

## **AMENDED MEMORANDUM OF ASSOCIATION**

1. The name of the company is Australian Film Institute.
2. The company has, both within and outside Victoria, the legal capacity of a natural person and, without limiting the generality of the foregoing, has, both within and outside Victoria, power:-
  - (a) to issue debentures of the company;
  - (b) to grant a floating charge on property of the company;
  - (c) to procure the company to be registered or recognised as a body corporate in any place outside the State of Victoria;
  - (d) to do any other act that it is authorised to do by any other law;
  - (e) to organise carry out and participate in (either alone or in co-operation with other bodies) exhibitions, festivals, conventions, congresses, competitions and other activities and to provide trophies, prizes, grants and other awards in connection therewith;
  - (f) from time to time to contribute or subscribe to any public charitable or benevolent object;
  - (g) to purchase lease or otherwise acquire for the purposes of the company real or personal property and in particular any lands, theatres, halls or other buildings or accommodation and cinematographic and sound equipment, appliances and apparatus furniture and effects, and so far as the law may from time to time allow, to sell, demise, let, mortgage, dispose or otherwise deal with all or any part of such real or personal property; provided that in any case the company shall take and hold any property which may be subject to any trusts, the company shall only deal with the same in such manner as is allowed by law having regard to such trusts;
  - (h) to construct, maintain, manage, alter or control any buildings, grounds or works which may seem calculated directly or indirectly to advance the company's interests and to take part in the construction, improvement, alteration, maintenance, working management or control thereof;
  - (i) to enter into any arrangements with any Government or authority, Federal, State, Municipal, local or otherwise that may seem conducive to the company's objects or any of them; and to obtain from any such Government or authority any rights privileges and concessions which it is desirable for the company to obtain;
  - (j) to hire and employ all such persons as may be considered necessary for the purposes of the company and to pay to them and other persons in return for services rendered to the company salaries, wages, gratuities and pensions; and to make payments towards the insurance, and to form and contribute to provident and benefit funds for the benefit of any persons employed by the company;
  - (k) to apply for licences, permissions or authorities which may be necessary or conducive to attainment of any of the objects of the company;

- (l) to effect insurances which are necessary or incidental to the activities of the company;
- (m) to invest and deal with any of the monies of the company not immediately required for the purposes thereof upon such securities and in such manner as may be determined and from time to time to vary and realise such investments. Such investments shall be invested in accordance with the laws of the States and Territories of Australia relating to the investment of trust funds;
- (n) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments;
- (o) to borrow money from time to time and for such purpose to give debentures, liens and mortgages, charges or other security over the whole or any part of the property real or personal of the company and (so far as the law may allow) to enter into agreements, bonds or covenants with the lender stipulated for a collateral advantage;
- (p) to undertake and execute any trusts or any agency business which may seem directly or indirectly conducive to the attainment of any of the objects of the company;
- (q) in furtherance of the company's objects to amalgamate with any companies, institutions, societies or associations being registered or exempted charities in accordance with the laws of the States and Territories of Australia having objects similar to those of the company and whose Memorandum of Association or Constitution shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as that imposed upon the company by paragraph 4 hereof;
- (r) in furtherance of the objects of the company to transfer all or any part of the property, assets, liabilities and engagements of the company to any one or more of the companies, institutions, societies or associations with which the company is authorised to amalgamate; and
- (s) to do all or any of the above things in any part of the world.

3. The principal, but not the exclusive purposes of the company are to:

- (a) distribute Australian and other films;
- (b) encourage, whether by the provision of financial assistance or otherwise, the promotion, distribution and broadcasting of Australian and other films;
- (c) encourage the distribution, broadcasting, and appreciation of experimental films and films of high degree of creativity;
- (d) facilitate the appreciation of film as an art form;
- (e) encourage the development of the art of the film, to promote its use as a record of contemporary life and manners, and to foster public appreciation and study of it from these points of view;
- (f) explore and promote new or extended uses for film and to encourage support and serve other bodies working in the same field;
- (g) advise educational institutions and other organisations and persons as to sources and conditions of supply, types of files and apparatus and the conditions of production, distribution and exhibition;

