

**COMPANIES ACT, 2014**

**COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL**

**MEMORANDUM OF ASSOCIATION**

**OF**

**ABBHEY THEATRE  
AMHARCLANN NA MAINISTREACH**

(as amended by Special Resolutions dated 28th November 2016 and ●, and valid with effect from ● )

**1. Name**

The name of the Company is Abbey Theatre Amharclann na Mainistreach.

**2. Company type**

The Company is a company limited by guarantee, registered under Part 18 of the Companies Act 2014.

**3. Main Object**

The main object for which the Company is established (the “Main Object”) is:-

- (1) To continue the tradition of the Abbey Theatre as the national theatre of Ireland for the purpose of acting and producing plays in Irish and/or English, written by Irish authors or on Irish subjects, and such dramatic works of international authors as would tend to educate and interest the Irish public in the higher aspects of dramatic art.

**4. Subsidiary Objects**

As objects incidental and ancillary to the attainment of the Main Object, the Company shall have the following subsidiary objects:

- (1) To act as successor to National Theatre Society, Limited by receiving a transfer from National Theatre Society, Limited of its assets, rights, undertakings and liabilities.
- (2) To promote and encourage the staging, production and performance of dramatic art to the highest standards.
- (3) To stage, produce, co-produce, direct, hold and otherwise organise plays, rehearsals, shows, concerts, exhibitions and all other forms of performances of dramatic art.
- (4) To commission plays, works and all other forms of performances of dramatic art.
- (5) To further and promote educational and public knowledge, awareness, appreciation and enjoyment of drama and similar arts.
- (6) To maintain, uphold, provide and run a prestigious national theatre for the purposes and Main Object contained herein.

- (7) To promote inclusiveness, diversity and equality in every endeavour.

PROVIDED ALWAYS that the Company shall not support with its funds, or endeavour to impose on, or procure the observance by its members or others of any regulation or restriction which, if an object of the Company, would make it a trade union.

PROVIDED ALSO THAT nothing hereinbefore contained shall be construed as including in the Main Object any objects which are not charitable according to law.

## 5. Powers

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 Object and the subsidiary objects and which powers may only be exercised in promoting the Main Object and the subsidiary objects. Any income generated by the exercise of these powers is to be applied to the promotion of the Main Object and the subsidiary objects:

- (1) To conduct, hold or promote meetings, lectures, classes, workshops, shows and exhibitions to further the Main Object and the subsidiary objects.
- (2) To carry out performances, researches, investigations and experimental work of every description in relation to the Main Object and any of the subsidiary objects.
- (3) To promote and produce in any form of media and using all forms of technology, publications relating to dramatic art, including but not limited to the printing, production, manufacture, direction, broadcast, reproduction, publication and distribution of all forms of media including any literature, catalogues, programmes, music, periodicals, films, videos, television programmes, sound recordings, computer programs, books, posters or leaflets relating thereto as the Company thinks fit.
- (4) To adopt such means of promoting the work undertaken by or on behalf of the Company as may seem expedient and in particular by advertising in any form of media and using all forms of technology as the Company thinks fit, including advertising in the press, by circulars, by electronic mail, by publication of books and periodicals and by granting prizes, rewards and donations.
- (5) To admit the public or private groups or persons to plays and all forms of performances and to charge or collect such admission fees and to apply same in such manner as the Company may think fit.
- (6) To purchase, hire, design, make or manufacture stage scenery, costumes, stage fittings, lighting, sound appliances, electronic equipment, computer equipment, computer programmes, stage properties and effects and personal property of every description required for the purposes of the Company, and to sell, hire out or dispose of the same from time to time on such terms as the Company shall think fit.
- (7) To enter into arrangements, agreements, contracts and engagements with actors, artists, authors, composers, choreographers, designers, directors, dramatists, poets, playwrights, producers, drama companies, broadcasters, recording companies, audiovisual companies, and all forms of media companies, and all types of individuals, administrators, managers, 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 Main Object and the subsidiary objects, and subject to the terms of such arrangement, agreements, contracts and engagements, to sell any resulting rights acquired by the Company as it thinks fit.

- (8) To enter into any arrangements with any government or authority, municipal, local or otherwise, or company that may seem conducive to the Main Object and the subsidiary objects, and to obtain from any such government authority or company, any charters, contracts, decrees, rights, privileges and concessions and to carry out, exercise and comply with any such arrangements, charters, contracts, decrees, rights, privileges and concessions.
- (9) To consult, advise and co-operate as appropriate with any relevant Government Departments or authorities on any matters concerned directly or indirectly with the main objects of the Company.
- (10) To effect all or any of the Main Object or the subsidiary objects in any part of the world whether through touring or otherwise and as principals, agents, contractors, trustees or otherwise, and either by or through trustees, agents, sub-contractors or otherwise and either alone, in partnership or in conjunction with any person or company, and to contract for the carrying on of any operation connected with the Main Object and the subsidiary objects by any person or company.
- (11) To sell, improve, manage, develop, lease, mortgage, dispose of, or otherwise deal with the Abbey Theatre premises or any other property of the Company, real or personal, or any part or parts thereof, and to purchase, take on lease or in exchange, hire or otherwise acquire any other houses, buildings, easements or corporeal or incorporeal hereditaments in Dublin either in addition to or in substitution for the said Abbey Theatre premises, in each case on such terms as the Company may think fit.
- (12) To purchase or otherwise acquire lands, buildings and premises of every nature and kind for any estate or interest therein and to hold, work, manage, maintain, mortgage, sell, lease or otherwise dispose of same as the Company may think fit, and to insure, repair, protect, renew and safeguard such property as the Company may think fit.
- (13) To develop and turn to account any land acquired by the Company or in which it is interested and to construct, erect, enlarge, build and maintain any buildings, premises, conveniences and works, whether of a permanent or temporary nature, which may seem directly or indirectly conducive to any of the Main Object or the subsidiary objects, and to alter, pull down, fit out, decorate and improve the same, and by advancing money to and entering into contracts and arrangements of all kinds with builders, tenants and others, and to furnish and provide any property acquired by the Company or in which it is interested with such equipment, furniture, machinery and property of every description as the Company may think desirable for its purposes, and in each case in such manner as the Company may think fit.
- (14) Generally to purchase, take on lease or in exchange, hire or otherwise acquire any personal property and any rights or privileges which the Company may think necessary or convenient for the purposes of Main Object and the subsidiary objects.
- (15) To apply for or acquire licences of every description for the sale of intoxicating liquor, minerals, tobacco or sweets and to apply for or acquire restaurant certificates, refreshment house licences or other similar certificates or licences and to carry on such business as vintners, bar owners, publicans, refreshment housekeepers or restaurateurs.
- (16) To purchase or otherwise acquire, develop and produce copyrights (of all descriptions including copyrights of plays, interludes, tragedies, comedies or other dramatic works), inventions, rights or productions, licences and privileges and other rights and interests in the publication, display, recording, presentation and reproduction of works or music, pictures, books, songs, art, films, videos, computer programmes, computer

data and other works, to deal with such rights and interests, to grant licences or copyright in respect of any property of the Company, to buy, sell and deal in musical instruments, musical manuscripts, scores and/or parts published or otherwise, to make all necessary arrangements, agreements and contracts with the publishers and owners of the copyrights and to act as musical, educational and artistic agents.

