

Explanatory Memorandum

Responding to CIMAM's new legal status as Affiliated Organization of ICOM as well as to the new realities of the contemporary art museum sector, the CIMAM Board has prepared a draft proposal with changes to the bylaws with the aim to bring them up to date and improve the operations of CIMAM. These have been made in the context of CIMAM's commitment to the ICOM Code of Ethics for Museums as the guiding principle.

The proposed changes are intended to clarify the criteria and conditions for joining CIMAM according to the different categories of membership available; to reformulate the rights and obligations of the members; to update the operating system of the General Assembly and establish a procedure for amending the association's bylaws; to clarify the composition as well as the election of the board of directors and to eliminate obsolete articles concerning ICOM.

This new version of the bylaws will be submitted for voting of the CIMAM membership during the Ordinary and Extraordinary General Assembly taking place in Stockholm 4 November 2018.

CIMAM Bylaws

PART I

NAME, PURPOSE, HEADQUARTERS AND SCOPE

Article 1

1. Under the name of the International Committee for Museums and Collections of Modern Art (CIMAM), hereinafter CIMAM, an Association is constituted under the Organic Law 1/2002, 22 March, and complementary regulations, with a legal personality and the full capacity to act on a not-for-profit basis.

2. CIMAM is an Affiliated Organization of ICOM, International Council of Museums, and commits itself to abide by the internal regulations of the ICOM and its Code of Ethics for Museums, within the framework of the Spanish Constitution, the aforementioned Organic Law and the rest of the legal system.

Article 2 This Association is constituted indefinitely.

Article 3 **The aims of this Association are:**

- Provide a forum for communication, cooperation, exchange of information and debate on issues of common concern between museums, not-for-profit collections and artists, museum professionals and others interested in modern and contemporary art;
- Represent the interests anchored in the principles and values of museums and not-for-profit collections of modern and contemporary art, as well as all professionals associated with this sector, including artists;
- Encourage research relating to the field of museums of modern and contemporary art in this area;

- Ensure that ethical and professional standards appropriate to modern and contemporary art museums are established and adhered to.

Article 4 The Association performs the following to fulfill these aims:

- Organize an Annual Conference to debate theoretical, ethical, and practical issues concerning institutional and museological activities in the field of modern and contemporary art, to share experiences and promote best practice
- Make the papers of the Annual Conference available free of charge to CiMAM members via recording or publishing online;
- Establish professional codes of practice and ethical standards for institutions and individuals;
- Monitor the implementation of these codes of practice and standards through Museum Watch: an advocacy program addressing critical situations that have an impact on museums and other not-for-profit institutions of modern and contemporary art;
- Provide a supportive network for professional development (e. g. a Travel Grants Program to promote equality and the participation of contemporary art professionals from different countries and regions of the world in the Annual Conference);
- Provide free admission for members of CiMAM to participating institutions, museums and collections worldwide;

Article 5 The Association has its registered office at Fabra i Coats, C/Sant Adrià, 20, Barcelona, 08030, Spain.

Article 6 The following terms used in the Bylaws have the meaning defined in this Article. No distinction is made between singular and plural.

a) Museum. A museum is a not-for-profit, permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment for the purposes of education, study and enjoyment (ICOM definition of Museum).

b) Full Member. A full Member of CiMAM is a person or institution whose application for membership of CiMAM has been accepted as such, and has paid the annual dues set by the General Assembly for the period in question, enjoying all the rights recognized in these Bylaws.

PART II

CiMAM ASSOCIATE MEMBERS

Article 7 CiMAM Membership program:

Individuals and Organizations wishing to join the CiMAM members program must accept the ICOM Museums Code of Ethics and General Principles on Conditions of Deaccession from Modern and Contemporary Museum Collections. Institutions and individuals applying for CiMAM membership do not need to be ICOM members.

Individuals and institutions involved in any form of for-profit commercial activities in relation to artworks may not be members of CiMAM.

1. CiMAM Institutional Membership

Institutional membership is open to contemporary and modern art museums* and archives that have been open to the public for over 5 years and can demonstrate an appropriate governance structure in accordance with the ICOM definition of a museum, with key museum functions (collection, conservation, research, exhibition and mediation) undertaken by professionals.