- (h) act as a means of liaison between producers, distributors and exhibitors and cultural and educational interests;
  - (i) promote and undertake research into the various uses of film and of allied visual and auditory apparatus;
  - (j) form a library and archive of films and allied and related material and to promote assist and support such libraries and archives operated by other bodies, to arrange encourage and assist in the loan and exhibition of films and allied material from such libraries and archives, and generally to promote evolve and assist in the establishment and creation of facilities for individual and group study of film and the showing of special programs;
  - (k) exhibit films;
  - (l) act as a means of liaison between bodies interested in the film in Australia and in overseas countries and to promote encourage and assist in the loan procurement and exchange of films between Australia and overseas countries;
  - (m) act as a clearing house for information on all matters affecting the production exhibition and distribution of films in Australia and in overseas countries and to publish sell or otherwise distribute pamphlets, periodicals and other publications for the purposes of the company; and
  - (n) undertake if required the certification of films as educational, cultural or scientific.
4. (a) Subject to (b) and (c), any and all income and property of the company shall be applied solely towards the promotion of the purposes of the company, and no portion thereof shall be paid or transferred directly by way of dividend, Director's fees bonus or otherwise, howsoever, by way of profit, to members of the company.
- (b) Despite (a), nothing shall prevent the payment in good faith of remuneration to any members of the company (other than Directors) in return for any services actually rendered to the company on ordinary commercial terms nor for goods supplied on ordinary commercial terms, nor prevent the payment of interest (at a rate not exceeding 2% per annum above the usual overdraft rate for overdrafts over \$100,000 as charged from time to time by the Commonwealth Bank of Australia or its successors in title) on money borrowed from any member of the company, or reasonable and proper rent for premises demised or let by any member of the company.
- (c) Despite (a), payments may be made to Directors in the following circumstances:-
- (i) For the payment of out of pocket expenses incurred in carrying out the duties of a Director where the payments do not exceed an amount previously approved by the Board; or
  - (ii) For any service rendered to the company in a professional or technical capacity, where the provision of that service has the prior approval of the Board and the amount payable is approved by resolution of the Board and is on reasonable commercial terms; or
  - (iii) As an employee of the company, where the terms of employment have been approved by a resolution of the Board.
5. The liability of the members is limited and each member undertakes to contribute to the property of the company, in the event of its being wound up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member and of the costs charges and expenses of winding up and for adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding TWENTY DOLLARS (\$20.00).

6. If upon the winding up or dissolution of the company there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the members of the company but shall be given or transferred to some institution or institutions having purposes similar to those of the company and whose rules prohibit the distribution of its or their income and property among its or their members, and such institutions to be eligible for tax deductibility of donations under subsections 78 (4) or (5) of the Income Tax Assessment Act 1936 and listed on the Register of Cultural Organisations maintained under the Act.
7. True accounts shall be kept of all sums of money received and expended by the company and the matters in respect of which such receipt and expenditure takes place, and of the property, credits and liabilities of the company and, subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed under the regulations for the time being of the company, shall be open to inspection of the members. Such accounts shall, on the written request of the Attorney-General be produced for inspection by the Attorney-General or a person nominated in writing by him. The accounts of the company shall be examined once at least every year and the correctness of the balance sheet certified by one or more properly qualified auditor or auditors.
8. No addition, alteration or amendment shall be made in or to the Memorandum or Articles of Association for the time being in force unless the same shall have previously been submitted and approved by the Australian Securities Commission and the Minister of the Crown for the time being administering the New South Wales Charitable Collections Act 1934.
9. The place in Victoria at which the registered office of the company will be situated in Melbourne.

## **AMENDED ARTICLES OF ASSOCIATION**

### **INTERPRETATION**

1. In these Articles:
  - (a) "the Law" means the Corporations Law.
  - (b) "the Directors" means the Directors for the time being of the Institute.
  - (c) "the Institute" means the Australian Film Institute.
  - (d) "member" shall include corporate persons.
  - (e) "the Seal" means the Common Seal of the Institute.
  - (f) expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing words in a visible form.
  - (g) words or expressions contained in these Articles shall be interpreted in accordance with the provisions of the Law as in force at the date at which these Articles become binding on the Institute.
2. The regulations contained in Table A of Schedule 1 of the Law shall not apply to the Institute.

### **MEMBERSHIP**

3. After these Articles become binding on the Institute, the members shall be, first all those who were members of Australian Film Institute ACN 004 419 309 immediately prior to the adoption of these Articles by the Institute and second those who shall be accepted by the Directors as members thereafter.
4. The Directors may from time to time admit persons to be members of the Institute by reason of the fact that such person has acquired a status, standing or reputation in the film industry, film making or the community in general and whose membership of the Institute would be conducive to the promotion of its objects or otherwise in the interest of the Institute or the other persons applying for membership as hereinafter provided.
5. There shall be no limit to the number of members of the Institute.
6. Every applicant for membership shall make application in writing in such form as the Directors from time to time may prescribe and shall forward such application to the General Manager of the Institute together with such fee as the Institute may determine.
7. Upon receipt of any such application and payment of any such fee the General Manager shall sign and date the application as of the date of its receipt and shall refer the application to the next meeting of the Directors who shall determine whether or not the applicant is to be admitted as a member. Any applicant so admitted shall be deemed to have become a member of the Institute as from the date upon which the General Manager received the application.

