



THE COMPANIES ACT 2006

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

ARTICLES of ASSOCIATION

of

ARGYLL COLLEGE UHI LTD.

(adopted by special resolution passed on 14 December 2015)

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Constitution

- 1 The model articles of association as prescribed in Schedule 2 to The Companies (Model Articles) Regulations 2008 are excluded in respect of this company.

Interpretation

- 2 In these articles of association:
 - 2.1 “**Act**” means the Companies Act 2006;
 - 2.2 “**charity**” means a body which is either a “Scottish charity” within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a “charity” within the meaning of section 1 of the Charities Act 2006, providing (in either case) that its objects are limited to charitable purposes;
 - 2.3 “**charitable purpose**” means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;
 - 2.4 “**the College**” means the college administered by the company;
 - 2.5 “**conflict of interest**” includes a conflict of interest and duty, and a conflict of duty;
 - 2.6 “**Conflict Situation**” means any situation or matter (other than one which cannot reasonably be regarded as likely to give rise to a conflict of interest) in which any director has or could have a direct or indirect interest that conflicts, or possibly might conflict, with the interests of the company including (without limitation) any such situation or matter which relates to the exploitation of any property, information or opportunity (irrespective of whether the company could take advantage of the property, information or opportunity);

- 2.7 “**electronic form**” has the meaning given in section 1168 of the Act;
- 2.8 “**OSCR**” means the Office of the Scottish Charity Regulator;
- 2.9 “**property**” means any property, heritable or moveable, real or personal, wherever situated; and
- 2.10 “**subsidiary**” has the meaning given in section 1159 of the Act.
- 3 Any reference to a provision of any legislation (including any statutory instrument) shall include any statutory modification or re-enactment of that provision in force from time to time.
- 4 References in these articles to the singular shall be deemed to include the plural.

Objects

- 5 The objects for which the company is established are wholly charitable (within the meaning and for the purposes of section 505 of the Income and Corporation Taxes Act 1988 or any statutory amendment or re-enactment thereof) and, in particular, the company’s objects are the advancement of education, including the provision of training and guidance, for the public benefit in Argyll and Bute.
- 6 The company’s objects are restricted to those set out in article 5 (but subject to article 7).
- 7 The company may (subject to first obtaining the consent of OSCR) add to, remove or alter the statement of the company’s objects in article 5; on any occasion when it does so, it must give notice to the registrar of companies and the amendment will not be effective until that notice is registered on the register of companies.

Powers

- 8 In pursuance of the company’s objects (but not otherwise) the company shall have the following powers:
- 8.1 To establish and operate colleges and/or other learning centres in Argyll and Bute (“**the Operating Area**”).
- 8.2 To establish and administer educational programmes within the Operating Area.
- 8.3 To promote links between the community, potential employees and employers.
- 8.4 To assist individuals in finding paid employment and to liaise with potential employers with a view to developing vocational and other training schemes which are aligned with the requirements of businesses.

- 8.5 To promote, support (whether financially or otherwise) and/or conduct, any operations, projects or initiatives which further any of the company's objects.
- 8.6 To advise in relation to, prepare, organise, commission and/or conduct educational and training courses, programmes, conferences, seminars, workshops and events.
- 8.7 To design, prepare, publish and/or distribute information packs, leaflets, books, newsletters, magazines, posters and other publications, audio and video recordings, multi-media products and display materials, to create and maintain a website or websites and to make use of social networking facilities and other mechanisms for sharing information.
- 8.8 To provide and/or assist in the provision of information, advisory, support and/or consultancy services which advance any of the aims of the company.
- 8.9 To liaise with European, UK, Scottish and local government authorities and agencies, further or higher education establishments, voluntary sector bodies and others, all with a view to maximising the effectiveness of the company in pursuing its objectives.
- 8.10 To carry on any other activity which may appropriately be carried on in connection with any of the objects of the company.
- 8.11 To promote companies whose activities may further one or more of the above objects or may generate income to support the activities of the company, acquire and hold shares, stocks, debentures and other interests in such companies and carry out in relation to any such company which is a subsidiary of the company, all such functions as may be associated with a holding company.
- 8.12 To acquire and take over the whole or any part of the undertaking and liabilities of any person entitled to any property or rights suitable for any of the objects of the company.
- 8.13 To purchase, lease, hire, take in exchange, and otherwise acquire any property and rights which may be advantageous for the purposes of the activities of the company.
- 8.14 To improve, manage, enhance, develop, turn to account and otherwise deal with all or any part of the undertaking, property and rights of the company.
- 8.15 To sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the undertaking, property and rights of the company.

- 8.16 To lend money and give credit to any person, with or without security, and to grant guarantees and contracts of indemnity on behalf of any person.
- 8.17 To borrow money and give security for the payment of money by, or the performance of other obligations of, the company or any other person.
- 8.18 To draw, make, accept, endorse, discount, negotiate, execute and issue cheques and other negotiable or transferable instruments.
- 8.19 To remunerate any individual in the employment of the company and to establish, maintain and contribute to any pension or superannuation fund for the benefit of, and to give or procure the giving of any donation, pension, allowance or remuneration to, and to make any payment for or towards the insurance of, any individual who is or was at any time in the employment of the company and the spouse, widow/er, relatives and dependants of any such individual; to establish, subsidise and subscribe to any institution, association, club and fund which may benefit any such person.
- 8.20 To oppose or object to any application or proceedings which may prejudice the company's interests.
- 8.21 To enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of the company and to obtain from any such organisation, government or authority any right, privilege or concession.
- 8.22 To enter into any arrangement for co-operation or mutual assistance with any charity, whether incorporated or unincorporated.
- 8.23 To effect insurance against risks of all kinds.
- 8.24 To invest funds not immediately required for the purposes of the company's activities in such investments and securities (including land in any part of the world) and that in such manner as may from time to time be considered advantageous (subject to compliance with any applicable legal requirement) and to dispose of and vary such investments and securities.
- 8.25 To establish and support any association or other unincorporated body having objects altogether or in part similar to those of the company and to promote any company or other incorporated body formed for the purpose of carrying on any activity which the company is authorised to carry on.
- 8.26 To subscribe and make contributions to or otherwise support charities, whether incorporated or unincorporated, and to make donations for any charitable purpose connected with the activities of the company or with the furtherance of its objects.

