

The Companies Act 2006
Private Company Limited by Shares

Articles of Association
of
NESCOT ENTERPRISES LIMITED

Adopted by a special resolution passed on 11 April 2023

Ref: 121162/0002



Bath
Birmingham
Bristol
Cambridge
Leeds
London

www.stoneking.co.uk

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
NESCOT ENTERPRISES LIMITED (the “Company”)

1 Interpretation

1.1 The model articles of association for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) shall not apply to the Company.

1.2 In these Articles:

“address”	in relation to electronic form includes any number or address used for the purpose of communications in such form;
“Articles”	means the articles of association of the Company for the time being in force;
“College”	means North East Surrey College of Technology, a Further Education Corporation established under the Further and Higher Education Act 1992 or any other charitable body which such charity notifies in writing to the Company has succeeded to its charitable purposes;
“Companies Acts”	has the meaning given to it in section 2 of the Companies Act 2006;
“Conflict”	means a situation in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company;
“director”	means a director of the Company and includes any person occupying the position of director, by whatever name called and “directors” shall be construed accordingly;
“electronic form”	has the meaning given to it in section 1168 of the Companies Act 2006;
“Eligible Director”	means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of a particular matter);
“member”	in relation to shares means the person whose name is entered in the register of members of the Company as the holder of the shares;
“Shareholder”	the person holding all the issued share capital of the Company for the time being.

1.1 Unless the context otherwise requires, words or expressions contained in the Articles bear the same meanings as in the Companies Acts but excluding any statutory modification not in force on the date the Articles were adopted by the Company.

1.2 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.

1.3 A reference in these Articles to a numbered article is a reference to the relevant article of these Articles unless expressly provided otherwise.

- 1.4 Unless expressly provided otherwise in these Articles, a reference to a statute or statutory instrument is a reference to it as it is in force from time to time, taking account of:
- (a) any subordinate legislation made under it, whether before or after the date of adoption of these Articles; and
 - (b) any amendment or re-enactment, whether before or after the date of adoption of these Articles and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 2 Sole Member
- 2.1 There shall be only one member of the Company which shall be either the College or a subsidiary of the College for the time being.
- 2.2 If the Shareholder shall cease to be a subsidiary of the College whilst holding shares in the Company it shall be deemed to have transferred the whole of the issued share capital of the Company to the College (or as it may direct) for nil consideration on the date of it ceasing to be a subsidiary of the College and any director shall be authorised to execute a stock transfer form to effect such transfer on behalf of the transferor.
- 3 Liability of members
- The liability of any member is limited to the amount, if any, unpaid on the shares held by it.
- 4 Shares
- 4.1 Subject to the provisions of the Companies Acts any share may be issued with such rights or restrictions as the Company may by ordinary resolution determine.
- 4.2 The directors shall not exercise any power of the Company to allot shares or other securities in, or to grant rights to subscribe for, or convert into shares or other securities of, the Company without the prior written consent of the Shareholder. Without limitation the powers of the directors under section 550 of the Companies Acts are limited accordingly.
- 4.3 No shares shall be transferred except with the prior written consent of the Shareholder which may in its absolute discretion and without giving any reason require the directors to decline to register the transfer of any share.
- 4.4 Subject to the terms of issue of the share in question, the Company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including without limitation, shares or other securities in any company). For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:
- (a) fixing the value of any assets;
 - (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
 - (c) vesting any assets in the Shareholders.
- 5 Company not bound by less than absolute interests
- Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

6 Share Certificates

6.1 The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.

6.2 Every certificate must specify—

- (a) in respect of how many shares, of what class, it is issued;
- (b) the nominal value of those shares;
- (c) that the shares are fully paid; and
- (d) any distinguishing numbers assigned to them.

6.3 No certificate may be issued in respect of shares of more than one class.

6.4 If more than one person holds a share, only one certificate may be issued in respect of it.

6.5 Certificates must—

- (a) have affixed to them the company's common seal, or
- (b) be otherwise executed in accordance with the Companies Acts.

7 Replacement share certificates

7.1 If a certificate issued in respect of a shareholder's shares is—

- (a) damaged or defaced, or
- (b) said to be lost, stolen or destroyed, that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

7.2 A shareholder exercising the right to be issued with such a replacement certificate—

- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
- (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
- (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

8 Share transfers

8.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.

8.2 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.