Institutions such as exhibition halls, *kunstvereine*, biennials and art centers may not join CiMAM unless they can fulfill the above criteria.

Commercial modern and contemporary art galleries may not join CiMAM, as they do not meet the general criteria established in the ICOM articles of association

Architecture companies may not join CiMAM, as they do not meet the general criteria established in the ICOM articles of association.

Embassies, consulates and artistic associations may not join CiMAM, as they do not meet the general criteria established in the ICOM articles of association. The staff of embassies, consulates and artistic associations may not join CiMAM unless they can establish a significant link between their work and the functions of an art museum.

Publishers, art transport companies, companies that produce or sell products to museums, or their owners or employees may not join CiMAM, as they do not meet the general criteria established in the ICOM articles of association.

2. CiMAM Individual membership

Directors and curators working in modern and contemporary art museums and archives are eligible to join CiMAM.

Independent curators of modern and contemporary art, curators working in biennales and non-collection-based modern and contemporary art institutions may join CiMAM if most of their field of professional activity is related to the functions of an art museum.

Commercial gallery curators and directors and modern and contemporary art dealers may not join CiMAM, as they do not meet the general criteria established in the ICOM articles of association.

Members of boards of directors, foundation boards, collectors and other consultative bodies of a museum can only join CiMAM as contributing members unless they are working professionally in the field of modern and contemporary art museums

3. Applications may be submitted at any time. The CIMAM Board evaluates each request separately, and all individual and institutional applications submitted are subject to final approval by the CIMAM Board.
4. Admission to CIMAM will be effective after approval of the request by the CIMAM Board, issuing of the corresponding invoice by the CIMAM offices and receipt of the appropriate fee for the current triennium.
5. To maintain their membership, CIMAM members should renew payment of their fee every 3 years, without resubmitting an application for membership.
6. Associate membership is non-transferable.

Any reference to museums, collections, archives, institutions, exhibition halls, art centers and exhibitions mentioned in the preceding section must be understood as referring to modern and/or contemporary art.

*ICOM articles of association, definition of a museum: "A museum is a permanent, not-for-profit institution, serving society and open to the public, which acquires, conserves, researches, exhibits and communicates both the tangible and intangible heritage of humanity for the purposes of study, education and recreation."

Article 8 The following categories of members shall exist within the Association:

- a) Individual or Institutional Members. The persons and institutions defined in Article 7 of these Bylaws that have been accepted as full members by the Board of Directors of CIMAM.
- b) Honorary Members. Those CIMAM Members who are considered to have performed outstanding services on behalf of CIMAM on the recommendation of the board. They are appointed for life. Individuals are awarded the title of Honorary Members by the General Assembly. They shall be full voting members.
- c) Contributing Members. Persons and organizations that wish to support CIMAM financially and are motivated by their interest in modern and/or contemporary art. These may include members of boards of directors, foundation boards, collectors and other consultative bodies of a museum. Individuals and organizations who wish to be Contributing Members should apply to the Board for approval. They shall not be voting members.

No other category of membership shall be considered valid or applicable at any level other than those described.

Article 9 Members' rights:

1. The following are the rights of full members of the Association:
 - a) Eligibility for election to the Board. Individual members may submit their candidature to the Board.
 - b) Voting rights: All members have the right to vote at CIMAM's General Assembly

meetings and to vote in the elections to the Board.

c) Right of representation: All members have the right to be appointed as CIMAM's representative to vote at the ICOM General Assembly and ICOM General Conference.

d) Right to participate: All members can participate in the activities and programs of the Association and attend the meetings organized.

2. Contributing members only have the right to participate recognized in paragraph (d) of the preceding paragraph.

Article 10 **Members' obligations:**

1. The following are the obligations of the Individual and Institutional Members:

a) Comply with these Bylaws.

b) Pay the quotas that are fixed.

c) Accept the ICOM Code of Ethics for Museums and the General Principles on Conditions of Deaccession from Modern and Contemporary Museum Collections.

d) Abide by and comply with the resolutions validly adopted by the governing and representative bodies of the Association.