- 8.27 To accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust, for any of the objects of the company.
- 8.28 To take such steps (by way of personal or written appeals, public meetings or otherwise) as may be deemed expedient for the purpose of procuring contributions to the funds of the company, whether by way of subscriptions, grants, loans, donations or otherwise.
- 8.29 To carry out any of these objects in any part of the world as principal, agent, contractor, trustee or in any other capacity and through an agent, contractor, sub-contractor, trustee or any person acting in any other capacity and either alone or in conjunction with others.
- 8.30 To do anything which may be incidental or conducive to the attainment of any of the objects of the company

Application of income and property

- 9 The income and property of the company shall be applied solely towards the promotion of its objects.
- 10 No part of the income or property of the company shall be paid or transferred (directly or indirectly) to the members of the company by way of dividend, bonus or otherwise.
- 11 No director of the company (other than Executive Directors and Staff Representative Directors) shall be appointed as a paid employee of the company; no director (other than Executive Directors and Staff Representative Directors) shall hold any office under the company for which a salary or fee is payable.
- 12 No benefit (whether in money or in kind) shall be given by the company to any director except:
 - 12.1 repayment of out-of-pocket expenses; or
 - 12.2 reasonable payment in return for particular services (not being of a management nature) actually rendered to the company; or
 - 12.3 in the case of Executive Directors and Staff Representative Directors only, reasonable remuneration, and reasonable pension and/or other benefits, paid or provided to him/her in his/her capacity as an employee of the company.

Limit on members' liability

- 13 The liability of the members is limited.
- 14 Each member undertakes that if the company is wound up while he/she is a member (or within one year after he/she ceases to be a member), he/she will

contribute - up to a maximum of £1 - to the assets of the company, to be applied towards:

- 14.1 payment of the company's debts and liabilities contracted before he/she ceases to be a member;
- 14.2 payment of the costs, charges and expenses of winding up; and
- 14.3 adjustment of the rights of the contributories among themselves.

Structure of the company

15 The structure of the company consists of:

- 15.1 the MEMBERS - who have the right to attend general meetings and have important powers under the articles of association and the Act; in particular, the members take decisions in relation to changes to the articles themselves; and
- 15.2 the DIRECTORS - who hold regular meetings during the period between general meetings, and generally control and supervise the activities of the company; in particular, the directors are responsible for monitoring the financial position of the company.

Members

- 16 The members of the company shall consist of such individuals as are admitted to membership from time to time under articles 19 to 22.
- 17 Any individual or body who/which was a member of the company at the time at which the resolution adopting these articles of association was passed, but which is not eligible for membership under article 19, shall automatically cease to be a member with effect from that time.
- 18 A member may not transfer his/her membership to any other individual or body.

Qualifications for membership

- 19 Subject to article 20, membership shall be open only to the following:
 - 19.1 the individual holding the post of Principal (or Acting Principal) of the College;
 - 19.2 the staff representatives, as elected in pursuance of article 65;
 - 19.3 the student representative, as elected in pursuance of article 73;
 - 19.4 the directors appointed in pursuance of article 80.
- 20 No employee of the company (other than the Executive Director and the Staff Representative Directors, as defined in article 59) may become a member; a

person admitted to membership shall (except in the case of the Executive Director and the Staff Representative Directors) automatically cease to be a member if he/she becomes an employee of the company.

Application for membership

- 21 Any individual eligible for membership under articles 19 and 20 who wishes to become a member shall lodge with the company a written application for membership (in such form as the directors require), signed by him/her.
- 22 An individual eligible for membership under articles 19 and 20 shall automatically become a member of the company immediately upon receipt by the company of a signed application for membership complying with article 21.
- 23 For the avoidance of doubt, a member who is an individual eligible for membership under article 19 (as read with articles 20, 72, 79 and 86) at the time when these articles of association are adopted shall remain as a member without any requirement to lodge an application for membership under article 21.

Membership subscription

- 24 For the avoidance of doubt, no member shall require to pay a membership subscription, either at the time of admission as a member or on any annual or other periodic basis.

Register of members

- 25 The directors shall maintain a register of members, setting out the full name and address of each member, the date on which he/she was admitted to membership, and the date on which any individual ceased to be a member.

Cessation of membership

- 26 Membership shall cease on death.
- 27 An individual admitted to membership shall automatically cease to be a member if he/she ceases (for whatever reason) to be a director of the company.
- 28 Any individual who wishes to withdraw from membership shall lodge with the company a written notice of retiral (in such form as the directors require), signed by him/her; on receipt of the notice by the company, he/she shall cease to be a member.

General meetings

- 29 The directors must convene a general meeting if there is a valid requisition by members (under section 303 of the Act) or a requisition by a resigning auditor (under section 518 of the Act).

