

COMPANY NO 2914327



**MEMORANDUM AND ARTICLES
OF ASSOCIATION
THE UNIVERSITIES AND COLLEGES EMPLOYERS'
ASSOCIATION**

(revised 11 December 2013)

COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL

UCEA
Woburn House
20 Tavistock Sq
London WC1 9HU

THE COMPANIES ACT 1985 AND 1989

COMPANY LIMITED BY GUARANTEE

AND NOT HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION

-of-

THE UNIVERSITIES AND COLLEGES EMPLOYERS' ASSOCIATION

- 1 The name of the Company is "THE UNIVERSITIES AND COLLEGES EMPLOYERS' ASSOCIATION"
- 2 The registered office of the Company will be in England
- 3 (A) The objects for which the Company is established are -
 - (1) to promote and carry on as a non-profit making body the activities of an employers' association for subscribing universities and other higher education institutions in the United Kingdom of Great Britain and Northern Ireland ("Institutions") and any of their representative bodies or associations by the provision of a framework within which representatives of Institutions can discuss salaries, conditions of service, employee relations and all matters connected with the employment of staff and employees and including (without limitation) the negotiation of salaries, terms of conditions of service and employment-related matters on behalf of any Institutions,
 - (2) to act as a consultant and adviser to subscribing Institutions and other bodies and persons on employment matters
- (B) And in furtherance of the above objects the Company shall have the following powers -
 - (1) To engage consultants and agents of all sorts, to make grants and other financial provision to any Institution or other body or person and to establish reserve funds and invest monies in order to facilitate the making of such grants and other financial provision,
 - (2) To employ and pay and provide other benefits to officers and other persons or bodies whose services are thought desirable, and to make all reasonable and necessary provision for the payment of pensions and superannuation to or on behalf of employees and their families,
 - (3) To act as trustee and to undertake or accept any trusts or obligations which may be lawfully undertaken by the Company,
 - (4) To purchase, take on lease, or in exchange, hire or otherwise acquire in any manner any real or personal property and any options, rights or privileges which may be thought desirable and to

construct, maintain and alter any buildings or erections in furtherance of the work of the Company,

- (5) To invest and deal with the monies and property of the Company not immediately required for its purposes in or upon such investments, securities or property or otherwise as may be thought fit and to hold or otherwise deal with any investments made,
- (6) To borrow or raise money in such manner and upon such terms as may be thought fit, and in particular upon the security by way of mortgage, charge, debenture or otherwise of all or any part of the property of the Company,
- (7) To lend and advance money or give credit on any terms with or without security to any body or person (including without limitation any Institution or any other body or person associated in any way with the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds, to receive money on deposit or loan upon any terms and to secure or guarantee in any manner and upon any terms the payment of any sum of money or the performance or any obligation by any body or person (including without limitation any Institution or any body or person associated in any way with the Company),
- (8) To charge subscriptions or fees to any person or body and to repay any surplus subscriptions not required for the purposes for which they were intended to such persons or bodies from time to time,
- (9) To sell, manage, develop, let, mortgage, or otherwise deal with or turn to account all or any part of the property, assets, rights and privileges of the Company,
- (10) To arrange and provide for or join in arranging and providing for the holding of conferences, training courses, exhibitions, meetings, lectures and classes,
- (11) To establish and support and aid in the establishment and support of any company (whether as a subsidiary of the Company or not) or any associations or institutions and to subscribe or guarantee money for any purpose,
- (12) To solicit and procure by any lawful means and to take, accept and receive any subscription annuity, gift of money, property or other assets (whether subject to any special trust or not),
- (13) To transfer or dispose of, with or without valuable consideration, any part of the business, property or funds of the Company,
- (14) To apply for, promote and obtain or join in applying for promoting or obtaining any Act of Parliament, Provisional Order, Royal Charter or Licence of any authority, which may be thought desirable and to take all such steps and proceedings, and to do all such acts and things either alone or jointly with others, whether by opposing applications or proceedings or otherwise, as may be

thought necessary or expedient to protect the interests of the Company,

- (15) To federate or amalgamate with, affiliate or become affiliated to any body having objects similar to those of the Company and to acquire and undertake all or any part of the assets, liabilities and engagements of any such body, which the Company may lawfully acquire or undertake,
- (16) To pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company, and to contract with any body or person to pay such expenses,
- (17) To control, manage, finance, subsidise, coordinate or otherwise assist any company or other body in which the Company has a direct or indirect financial or other interest, to provide secretarial, administrative, consultancy and other services and facilities of all kinds for any such company or body and to make payments which seem desirable with respect to any business or operations of or generally with respect to any such company or body,
- (18) To do all such other lawful things as are necessary or desirable for the attainment of the above objects or purposes