8. A member shall be entitled to attend all meetings of the Institute and shall have one vote at any meeting at which members of the Institute elect their Directors.
9. Should the Directors determine not to admit an applicant as a member the General Manager shall notify the applicant and shall return any fee paid by him but shall not be bound to describe the reason for the refusal of the application.

### **MEMBERSHIP FEES**

10. The Directors may from time to time determine what fees (if any) shall be paid by members and what (if any) fee shall be payable by any applicant for membership.
11. Annual subscriptions shall become due and payable by members in advance on the day (excluding Sundays, public holidays and other days on which the Institute's offices are closed) being twelve (12) calendar months from the receipt by either the Institute, or, if that member has become a member pursuant to Article 3, by Australian Film Institute ACN 004 419 309, of the member's previous annual subscription. A member who fails to pay his annual subscription within two (2) calendar months following the due date for payment shall automatically cease to be a member of the Institute.

### **TRANSITIONAL PROVISIONS**

12. At the Extraordinary General Meeting of the Institute called for the purposes of adopting these Articles, the members of the Institute shall appoint seven Directors who shall hold office until retirement in accordance with Article 14.

### **DIRECTORS**

13. There shall be a maximum of nine directors and a minimum of three directors of the Institute of whom at least two are to be elected by an ordinary resolution of the members of the Institute (Elected Director) in accordance with the provisions of these Articles and up to seven to be appointed by the board (Appointed Director).
14. At the first Annual General Meeting following the adoption of Article 13 and at each subsequent Annual General Meeting, one Elected Director for the time being shall retire and may stand for re-election. The Elected Director to retire at an Annual General Meeting shall be the Elected Director who has held office for the longer period since last elected to office and as between Elected Directors who were elected on the same day, the Elected Director to retire shall be determined by lot. A retiring Elected Director shall be eligible for re-election.
- 14A. Appointed Directors shall hold office for two years from the date of their appointment or such shorter period as is determined by the board of directors at the time of the appointment, at the conclusion of which period an Appointed Director shall retire and may be reappointed by an ordinary resolution of the board of directors.
15. The Directors shall have power from time to time to appoint any member to fill a casual vacancy and any Director so appointed shall be subject to retirement at the same time as if he/she had become a Director at the time of the election of the Director he/she replaced and he/she shall be eligible for election thereafter.
16. The Institute may by ordinary resolution of which special notice has been given remove any Director before the expiration of his period of office and may elect another member in his stead but the person so elected shall be subject to retirement at the same time as if he had become Director at the time of election of the Director he is replacing.
17. Directors may be paid all travelling, hotel and other expenses properly incurred by them in attending meetings of Directors or any committee of Directors or in connection with the business of the Institute.
18. The office of a Director shall become vacant if the Director:

- (a) ceases to be a Director by virtue of the Law;
  - (b) becomes a bankrupt or makes any assignment or arrangement or composition with his creditors generally;
  - (c) becomes prohibited from being a Director by reason of any order made under the Law;
  - (d) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to mental health;
  - (e) resigns his office by notice in writing to the Institute;
  - (f) is absent from more than three consecutive meetings without the leave of the other Directors;
  - (g) is directly or indirectly interested in any contract with the Institute and fails to declare the nature of his/her interest as required by the Law;
  - (h) holds any office of profit within the Institute PROVIDED always that nothing in this Article shall affect the operation of clause 4 of the Memorandum of Association of the Institute.
19. Not less than 60 days prior to the holding of the Annual General Meeting the General Manager shall call in writing for nominations for election as Directors and the date upon which nominations shall close. Those members wishing to nominate a candidate for election as Director shall lodge such nomination with the General Manager at least 30 days prior to the Annual General Meeting and the General Manager shall cause their names to be stated on the ballot paper in such order as the General Manager may by lot determine.
20. If the Directors retiring in any year shall be eligible for re-election and no more nominations have been received than vacancies exist, those Directors and the candidates nominated for election under Article 19 shall be automatically re-appointed or appointed (as the case may be) without the necessity of conducting an election. However, if there are more members nominated for Director than vacancies exist the election shall be conducted by secret postal ballot and the Auditor shall be Returning Officer.
21. The Directors may prescribe a form of nomination and a form of ballot paper and such other forms as may be required properly to regulate such elections and may make rules for the conduct thereof.