- 30 Subject to the provisions of article 29, the directors may convene general meetings whenever they think fit.
- 31 For the avoidance of doubt, the directors shall be under no obligation to convene annual general meetings.

Notice of general meetings

- 32 At least 14 clear days' notice of each general meeting must be given to all the members and directors, and (if auditors are in office at the time) to the auditors.
- 33 The reference to "clear days" in article 14 shall be taken to mean that, in calculating the period of notice, the day after the notice is posted (or, in the case of notice sent by electronic means, the day after it was sent), and also the day of the meeting, should be excluded.
- 34 A notice calling a meeting shall specify the time, date and place of the meeting; it shall:
- 34.1 indicate the general nature of the business to be dealt with at the meeting;
 - 34.2 if a special resolution or a resolution requiring special notice under the Act is to be proposed, state that fact, giving the exact terms of the resolution; and
 - 34.3 contain a statement informing members of their right to appoint a proxy.
- 35 Notice of every general meeting shall be given:
- 35.1 in hard copy form; or
 - 35.2 (where the individual or body to whom/which notice is given has notified the company of an address to be used for the purpose of electronic communication) in electronic form; or
 - 35.3 (subject to the company notifying members of the presence of the notice on the website, and complying with the other requirements of section 309 of the Act) by means of a website.

Proceedings at general meetings

- 36 No business shall be transacted at any general meeting unless a quorum is present; the quorum shall (subject to article 37) be eight members, present in person or represented by proxy.
- 37 The quorum under article 36 shall not be met unless at least six Independent Directors are present at the meeting (in their capacity as members).

- 38 If the quorum required under article 36 is not present within half an hour after the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to such time and place as may be fixed by the chairperson of the meeting; if, at the adjourned meeting, a quorum is not present within half an hour from the time appointed for the meeting, the members present shall form a quorum.
- 39 The Chair of the company shall (if present and willing to act as chairperson) preside as chairperson of each general meeting; if the Chair is not present and willing to act as chairperson within 15 minutes after the time at which the meeting was due to commence, the Vice Chair shall (if present and willing to act as chairperson) preside as chairperson of the meeting.
- 40 If neither the Chair of the company nor the Vice Chair is present and willing to act as chairperson within 15 minutes after the time at which a general meeting was due to commence, the directors present at the meeting shall elect from among themselves the person who will act as chairperson of that meeting.
- 41 The chairperson may, with the consent of a majority of the members present at the meeting (and must, if a majority of the members present at the meeting request him/her to do so), adjourn the meeting but not for a period in excess of thirty days; no notice need be given of an adjourned meeting.
- 42 A resolution put to the vote of a meeting shall be decided on a show of hands unless before the show of hands, or immediately after the result of the show of hands is declared, a secret ballot is demanded by the chairperson or by any other person present at the meeting and entitled to vote (whether as a member or as a proxy for a member).
- 43 If a secret ballot is demanded in accordance with the preceding article, it shall be taken at once and shall be conducted in such manner as the chairperson may direct; the result of the ballot shall be declared at the meeting at which the ballot was demanded.

Voting at general meetings

- 44 Every member shall have one vote, which (whether on a show of hands or on a secret ballot) may be given either personally or by proxy.
- 45 A member who wishes to appoint a proxy to vote on his/her behalf at any general meeting:
- 45.1 shall lodge with the company, at the company's registered office, a written instrument of proxy (in such form as the directors require), signed by him/her; or
- 45.2 shall send by electronic means to the company at such electronic address as may have been notified to the members by the company for that purpose, an instrument of proxy (in such form as the directors require)

providing (in either case) the instrument of proxy is received by the company at the relevant address not less than 48 hours before the time for holding the meeting (or, as the case may be, adjourned meeting); for the avoidance of doubt, in calculating the 48-hour period referred to in the preceding provisions of this article 45, no account shall be taken of any part of a day that is not a working day.

- 46 An instrument of proxy which does not conform with the provisions of article 45, or which is not lodged or sent in accordance with such provisions, shall be invalid.
- 47 A proxy need not be a member of the company.
- 48 A member shall not be entitled to appoint more than one proxy to attend the same general meeting.
- 49 A proxy appointed to attend and vote at any general meeting instead of a member shall have the same right as the member who appointed him/her to speak at the meeting.
- 50 The chairperson of a general meeting shall be entitled to a casting vote if an equality of votes arises in relation to any resolution.
- 51 No objection may be raised as to the validity of any vote tendered at a general meeting, except at the meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid; any such objection shall be referred to the chairperson of the meeting whose decision shall be final and conclusive.

Special resolutions and ordinary resolutions

- 52 For the purposes of these articles, a “special resolution” means a resolution of the members, which is either (a) passed by 75% or more of the votes cast on the resolution at a general meeting, providing proper notice of the meeting and of the intention to propose the resolution has been given in accordance with articles 32 to 35 (for the avoidance of doubt, the reference to a 75% majority relates only to the number of votes cast in favour of the resolution as compared with the total number of votes cast in relation to the resolution, and accordingly no account shall be taken of abstentions or members absent from the meeting); or (b) passed by members representing not less than 75% of the total voting rights of eligible members, when passed by way of a written resolution, in accordance with articles 55 to 58.
- 53 In addition to the matters expressly referred to elsewhere in these articles, the provisions of the Act allow the company, by special resolution (passed at either a general meeting or by way of written resolution):
- 53.1 to alter its name;
- 53.2 to alter any provision of these articles or adopt new articles of association.