- (17) To apply for, purchase or otherwise acquire any patents, brevets d'invention, licences, concessions and the like conferring any exclusive or non-exclusive or limited rights to use or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the Company or the acquisition of which may seem calculated directly or indirectly to benefit the Company, and to use, exercise, develop or grant licences in respect of or otherwise turn to account the property, rights or information so acquired.
- (18) To raise or borrow money and to secure the payment of money in such manner as the Company may think fit, and in particular by the issue of debenture or debenture stock, perpetual or otherwise, charged or not charged, or by mortgage, hypothecation, lien or pledge, of or upon the whole or any of the Company's property, undertaking, assets and rights, both present and future.
- (19) To raise funds by appealing for and inviting contributions (whether periodical or otherwise, absolute or conditional) from any person or body by way of donation, sponsorship, covenant, grant, loan, legacy or subscription and to accept donations devises, bequests (whether of real or personal estate) and subscriptions upon any special trusts within the limits of the Main Object and the subsidiary objects for which the Company is established and to sell and dispose of, to lease and accept surrenders of leases of, and manage, all real estate (including leaseholds) so received and not required to be or capable of being occupied for the purposes of the Company, to expend monies with the aim of raising such funds in future years, and generally to manage, invest and expend all monies belonging to the Company in furtherance of its Main Object and the subsidiary objects.
- (20) To apply to any Government or any Minister or any other person or bodies for the advance of monies by way of grant to finance the work of the Company and to apply such monies accordingly subject to any conditions or restrictions which may be attached to such grant.
- (21) To maintain and operate bank accounts and to make, draw, accept, endorse, execute, issue, discount, and otherwise deal with promissory notes, bills of exchange and other negotiable instruments, cheques, letters of credit, circular notes and other mercantile instruments.
- (22) To invest and deal with the monies of the Company not immediately required for the purposes of its Main Object and the subsidiary objects in or upon such investments, securities or property or otherwise in such manner as may be thought fit and to manage and deal in same as may be thought fit by the Company, including to accumulate capital for any purposes of the Company, and to appropriate any of the Company's assets to specific purposes, either conditionally or unconditionally, in each case subject to such conditions (if any) as may for the time being be imposed or required by law and PROVIDED THAT prior approval is obtained from the Revenue Commissioners where it is intended to accumulate capital for a period in excess of two (2) years.
- (23) Subject to the approval of the Minister, to guarantee, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) of the Company, or all such methods, the

performance of the obligations of and the repayment or payment of the principal amounts and interest of any company which is a subsidiary of or associated with the Company.

- (24) To create, maintain, invest and deal with any reserve or sinking funds for redemption of obligations of the Company, or for depreciation of works or stock, or any other purpose to advance the Main Object and the subsidiary objects of the Company.
- (25) To pay all or any expenses of, incidental to or incurred in connection with the formation and incorporation of the Company and the raising of its loan capital, or to contract with any person or company to pay the same, and to pay commissions to brokers and others for underwriting, placing, selling or guaranteeing the subscription of any debentures of the Company.
- (26) To make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object, or any other object whatsoever which the Company may think advisable.
- (27) To give and contribute towards prizes and other rewards for works of a dramatic nature.
- (28) Subject to Clause 9 hereof, to employ such persons to perform such duties on such terms as the Company may 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 a scheme or schemes in respect of the granting of pensions, gratuities and other allowances on retirement to or in respect of the staff of the Company and 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 person appointed or engaged by the Company shall be such as the Company shall determine.
- (29) To grant pensions, gratuities, allowances or charitable aid to any person who may have served the Company as an employee, or to the wives, husbands, children or other dependents of such person provided that such pensions, gratuities, allowances or charitable aid shall be no more than that provided by a pension scheme covered by Part 30 of the Taxes Consolidation Act 1997 and provided that such pension scheme has been operated by the company and the beneficiary of the pensions, gratuities, allowances or charitable aid, or their spouse or parent, has been a member of the pension scheme while employed by the Company; and to make payments towards insurance and to form and contribute to provident and benefit funds for the benefit of any persons employed by the Company and to subscribe or guarantee money for charitable objects.
- (30) To establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the Company or the dependants or connections of such persons, and to grant pensions and allowances and to do any acts or things or make any arrangements or provisions enabling employees of the Company or other persons aforesaid to become shareholders in the Company, or otherwise to participate in the profits of the Company upon such terms and in such manner as the Company thinks fit, and to make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object, or any other object whatsoever which the Company may think advisable.

- (31) To appoint and constitute such committees, and sub-committees of such committees, as the Board may think fit.
- (32) To acquire and undertake the whole or any part of the business, property and liabilities of any person or company carrying on any business which the Company is authorised to carry on, or possessed of property suitable for the purposes of the Company.
- (33) Subject to the prior consent of the Minister, to incorporate any company or companies in any place in the world for the purpose of acquiring all or any of the property or liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company, including fundraising activities, or to enhance the value of or render more profitable any property, assets or business of the Company, or for any other purpose which may seem directly or indirectly calculated to benefit the Company.
- (34) To take and hold shares and securities of any other company or companies having objects similar to the Main Object and the subsidiary objects of this Company or any of them, and to sell, hold, reissue with or without guarantee or otherwise deal with the same.
- (35) To become a non-shareholding member or a shareholding member of anybody corporate (including a corporation), the members of which have limited liability, wheresoever incorporated where such is considered by the Company's Board to be conducive to the achievement of the Main Object and the subsidiary objects.
- (36) To procure the Company to be registered or recognised in any foreign country or place.
- (37) Subject to the prior consent of the Minister to establish and organise branches and subsidiaries of the Company, and to establish and regulate agencies for the purposes of the Company.
- (38) To enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint venture, reciprocal concession or otherwise with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction which the Company is authorised to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit this Company.
- (39) To co-operate with other charities, voluntary bodies and statutory authorities operating in furtherance of the Main Object and the subsidiary objects or of similar charitable purposes and to exchange information and provide advice to them.
- (40) To make donations for charitable purposes either in cash or assets which the Company may deem expedient.
- (41) Subject to the prior consent of the Minister, to amalgamate with any other charitable company whose objects are similar to those of the Company.
- (42) To carry on any business which may seem to the Company capable of being conveniently carried on in connection with its main objects or calculated directly or indirectly to enhance the value of or render profitable any of the Company's property, rights or interests.