## **POWERS OF DIRECTORS**

- 21A (1) Subject to the Law and to any other provisions of these Articles, the business of the Institute shall be managed by the Directors, who may pay all expenses incurred in promoting and forming the Institute, and may exercise all such powers of the Institute as are not, by the Law or by these Articles, required to be exercised by the Institute in general meeting and all such powers may be delegated to the General Manager.
- (2) Without limiting the generality of sub-article 21A(1) the Directors may exercise all the powers of the Institute to borrow money, to charge any property or business of the Institute or all or any of its uncalled capital and to issue debentures or give any other security for the debt, liability or obligation of the Institute or of any other person.

## **CHAIRPERSON**

22. The Directors shall from time to time elect one of their number to be the Chairperson of the Institute.

- (a) The Chairperson shall preside at all meetings of the Institute and of the Directors but in his absence or if he shall decline for some reason to act at a particular meeting, the meeting shall elect one of its members as Chairperson.
- (b) At all meetings the Chairperson shall have both a deliberative and a casting vote.

### **TREASURER**

- 23. (a) The Directors shall have the power to appoint a Treasurer of the Institute who at the discretion of the Directors may be a Director or a person appointed by them for that purpose upon such conditions of employment as they deem fit.
- (b) The Treasurer shall subject to the control of the General Manager and the Directors conduct the financial affairs of the Institute and without limiting the foregoing shall:
  - (i) receive all money and issue receipts for the same;
  - (ii) pay all accounts;
  - (iii) keep such books of account as are necessary to record the financial transactions and financial status of the Institute;
  - (iv) produce to each meeting of the Directors a report as to the Institute's financial transactions since the previous meeting;
  - (v) cause to be prepared and presented to the Annual General Meeting a balance sheet and an account of income and expenditure which have been approved by the Directors and duly audited;
  - (vi) carry out such other functions concerning the finance of the Institute as the Directors may require.

### **SECRETARY**

- 24. (a) The Secretary shall be appointed by the Directors for such term and at such remuneration and upon such conditions as they may think fit.
- (b) The Secretary shall attend all meetings of the Directors and of the Institute and shall keep minutes thereof.
- (c) The Secretary shall:
  - (i) keep a register of members;
  - (ii) prepare and file all notices and returns which are required by the Law;
  - (iii) notify the meetings of the Directors or of the Institute;
  - (iv) carry out such other duties as may be assigned to him/her by the General Manager or by the Directors.

### **GENERAL MANAGER**

- 25. (a) The Directors shall appoint a General Manager of the Institute on such terms as they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke such appointment.



- (b) The General Manager so appointed shall attend all meetings of Directors but shall not be entitled to vote. He/she shall not be subject to retirement by rotation or be taken into account when determining the rotation of retirement of Directors.
- (c) The Directors may entrust to and confer upon the General Manager any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit.
- (d) Subject to the instructions of the Directors the General Manager shall manage the affairs of the Institute.

### **DIRECTORS MEETINGS**

- 26. (a) The Directors may meet as often as they deem fit but shall meet at least four times each year. A meeting of Directors shall be summoned by the Secretary when required by the Chairperson or by any two Directors. The Directors may regulate their meetings but a decision shall be taken on a resolution of a majority of Directors present.
- (b) Four Directors shall constitute a quorum.
- (c) Subject to a resolution of the Institute the Directors shall determine the policy of the Institute and may instruct the General Manager as to the implementation of such policy or as to the management of the affairs of the Institute.
- (d) A resolution in writing signed by all Directors for the time being entitled to receive notice of the meeting shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more Directors.
- (e) Unless the Treasurer or the Secretary shall be also a Director of the Institute such Treasurer or Secretary shall not be entitled to exercise a vote at any meeting of Directors.
- (f) The Directors may conduct meetings without being in the physical presence of each other provided that all the Directors involved in the meeting are able to participate in discussion.

### **GENERAL MEETINGS**

- 27. (a) An Annual General Meeting of the Institute shall be held in accordance with the provisions of the Law. All General Meetings other than the Annual General Meeting shall be called Extraordinary General Meetings.
- (b) The Chairperson or any two Directors may require the Secretary to convene an Extraordinary General Meeting.
- (c) Subject to the provisions of the Law relating to special resolutions and agreements for shorter notice, fourteen days notice at least (exclusive of the day on which the notice is served or deemed to be served and exclusive of the day on which the notice is given) specifying the place, the date and the hour of the meeting and, in the case of special business the general nature of that business shall be given to all members entitled to receive such notices.
- (d) No business shall be transacted at any general meeting unless a quorum of 15 members is present at the time when the meeting proceeds to business. If within half an hour after the appointed time a quorum is not present the meeting shall be dissolved and reconvened at such other time and place as the Directors may determine.