- 54 For the purposes of these articles, an “ordinary resolution” means a resolution, which is either (a) passed by majority vote (taking account only of those votes cast in favour as compared with those votes cast against, at a general meeting, providing proper notice of the meeting has been given in accordance with articles 32 to 35; or (b) passed by members representing a simple majority of the total voting rights of eligible members, where passed by way of written resolution in accordance with articles 55 to 58.

Written resolutions

- 55 A written resolution can be passed by the members of the company (having been proposed by either the members or the directors in accordance with the procedures detailed in Chapter 2 of Part 13 of the Act) and will have effect as if passed by the members of the company in general meeting; a written resolution is passed when the required majority of eligible members have signified their agreement to it by sending to the company (in hard copy or electronic form) an authenticated document which identifies the resolution to which it relates and which indicates the member’s agreement to it (which agreement cannot thereafter be revoked).
- 56 For the purposes of the preceding article:
- 56.1 the reference to “eligible members” is to those members who would have been entitled to vote on the resolution on the circulation date of the resolution (which is either (a) the date on which copies of the written resolution are sent or submitted to the members in accordance with the procedures detailed in Chapter 2 of Part 13 of the Act; or (b) if copies are sent or submitted to members on different days, the first of those dates);
- 56.2 the reference to “required majority” is to the majority required to pass an ordinary or a special resolution under the Act, as follows:-
- 56.2.1 in order to pass an ordinary resolution by way of written resolution, it must be passed (in accordance with article 55) by members representing a simple majority of the total voting rights of eligible members;
- 56.2.2 in order to pass a special resolution by way of written resolution, it must be passed (in accordance with article 55) by members representing not less than 75% of the total voting rights of eligible members and the resolution must specifically state that it was proposed as a special resolution.
- 57 A resolution to remove a director (under section 168 of the Act) or a resolution to remove an auditor (under section 510 of the Act) cannot be proposed as a written resolution under article 55.
- 58 For the purposes of article 55, a proposed written resolution will lapse if it is not passed before the end of a period of 28 days beginning with the circulation date (as defined in article 56), and the agreement of any member

to a written resolution will be ineffective if signified after the expiry of that period.

Categories of director

59 For the purposes of these articles

“**Executive Director**” means a director appointed in pursuance of article 62;

“**Staff Representative Director**” means a director appointed in pursuance of article 65;

“**Student Representative Director**” means a director appointed in pursuance of article 73;

“**Independent Director**” means a director appointed in pursuance of article 80.

Number of directors

60 The maximum number of directors shall 16.

61 Subject to any vacancies which may exist from time to time, the composition of the board of directors shall be as follows:

61.1 Executive Director (being the Principal or Acting Principal of the College) - 1

61.2 Staff Representative Directors - 2

61.3 Student Representative Director –2

61.4 Independent Directors - 11.

Appointment, vacating of office: Executive Director

62 The directors shall (subject to article 61), at the first meeting of the directors which is held after the date of adoption of these articles of association, appoint the individual holding the post of Principal of the College as a director (an “Executive Director”) of the company; he/she will then be entitled to apply for membership under article 19.1.

63 An Executive Director shall (subject to article 87) continue to hold office as a director of the company unless and until he/she ceases (for whatever reason) to hold the post of Principal (or Acting Principal, as the case may be, unless he/she is immediately thereafter appointed as Principal) of the College (and will thus also cease to be a member through the operation of article 27).

64 Following an Executive Director ceasing to holding office under article 63, the directors shall (subject to article 61), at the first meeting of the directors which is held after the appointment of any individual to the post of Principal of the College, appoint that individual as the Executive Director of the

company; he/she will then be entitled to apply for membership under article 19.1.

Appointment, vacating of office: Staff Representative Director

- 65 The directors shall (subject to article 61), at the first meeting of the directors which is held after the election by the employees of the company (subject to article 66) of any employee of the company to serve on the board as an employee representative, appoint that individual as a director (“the Staff Representative Director”) of the company; he/she will then be entitled to apply for membership under article 19.2.
- 66 With reference to article 65, at any given time, of the two employees of the company elected to serve on the board as Staff Directors, no more than one of shall be an employee drawn from the teaching staff of the company.
- 67 A Staff Representative Director shall (subject to article 87) continue to hold office as a director of the company until the conclusion of the second annual general meeting which follows the date on which he/she was appointed or (as the case may be) was last re-appointed (and will thus cease to be a member through the operation of article 27), but shall then be eligible for re-appointment under article 65; if re-appointed he/she shall (subject to article 87) hold office until the conclusion of the fourth annual general meeting which follows.
- 68 A Staff Representative Director who has held office for a period of four years shall automatically vacate office at the expiry of that four-year period, and shall not be eligible to hold office again as a Staff Representative Director until a period of one year has elapsed.
- 69 For the purposes of article 68:
- 69.1 the period between the date on which an individual becomes a Staff Representative Director and the annual general meeting which follows shall be deemed to be a period of one year unless it is of less than six months’ duration (in which case it will be disregarded);
- 69.2 the period between one annual general meeting and the next shall be deemed to be a period of one year;
- 69.3 if a Staff Representative Director ceases to hold office as a director and becomes a Staff Representative Director once more within a period of less than six months, he/she shall be deemed to have held office as a Staff Representative Director continuously.
- 70 The directors shall, in advance of each of the annual general meetings referred to in article 67 (and allowing a reasonable time for completion of the election process referred to in this article 69), arrange for a ballot of the employees of the company to elect the individuals to be appointed or (as the case may be) re-appointed as the Staff Representative Directors under article

65; the rules relating to the election process shall be as prescribed in the standing orders issued by the directors from time to time.