- (43) To do all such other things and to enter into all such contracts as may be deemed incidental or conducive to the attainment of the Main Object and the subsidiary objects or any of them.

And it is hereby declared that:

- (a) the word “company”, except where used in reference to this Company, shall be deemed to include any person or partnership or other body of persons, whether incorporated or not incorporated and whether domiciled in Ireland or elsewhere;
- (b) "Minister" means the Minister for Culture, Heritage and the Gaeltacht or any Minister to whom the functions of promoting and developing the arts in Ireland are from time to time transferred;
- (b) words denoting the singular number only shall include the plural number and vice versa; and
- (c) references to Clauses and Paragraphs are to Clauses and Paragraphs of this Memorandum of Association.

**6. Limited liability**

The liability of the members is limited.

**7. Contribution by members on winding up**

Every member of the Company undertakes to contribute to the assets of the Company, if the Company is wound up while that person is a member or is wound up within one year after the date on which that person ceases to be a member, for:

- (a) payment of the debts and liabilities of the Company contracted before that person ceases to be a member;
  - (b) the costs, charges and expenses of winding up; and
  - (c) the adjustment of the rights of the contributories among themselves,
- such amount as may be required not exceeding €1 (one euro).

**8. Prohibition of distribution to members on winding up**

If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, it shall not be paid to or distributed among the members of the Company. Instead, such property shall be given or transferred to some other company or companies (being a charitable institution or institutions) having main objects similar to the main objects of the Company. The company or companies (being a charitable institution or institutions) to which the property is to be given or transferred shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of Clause 9 hereof. Members of the Company shall select the company or companies (being a charitable institution or institutions) at or before the time of dissolution. 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.

## 9. **Income and Property**

The income and property of the Company shall be applied solely towards the promotion of its Main Object and the subsidiary objects as set forth in this Memorandum of Association. 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. Save as provided in this Clause 8 no Board Member 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:-

- (1) reasonable and proper remuneration to such employees of the Company as shall hold the position of Staff Board Member (as defined in the Articles of Association of the Company) from time to time for any services rendered to the Company in their capacity as employees of the Company;
- (2) remuneration to any Board Member in respect of artistic services (including without limitation services as an actor, a playwright or as theatre director), where in each case the remuneration in question is for services rendered to the Company (other than services rendered solely in the capacity as Board Member), provided that their salary, fees, royalties or other remuneration is commensurate with comparable positions in other similar organisations or otherwise in accordance with theatre industry norms and provided that that person is not present at the meetings of the Board when their remuneration is discussed and voted upon;
- (3) reasonable and proper remuneration to any member, officer or servant of the Company (not being a Board Member) for any services rendered to the Company;
- (4) interest at a rate not exceeding 1% above the Euro Interbank Offered Rate (Euribor) per annum on money lent by Board Members or other members of the Company to the Company;
- (5) reasonable and proper rent for premises demised and let by any Member or Board Member of the Company to the Company, where this is expressly approved by the Board;
- (6) reasonable and proper out of pocket expenses incurred by any Board Member, where this is in accordance with a policy in this regard duly authorised by the Board, in connection with attendance to any matter affecting the Company;
- (7) fees, remuneration or other benefit in money's worth to any company of which a Board Member may be a member holding not more than one hundredth part of the issued capital of such company; and
- (8) insurance premia in respect of any Board Member's liability indemnity insurance policy or policies.

Nothing shall prevent any 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).

## 10. **Additions, alterations or amendments**

- 10.1 No addition, alteration or amendment shall be made to or in the provisions of the Memorandum or Articles of Association for the time being in force unless the same



shall have been previously approved in writing by the Minister for Culture, Heritage and the Gaeltacht and by the Charities Regulator.

- 10.2 No addition, alteration or amendment shall be made to the objects of the Company, such that there would be non-compliance with the requirements of section 1180(1) of the Act, as provided for in the provisions of this memorandum of association for the time being in force unless the same shall have been previously submitted and approved by the Registrar of Companies.
- 10.3 The Company must ensure that the Charities Regulator has a copy of its most recent Constitution. If it is proposed to make an amendment to the Constitution of the Company 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.

11. **Keeping of accounts**

Annual audited accounts shall be kept and made available to the Revenue Commissioners on request.

**COMPANIES ACT, 2014**

**COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL**

**ARTICLES OF ASSOCIATION**

**OF**

**ABBEY THEATRE  
AMHARCLANN NA MAINISTREACH**

(as adopted by Special Resolutions dated 28th November 2016 and ●, and valid with effect from ●)

**INTERPRETATION**

1. The “optional provisions” as such term is defined in section 1177(2) of the Act (with the exception of sections 43(2), 144(3)(a), 144(3)(c), 148(2), 155(2), 155(3), 160(2), 160(6), 160(8), 160(10), 160(12), 176(1)-(4), 182(2), 182(5), 184, 187(2) to 187(8), 218(3) to 218(5), 1196(2) to 1196(7), 1197(2), 1197(3), 1199(8)) shall apply save to the extent they are disappplied, modified or supplemented by these Articles.
2. In this Constitution the following terms shall have the following meanings:-
  - “the Act” means the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force;
  - “the Articles” means these Articles of Association;
  - the “Board” means the Board Members for the time being of the Company or the Board Members present at a meeting of the Board;
  - the “Board Members” means any person occupying the position of director within the meaning of the Act, by whatever name called;
  - “the Chair” means the person appointed for the time being by the Minister as the chair of the Board of the Company in accordance with Article 35(1);
  - “the Company” means Abbey Theatre Amharclann na Mainistreach;
  - “the Deputy Chair” means any person appointed for the time being as the deputy chair of the Board of the Company in accordance with Article 40(1);
  - “Director” shall mean the person who heads the senior management team of the Company, and who may also be referred to as the “Chief Executive Officer”; it shall also include where more than one person holds this position, in which case the term “Co-Director”, “Joint Director” or “Joint CEO” may be used; for the avoidance of doubt, it does not have the meaning given to the term “director” in section 2 of the Act;
  - “Member” means a person whose name is for the time being entered in the Register of Members of the Company;

"Minister" means the Minister for Culture, Heritage and the Gaeltacht or any Minister to whom the functions of promoting and developing the arts in Ireland are from time to time transferred;

"the Office" means the registered office for the time being of the Company;

"the Seal" means the Common Seal of the Company;

"Secretary" means any person appointed to perform the duties of the Secretary of the Company;

"Staff Board Member" means the Board Member for the time being of the Company appointed by the Board in accordance with Article 35(3);

Expressions referring to writing shall, unless the contrary intention appears, be construed as including reference to printing, lithography, photography and any other modes of representing or reproducing words in a visible form provided however that it shall not include writing in electronic form except as provided in these Articles and/or where it constitutes writing in electronic form sent to the Company, the Board Members have approved its receipt in such form. Expressions in these Articles referring to execution of any document shall include any mode of execution under seal or under hand or any mode of electronic signature as shall be approved by the Board Members. Expressions in these Articles referring to receipt of any electronic communications shall, unless the contrary intention appears, be limited to receipt in such manner as the Board Members have approved.