PROVIDED THAT -

- (i) throughout this Memorandum the word "body" includes any association, institution or aggregate of persons, whether incorporate or unincorporated, whether financed by public or private funds (or a combination of both) and whether of a voluntary nature or otherwise,
- (ii) in this Memorandum the expression "subscribing universities and other higher education institutions" means universities and other higher education institutions which -
 - (i) are for the time being paid up subscribers to any Member of the Company for the purposes of benefiting from the services provided by the Company, or
 - (ii) are as at the date of the incorporation of the Company, members of the Polytechnics and Colleges Employers' Forum, or
 - (iii) may be approved from time to time by the Board in its absolute discretion (either or an individual or a collective basis) as being appropriate institutions for this purpose

from time to time and the word "Institutions" shall be construed accordingly,

- (iii) in case the Company shall take or hold any property which may be subject to any trusts the Company shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts,

- (iv) in case the Company shall take or hold any funds provided by or through the medium of a Crown or Government Body the Company shall only deal with or invest the same in such manner as embodied from time to time in the appropriate grant conditions and financial memoranda,
 - (v) none of the objects or powers set out in this Memorandum shall be restrictively construed but the widest interpretation shall be given to each of them and none of them shall be in any way limited or restricted by reference to or inference from any other object or power or by reference to or inference from the name of the Company
- 4 The income and property of the Company shall be applied solely towards the promotion of its objects as set forth in this Memorandum of Association and no portion thereof shall be paid or transferred directly or indirectly by way of profit, to Members of the Company and provided that nothing shall prevent any payment in good faith by the Company -
 - (i) of reasonable and proper remuneration to any Member, officer or servant of the Company for any services rendered to the Company or,
 - (ii) of interest on money lent by any Member of the Company or Board of Management at a rate not exceeding 2% less than the base lending rate prescribed for the time being by the bank appropriate to the Company or 3% whichever is the greater, or
 - (iii) of reasonable and proper rent for premises demised or let by any Member of the Company or Board member, or
 - (iv) of fees, remuneration or other benefit in money or money's worth to a Company of which a Member of the Company or Board member may be a member holding not more than 1/100th part of the capital of that Company, or
 - (v) to any Member of the Company or Board member of reasonable out of pocket expenses, or
 - (vi) of premiums for the insurance of any Board member or officer of the Company against any liability as permitted by the Articles of Association of the Company
- 5 If, on the winding up of the Company, there remains any surplus after the satisfaction of all its debts and liabilities, the surplus shall be distributed among subscribing member organisations in direct proportion to the annual subscription fees paid
- 6 The liability of the Members is limited
- 7 Every Member of the Company undertakes to contribute to the assets of the Company in the event of it being wound up during the time that he is a Member or within one year afterwards for payment of the debts and liabilities of the Company contracted before the time at which it ceases to be a Member, and of the costs, charges and expenses of winding up the Company and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding £1

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THE COMPANIES ACTS 1985 AND 1989

COMPANY LIMITED BY GUARANTEE

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ARTICLES OF ASSOCIATION

-of-

THE UNIVERSITIES AND COLLEGES EMPLOYERS'

ASSOCIATION

PRELIMINARY

- 1 In these Articles, save as the context otherwise requires, the following words and phrases shall be interpreted in accordance with the meanings ascribed to them below -

WORDS

MEANINGS

"the Act"

The Companies Act 1985

"these Articles"

These Articles of Association and the regulations of the Company from time to time in force

"Body"

Any incorporated person or unincorporated association, institution or aggregate of persons, whether financed by public or private funds (or a nomination of both) and whether of a voluntary nature or otherwise

"the Company"

The Universities and Colleges Employers' Association

"the Board"

The Board of Management for the time being of the Company

"Member"

Unless otherwise stated, a Member of the Company

"Month"

Calendar month

"the Office"

The registered office of the Company

"the Register"

The register of Members of the Company

"the Secretary"

The Secretary for the time being of the Company and any person appointed by the Board from time to time to perform

any of the duties of the Secretary

"Sponsoring Bodies"¹

The Universities UK ("UUK"), ²GuildHE, the Committee of University Chairmen ("CUC"), and Universities Scotland together with all other bodies which the Company may designate by way of a special resolution passed at a general meeting or in writing

"the United Kingdom"

Great Britain and Northern Ireland

"Year"

Calendar year

Words importing the single number only shall include the plural number and vice versa