71 In the event of there being, at any given time, vacancies in respect of both offices of Staff Representative Director, the directors shall, as soon as reasonable practicable, arrange for a ballot of the employees of the company to elect at least one individual to be appointed as the Staff Representative Director under article 65 to fill the vacancy.

72 For the avoidance of doubt, any Staff Representative Director holding office immediately prior to the time at which these articles of association are adopted, shall remain as such but his/her period of office prior to the date of adoption of the articles shall be disregarded for the purposes of article 67; he/she shall be deemed to be re-appointed, at the time of adoption of these articles, and shall then hold office (from that date) in accordance with article 67.

Appointment, vacating of office: Student Representative Director

73 The directors shall (subject to article 61), at the first meeting of the directors which is held after the election by the students of the College of any student of the College to serve on the board as a student representative, appoint that individual as a director (“the Student Representative Director”) of the company; he/she will then be entitled to apply for membership under article 19.3.

74 A Student Representative Director shall (subject to article 87) continue to hold office as a director of the company until the conclusion of the annual general meeting which follows the date on which he/she was appointed or (as the case may be) was last re-appointed (and will thus cease to be a member through the operation of article 27), but shall then be eligible (subject to article 75) for re-appointment under article 73.

75 A Student Representative Director who has held office for a period of three years shall automatically vacate office at the expiry of that three-year period, and shall not be eligible to hold office again as a Student Representative Director until a period of one year has elapsed.

76 The provisions of article 69 shall apply in interpreting the reference to a year or years for the purposes of article 75, as if each reference in article 69 to a Staff Representative Director were a reference to a Student Representative Director.

77 The directors shall, in advance of each annual general meeting (and allowing a reasonable time for completion of the election process referred to in this article 77), arrange for a ballot of the students of the College to elect the individuals to be appointed, or (as the case may be) re-appointed, as the Student Representative Directors under article 73; the rules relating to the election process shall be as prescribed in the standing orders issued by the directors from time to time.

- 78 In the event of any, at any given time, vacancies in respect of both offices of Student Representative Director, the directors shall, as soon as reasonable practicable, arrange for a ballot of the students of the College to elect at least one individual to be appointed as the Student Representative Director under article 73 to fill the vacancy.
- 79 For the avoidance of doubt, any Student Representative Director holding office immediately prior to the time at which these articles of association are adopted, shall remain as such but his/her period of office prior to the date of adoption of the articles shall be disregarded for the purposes of articles 74 and 75; he/she shall be deemed to be re-appointed, at the time of adoption of these articles, and shall then hold office (from that date) in accordance with articles 74 and 75.

Appointment, vacating of office: Independent Directors

- 80 The directors may at any time (subject to article 61) appoint any individual who they consider has skills and/or experience which would be of assistance to the board, to be a director (an “**Independent Director**”) providing he/she is willing so to act; he/she will then be entitled to apply for membership under article 19.4.
- 81 Each Independent Director shall continue to hold office as a director of the company until the conclusion of the fourth annual general meeting which follows the date on which he/she was appointed or (as the case may be) was last re-appointed (and will thus cease to be a member through the operation of article 27), but shall then be eligible (subject to article 82) for re-appointment under article 80.
- 82 An Independent Director who has held office for a period of 12 consecutive years shall automatically vacate office at the expiry of that 12-year period, and shall not be eligible to hold office again as an Independent Director until a period of one year has elapsed.
- 83 The provisions of article 69 shall apply in interpreting the reference to a year or years for the purposes of article 75, as if each reference in article 69 to a Staff Representative Director were a reference to an Independent Director.
- 84 The directors shall be guided by the Nominations Committee (as defined in article 135) in relation to the selection of individuals for appointment as Independent Directors.
- 85 The directors of the company shall endeavour to establish the Nominations Committee within a reasonable period after the time when the resolution adopting these articles is passed; until such time as it is established, the reference in article 84 to the directors being guided by the Nominations Committee shall be disregarded.
- 86 For the avoidance of doubt, any Independent Director holding office immediately prior to the time at which these articles of association are adopted, shall remain as such but his/her period of office prior to the date of

adoption of the articles shall be disregarded for the purposes of articles 81 and 82; he/she shall be deemed to be re-appointed, at the time of adoption of these articles, and shall then hold office (from that date) in accordance with articles 81 and 82.

Disqualification and removal of directors

87 A director shall automatically vacate office if:

- 87.1 he/she ceases to be a director by virtue of any provision of the Act or becomes prohibited by law from being a director or a charity trustee (within the meaning of the Charities and Trustee Investment (Scotland) Act 2005);
- 87.2 he/she is sequestrated;
- 87.3 he/she becomes incapable for medical reasons of fulfilling the duties of his/her office and such incapacity is expected to continue for a period of more than six months;
- 87.4 he/she ceases (for whatever reason) to be a member of the company;
- 87.5 in the case of a Student Representative Director or an Independent Director, he/she becomes an employee of the company;
- 87.6 in the case of an Executive Director, he/she ceases to hold the post of Principal of the College;
- 87.7 in the case of a Staff Representative Director, he/she ceases to be an employee of the company;
- 87.8 in the case of a Student Representative Director, he/she ceases to be a student of the College;
- 87.9 he/she resigns office by notice to the company;
- 87.10 he/she is absent (without permission of the directors) from more than three consecutive meetings of the directors, and the directors resolve to remove him/her from office;
- 87.11 he/she is removed from office by resolution of the directors on the grounds that he/she is considered to have committed a material breach of the code of conduct for directors in force from time to time (as referred to in article 103);
- 87.12 he/she is removed from office by resolution of the directors on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
- 87.13 he/she is removed from office by ordinary resolution (special notice having been given) in pursuance of section 168 of the Act.