Unless the contrary intention appears, the use of the word "address" in these Articles in relation to electronic communications includes any number or address used for the purpose of such communications.

Unless the context otherwise demands, words importing any gender shall be interpreted to mean any or all genders.

Unless the contrary intention appears, words or expressions contained in these Articles shall bear the same meaning as in the Act.

## **MEMBERS**

3. The number of Members with which the Company proposes to be registered is eleven (11).
4. An individual shall become a Member with effect from their appointment as a Board Member. Members shall cease to be members of the Company as soon as their term of office as Board Members ceases for any of the reasons set out in Articles 32(1), 32(3)(b), 37, 38, 39 and 53 or is terminated by the happening of the events enumerated in Article 51. If as a result the number of Members falls below seven (7), the Board shall admit one or more persons to membership on a temporary basis until such time as there is a minimum of seven (7) Members who are Board Members, on which date such temporary membership shall cease.

## **GENERAL MEETINGS**

5. All general meetings of the Company shall be held in the State.
6. (1) Subject to Article 6(2), the Company shall in each year hold a general meeting as its Annual General Meeting in addition to any other meetings in that year and shall

specify the meetings as such in the notices calling it; and not more than 15 months shall elapse between the date of one Annual General Meeting of the Company and that of the next.

- (2) The Annual General Meeting shall be held at such time and at such place in the State as the Board Members shall appoint.
7. All general meetings other than Annual General Meetings shall be called Extraordinary General Meetings.
8. A majority of the Board Members may, whenever they think fit, convene an Extraordinary General Meeting and Extraordinary General Meetings may also be convened in the manner provided by Section 177 of the Act.
9. An Extraordinary General Meeting shall also be convened on the requisition of the Members, as provided by section 178 and section 1203 of the Act or, in default by the Board, may be convened by such requisitionists.

#### **NOTICE OF GENERAL MEETINGS**

10. Subject to Section 175 and 176 of the Act an annual General Meeting and a meeting called for the passing of a special resolution shall be called by 21 days' notice in writing at the least and a meeting of the Company (other than an Annual General Meeting or a meeting for the passing of a special resolution) shall be called by 14 days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify the place, the day and the hour of meeting and in the case of special business, the general nature of that business, and shall be given in manner hereinafter mentioned to such persons as are under these Articles entitled to receive notices from the Company.
11. The accidental omission to give notice of a meeting to or the non-receipt of notices of a meeting by any person entitled to receive the notice shall not invalidate the proceeding at that meeting.

#### **PROCEEDINGS AT GENERAL MEETINGS**

12. All business shall be deemed special that is transacted at an Extraordinary General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of the consideration of the accounts, balance sheets and the reports of the Board Members and Auditors, the re-appointment of the retiring Auditors and the fixing of the remuneration of the Auditors.
13. No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business; save as herein otherwise provided, A majority of Members holding office at any given time shall be a quorum.
14. If within thirty (30) minutes from the time appointed for the meeting a quorum is not present, the meeting 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 a majority of the Members may determine, and if at the adjourned meeting a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the members present shall be a quorum.
15. The Chair, if any, of the Board shall preside as chair at every general meeting of the Company, or if there is no such Chair then the Deputy Chair, or if neither the Chair or the Deputy Chair is present within thirty (30) minutes after the time appointed for the holding of

the meeting or is unwilling to act, the Members present shall elect one of their number to be chair of the meeting.

16. The chair of any general meeting of the Company may, with the consent of any meeting at which a quorum is present (and shall, if so directed by a majority of those present in person or by proxy at such meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place. When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of the original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting.
17. At any general meeting of the Company a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before being put to a show of hands or before or on the declaration of the result of the show of hands) demanded:-
  - (1) by the chair of the meeting, or
  - (2) by at least three (3) Members present in person or by proxy.

Unless a poll is so demanded, a declaration by the chair of the meeting that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or lost, and an entry to that effect in the book containing the minutes of proceedings of the Company, shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.

18. Except as provided in Article 20 if a poll is duly demanded it shall be taken in such a manner as the chair of the meeting directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
19. Where there is an equality of votes, whether on a show of hands or on a poll, the chair of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
20. A poll demanded on the election of a chair of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other questions shall be taken at such time as the chair of the meeting directs, and any business other than that upon which a poll has demanded may be proceeded with pending the taking of the poll.

#### **VOTES OF MEMBERS**

21. Subject to Section 193 of the Act, a resolution in writing signed by all Members for the time being entitled to attend and vote on such resolution at a general meeting of the Company shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and held, and if described as a special resolution shall be deemed to be a special resolution within the meaning of the Act.
22. Every Member shall have one vote.
23. No Member shall be entitled to vote at any general meeting unless all moneys immediately payable by them to the Company have been paid.
24. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chair of the meeting whose decision shall be final and conclusive.

25. Votes may be given either personally or by proxy, save that on a show of hands each individual present shall have only one vote on each resolution irrespective of how many proxies such individual may hold. The chair of the meeting may request such individual to specify on whose behalf a vote is being cast on a show of hands.
26. The instrument appointing a proxy shall be in writing under the hand of the appointer or of their attorney duly authorised in writing. A proxy need not be a Member of the Company.
27. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the office or at such other place within the State as is specified for that purpose in the notice convening the meeting not less than 24 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 24 hours before the time appointed for the taking of the poll and in default the instrument of proxy shall not be treated as valid.
28. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances permit:-

Abbey Theatre Amharclann na Mainistreach

I/We, \_\_\_\_\_ of \_\_\_\_\_  
in the County of \_\_\_\_\_, being a member/members of the above named Company,  
hereby appoint \_\_\_\_\_  
of \_\_\_\_\_ or failing them  
or \_\_\_\_\_ as my/our proxy to vote for me/us on my/our behalf at  
the (annual or extraordinary, as the case may be) general meeting of the Company to be held  
on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ and any adjournment thereof.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

This form is to be used \*in favour of /against the resolution. Unless otherwise instructed, the proxy will vote as he/she thinks fit.

\* Strike out whichever is not desired.

29. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
30. A vote in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, if no intimation in writing of such death, insanity or revocation as aforesaid is received by the Company at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.