Words importing the masculine gender only shall include the feminine gender

Words importing persons shall include corporations

Reference to any statutory provision shall be construed as a reference to such provision as modified for the time being in force

Save as specified above, any words or expressions defined in the Statutes shall, if not inconsistent with the subject or context, bear the same meaning in these Articles

- 2 The Company is established for the purposes expressed in the Memorandum of Association

MEMBERSHIP

- 3 All Members of the Company shall be bodies and not individuals and no body shall be admitted a Member of the Company unless it is approved by the Board Every body which wishes to become a Member shall deliver to the Company an application for membership in such form as the Board may require, duly executed on behalf of that body
- 4 The Board shall not admit any body to membership of the Company unless it is a Sponsoring Body
- 5 A Member may at any time withdraw from the Company by giving at least twelve months notice to the Company Membership shall not be transferable

GENERAL MEETINGS

- 6 The Company shall hold a general meeting in every calendar year as its annual general meeting at such time and place as may be determined by the Board and shall specify the meeting as such in the notices calling it, provided that every annual general meeting except the first shall be held not more than fifteen months after the holding of the last preceding annual general meeting, and that so long as the Company holds its first annual general meeting within eighteen

¹ Amended by UCEA Board 6 June 2001 (minute 361)

² Amended by UCEA Board 12 October 2006

months after its incorporation it need not hold it in the year of its incorporation or in the following year

- 7 General meetings including the annual general meeting shall be held at such time and place as may be determined by the Board. All general meetings, other than annual general meetings, shall be called extraordinary general meetings.
- 8 The Board may whenever it thinks fit convene an extraordinary general meeting.
- 9 At least twenty-one days notice in writing of every annual general meeting and of every meeting convened to pass a special resolution shall be given, and at least fourteen days notice in writing of every other general meeting shall be given. Each notice shall specify the place, the date and the hour of the meeting. Meetings may be held on shorter notice than is specified above where the requirements of the Act in that regard are satisfied.
- 10 The accidental omission to give notice of a meeting to, or the non-receipt of such notice by, any person entitled to receive notice of it shall not invalidate any resolution or proceeding at any meeting.
- 11 Each Member shall be entitled to nominate in writing from time to time one person to represent it at general meetings of the Company and shall provide such confirmation of that person's nomination as the Board may request.

PROCEEDINGS AT GENERAL MEETINGS

- 12 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. Save as otherwise provided in these Articles three Members present by representative or by proxy shall be a quorum and for the purpose of these Articles a Member shall be present by representative if a person nominated as its representative in accordance with Article 11 is present at the general meeting in question.
- 13 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting, if convened on the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place, or at such other place as the Board may determine, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting the Member or Members present by representative or proxy shall be a quorum.
- 14 The Chairperson, if any, of the Board shall preside as chairperson at every general meeting of the Company, or if there is no such Chairperson, or if he shall not be present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Member of Members present at a meeting shall choose another member of the Board to chair the meeting (or if no member of the Board be present, or if all the members of the Board present decline to take the chair) they shall choose some person nominated as a representative of a Member in accordance with Article 11 who is present to chair the meeting.
- 15 The Chairperson may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given

in the same manner as of an original meeting. Save as aforesaid, the Members shall not be entitled to any notice of an adjournment, or of the business to be transacted at an adjourned meeting.

- 16 At any general meeting a resolution put to the vote shall be decided on a show of hands, unless a poll is, before or upon the declaration of the result of the show of hands, demanded by the Chairperson or by at least two Members present by representative or proxy. A declaration by the Chairperson of the meeting as to the outcome of a resolution and an entry to that effect in the minute book of the Company shall be conclusive evidence of that outcome. The demand for a poll may be withdrawn.
- 17 If a poll is duly demanded, it shall be taken at such time and place, and in such manner, as the Chairperson of the meeting shall direct. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 18 No poll shall be demanded on the election of a Chairperson of a meeting, or on any question of adjournment.
- 19 The Chairperson of the meeting shall not be entitled to any second or casting vote in the case of an equality of votes or otherwise whether on a show of hands or on a poll.
- 20 The demand of a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- 21 Subject to provisions of the Act a resolution in writing signed by all the Members for the time being entitled to receive notice of and to attend and vote at general meetings (or being corporation or unincorporated associations by their duly authorised representatives) shall be valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

VOTES OF MEMBERS

- 22 On a show of hands, each Member which is present by representative shall have one vote.
- 23 On a poll, each Member shall be entitled to the number of votes set out against its name in the table below -

Member	Number of Votes Capable of being Cast
UUK	8
² GuildHE	2
CUC	6
Universities Scotland	2
TOTAL	18