- 88 A resolution under article 87.11 or 87.12 shall be valid only if:
- 88.1 the director who is the subject of the resolution is given reasonable prior written notice by the directors of the grounds upon which the resolution for his/her removal is to be proposed;
 - 88.2 the director concerned is given the opportunity to address the meeting of directors at which the resolution is proposed, prior to the resolution being put to the vote; and
 - 88.3 at least two thirds (to the nearest round number) of the directors then in office vote in favour of the resolution.

Appointments to office

- 89 The directors shall elect from among themselves a Chair, a Vice Chair, and such other office bearers (if any) as they consider appropriate.
- 90 A director shall only be eligible for appointment as Chair if he/she is an Independent Director.
- 91 A director shall only be eligible for appointment as Vice Chair if he/she is an experienced Independent Director who has been designated by the board of directors as a “senior independent board member”.
- 92 The offices of Chair and Vice Chair (and any other offices appointed under article 89) shall be held for a period of four years.
- 93 A director who has held any office under article 89 for a period of four years shall automatically vacate office at the expiry of that four-year period, and shall not be eligible to hold that office again until a period of one year has elapsed.
- 94 For the purposes of articles 90 and 92:
- 94.1 the period between the date on which a director is appointed as Chair or Vice Chair (or such other office, as the case may be) and the annual general meeting which follows shall be deemed to be a period of one year unless it is of less than six months in duration (in which case it will be disregarded);
 - 94.2 the period between one annual general meeting and the next shall be deemed to be a period of one year;
 - 94.3 if a director ceases to hold office as Chair or Vice Chair (or such other office, as the case may be) and is re-appointed to that office within a period of less than six months, he/she shall be deemed to have held such office.
- 95 The appointment of any director to an office under article 89 shall terminate if he/she ceases to be a director or if he/she resigns from that office by notice to the company.

- 96 If the appointment of a director to any office under article 89 terminates, the directors shall appoint another director to hold the office in his/her place.

Directors' interests

- 97 Subject to the provisions of the Act and of the Charities and Trustee Investment (Scotland) Act 2005 and of these articles of association, and provided that he/she has disclosed to the directors the nature and extent of any personal interest which he/she has (unless immaterial), a director (notwithstanding his/her office):

97.1 may be a party to, or have some other personal interest in, any transaction or arrangement with the company or any associated company;

97.2 may be a party to, or have some other personal interest in, any transaction or arrangement in which the company or any associated company has an interest;

97.3 may be a director or secretary of, or employed by, or have some other personal interest in, any associated company;

97.4 in the case of an Executive Director or Staff Representative Director only, may be an employee of the company; and

97.5 shall not, because of his/her office, be accountable to the company for any benefit which he/she derives from any such office or employment or from any such transaction or arrangement or from any interest in any such company;

and no such transaction or arrangement shall be liable to be treated as void on the ground of any such interest or benefit.

- 98 For the purposes of the preceding article, an interest of which a director has no knowledge and of which it is unreasonable to expect him/her to have knowledge shall not be treated as an interest of his/hers; the references to "associated company" shall be interpreted as references to any subsidiary of the company or any other company in which the company has a direct or indirect interest.

- 99 The directors shall be entitled, for the purposes of section 175 of the Act, to authorise (by way of resolution to that effect) any Conflict Situation that may arise (such that the duty of the director concerned, under that section, to avoid conflicts of interest is not infringed) and to amend or vary any such authorisation; the directors may give such authorisation subject to such terms and conditions as they may consider appropriate and reasonable in the circumstances.

- 100 For the avoidance of doubt, article 99 shall not apply to a conflict of interest arising in relation to a transaction or arrangement with the company; any conflict of interest of that nature shall be governed by the provisions of

articles 97 and 98 and articles 125 to 129 and the code of conduct referred to in article 103.

Conduct of directors

- 101 It is the duty of each director of the company to take decisions (and exercise his/her other powers and responsibilities as a director) in such a way as he/she considers will be in the best interests of the company and will promote the success of the company in furthering its objects, and irrespective of any office, post, engagement or other connection which he/she may have with any other body which may have an interest in the matter in question.
- 102 Without prejudice to the principle set out in article 101, each of the directors shall have a duty, in exercising functions as a charity trustee, to act in the interests of the company; and, in particular, must:
- 102.1 seek, in good faith, to ensure that the company acts in a manner which is in accordance with its purposes;
 - 102.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
 - 102.3 in circumstances giving rise to the possibility of a conflict of interest between the company and any party responsible for the appointment of that director, put the interests of the company before that of the other party;
 - 102.4 where any other duty prevents him/her from doing so, disclose the conflicting interest to the company and refrain from participating in any deliberation or decision of the other directors with regard to the matter in question;
 - 102.5 ensure that the company complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 103 Each of the directors shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board of directors from time to time; for the avoidance of doubt, the code of conduct shall be supplemental to the provisions relating to the conduct of directors contained in these articles of association, and the relevant provisions of these articles shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

Directors' remuneration and expenses

- 104 Subject to articles 105 and 106, no director may serve as an employee of the company, and no director may be given any remuneration by the company for carrying out his/her duties as a director or as the holder of any other office under article 89.