8.3 The company may retain any instrument of transfer which is registered.

8.4 The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.

8.5 The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

9 Meetings and Company Resolutions

9.1 Decisions of the member can be made:

- (a) by passing a written resolution in accordance with the provisions of the Companies Act 2006 which is signed by the Shareholder as sole member; or

- (b) by passing a resolution at a members' meeting convened and held in accordance with the provisions of the Companies Act 2006.
- 9.2 Communications in relation to written resolutions shall be sent to the Company's auditors in accordance with the Companies Acts.
- 10 Directors' Powers**
- 10.1 Subject to article 10.2, the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.
- 10.2 All of the powers of the directors (or any of them) shall be restricted in such respects, to such extent and for such duration as the Shareholder may from time to time by notice in writing to the Company prescribe.
- 10.3 No alteration of the Articles and no direction made under article 10.2 shall invalidate anything which the directors have done prior to the alteration or such direction.
- 11 Delegation of Directors' Powers**
- 11.1 The directors may delegate any of the powers which are conferred on them under the articles;
 - (a) to any person;
 - (b) to any committee that includes one or more directors; and/or
 - (c) to any managing director or any director holding any other executive office;
 by such means (including by power of attorney), to such an extent, in relation to such matters and on such terms and conditions as they think fit including (if so specified) delegation permitting further delegation of the directors' powers by any person or persons to whom they are delegated.
- 11.2 The directors may revoke any delegation made under article 11.1 in whole or part, or alter its terms and conditions.
- 11.3 Committees to which the directors delegate any of their powers under article 11.1(b) must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.
- 12 Number of directors**
- Unless otherwise determined by ordinary resolution, the number of directors shall not be subject to any maximum but shall be at least two.
- 13 Appointment and Removal of Directors**
- 13.1 The Shareholder may at any time and from time to time by notice in writing to the Company appoint one or more persons to be a director or directors of the Company and to remove any director or directors from office (whether or not appointed pursuant to this article 13.1).
- 13.2 A person ceases to be a director as soon as:
 - (a) that person ceases to be a director by virtue of any provisions of the Companies Acts or is prohibited from being a director by law;
 - (b) a bankruptcy order is made against that person;
 - (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
 - (d) a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;

- (e) notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms; or
 - (f) notification of the director's removal is received by the Company from the Shareholder pursuant to article 13.1.
- 14 Remuneration of Directors

The directors shall be entitled to such remuneration as the Company may by ordinary resolution determine, provided that any remuneration of a director who is also a trustee of the College must be permitted in accordance with the College's constitution or the Charities Act 2011.
- 15 **Directors' Expenses**

The Company may pay any reasonable travel, accommodation and other expenses which the directors properly incur in connection with their attendance at meetings of directors or committees of directors, general meetings or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.
- 16 Proceedings of Directors

Subject to the provisions of the Articles, the directors may regulate their proceedings as they think fit.
- 17 **Directors' meetings**
 - 17.1 Any director may call a directors' meeting by giving not less than 5 days' notice of the meeting (unless all directors agree otherwise) to the other directors or by authorising the company secretary (if any) to give such notice.
 - (a) Notice of any directors' meeting must indicate:
 - (i) its proposed date and time;
 - (ii) where it is to take place; and
 - (iii) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
 - (b) Notice of a directors' meeting must be given to each director in writing.
 - (c) It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom.
 - 17.2 The quorum for a directors' meeting may be fixed from time to time by a decision of the Shareholder but unless so fixed at any other number shall:
 - (a) be two Eligible Directors; or
 - (b) for the purposes of any meeting (or part of a meeting) held pursuant to article 19 to authorise a Conflict, if the Eligible Directors participating in the meeting do not constitute a quorum or there are no Eligible Directors then the meeting must be adjourned to enable the Shareholder to authorise any situation in which a director has a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company.
 - 17.3 The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number but if the total number of directors for the time being is less than the quorum required the continuing directors or a sole continuing director may act only for the purpose of requesting the Shareholder to appoint further directors.

- 17.4 The directors may appoint a director to chair their meetings (the “Chair”) and may terminate the Chair’s appointment at any time. If the Chair is not participating in a directors’ meeting within ten minutes of the time at which it was to start, or is unwilling to chair the meeting, the directors present may appoint one of their number to be chair of the meeting.
- 17.5 Questions arising at a directors’ meeting shall be decided by a majority decision. In the case of an equality of votes the director chairing the meeting does not have a second or casting vote.
- 17.6 A resolution in writing signed by all the directors entitled to receive notice of a meeting of the directors or of a committee of the directors shall be as valid and effectual as if it had been passed at a meeting of the directors or (as the case may be) a committee of the directors duly convened and held and may consist of several documents in the like form each signed by one or more directors. The date of a written resolution of the directors shall be the date on which the last director signs it.
- 17.7 The directors may take unanimous decisions without holding a directors’ meeting by indicating to each other by other means, including without limitation by electronic form, that they share a common view on a matter. Such a decision may, but need not, take the form of a resolution in writing, copies of which have been signed by each director or to which each director has otherwise indicated agreement in writing.
- 17.8 All acts done by a directors’ meeting or of a committee of the directors or by a person acting as a director shall notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office or had vacated office or were 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.
- 17.9 The directors may hold meetings by telephone or video conference or such other suitable means as they think fit provided all participants may communicate to the others any information or opinions they have on any particular item of business of the meeting. In determining whether directors are participating in a directors’ meeting, it is irrelevant where any director is or how they communicate with each other. If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.
- 18 Transactions or other arrangements with the Company
- 18.1 Subject to article 18.2 if a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the Company in which a director is in any way, directly or indirectly, interested, that director is not to be counted as participating in the decision making process for quorum, voting or agreement purposes.
- 18.2 A director who is in any way, directly or indirectly, interested in an actual or proposed transaction or arrangement with the Company is to be counted as participating in the decision-making process and is entitled to vote on or agree to a proposal relating to it if they have declared the nature and extent of their interest in accordance with the requirements of the Companies Act and either:
- (a) the Company by ordinary resolution resolves that article 18.1 shall not apply;
 - (b) the director’s interest cannot reasonably be regarded as likely to give rise to a Conflict; or
 - (c) the director’s Conflict arises solely from their being a trustee of the College or employed by or otherwise involved with the College or the Shareholder (if not the College);
- and in each case subject, where applicable to any terms and conditions as may be imposed by the directors or the Shareholder, the director:

- (i) may be a party to, or otherwise interested in, the transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- (ii) shall not be accountable to the Company for any benefit which they (or a person connected with them (as defined by section 252 of the Companies Act 2006) derives from any such transaction or arrangement; and
- (iii) no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest of benefit, nor shall the receipt of any such remuneration or other benefit constitute a breach of their duty under section 176 of the Companies Act 2006.

19 **Directors' Conflicts of Interest**

- 19.1 The directors may, in accordance with the requirements set out in this article 19, authorise any Conflict proposed to them by any director which would, if not authorised, involve a director (an Interested Director) breaching their duty under section 175 of the Companies Act 2006 to avoid conflicts of interest.
- 19.2 Any authorisation under this article 19 will be effective only if:
- (a) to the extent permitted by the Companies Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
 - (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
 - (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.
- 19.3 Any authorisation of a Conflict under this article 19 may (whether at the time of giving the authorisation or subsequently) impose on the Interested Director such conditions or limitations, or be granted subject to such terms, as the directors may think fit for the purposes of dealing with the Conflict and the Interested Director will be obliged to comply with any such terms and conditions.
- 19.4 The directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, before such revocation or variation, in accordance with the terms of such authorisation.
- 19.5 A director may be a director or other officer of, or employed by the College or the Shareholder (if not the College) or any body corporate promoted by the Company or in which the Company is otherwise interested provided that no director who is also a trustee of the College shall be remunerated or receive other benefits in respect of such employment or office unless permitted in accordance with the College's constitution or the Charities Act 2011 and no further authorisation under article 19.1 shall be necessary in respect of any such interest.
- 19.6 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit that they derive from or in connection with a relationship involving a Conflict which has been authorised by the directors in accordance with these Articles or by the Company (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

20 Minutes

- 20.1 Subject to article 20.2, the directors shall cause minutes to be made in writing kept for at least 10 years from the date of the decision recorded of:
- (a) all appointments of officers made by the directors and appointments of directors made by the Shareholder;
 - (b) all proceedings at meetings of the Company and of the directors and of committees of directors including the names of the directors present at each such meeting;
 - (c) all written resolutions of the member; and
 - (d) every unanimous or majority or written decision taken by the directors and committees of the directors.
- 20.2 Where decisions are taken by electronic means, such decisions shall be recorded by the directors in a form that enables the directors to retain a copy of such decisions.
- 21 Accounts
- Accounts shall be prepared in accordance with the Companies Acts.
- 22 Means of communication to be used
- 22.1 Subject to article 22.2, any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:
- (a) if delivered by hand; or
 - (b) if sent by pre-paid United Kingdom first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second day after posting; or
 - (c) if sent or supplied by e-mail, one hour after the notice, document or information was sent or supplied; or
 - (d) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website; and
 - (e) if deemed receipt under the previous paragraphs of this article 22.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 am on the day when business next starts in the place of deemed receipt.
- 22.2 To prove service, it is sufficient to prove that:
- (a) if delivered by hand the notice was handed personally to the College's Authorised Representative; or
 - (b) if sent by post the envelope containing the notice was properly addressed to the address shown in the Company's register of members, paid for and posted; or
 - (c) if sent by e-mail, the notice was properly addressed and sent to the e-mail address of the recipient.
- 23 Indemnity
- 23.1 For the purposes of this article 23 a "Liability" is any costs, charges, losses, expenses and/or liabilities incurred by a director in connection with any negligence, default, breach of duty or breach of trust by them in relation to the Company or otherwise in connection with their duties, powers or office.
- 23.2 Subject to the Companies Acts and without prejudice to any protection from liability which may otherwise apply:

- (a) the directors shall have power to purchase and maintain insurance, at the expense of the Company, against any Liability;
- (b) each director shall be indemnified out of the Company's assets against any Liability incurred by them in defending any civil or criminal proceedings, or regulatory investigation or action, in which judgment is given in their favour or in which they are acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on their part or in connection with any application in which the court grants them, in their capacity as a director, relief from any Liability; and
- (c) the Company may provide any director with funds to meet expenditure incurred or to be incurred by them in connection with any proceedings, investigation, action or application referred to in sub-article (b) and otherwise may take any action to enable any such director to avoid incurring such expenditure.

24 Winding Up

If the Company is wound up all remaining assets of the Company after paying the debts of the Company and the costs of winding up shall be paid or transferred to the College or as it may direct.