#### **RESIGNATION, CESSATION AND EXPULSION OF MEMBERSHIP**

31. (1) A Member may by notice in writing to the Secretary of the Company resign their membership of the Company.
- (2) Membership of the Company shall automatically cease on any Member's death or as soon as their term of office as Board Member ceases for any of the reasons set out in

Articles 32(1), 32(3)(b), 37, 38, 39 and 53 or is terminated by the happening of the events enumerated in Article 51.

Notice under this Article shall be deemed to have been served if it is sent by post in accordance with the provisions set out in Article 83 of these Articles whether or not it is actually received by the Member intended to be served with such notice.

### **GOVERNANCE AND NOMINATIONS COMMITTEE**

32. There shall be constituted a committee of the Board, to be known as the Governance and Nominations Committee, with responsibility for submitting to the Board the name or names of individuals for appointment as Board Members as and when vacancies arise with a view to maintaining and increasing the diversity of the Board. In arriving at, and determining the recommended list of individuals, the Governance and Nominations Committee shall be obliged to consider and submit to the Board a list of individuals collectively having diversity of representation, and addressing the identified skills needs of the Board at that time, having given consideration to the broad range of skills and experience from various private and/or public sector occupations and endeavours including but not limited to the following:-

- Contemporary theatre practice (for example, a playwright, actor, director, designer, producer, theatre technician or other theatre artist or professional)
- Irish language and culture
- Finance / accounting / business / management
- Human resources / industrial relations
- Education / community
- Law / governance
- Marketing, including information and communication technologies / public relations Sponsorship / fundraising.

### **BOARD MEMBERS**

33. Subject to such special resolutions of the Company as may be passed from time to time in accordance with Article 52, the number of Board Members shall be not less than seven (7) or more than eleven (11).

34. (1) When the Board is at its full complement, it shall include at least four Board Members who identify as men, and at least four Board Members who identify as women.
- (2) Subject to Article 32, the Board may additionally include persons who do not identify as either men or women.
- (3) The Board shall include at least one Board Member having experience as, and/or an understanding of the role of, an actor.
- (4) The Board shall include at least one Board Member having experience as, and/or an understanding of the role of, a playwright.

35. Subject to Article 32, the Board shall be constituted as follows:-

- (1) Three (3) Board Members appointed by the Minister, one of whom shall also be designated by the Minister as the Chair. The Minister shall with reasonable cause be

entitled at any time, by notice in writing served on the Company by an officer duly authorised by the Minister, to remove any of the Board Members (including the Chair) appointed by the Minister and the Board Member so removed shall have no recourse against the Company in respect of such removal. The Minister shall be entitled to appoint some other person to act as Board Member (and also Chair, as the case may be) in that Board Member's stead or in the event of such Board Member dying, resigning or otherwise ceasing to be a Board Member, to appoint a replacement; and

- (2) Up to seven (7) Board Members appointed by the Board, on the basis of nominations brought to it by the Governance and Nomination Committee of the Board and executed according to the Terms of Reference of that Committee which are subject to agreement by the Board and to review every two years;
  - (3) One (1) Board Member (a Staff Board Member) being a person nominated by the Company's employees and appointed by the Board in accordance with this clause. The Company's employees shall be entitled, pursuant to the Staff Council Constitution:
    - (a) to nominate one of their number to be Staff Board Member, which nomination shall be communicated by notice in writing to the Board who shall at the next scheduled Board meeting appoint such nominee as Staff Board Member;
    - (b) at any time, to call for the Staff Board Member to resign and upon notice in writing being served on the Board, the Staff Board Member shall vacate the office of Board Member and shall have no recourse to the Company in respect of such removal.
36. In the event that the Board rejects any one or more of the individuals nominated by the Governance and Nomination Committee in accordance with Article 32, it shall request the Governance and Nomination Committee to submit to it within 30 days of such request alternative nominations for appointment to the Board. Unless such alternative nominations are rejected by a resolution of not less than 75% of the Board Members within 30 days from the date the Governance and Nomination Committee submits the alternative nominations, the individual or individuals, as the case may be, so nominated shall be deemed to be appointed by the Board with effect from the expiry of that 30 day period.
37. In exercising their power of appointment under Article 35(1), the Minister shall consider individuals having a broad range of skills and experience from various private and/or public sector occupations and endeavours including but not limited to those listed in Article 32.
38. (1) A Board Member (other than a Staff Board Member to whom the provisions of Article 41 shall apply shall hold office for a term of four (4) years and unless their office is vacated in accordance with Article 51 they shall retire on the fourth anniversary of their appointment.
- (2) A Board Member appointed pursuant to paragraph (1) shall be eligible for reappointment for a further single term of four (4) years PROVIDED ALWAYS that no Board Member so appointed shall serve for in excess of two (2) terms of office, and that their reappointment as Board Member shall be subject to nomination by the Governance and Nomination Committee in accordance with Article 32 and appointment by the Board, or appointment by the Minister in accordance with Article 35(1), as appropriate.



- (3) In “exceptional circumstances” a Board Member may be appointed for a shorter term in order to ensure that the rotation of Board Members is phased and meets the requirements of Board Membership
39. (1) The Chair shall hold office for a term of four (4) years and unless their office is vacated in accordance with Article 51 they shall retire on the fourth anniversary of their appointment. The Chair shall be eligible for reappointment for a further single term of four (4) years PROVIDED ALWAYS that:
- (a) save with the agreement of the Minister, no Chair shall serve for in excess of two (2) terms of office;
- (b) no Chair shall serve for in excess of ten (10) years as a member of the Board (the “**Cumulative Service Period**”). The Chair shall cease to hold office upon ceasing to be a member of the Board. For the avoidance of doubt, the Cumulative Service Period shall take into account time already served by a Board Member under Article 38; and
- (c) their reappointment as Chair shall be subject to appointment by the Minister in accordance with Article 35(1), as appropriate.
- (2) The term of office referred to in Article 39(1) shall commence on the date on which such appointment is made in accordance with these Articles.
40. (1) The Chair, in consultation with the Board Members, shall designate one of the Board Members as Deputy Chair.
- (2) In a case where the Chair shall be unavailable or unable to act at a meeting, the Chair shall notify the Board as soon as possible of this, and the Deputy Chair may in such circumstances carry out any role which would fall to the Chair in respect of that meeting, or in relation to any matter approved at that meeting.
- (3) Where the Deputy Chair acts in accordance with paragraph (2), their duties and responsibilities shall include ensuring that the Board functions effectively and decisively in respect of the meeting in question, in accordance with Article 50(3).
41. The Staff Board Member shall hold office for a single term of four (4) years and unless their office is vacated in accordance with Article 51 or Article 35(3)(b) they shall retire on the fourth anniversary of their appointment.

#### **BORROWING POWERS**

42. The Board Members 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 or as security for any debt, liability or obligation of the Company or of any third party.

