premises of the Gallery.

#### **AUDIT**

31. The consent of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, given after consultation with the Minister for Finance, shall be required for the engagement of Auditors who shall be appointed and their duties regulated in accordance the Companies Act 2014.

#### **PROVISION OF INFORMATION TO THE MINISTER FOR TOURISM, CULTURE, ARTS, GAELTACHT, SPORT AND MEDIA**

32. The company shall, on the written request of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, provide information on any or all of the company's activities and shall provide access to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media or to his/her authorised representative to all the books, ledgers, accounts and balance sheets of the company.

#### **WINDING UP**

33. The provision of Clause 5 of the Memorandum of Association relating to the winding up or dissolution of the company shall have effect and be observed as if the same were repeated in these Articles.