2. Contributing and Honorary Members must fulfill the obligations indicated in the preceding paragraph, except for the payment of regular membership fees.

Article 11 **Terminating the association with CIMAM:**

1. CIMAM's voting affiliation may be voluntarily lost by resignation or by decision of the Board of Directors for one of the following reasons:

a) Infringement of the ICOM Code of Ethics

b) Non-payment of the subscription fee for the services agreed for a period of 3 years, unless an exemption has previously agreed.

PART III

GENERAL ASSEMBLY

Article 12 **General Assembly:**

1. This is the supreme governing body of the Association and will consist of all associate members. Only full members of the Association shall be entitled to vote. The Contributing members may attend the General Assembly and contribute to the discussion but may not vote

2. The ordinary General Assembly shall be held at least once a year, coinciding with the CIMAM Annual Conference, to approve, if necessary, the management of the Board, the budget and the annual accounts.

3. CIMAM will hold an extraordinary General Assembly when deemed necessary to fulfill its objectives and implement its program, when the Board agrees to it or when requested by at least 10% of associate members.

4. Notices of General Meetings will be sent electronically with the place, day and time of the meeting, the agenda and a concrete expression of the matters to be discussed. The dates and location of the notice for the General Assembly will be communicated to Association members at least 1 month in advance, so the date and time of the second notice for the Assembly can be recorded, with no delay of less than 15 minutes between them.

5. Twenty days before the General Assembly, the documentation relating to the matters to be addressed should be sent to the members by electronic means and should be published for general information.

6. The meetings of the General Assembly are presided by the President of the Association. If not present, he/she is replaced by the Board member appointed by the Board from among the most senior members. The Secretary must act as Secretary who occupies this position in the Board.

7. General Assembly powers:

- a) Submit a report on the work done by the Association during the previous year;
- b) Report on the finances of the Association during the previous year;
- c) Submit a revised annual draft of the CIMAM program and approval of the proposed program for the following year;
- d) Present a review of the working group activities and renew their mandates, if appropriate;
- e) Examine and approve the annual accounts;
- f) Approve the budget for the following year;
- g) Approve the management of the Board;
- h) Elect Board members;
- i) Approve ordinary or extraordinary fees;
- j) Approve the dissolution of the Association;
- k) Approve any amendments to the Articles of Association, including a change in the registered office;
- l) Approve the arrangement or disposition of assets;
- m) Any other competence not attributed to another company entity.

8. The following require agreement by the Extraordinary General Assembly convened for that purpose:

- a) Amendments to the Articles of Association, including a change in the registered office;
- b) Dissolution of the Association.

9. Both ordinary and extraordinary General Assemblies will be validly constituted at the first notice when 30% of the voting associate members are present to vote in person or online. They will be validly constituted on the second notice, irrespective of the number of associate members eligible to vote.

10. Each member will have 1 vote on any matter submitted to the Association in the CIMAM General Assemblies.

11. Decisions will be taken by a simple majority of those present or represented in favor of a motion compared to those against; null votes or abstentions will not be included in this count. A qualified majority of those present or represented will be needed when the voting result exceeds half of these for:

- a) Dissolution of the Association;
- b) Amendments to the Articles of Association, including a change in the registered office;
- c) Arrangement or disposition of fixed assets.

PART IV

BOARD OF DIRECTORS

Article 13

1. Composition:

The Association will be managed and represented by a Board of Directors consisting of a President, a Secretary-Treasurer and at least 10 other members elected by associate members of CiMAM. The number of Board members will not exceed 15, of which 80% should hold leadership positions in modern and contemporary art museums. All members of the Board provide their services on a voluntary basis.

2. Election and duration of the positions:

Board members will be nominated for a period not exceeding 3 years at a General Assembly by members with a right to vote. Board members may be reappointed for a maximum of 2 additional times if they wish and remain eligible for this purpose. Thus, no-one can be a Board member for more than 9 years continuously. However, the President and the Secretary/Treasurer may only be re-elected to serve a second term of the same duration (a total of 6 years).