#### **POWERS AND DUTIES OF BOARD MEMBERS**

43. The Board Members shall ensure that in performing their duties and responsibilities they shall have regard to best practice and good corporate governance, particularly in relation to financial management and control. In particular, without prejudice to the generality of the foregoing:-
- (1) the Board Members shall ensure that the Board formally adopts and adheres to appropriate codes of business practice and conduct;

- (2) the Board Members shall have regard to any applicable ethical and other considerations specified in the Code of Practice for the Governance of State Bodies and the Charities Governance Code, as updated and revised from time to time;
  - (3) the Board Members shall ensure that the Board reviews its policies, performance and practice from time to time; and
  - (4) the Board Members shall ensure that the Board arranges for all newly-appointed Board Members to be briefed on their responsibilities as Board Members and on the appropriate codes of business practice and conduct that should govern and inform the discharge of their duties.
44. The Board Members shall:
- (1) in each year prepare and provide to the Arts Council and the Minister a business plan setting out the proposed strategy, planned investments and targets of the Company for the forthcoming year and;
  - (2) in each three (3) years prepare and provide to the Arts Council and the Minister a business plan setting out the proposed strategy for the forthcoming three (3) years.
45. The business of the Company shall be managed by the Board Members, who may pay all expenses incurred in promoting and registering the Company, and exercise all such powers of the Company as are not by the Act or these Articles required to be exercised by the Company in general meeting subject nevertheless to the provision of the Act and 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 direction given by the Company in general meeting shall invalidate any prior act of the Board Members which would have been valid if that direction has not been given.
46. The Board Members may in such manner as they deem fit appoint one or more individuals as CEO and may delegate to such individual or individuals such of their powers (not being powers to borrow money) as they may deem expedient, and may remove and discharge any individual or individuals so appointed and appoint another or others in their place. The performance of such individuals shall be monitored by the Board Members on a regular basis.
47. The Board Members 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 Board Members to be the attorney or attorneys of the Company for such purposes and with powers, authorities and discretions (not exceeding those vested in or exercisable by the Board Members under these Articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board Members may think fit, and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in them.
48. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the Board Members shall from time to time by resolution determine.
49. The Board Members shall cause minutes to be made in books provided for the purpose.
- (1) of all appointments of officers made by the Board Members;

- (2) of the names of the Board Members present at each meeting of the Board Members and of any committee formed under this constitution;
- (3) of all resolutions and proceedings at all meetings of the Company, and the Board Members and of committees formed under this constitution.

#### **POWERS AND DUTIES OF THE CHAIR**

50. The duties and responsibilities of the Chair shall include (but not be limited to):-

- (1) providing an overview of the overall governance and performance of the Company, and the most senior leadership of the Company;
- (2) in conjunction with the Board, ensuring that there are appropriate long term strategies in place to implement the policies of the Company; and with the other Board Members, to monitor and assess performance of the CEO(s) of the Company against those strategies;
- (3) chairing meetings of the Board and ensuring that it functions effectively and decisively;
- (4) preparing and providing to the Minister an annual statement in respect of the accounts of the Company for the preceding financial year, such statement to comply with the recommendations of the Code of Practice for the Governance of State Bodies, as updated and revised from time to time; and
- (5) implementing as far as possible, through participation in the Governance and Nomination Committee, the principle that there be an appropriate broad range of skills and experience reflected in the composition of the Board.

#### **DISQUALIFICATION / REMOVAL OF BOARD MEMBERS**

51. The office of Board Member shall be vacated in any of the following events namely:-

- (1) If the Board Member resigns by notice in writing under their hand left at the Office;
- (2) If the Board Member is removed or retires under any of the provisions of the Act;
- (3) If the Board Member is absent for three or more consecutive meetings of the Board, save by agreement of the Chair;
- (4) If the Board Member is adjudged bankrupt, or makes any arrangement or composition with their creditors generally, in any jurisdiction.
- (5) If the Board Member is the subject of a declaration under section 819 of the Act or an order under sections 839-842 of the Act;
- (6) If the Board Member becomes of unsound mind;
- (7) If the Board Member becomes incapable of discharging their duties as a member of the Board;
- (8) If the Board Member is convicted of an indictable offence unless the Board Members otherwise determine;

- (9) If the Board Member is directly or indirectly interested in any contract with the Company and fails to declare the nature of their interest in manner required by section 231 of the Act;
- (10) If the Board Member is appointed CEO or an employee of the company, other than the Staff Board member;
- (11) In the case of a Staff Board Member, if their employment with the Company ceases; or
- (12) If the Board Member:
  - (a) stands for election (for example, in respect of an election to Dail Eireann, if nomination papers for that election are lodged in respect of that Board Member); or
  - (b) is elected, nominated or otherwise selected,

to Dail Eireann, Seanad Eireann, any local authority or any national legislature or to the European Parliament.

Each Board Member shall be obliged to notify the Chair immediately upon any of these circumstances arising in respect of them.

- 52. The Company may from time to time by special resolution subject to the consent of the Minister increase or reduce the number of Board Members (other than a vacancy in the position of Chair).
- 53. (1) In the event of a casual vacancy arising on the Board (other than a vacancy in the position of Chair or in respect of any of the other Board Members appointed by the Minister pursuant to Article 35(1)) a list of recommended names shall be submitted by the Governance and Nomination Committee to the Board in accordance with Article 32, and if approved by the Board, a replacement Board Member appointed, but so that the total number of Board Members shall not at any time exceed the number fixed in accordance with these Articles. Any Board Member so appointed (being the replacement Board Member) shall hold office only until the next Annual General Meeting at which the Board Member they replaced would otherwise have retired in accordance with Articles 38 or 40, as the case may be, PROVIDED THAT if the Board Member they replaced was in their second term of office as a Board Member and the replacement Board Member has not previously served as a Board Member, such replacement Board Member shall be eligible for reappointment as a Board Member provided always that such reappointment shall be subject to the approval of the Board.
- (2) In the event that the position of Chair is vacant, a replacement shall be appointed by the Minister in accordance with Article 35(1).
- 54. The Company may by special resolution of which extended notice is given in accordance with Section 146 of the Act, remove any Board Member before the expiration of their period of office, notwithstanding anything in these Articles or in any agreement between the Company and such Board Member. Such removal shall be without prejudice to any claim such Board Member may have for damages for breach of any contract of service between them and the Company.

## **DISCLOSURE OF INTERESTS**

55. Each Board Member shall declare at a meeting of the Board the nature of their interest in:-
- (1) any contract or proposed contract with the Company in which they are directly or indirectly involved;
  - (2) any matter from which they might stand to benefit directly or indirectly from their position as a Board Member or from the operation of the Company; or
  - (3) any other matter that would require disclosure in accordance with applicable legislation or the provisions of the Code of Practice for the Governance of State Bodies, as updated and revised from time to time.