- (e) At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded by the Chairperson or by five members.
- (f) Unless a poll is so determined a declaration by the Chairperson that a resolution has been carried or carried unanimously or carried without dissent or by a particular majority or lost and an entry to that effect contained in the Minutes of the meeting shall be conclusive evidence of the fact and proof of the numbers or proportion of the votes recorded in favour or against the motion.
- (e) If a poll is duly demanded it shall be taken in such manner as the Chairperson shall direct and the result of the poll shall be the resolution of the meeting.
- (f) Any member may appoint another member to act as a proxy. The instrument appointing a proxy shall be in the following form or as near thereto as the circumstances may permit:-

"Australian Film Institute

I \_\_\_\_\_ of  
being a member of the Australian Film Institute hereby appoint  
\_\_\_\_\_ of

or failing him/her \_\_\_\_\_ of  
as my proxy to vote for me at the Annual or Extraordinary General Meeting  
of the Institute to be held on the date of

and at any adjournment thereof I direct my proxy to be used # in favour of/against  
the resolution set out in the notice convening the meeting.

Dated the \_\_\_\_\_ day of \_\_\_\_\_

# Unless otherwise instructed the proxy may vote as he thinks fit."

- (i) Forms of Proxy must be lodged with the Chairperson of the meeting prior to commencement thereof.
- (j) The accidental omission to give notice of a meeting or the non-receipt of a notice of a meeting by a member shall not invalidate the proceedings at any meeting.
- (k) Annual General Meetings shall be convened in accordance with the Law to elect Directors and to receive the annual accounts of the Institute and to conduct such other business as the Directors may determine.

### **SEAL**

- 28. (a) The Seal of the Institute shall not be affixed to any instrument except by the authority of a resolution of the Directors and in the presence of a Director and the General Manager or the Secretary and they shall sign every instrument to which the Seal of the Institute is so affixed in their presence.
- (b) A register shall be kept by the Secretary of all documents to which the Seal is affixed and such register shall show the title or nature of the document, the date of affixation of the Seal and by whom it was witnessed.

### **NOTICES**

- 29. In addition to any other means permitted by the Law, a notice may be given by the Institute to a member either personally or by sending it by post to him at his registered address. Where a notice is sent by post service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and to have

been effected in the case of a notice of a meeting at the expiration of 48 hours after the letter containing the same was posted and in any other case at the time at which the letter would be delivered in the ordinary course of post.

### **AUDITOR**

30. (a) A duly qualified Auditor shall be appointed by the Directors upon such terms of remuneration as they shall deem fit.
- (b) Immediately after the expiration of each financial year the accounts of the Institute shall be examined and the Auditor shall certify the correctness of the Balance Sheet, the Statement of Receipt and Expenditure and any other financial statements to be presented at the Annual General Meeting.
- (c) The Auditor shall have access to and examine all books papers deeds documents and accounts of the Institute and may examine the General Manager, The Treasurer, Secretary, any Director, officer or servant of the Institute in regard to such accounts and generally satisfy himself as to the accuracy of the accounting of the Institute.
- (d) The Auditor shall:
- (i) furnish to the Chairperson a written statement that all documents are in accordance with law and these Articles or if he is unable so to specify shall report in what respect they are incorrect;
  - (ii) place before the Chairperson any suggestion he may desire to make concerning the financial affairs of the Institute;
  - (iii) indicate to the Chairperson any improvement desirable to secure more effective control and economic administration;
  - (iv) check the record of members' subscriptions (if any);
  - (v) report to the Chairperson any inaccuracy, irregularity or breach of the Law or Article relating to the finances of the Institute.

### **INDEMNITY**

31. Every Director, Auditor or officer of the Institute for the time being shall be indemnified out of the assets of the Institute against liability incurred by him in defending any proceedings whether criminal or civil in which judgement is given in his favour or in which he is acquitted or in connection with any application under the Law in which relief is granted to him by the Court in respect of any negligence, default, breach of duty or breach of trust.

### **ALTERATION TO ARTICLES**

32. Any proposed alteration to these Articles shall be notified in writing to the General Manager. Any such proposal shall be considered by the Directors and if approved by them shall be submitted to an Extraordinary Meeting of the Institute of which not less than 21 days notice shall be given by the Secretary. Any alterations to these Articles must be carried by a majority of not less than three-fourths of those members attending and voting in person or by proxy at the Extraordinary General Meeting.