- 24 The instrument appointing a proxy shall be in writing under the appointor's official seal, or under the hand of a duly authorised officer. A proxy need not be a Member of the Company
- 25 The instrument appointing a proxy and such other authority (if any) under which it is signed (or a copy certified to the satisfaction of the board) shall be deposited at the Office not less than forty-eight hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or in the case of a poll not less than twenty-four hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid after the expiration date of twelve months from the date of its execution
- 26 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous dissolution of the Member or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of the dissolution or revocation as aforesaid shall have been received at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used
- 27 An instrument appointing a proxy shall be in the following form, or as near to it as circumstances admit -

"The Universities and Colleges Employers' Association"

we
of
a member of the above named company
appoint

of
and failing *him/her
of
to vote for us and on our behalf at the annual or extraordinary or adjourned (as the case may be) general meeting of the Company to be held on the
day of and at any and every adjournment of it

Signed this day of 20

*Strike out whichever is inappropriate "

- 28 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll

THE BOARD

- 29 The minimum number of Board members shall be eight but subject to these Articles and unless otherwise determined by the Company in general meeting shall not be subject to any maximum
- 30 The Board shall be nominated in writing by the Members. Each Member shall be entitled to nominate the number of members of the Board set out against its name in the table below -

Member	Number of Votes Capable of being Cast
UUK	8
² GuildHE	2
CUC	6
Universities Scotland	2
TOTAL	18

- 31 Each member may by notice in writing to the Company withdraw its nomination in respect of any member of the Board nominated by it, upon which that person will automatically cease to be a member of the Board. Each Member may by notice in writing to the Company nominate any replacement or additional member of the Board (subject to the limit on the number of Board members capable of being nominated by each Member) upon which (subject to the Act) that person will automatically become a member of the Board.
- 32 The Board shall appoint a person to be the Chief Executive of the Company on such terms and to perform such duties as the Board shall in its absolute discretion and from time to time determine to act jointly with any other Chief Executive so appointed. Such Chief Executive or joint Chief Executive shall be ex-officio members of the Board but shall have no right to vote at Board meetings.

POWERS OF THE BOARD

- 33 The business of the Company shall be managed by the Board who may pay all such expenses of, and preliminary and incidental to, the promotion, formation, establishment and registration of the Company as they think fit, and may exercise all such powers of the Company, and on behalf of the Company all such acts as may be exercised and done by the Company and as are not by statute or by these Articles required to be exercised or done by the Company in general meeting.
- 34 The Board may exercise all the powers of the Company to borrow from time to time for the purposes of the Company such sums as they think fit and may secure the repayment of any such sums by mortgage or charge upon all or any of the property or assets of the Company or otherwise as they may think fit.
- 35 The members for the time being of the Board may act notwithstanding any vacancy in their body, provided always that in case the Members of the Company shall at any time be or be reduced in number to less than any prescribed minimum number it shall be lawful for them to act as the Board for the purpose of filling up vacancies in their body, but not for any other purpose.

PROCEEDINGS FOR THE BOARD

- 36 The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine (subject as provided below) the quorum necessary for the transaction of business. Eight

members of the Board present (including the nominated representatives of not less than three Members) shall be a quorum. A member of the Board or of a committee of it may participate in meetings by means of such conference, telephone or other similar communications equipment as permit all persons participating in the meeting to hear each other and a member of the Board participating by such means shall be deemed to be present at the meeting and be counted in the quorum. Questions arising at any meeting shall be decided by a majority of votes. The Chairperson shall not have a second or casting vote in any case of an equality of votes or otherwise.

- 37 A member of the Board may, and on the request of a member of the Board the Secretary shall, at any time, summon a meeting of the Board by notice served upon the several members of the Board.
- 38 The members of the Board may from time to time elect (and replace) a Chairperson, and such Chairperson shall be entitled to preside at all meetings of the Board at which he shall be present, but if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting and willing to preside, the members of the Board present may choose one of their number to be Chairperson of the meeting.
- 39 A meeting of the Board at which a quorum is present shall be competent to exercise all the authorities, powers and discretions by or under the regulations of the Company, for the time being vested in the Board generally.
- 40 The Board may delegate any of their powers to committees consisting of such member or members of the Board as they think fit, and any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations imposed on it by the Board. The meetings and proceedings of any such committee shall be governed by the provisions of these Articles for regulating the meetings and proceedings of the Board so far as applicable and so far as the same shall not be superseded by any regulations made by the Board. All acts and proceedings of any such committee shall be reported to the Board as soon as possible.
- 41 All acts bona fide done by any meeting of the Board or of any committee of the Board, or by any person acting as a member of the Board, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any such member or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a member of the Board.
- 42 The Board shall cause proper minutes to be made of all appointments of officers made by the Board and of the proceedings of all meetings of the Board and of committees of the Board, and all business transacted at such meetings, and any such minutes of any meeting, if purporting to be signed by the Chairperson of such meeting, or by the Chairperson of the next succeeding meeting, shall be sufficient evidence without any further evidence of the facts therein stated.
- 43 A resolution in writing signed by all the members for the time being of the Board or of any committee of the Board who are entitled to receive notice of a meeting of the Board or of such committee shall be as valid and effectual as if it had been passed at a meeting of the Board or of such committee duly convened and constituted.