The said Board Member shall be entitled to make a statement to the Board on the issue and shall answer any questions put to them on that issue by any of the other Board Members. Following such declaration of interest, statement and answering any questions that may be put, the said Board Member shall leave the meeting of the Board and shall not be entitled to vote on the matter in which they are interested. The other Board Members shall make a decision regarding such contract, proposed contract or other matter in the absence of the said Board Member and such Board Member on their return to the meeting shall be informed of the decision of the Board by the chair of the meeting, following which no further discussion of the issue shall take place. In circumstances where a Board Member is unsure as to whether an interest constitutes an interest for the purposes of this Article 55, the Board Member may inform the Chair either orally or in writing and the Chair shall, at their own discretion and having regard to good governance and best practice, determine whether the interest constitutes an interest for the purposes of this Article 55.

56. A register of Members' / Board Members' interests shall be maintained on behalf of the Board Members by the Company Secretary, and shall include such interests as may be declared in accordance with Article 55.
57. Nothing herein contained shall prevent the Board Members from voting on (and being counted in the quorum at any meeting to pass) a resolution to purchase Directors' and Officers' Liability Insurance against any liability referred to in Section 235 of the Act for any Board Member or officer, past or present, of the Company.

#### **PROCEEDINGS OF BOARD MEETINGS**

58. The Board Members shall meet together regularly for the despatch of business, and may adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. Where there is any equality of votes, the Chair or, in the Chair's absence, the Deputy Chair shall have a second or casting vote. A Board Member may, and the Secretary on the requisition of a Board Member shall, at any time summon a meeting of Board Members.
59. The quorum necessary for the transaction of the business of the Board Members shall be a majority of Board Members holding office at any given time present in person provided that any Board Member may participate in a meeting of the Board by means of telephonic or other similar communication whereby all persons participating in the meeting can hear each other speak; and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and any Board Member may be situated in any part of the world for any such meeting.
60. The continuing Board Members may act notwithstanding any vacancy in their number if and so long as their number is not reduced below the number fixed by or pursuant to the Articles of the Company as the necessary quorum of Board Members.

61. If neither the Chair as appointed by the Minister pursuant to Article 35(1) nor the Deputy Chair as appointed pursuant to Article 40(1) is present within thirty (30) minutes after the time appointed for holding of a meeting of the Board, the meeting shall be adjourned for twenty four (24) hours, and if neither the Chair nor the Deputy Chair is again present at the reconvened meeting, the Board Members present may choose one of their number to be chair of that meeting.
62. (a) In addition to the Governance and Nomination Committee constituted under Article 32, and the Audit & Risk Committee formed under Article 67, the Board Members may form one or more committees or sub-committees consisting in whole or in part of members of the Board, and may delegate any of their powers to such a committee or sub-committee. The Board may at any time dissolve a committee or sub-committee so formed, other than the Governance and Nomination Committee or the Audit & Risk Committee.
- (b) The provisions of Articles 63 to 69 (inclusive) shall apply to the Governance and Nomination Committee and the Audit & Risk Committee subject to any modifications in any other Articles relating to either of such committees.
63. The Board Members shall approve terms of reference within which any committee or sub-committee so formed shall, in exercise of the powers so delegated, operate. Such terms of reference must be renewed within two years following their approval, and within each subsequent period of two years. The Board Members shall monitor and review the operation of such committees and sub-committees, and may from time to time modify or amend the applicable terms of reference, or impose additional regulations but subject to any such regulations a committee or sub-committee may regulate its own procedure..
64. (a) The Board may appoint to a committee or sub-committee any Board Member, or any other person whom the Board Members consider to have complementary skills which will assist the committee or sub-committee in its work, and no person other than the Board Members shall have the power to appoint a person to a committee or sub-committee. Committees should include a minimum of 2 Board Members, one of whom must be the chair of that committee. Sub-committees should include a minimum of 1 Board member.
- (c) The Chair shall be an ex-officio member of every committee and sub-committee save for the Audit & Risk Committee formed under Article 67, and in the absence of the Chair, the Deputy Chair may exercise any of the rights of the Chair as a member of a committee or sub-committee.
- (d) The Board Members may at any time remove a person from a committee or sub-committee, save that the Board Members may not remove the Chair (or the Deputy Chair) as a member of a committee or sub-committee.
65. The quorum necessary for the transaction of business at a committee or sub-committee shall be:
- (a) in the case of a committee, two (2) Board Members; and
- (b) in the case of a sub-committee, two members of that sub-committee, of which at least one must be a Board Member,

in each case, present in person; provided that any member of a committee or sub-committee may participate in a meeting of that committee or sub-committee by means of telephonic or other similar communication whereby all persons participating in the meeting can hear each other speak; and participation in a meeting in this manner shall be deemed to constitute

presence in person at such meeting and such member of a committee or sub-committee may be situated in any part of the world for any such meeting.

66. The Board shall nominate a chairperson of each committee and sub-committee. If that chairperson is not present within thirty (30) minutes after the time appointed for holding of a meeting of the committee or sub-committee, [the meeting shall be adjourned for twenty four (24) hours, and if that chairperson is again not present at the reconvened meeting,] the Board Members present may choose one of their number to be chairperson of that meeting.
67. A committee or sub-committee may meet and adjourn as it thinks proper. Questions arising at any meetings shall be determined by a majority of votes of the members present, and when there is an equality of votes, the chair of the meeting shall have a second or casting vote.
68. A committee or sub-committee shall not be authorised to bind the Company, and shall only be authorised to make recommendations to the Board.
69. All acts done by any meeting of the Board or of a committee or sub-committee formed under this constitution or by any person acting as a Board Member shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Board Member or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Board Member.
70. A resolution in writing, signed by all the Board Members for the time being entitled to receive notice of a meeting of the Board, shall be as valid as if it had been passed at a meeting of the Board duly convened and held and may consist of several documents in like form each signed by one or more persons (whether under hand or by facsimile signature or by electronic signature (as defined in the Electronic Commerce Act, 2000)).

#### **AUDIT & RISK COMMITTEE**

71. The Board Members shall form an Audit & Risk Committee (by whatever name called), consisting of at least two members of the Board, and such other persons as the Board Members may determine. The Board Members shall prescribe the terms of reference of the Audit Committee. The Board shall endeavour to ensure that at least one member of the Audit & Risk Committee is a member of a recognised accountancy body, holding an appropriate qualification as referred to in section 1472 of the Act, and has corporate finance, auditing or other appropriate expertise.
72. The functions and duties of the Audit & Risk Committee shall be set out in a Terms of Reference to be reviewed and updated every two (2) years.

