

CONSTITUTION OF THE SAWTELL ART GROUP INC

(Modified version of 'MODEL CONSTITUTION Under the Associations Incorporation Act 2009' developed by NSW Fair Trading, 2016)

Adopted **2020**

Revised 2019

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PART 1 – Preliminary

1. Name

The name of this incorporated association shall be, Sawtell Art Group, Inc., hereinafter referred to as “the association”.

- (a) No qualifications are needed in any area of participation - nor are they given.
- (b) The association is a non-profit organization.

2. Definitions

(1) In this constitution:

the committee means the management committee of the association.

ordinary committee member means a member of the committee who is not an office-bearer of the association.

secretary means:

- (a) the person holding office under this constitution as secretary of the association, or
- (b) if no such person holds that office – the public officer of the association.

-special general meeting means a general meeting of the association other than an annual general meeting.

-the Act means the Associations Incorporation Act 2009.

-the Regulation means the Associations Incorporation Regulation 2010.

(2) In this constitution:

- (a) reference to a function includes a reference to a power, authority and duty, and
- (b) reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the Interpretation Act 1987 apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

PART 2 - Membership

3. Membership generally

(1) On completion and lodgment of the committee-approved membership form and paying the prescribed annual fee, the applicant's name shall be entered by the secretary in the register of members, and the applicant becomes a member of the association.

(2) Membership shall be from the date of payment of the prescribed fee up to the same date the following year.

(3) Membership may be renewed each year by the registration of a completed membership form and the payment of the annual fee.

(4) Membership is not transferable.

(5) Honorary membership or life membership may be conferred at the discretion of the management committee.

4. Membership fees

(1) The membership fee shall be set at the annual general meeting of the association for the next calendar year.

(2) Membership fees shall be paid at the time of application for membership.

5. Cessation of membership

(1) A person ceases to be a member of the association if the person:

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the association, or
- (d) fails to renew membership as set out in clause 4 (3)

6. Register of members

(1) The secretary must establish and maintain a register of members of the association specifying the name and address and telephone number and any other relevant contact details of each person who is a member of the association together with the date on which the person became a member.

(2) The register of members must be kept by the secretary and information may be made available to any member, on written request to the committee, subject to the provisions of any law relating to privacy.

(3) If the register of members is kept in electronic form:

- (a) it must be convertible into hard copy, and
- (b) the requirements in subclause (2) applies as if a reference to the register of members is a reference to a current hard copy of the register of members.

7. Members' liabilities

No member of the association has any liability to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association.

8. Resolution of internal disputes

(1) Disputes between a member and another member (in their capacity as members) of the association, and disputes between a member or members and the association, shall in the first instance be referred to the committee for mediation and resolution.

(2) At least 7 days before a mediation session is to commence, the parties shall exchange statements of the issues that are in dispute between them and supply copies to the mediator.

(3) In the event that mediation and resolution cannot be achieved under clause (1), disputes between members (in their capacity as members) of the association, and disputes between members and the association, shall be referred to a community justice centre for mediation under the Community Justice Centres Act 1983.

9. Disciplining of members

(1) A complaint may be made to the committee by any person, that a member of the association:

- (a) has persistently refused or neglected to comply with a provision or provisions of this constitution, or
- (b) has persistently and wilfully acted in a manner prejudicial to the interests of the association.

(2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.

(3) If the committee decides to deal with the complaint, the committee:

- (a) must cause notice of the complaint to be served on the member concerned, and
- (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
- (c) must take into consideration any submissions made by the member in connection with the complaint.

(4) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted.

(5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, a cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 11.

(6) The expulsion or suspension does not take effect:

- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
- (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 10, whichever is the later.

10. Right of appeal of disciplined member

(1) A member may appeal to the association in general meeting against a resolution of the committee under clause 10, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.

(2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.

(3) On receipt of a notice from a member under subclause (1), the secretary must notify the committee which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.