SECRETARY

- 44 The Secretary shall be appointed by the Board for such time as they may think fit to act jointly with any other Secretary so appointed, and any Secretary so appointed may be removed by them. The Board may from time to time by resolution appoint an Assistant or Deputy Secretary, and any person so appointed may act in place of the Secretary if there be no Secretary or no Secretary capable of acting.

THE SEAL

- 45 The Company may have a common seal which shall not be affixed to any instrument except by the authority of a resolution of the Board, and in the presence of at least two members of the Board or one member of the Board and the Secretary, and those members or member and Secretary shall sign every such instrument and in favour of any purchaser or person bona fide dealing with the Company such signatures shall be conclusive evidence of the fact that the seal has been properly affixed.

DISQUALIFICATION OF MEMBERS OF THE BOARD

- 46 The office of a member of the Board shall be vacated -
- (A) if a receiving order is made against him or he makes any arrangements or composition with his creditors,
 - (B) if he becomes of unsound mind,
 - (C) if by notice in writing to the Company he resigns his office,
 - (D) if he ceases to hold office by reason of any order made under the Company Directors Disqualification Act 1986,
 - (E) if he is removed from the office by a resolution duly passed pursuant to Sections 303 and 304 of the Act,
 - (F) if at any time his nomination by a Member of the Company as a member of the Board is withdrawn.
- 47 In addition and without prejudice to the provisions of Section 303 of the Act, the Company may by extraordinary resolution remove any member of the Board before the expiration of his period of office.

ACCOUNTS

- 48 The Board shall cause proper books of account to be kept with respect to -
- (A) all sums of money received and expended by the Company and the matters in respect of which such receipts and expenditure take place,
 - (B) all sales and purchases of goods by the Company, and
 - (C) the assets and liabilities of the Company.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the affairs of the Company and to explain its transactions

- 49 The books of account shall be kept at the Office, or, subject to the Act at such other place or places as the Board shall think fit, and shall always be open to the inspection of the members of the Board
- 50 In each year the Board shall invite all subscribing Universities and other institutions of higher education (as defined in the Memorandum of Association of the Company) to a meeting to discuss matters relating to the Company At that meeting the Board shall make available an annual report which shall include copies of the statutory accounts referred to in Article 51
- 51 At a general meeting in every year the Board shall lay before the Company a proper income and expenditure account and balance sheet Every such balance sheet shall be accompanied by proper reports of the Board and the auditors, and copies of such account, balance sheet and reports (all of which shall be framed in accordance with any statutory requirements for the time being in force) and of any other documents required by law to accompany them shall, not less than twenty-one clear days before the date of the meeting, be sent to the auditors and to all other persons entitled to receive notices of general meetings The auditors' report shall be open to inspection and be laid before the meeting as required by the Act

NOTICES

- 52 A notice may be served by the Company upon any Member, either personally upon its representative nominated in accordance with Article 11 or by sending it through the post in a prepaid letter, addressed to such Member at its registered address as appearing in the Register
- 53 Any Member described in the Register by an address not within the United Kingdom, which shall from time to time give the Company an address within the United Kingdom at which notices may be served upon it, shall be entitled to have notices served upon it at that address, but otherwise only those Members who are described in the Register by an address within the United Kingdom shall be entitled to receive notices from the Company
- 54 Any notice, if served by post, shall be deemed to have been served on the day following that on which the letter containing the same is put into the post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post as a prepaid letter

INDEMNITY

- 55 Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled -
- (a) every member of the Board, officer and Secretary of the Company shall be indemnified out of funds and assets of the Company against all liabilities incurred by him as such Board member, officer or Secretary in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, or in connection with any application under Section 727 of the Act in which relief is granted to him by the Court, and

- (b) the Company may purchase and maintain for any such member of the Board, officer or Secretary insurance against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust by which he may be guilty in relation to the Company