- 105 The company may remunerate any director in respect of work carried out by him/her for the company, subject to the following conditions:
- 105.1 no contract of that nature shall be entered into by the company without the prior sanction of a resolution passed by majority vote at a meeting of directors (and in respect of which the director proposing to enter into the contract shall not vote);
 - 105.2 the work must relate to the development, management and/or delivery of an identifiable project or programme and, in particular, must fall outwith the discharge of the ordinary duties of a director;
 - 105.3 the contract relating to the carrying out of work of that nature shall clearly define the scope and duties of the director in relation to the relevant project or programme and the maximum amount of the remuneration to be paid to him/her; and all such particulars shall be set out in a draft contract for approval of the directors as contemplated in article 105.1;
 - 105.4 the remuneration to be paid under the contract must be reasonable in the circumstances; and before entering into the contract, the directors must be satisfied that it would be in the interests of the company for those services to be provided by that director for that remuneration;
 - 105.5 a contract of that nature shall not be entered into if the effect would be that half, or more than half, of the directors then in office would be receiving remuneration from the company (and such that, for the purposes of this article 105.5, a director shall be deemed to be receiving remuneration from the company if he/she is connected, within the meaning of the relevant statutory provisions, with any director who is receiving remuneration from the company).
- 106 For the avoidance of doubt, Executive Directors and Staff Representative Directors will be employees of the company, and will be entitled to retain all remuneration, and pension and/or other benefits, paid or provided to them in their capacity as employees of the company.
- 107 The directors may be paid all travelling and other expenses properly incurred by them in connection with their attendance at meetings of directors, general meetings or meetings of committees of directors or otherwise in connection with the carrying-out of their duties.

Powers of directors

- 108 Subject to the provisions of the Act and these articles, and to any directions given by special resolution, the business of the company shall be managed by the directors who may exercise all the powers of the company.
- 109 No alteration of the these articles and no direction given by special resolution shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given.

- 110 The powers conferred by article 108 shall not be limited by any special power conferred on the directors by these articles.
- 111 A meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.

Proceedings of directors

- 112 Subject to the provisions of these articles, the directors may regulate their proceedings as they think fit.
- 113 Any director may call a meeting of the directors or request the secretary to call a meeting of the directors.
- 114 Questions arising at a meeting of directors shall be decided by a majority of votes; in the case of an equality of votes, the chairperson shall have a second or casting vote - but, subject to that, every director present or otherwise participating in a meeting of directors shall have one vote in relation to each matter which is put to a vote at that meeting.
- 115 The quorum for the transaction of the business of the directors shall (subject to article 110) be eight.
- 116 A quorum shall not be deemed to be constituted at any meeting of the directors unless there are at least six Independent Directors present.
- 117 A director may participate in a meeting of the directors or a meeting of a committee of directors by means of a conference telephone, video conferencing facility or similar communications equipment whereby all the directors participating in the meeting can hear each other; a director participating in a meeting in this manner shall be deemed to be present in person at the meeting
- 118 The continuing directors or a sole continuing director may act notwithstanding vacancies but if the number of remaining directors is less than the number fixed as the quorum, they or he/she may act only for the purpose of filling vacancies or of calling a general meeting.
- 119 Unless he/she is unwilling to do so, the Chair shall preside as chairperson at every meeting of directors at which he/she is present; if the Chair is unwilling to act as chairperson or is not present within 15 minutes after the time appointed for the meeting, the Vice Chair shall preside as chairperson of the meeting.
- 120 If neither the Chair nor the Vice Chair is present and willing to act as chairperson within 15 minutes after the time appointed for a meeting of the directors, the directors present may appoint one of their number to be chairperson of the meeting.
- 121 The directors may, at their discretion, allow any person who they reasonably consider appropriate, to attend and speak at any meeting of the directors; for

- the avoidance of doubt, any such person who is invited to attend a directors' meeting shall not be entitled to vote.
- 122 A person invited to attend a meeting of the directors under the preceding article shall not be entitled to exercise any of the powers of a director, and shall not be deemed to constitute a director for the purpose of the Act or any provision of these articles.
- 123 All acts done by a meeting of directors or by a meeting of a committee of directors or by a person acting as a director shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of any director or that any of them was disqualified from holding office or had vacated office or was not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.
- 124 A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held; it may consist of several documents in the same form, each signed by one or more directors.
- 125 A director shall not vote at a meeting of directors or at a meeting of a committee of directors on any resolution concerning a matter in which he/she has, directly or indirectly, a personal interest or duty (unless immaterial) which conflicts or may conflict with the interests of the company.
- 126 For the purposes of article 125:
- 126.1 an interest of a person who is taken to be connected with a director under section 252 of the Act shall be treated as a personal interest of the director;
- 126.2 a director shall be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has a personal interest in that matter.
- 127 For the avoidance of doubt, an Executive Director or Staff Representative Director shall not be entitled to vote in relation to any matter concerning his/her terms and conditions of employment.
- 128 A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he/she is not entitled to vote.
- 129 The company may (subject to the Charities and Trustee Investment (Scotland) Act 2005) by ordinary resolution suspend or relax to any extent, either generally or in relation to any particular matter, the provisions of articles 125 to 128.

- 130 If a question arises at a meeting of directors or at a meeting of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairperson of the meeting; his/her ruling in relation to any director other than himself/herself shall be final and conclusive.