(4) At a general meeting of the association convened under subclause (3):

(a) no business other than the question of the appeal shall be transacted, and

(b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and

(c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.

(5) The appeal is to be determined by a simple majority of votes cast by members of the association.

PART 3 - The committee

11. Powers of the committee

Subject to the Act, the Regulation and this constitution and to any resolution passed by the association in general meeting, the committee:

(a) is to control and manage the affairs of the association, and

(b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and

(c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

12. Composition and membership of the committee

(1) The committee shall comprise persons who are financial members of the association.

(2) The committee is to consist of:

(a) office-bearers of the association, and

(b) 3 ordinary committee members, each of whom is to be elected at the annual general meeting of the association under clause 13.

(3) The total number of committee members is to be a maximum of 10.

(4) The office-bearers of the association are to be as follows:

- (a) president
- (b) vice-president
- (c) treasurer
- (d) secretary
- (e) social media coordinator
- (f) workshop coordinator
- (g) grants officer

(5) A committee member may hold up to 2 offices (other than both the president and vice-president offices).

(6) Each member of the committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

(7) No remuneration or other benefit in money or money's worth shall be given by the committee to any member except for repayment of out-of-pocket expenses properly incurred for the association.

13. Election of committee members

(1) Nominations of candidates for election as office-bearers of the association or as ordinary committee members:

- (a) must be made in writing, signed by two financial members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
- (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.

(2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.

(3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.

(4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.

(5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.

(6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting by in such usual and proper manner as the committee may direct.

(7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be a member of the association.

14. Secretary

(1) It is the duty of the secretary to keep a record of:

- (a) all appointments of office-bearers and members of the committee, and
- (b) the names of members of the committee present at a committee meeting or a general meeting, and
- (c) all proceedings at committee meetings and general meetings.

(2) Minutes of proceedings at a meeting shall be signed (including electronically) by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

15. Treasurer

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorized by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

16. Casual vacancies

(1) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.

(2) A casual vacancy in the office of a member of the committee occurs if the member:

- (a) dies, or
- (b) ceases to be a member of the association, or
- (c) becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth, or
- (d) resigns office by notice in writing given to the secretary, or
- (e) is removed from office under clause 18, or
- (f) becomes a mentally incapacitated person, or
- (g) is absent without the consent of the committee from 3 consecutive meetings of the committee, or
- (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
- (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act 2001 of the Commonwealth.

17. Removal of a committee member

(1) The association in general meeting may by resolution remove any member of the committee from office before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.

(2) If a member of the committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

18. Committee meetings and quorum

(1) The committee must meet at least three times in each period of 12 months at such place and time as the committee may determine.

(2) The first meeting of the newly elected management committee must be held within one month after the annual general meeting to:

- (a) plan courses for the following year,
- (b) prepare a calendar outline,
- (c) ensure that all committee members are aware of the responsibilities of their office.

(3) Additional meetings of the committee may be convened by the president or by any member of the committee.

(4) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or such other period as may be unanimously agreed upon by the members of the committee) before the time appointed for the holding of the meeting.

(5) Notice of a meeting given under subclause (4) must specify the general nature of the business to be transacted at the meeting.

(6) Any 3 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.

(7) No business shall be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to a time and place designated by those committee members present.

(8) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.

(9) At a meeting of the committee:

- (a) the president or, in the president's absence, the vice-president is to preside, or
- (b) if the president and the vice-president are absent or unwilling to act, such one of the remaining members of the committee may be chosen by the members present at the meeting to preside.

19. Delegation by committee to sub-committee

(1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the association as the committee thinks fit) the exercise of such of the functions of the committee as are specified in the instrument, other than:

(a) this power of delegation, and

(b) a function which is a duty imposed on the committee by the Act or by any other law.

(2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

(3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.

(5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.

(6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.

(7) A sub-committee may meet and adjourn as it thinks proper.

20. Voting and decisions

(1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.

(2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

(3) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

(4) Subject to clause the presence of a quorum, the committee may act despite any vacancy on the committee.