The new elected Board of Directors, along with the outgoing, must then elect the new President and Secretary-Treasurer from among the members of the newly elected Board and inform members of the results of this election during the General Assembly, as soon as the Board has the final results.

No more than 3 members from a country can sit on the Board at any one time to ensure adequate geographical representation amongst it and for other strategic reasons. Any individual member of CiMAM who is an active museum professional or former museum professional (with at least 5 years museological career) or academic museologist is eligible for election to the Board. Candidates for election to the Board may be submitted by any active member of CiMAM (i.e. those who have met the CiMAM membership fees).

3. Election to the Board:

The Board of Directors will be elected by the vote of eligible members at the CiMAM Ordinary General Assembly. The outgoing Board will invite nominations for the next Board at least 4

months before the General Assembly. The Board will electronically inform all members entitled to vote of the names and qualifications of the candidates at least 2 months before the start of the Assembly. Existing members of the Board who wish to stand for re-election should inform the Secretary-Treasurer within the same period of time so that their names can be included in the list of candidates. Active members unable to attend the General Assembly can vote directly via email or online, by making sure their votes reach the executive team at least 1 week before the start of the Assembly. In the event that two or more candidates have obtained the same number of votes, the candidates with oldest membership with CIMAM shall be deemed to have been chosen.

4. Reasons for terminating the position:

Membership in the Board terminates when the member:

- a) Resigns for any reason;
- b) Ceases to be a full member;
- c) Fails to attend 3 consecutive Board meetings without providing any justification to the Board of the circumstances involved or fails to remain in contact with the other members of the Board for more than 6 months.

5. Vacancies on the Board of Directors shall be filled as follows:

- a) If the President position remains vacant, or in the event of incapacity or impossibility of completing his/her term of office, the Board shall select one of the members of the Board by a simple majority to act as acting President until the next election.
- b) If the position of Secretary-Treasurer remains vacant, or in the event of incapacity or impossibility of completing his/her term of office, the Board shall select one of the members of the Board by simple majority to act as acting Secretary-Treasurer until the next election.
- c) If a Board member position remains vacant or in the event of incapacity or impossibility of completing his/her term of office, the position will remain vacant until the next election.

The time a Board member acts as Secretary-Treasurer will not count as time dedicated as an elected official.

Board members who have surpassed the period for which they were elected shall continue to hold office until a replacement is accepted.

6. Frequency of Board meetings:

The Board will meet at least once a year or as deemed necessary by its President or at the request of one-third of the associate members. Advance notice of 30 days will be communicated via electronic means.

7. Valid constitution of the Board:

The quorum for Board meetings will be one-third of Board members present in person or by teleconference. Board members may delegate their votes to another in case of excused

absence. The Board shall be chaired by the President or, in case of absence, impossibility or illness, by a member designated by the Board.

8. The Board approves decisions by a simple majority vote, with the President having a casting vote, in the case of a tie.

9. The decisions of the Board of Directors must be recorded in minutes and signed by the President and Secretary-Treasurer. At the beginning of each meeting of the Board of Directors, the minutes of the previous meeting should be read so that they may be approved or corrected, if appropriate.

10. Board Powers:

In general, all aims of the Association come under its powers. Particular powers of the Board are:

- a) Directing the activities and financially and administratively managing the Association, with the CIMAM Board being able to contract staff to perform the financial and administrative management. The executive team will be hired under the employment laws of the country in which the Association is registered.
- b) Implementing the resolutions of the General Assembly.
- c) Deciding on the admission of new associate members.
- d) Creating working groups with specific mandates to facilitate the implementation of its program. Each working group will designate a coordinator from among its members to report at each board meeting on the progress made in fulfilling its mandate. Each of these board meetings will review the need for these working groups and renew their mandates, if necessary.
- e) Any other power that is not the exclusive competence of the General Assembly of members.