Delegation to committees of directors and holders of offices

- 131 The directors may delegate any of their powers to any committee consisting of one or more directors; they may also delegate to the Chair or a director holding any office such of their powers as they consider appropriate.
- 132 Any delegation of powers under the preceding article may be made subject to such conditions as the directors may impose and may be revoked or altered.
- 133 Subject to any condition imposed in pursuance of the preceding article, the proceedings of a committee consisting of two or more directors shall be governed by the articles regulating the proceedings of meetings of directors so far as they are capable of applying.
- 134 In addition to their powers under article 131, the directors may delegate their powers to any committee consisting of one or more directors and such other individuals (who need not be directors or employees of the company) as the directors may consider appropriate; the provisions of articles 132 and 133 shall apply in relation to any such committee, subject to the qualification that the role of any committee formed under the preceding provisions of this article shall be limited (except to the extent that the directors otherwise determine) to the issue of reports and recommendations for consideration by the board of directors.

Nominations Committee

- 135 The directors shall establish a committee (referred to in these articles as “the Nominations Committee”) to guide the directors in relation to the selection of appropriate individuals for appointment as Independent Directors.
- 136 The Nominations Committee shall comprise the Chair of the company and at least two further individuals (one of whom must be a director of the company) appointed by the board of directors.
- 137 Subject to article 136, the composition and proceedings of the Nominations Committee shall be governed by such standing orders as may be issued by the directors from time to time.
- 138 In carrying out its functions, the Nominations Committee shall give effect to the following principles:-
- 138.1 the Nominations Committee should set an appropriate skills matrix to guide it in selecting and evaluating appropriate candidates, and should review and adjust that skills matrix from time to time;

- 138.2 nominations for directors falling within the remit of the Nominations Committee should be sought from a range of appropriate sources;
- 138.3 all expressions of interest should be considered by the Nominations Committee; and
- 138.4 the Nominations Committee should maintain a register of suitable candidates for future reference.

Secretary

- 139 The directors shall (notwithstanding the provisions of the Act) appoint a company secretary, and on the basis that the term of office, remuneration (if any), and other terms and conditions attaching to the appointment of the company secretary shall be determined by the directors; the company secretary may be removed by the directors at any time.

Minutes

- 140 The directors shall ensure that minutes are made (in books kept for the purpose) of all proceedings at general meetings, meetings of the directors, and meetings of committees of directors; a minute of a meeting of directors or of a committee of directors shall include the names of the directors present or otherwise participating in the meeting, and the minutes of each meeting shall be signed by the chairperson of that meeting.
- 141 The directors shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements.
- 142 No member shall (unless he/she is a director) have any right of inspecting any accounting records or other book or document of the company except as conferred by statute or as authorised by the directors or by ordinary resolution of the company.

Notices

- 143 Any notice to be given in pursuance of these articles shall be in writing.
- 144 The company may give any notice to a member in pursuance of these articles either personally or by sending it by post in a pre-paid envelope addressed to the member at his/her registered address or by leaving it at that address; alternatively, in the case of a member which has notified the company of an electronic address to be used for this purpose, the company may give any notice to that member by electronic means.
- 145 Any notice, if sent by post, shall be deemed to have been given at the expiry of twenty four hours after posting; for the purpose of proving that any notice was given, it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted.

- 146 Any notice sent by electronic means shall be deemed to have been given at the expiry of 24 hours after it is sent; for the purpose of proving that any notice sent by electronic means was indeed sent, it shall be sufficient to provide any of the evidence referred to in the relevant guidance issued from time to time by the Chartered Institute of Secretaries and Administrators.
- 147 A member may give any notice to the company either by sending it by post in a pre-paid envelope addressed to the company at its registered office or by leaving it, addressed to the company secretary, at the company's registered office.
- 148 A member present or represented at any meeting of the company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

Accounting records

- 149 Accounting records shall be kept in accordance with all applicable statutory requirements and such accounting records shall, in particular, contain entries from day to day of all sums of money received and expended by the company and the matters in respect of which such receipt and expenditure take place and a record of the assets and liabilities of the company; such accounting records shall be open to inspection at all times by any director of the company.

Winding-up

- 150 If on the winding-up of the company any property remains after satisfaction of all the company's debts and liabilities, such property shall not be paid to or distributed among the members of the company but shall instead be transferred to some charity or charities (whether incorporated or unincorporated) whose objects are altogether or in part similar to the objects of the company.
- 151 The charity or charities to which property is transferred under article 150 shall be determined by the members of the company at or before the time of dissolution or, failing such determination, by such court as may have jurisdiction at that time.
- 152 To the extent that effect cannot be given to the provisions of articles 150 and 151, the relevant property shall be applied to some other charitable purpose or purposes.

Indemnity

- 153 Every director or other officer or auditor of the company shall be indemnified (to the extent permitted by sections 232, 234, 235, 532 and 533 of the Act) out of the assets of the company against any loss or liability which he/she may sustain or incur in connection with the execution of the duties of his/her office including, without prejudice to that generality (but only to the extent permitted by those sections of the Act) any liability incurred by him/her in

defending any proceedings, whether civil or criminal, in which judgement is given in his/her favour or in which he/she is acquitted or in connection with any application in which relief is granted to him/her by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the company.

- 154 For the avoidance of doubt, the company shall be entitled (subject to the provisions of section 68A of the Charities and Trustee Investment (Scotland) Act 2005) to purchase and maintain insurance against any loss or liability which any director or other officer of the company may sustain or incur in connection with the execution of the duties of his/her office; and such insurance may (subject to the provisions of section 68A of the Charities and Trustee Investment (Scotland) Act 2005) extend to liabilities of the nature referred to in section 232(2) of the Act (negligence etc. of a director).