PART 4 - General meetings

21. Annual general meetings

(1) The association must, within a period of 6 months after the expiration of each financial year of the association, convene an annual general meeting of its members on such date and at such time and place as the committee thinks fit.

(2) The business of an annual general meeting is to:

- (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
- (b) receive from the committee, reports on the activities of the association during the last preceding financial year,
- (c) receive and consider any financial statement or report required to be submitted to members under the Act,
- (d) set membership fees for the forthcoming calendar year,(e) elect office bearers of the association and ordinary members of the committee.

(3) An annual general meeting must be specified as such in the notice convening it.

22. Special general meetings

(1) The committee may, whenever it thinks fit, convene a special general meeting of the association.

(2) The committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.

(3) A requisition of members for a special general meeting:

- (a) must state the purpose or purposes of the meeting, and
- (b) must be signed by the members making the requisition, on each page, and
- (c) must be lodged with the secretary, and
- (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.

(4) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.

(5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

23. Notice

(1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

(2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.

(3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except in the case of an annual general meeting.

(4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

24. Quorum for general meetings

(1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.

(2) 5 members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.

(3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:

(a) if convened on the requisition of members, is to be dissolved, and

(b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.

(4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present are to constitute a quorum.

25. Presiding member

(1) The president or, in the president's absence, the vice-president, is to preside as chairperson at each general meeting of the association.

(2) If the president and the vice-president are absent or unwilling to act, the members present shall elect one of their number to preside as chairperson at the meeting.

26. Adjournment

(1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(2) If a general meeting is adjourned for 14 days or more, the membership secretary give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

(3) Except as provided in subclauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

27. Making of decisions

(1) A question arising at a general meeting of the association is to be determined by either:

(a) a show of hands, or

(b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot - a written ballot.

(2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

(3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

28. Special resolutions

A special resolution may only be passed by the association in accordance with section 39 of the Act.

29. Voting

(1) On any question arising at a general meeting of the association a member has one vote only.

(2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

(3) Only a financial member who is over 18 years old is entitled to vote at any general meeting of the association.

310 Proxy voting and postal ballots

Proxy voting and postal ballots must not be undertaken at or in respect of a general meeting.

PART 6 - Miscellaneous

31. The association must effect and maintain, with an approved insurer, public liability insurance cover of any such amount as may be required by the law and may effect and maintain such other insurance as the committee may, from time to time, deem necessary.

32. Funds – source

(1) The funds of the association are to be derived from annual fees of members and such other sources as the committee determines, such as donations, grants and entrance fees.

(2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorized deposit-taking institution account.

(3) The association must, as soon as practicable after receiving any money, acknowledge receipt of same.

(4) No account payments made by the association are to be made in cash.

33. Funds – management

(1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the committee determines.

(2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any two members of the committee, authorized to do so by the committee.

34. Change of name, objects and constitution

An application for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

35. Custody of books, etc

Except as otherwise provided by this constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

36. Inspection of books, etc

(1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:

- (a) records, books and other financial documents of the association,
- (b) this constitution,
- (c) minutes of all committee meetings and general meetings of the association.

(2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) and payment of a fee may be required of the applicant for each page copied.

The committee may refuse access if they deem it to be prejudicial to the association and/or the privacy of the members.

37. Service of notices

(1) For the purpose of this constitution, a notice may be served on or given to a person:

- (a) by delivering it to the person personally, or
- (b) by sending it by pre-paid post to the specified address of the person, or
- (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

(2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
- (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and

(c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

38. Financial year

The financial year of the Sawtell Art Group Inc, is each period of 12 months after the expiration of the previous financial year of the association, commencing on January 1 and ending December 31.

39. Winding Up

The association may be wound up by a special resolution of members at a special general meeting convened for the purpose.

All assets and funds of the association, after payment of all expenses and liabilities owing, shall be distributed to a local community organization with similar objectives in accordance with a special resolution passed at the special general meeting at which the association is dissolved.