11. Board member powers:

a) **President:** To represent the Association in all kinds of public or private bodies; call, preside, close and direct the proceedings of General Assemblies and Board meetings; order payments and authorize documents, minutes and correspondence by signing; adopt any urgent measure for the proper operation of the Association and advise on the progress of its activities if required or desirable, without prejudice to subsequent accounting to the Board.

b) **Secretary-Treasurer:** Formulating and submitting the balance sheets and financial statements for the approval of the General Assembly; keeping the minutes of General Assemblies and Board meetings; issuing certifications; maintaining legally established Association books and the associates file and keeping the documentation of the Organization; facilitating communication regarding Board appointments and other registrable company agreements to the corresponding Registries, as well as fulfilling the documentary obligations in accordance with the law; collecting and keeping the funds of the Association and complying with payment orders issued by the President.

c) **Members:** Responsible for managing the affairs of CiMAM and ensuring the International Council of Museums (ICOM) statute requirements and these standards are met.

12. Before it is held, the Board will ensure that no member of the Association is prevented from attending a CiMAM meeting by the Government of the host country.

13. Each calendar year, the Board will prepare a report on the Association activities during the previous year, which will be sent to all members and discussed in the General Assembly.

14. After consulting with as many Association members as possible, the Board will appoint 3 members of the Association with a voting right to vote on its behalf in an ICOM General Assembly and in electing the Executive Council, or if the Association believes it will not be represented in the Assembly.

15. The Board will ensure that CiMAM members are always properly informed of the work of the Board, the Association's plans for activities and any other matters pertinent to the work and functions of CiMAM. It may publish a regular newsletter or communicate with members by any other means it considers appropriate.

PART V

FINANCIAL SYSTEM

Article 14 **CiMAM finances**

1. CiMAM is empowered to raise the funds it deems necessary for its operations. It can impose an annual membership fee for its members, renewable every 3 years, and is also empowered to impose specific fees for particular services.

2. The Association may impose any registration fees deemed necessary for participation in the General Assembly and other meetings.

3. The Association may receive grants and donations and accept subscriptions from sponsors.

4. The Association may produce and sell publications at its own charge.

5. All amounts received by CiMAM will be paid into a bank account created for this purpose and all payments made on behalf of CiMAM will be issued from this account. CiMAM will maintain proper records of all amounts received and spent each year, and will present a financial report to the members at each CiMAM General Assembly.

6. CiMAM will follow European and Spanish tax regulations. The fiscal year will begin on January 1 and end on December 31.

PART VI

AMENDMENTS TO THE ARTICLES OF ASSOCIATION

Article 15 Amendments to the CiMAM Articles of association

1. The amendment of CiMAM's Bylaws will follow the procedure below:
 - a) The procedure will be initiated by agreement of the Board of Directors ordering the study of the proposal and drafting of the initial document.
 - b) The proposed amendment of the bylaws will contain the articles ordered by subject.
 - c) The project will be approved by the Board of Directors and will be submitted to public information of all the associates for a period of not less than one month, so that the members of the association with full rights can learn of the proposed modification and formulate any allegations, suggestions or amendments that they deem appropriate.
 - d) Once the period of public information is over, the allegations presented will be reported and submitted to the Board of Directors for resolution.
 - e) The Board of Directors shall communicate the resolution to the associates who have presented arguments and shall order the preparation of a consolidated text in which the content of the allegations, amendments and suggestions accepted by the Board of Directors shall be incorporated.
 - f) The final document will be presented for final approval by the Extraordinary General Assembly, with clear expression of the articles that are intended to be modified, deleted or added.
 - g) The agreement to amend the bylaws must be registered within one month.
2. The final text of the amendment that will be submitted to the Extraordinary General Assembly for approval together with the explanatory material will be sent to the members at least 28 days before the General Assembly, where it will be debated and voted upon.
3. The approval of the amendment of the Bylaws will require a qualified majority of the persons present or represented that will result when the affirmative votes exceed half of these votes.

PART VII

DISSOLUTION OF THE ASSOCIATION

Article 16 Dissolution of CiMAM

1. The Association may be dissolved by decision of the CiMAM General Assembly in accordance with the qualified majority of members consulted.

CIMAM

2. Once the dissolution has been agreed upon, the General Assembly shall take the appropriate measures with regard to the destination of the assets and rights of the association, as well as the purpose, termination and liquidation of any pending operations.
3. The Assembly is entitled to elect a liquidation commission whenever it deems it necessary.

To be approved in Stockholm 4 November 2018.