#### **SECRETARY**

73. The Secretary shall be appointed by the Board Members for such term and upon such conditions as they think fit; and any Secretary so appointed may be removed by them.
74. A provision of the Act or these Articles requiring or authorising a thing to be done by or to a Board Member and the Secretary shall not be satisfied by its being done by or to the same person acting both as Board Member and as, or in place of, the Secretary.

#### **THE SEAL**

75. The seal shall be used only by the authority of the Board Members or of a committee formed under this constitution authorised by the Board Members in that behalf, and every instrument to which the seal shall be affixed shall be signed by a Board Member and shall be

countersigned by the Secretary or by a second Board Member or by some other person appointed by the Board Members for that purpose.

#### **SEAL FOR USE ABROAD**

76. The Company may exercise all the powers given by Section 44 of the Act with regard to an official seal or seals for use abroad, and such powers shall be vested in the Board Members.

#### **ACCOUNTS**

77. Subject to the Board Members' obligations under the Act and general fiduciary obligations to the Company at law, the Board Members shall at all times implement appropriate procedures and controls to ensure that the Company's financial affairs are managed in an exemplary manner. In particular, the Board Members shall ensure that a comprehensive internal audit function is undertaken to review and monitor the Company's systems of financial management and control.

78. The Board Members shall cause proper books of accounts to be kept relating to:-

- (1) all sums of money received and expended by the Company and the matters in respect of which the receipt and expenditure takes place;
- (2) all sales and purchases of goods by the Company; and
- (3) the assets and liabilities of the company.

Proper books shall not be deemed to be kept if they fail to comply with Chapter 2 of Part 6 of the Act and there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.

79. The books shall be kept at the office or, subject to Chapter 2 of Part 6 of the Act, at such other place as the Board Members think fit, and shall at all reasonable times be open to the inspection of the Board Members.
80. The Board Members shall from time to time in accordance with the Act cause to be prepared and to be laid before the Annual General Meeting of the Company such profit and loss accounts, balance sheets, group accounts and reports as are required by the Act to be prepared and laid before the Annual General Meeting of the Company, and shall include with such documents the annual statement prepared by the Chair in accordance with Article 50(4).
81. 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 Board Members' report shall not less than twenty-one (21) days before the date of the Annual General Meeting, be sent to every person entitled under the provisions of the Act to receive them. A copy of such documents shall also be sent to the Minister on reasonable request.

#### **AUDIT**

82. Auditors shall be appointed and their duties regulated in accordance with the Act.

#### **NOTICES**

83. (1) Any notice required to be given by the Company to any person ("the recipient") under these Articles may be given by means of delivery, post, cable, telegram, telex, telefax, electronic mail or any other means of communication approved by the Board Members, to the address or number of the recipient notified to the Company by the



recipient for such purpose (or, if not so notified, then to the address or number of the recipient last known to the Company). Any notice so given shall be deemed, in the absence of any agreement to the contrary between the Company and the recipient, to have been served at the time of delivery (or, if delivery is refused, then when tendered) in the case of delivery, at the expiration of 24 hours after despatch in the case of post, cables and telegrams and at the expiration of 12 hours after despatch in the case of telex, telefax, electronic mail or other method of communication approved by the Board Members.

- (2) Any document (including, but not limited to, any notice, appointment, removal and resolution) required or authorised by these Articles to be sent to or served on the Company shall be in writing sent to or served on the Company at its registered office or its principal place of business in Ireland, and may be sent or served by means of delivery, post, cable, telegram, telex, telefax, electronic mail or any other means of communication approved by the Board Members, and may bear a printed, facsimile signature or electronic signature (as defined in the Electronic Commerce Act, 2000) of the person or persons required by these Articles to sign such document. The communication of such a document by such means shall be confirmed as soon as possible by delivery to the Company at its registered office or principal place of business in Ireland of such document bearing an original signature of the person by whom it is required to be signed but (provided that the Board Members are satisfied as to the authenticity of the document communicated as aforesaid) shall be acted upon by the Company and the Board Members meanwhile; provided that any such document shall be valid and effective for all purposes notwithstanding that for any reason the document is not subsequently so confirmed. Any such document shall take effect, in the absence of any agreement to the contrary between the Company and the person by whom or on whose behalf the document was sent or served, at the time of receipt in the case of delivery and post, and at the expiration of 6 hours after receipt thereof at the Company's registered office or principal place of business in Ireland in any other case.

84. Notice of every general meeting shall be given in any manner hereinbefore authorised to:-

- (1) every member;
- (2) each of the Board Members and the Secretary; and
- (3) the Auditor for the time being of the Company.

No other person shall be entitled to receive notices of general meetings.

#### **INDEMNITY**

85. (1) Subject to the provisions of section 235 of the Act but without prejudice to any indemnity to which the person concerned may otherwise be entitled, every Board Member, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by them in the execution or discharge of their duties or in relation thereto including (without prejudice to the generality of the foregoing) any liability incurred by them in defending any proceedings, civil or criminal, which relate to anything done or omitted to be done or alleged to have been done or omitted by them as an officer or employee of the Company and in which judgment is given in their favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on their part) or in which they are acquitted or in connection with any application referred to in or under sections 233 or 234 of the Act for relief

from liability in respect of any such act or omission in which relief is granted to them by the Court.

- (2) The Board Members shall have power to purchase and maintain for any Board Member or officer, past or present, of the Company, insurance against any such liability as referred to in Section 235(4) of the Act.

WE, the several persons whose names and addresses are subscribed, wish to be formed into a Company in pursuance of this Memorandum of Association.

<i>Names, Addresses and Descriptions of Subscribers</i>	
<p><b>Bryan McMahon</b> No.1, Blackarch Wood Headfort Demesne Kells Co Meath</p> <p>Judge</p>	<p><b>Seamus Given</b> 77 Terenure Road East Terenure Dublin 6</p> <p>Solicitor</p>
<p><b>Thomas Hickey</b> 6 Priestfield Cottages Off South Circular Road Dublin 7</p> <p>Actor</p>	<p><b>Declan Drislane</b> 2 Rossmore Park Templeogue Dublin 6W</p> <p>Solicitor</p>
<p><b>Suzanne Kelly</b> "Verelands" Garden Vale Athlone Co. Westmeath</p> <p>Tax Lawyer</p>	<p><b>Jonathan Sheehan</b> Mont Agel Ceanchor Road Baily Co Dublin</p> <p>Solicitor</p>
<p><b>Anne Corrigan</b> 42 Westfield Road Harold's Cross Dublin 6W</p> <p>Lawyer</p>	
Dated this 21 <sup>st</sup> day of December 2005	
Witness to the above Signatures:	
<p><b>Declan Cantwell</b> 28 Treesdale Stillorgan Mount Merrion Co Dublin</p>	