

Company Number: 08522869

**THE COMPANIES ACT 2006**

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**PRIVATE COMPANY LIMITED BY GUARANTEE**

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**SPECIAL RESOLUTION**

**of**

**BUCKINGHAMSHIRE EDUCATION SKILLS AND TRAINING**

**(the "Charity")**

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The following resolution was duly passed as a written resolution pursuant to Chapter 2 of Part 13 of the Companies Act 2006 on 31 July 2019 by the requisite members of the Charity as a special resolution:

**SPECIAL RESOLUTION**

THAT with effect from 1<sup>st</sup> August 2019 new articles of association in the form annexed to this written resolution be approved and adopted as the articles of association of the Charity in substitution for and to the exclusion of the existing articles of association.

M. F. Hiplins  
Chairman/Director

WEDNESDAY



LD4 \*L8BUUMUP\* 14/08/2019 #23  
COMPANIES HOUSE

**COMPANIES ACTS 1985 TO 2006**

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**COMPANY LIMITED BY GUARANTEE**

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**ARTICLES OF ASSOCIATION**

**OF**

**BUCKINGHAMSHIRE EDUCATION SKILLS  
AND TRAINING**

**(Adopted by special resolution passed  
on 31 July 2019)**

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**1 Name and Objects**

1.1 The Charity's name is **Buckinghamshire Education Skills and Training**.

1.2 The **Objects** of the **Charity** are specifically restricted to the following:

To advance the education of the public by providing higher and further education, and by carrying out ancillary activities.

**2 Powers**

2.1 The Charity has the following powers, which may be exercised only in promoting the Objects:

2.1.1 to raise funds. In doing so, the Charity must comply with any relevant statutory regulations;

2.1.2 to establish subsidiary companies to carry on any trade or business in connection with or in furtherance of the Charity's Objects;

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- 2.1.3 to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- 2.1.4 to sell, lease or otherwise dispose of all or any part of the property belonging to the Charity;
- 2.1.5 to borrow money and to charge the whole or any part of the property belonging to the Charity as security for the repayment of the money borrowed or as security for a grant or the discharge of an obligation;
- 2.1.6 to co-operate with other charities, voluntary bodies, colleges, universities and statutory authorities and to exchange information and advice with them;
- 2.1.7 to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Objects;
- 2.1.8 to acquire, merge with or to enter into any partnership or joint venture arrangement with any other company;
- 2.1.9 to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
- 2.1.10 to employ and remunerate such staff as are necessary for carrying out the work of the Charity. The Charity may employ or remunerate a Trustee provided it complies with the conditions in Article 6;
- 2.1.11 to
- (i) deposit or invest funds;
  - (ii) employ a professional fund-manager; and
  - (iii) arrange for the investments or other property of the Charity to be held in the name of a nominee;
- in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;
- 2.1.12 to provide indemnity insurance for the Trustees in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011;

- 2.1.13 to pay out of the funds of the Charity the costs of forming and registering the Charity both as a company and as a charity; and
- 2.1.14 to do all such other lawful things as are necessary for, or are incidental or conducive to, the achievement of the Objects.

### **3 The Trustees**

- 3.1 The Trustees as **charity trustees** have control of the Charity and its property and funds.
- 3.2 The Trustees when complete consist of at least three and not more than five persons who being individuals are over the age of 16, all of whom must support the Objects. If any Trustee is a corporate body it must act through a named representative whose contact details are notified to the Trustees and there must be at least one individual Trustee.
- 3.3 *Trustees are elected by the Members and the Trustees as follows:*
  - 3.3.1 the Members shall have the right to elect a maximum of three Trustees;
  - 3.3.2 the Trustees shall have the right to elect a maximum of two further **Independent Trustees**. When considering the suitability of a proposed Independent Trustee, consideration shall be paid to the extent to which their knowledge and experience complements that of the other Trustees.
- 3.4 A Trustee may not act as a Trustee unless they have signed a written declaration of willingness to act as a charity trustee of the Charity.
- 3.5 A Trustees term of office as such automatically terminates if he/she:
  - 3.5.1 has been a Trustee for a period of four years;
  - 3.5.2 is disqualified under the Charities Act from acting as a charity trustee;
  - 3.5.3 is incapable, whether mentally or physically, of managing his/her own affairs;
  - 3.5.4 is absent without permission from all of the meetings held within a period of six consecutive months and is asked by a majority of the other Trustees to resign; or

- 3.5.5 resigns by written notice to the Trustees (but only if at least two Trustees will remain in office); or
- 3.5.6 is removed by a majority decision of the body that appointed them.
- 3.6 If a Trustee's term of office terminates as a result of Article 3.5.1 they may be re-appointed *but only for one further period of four years*.
- 3.7 The Trustees may at any time co-opt any individual who is eligible under Article 3.2 as a Trustee to fill a vacancy in their number or (subject to the maximum number of Trustees set out in Article 3.3) as an additional Trustee, but a co-opted Trustee holds office only for one year.
- 3.8 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

#### **4 Trustees' proceedings**

- 4.1 A quorum at a meeting of the Trustees is two Trustees or one third of the Trustees (if greater).
- 4.2 A meeting of the Trustees may be held either in person or by suitable **electronic means** agreed by the Trustees in which all participants may communicate with all the other participants.
- 4.3 The **Chairman** or (if the Chairman is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.
- 4.4 Any issue may be determined by a simple majority of the votes cast at a meeting, and a resolution **in writing** agreed by all the Trustees (other than any Conflicted Trustee who has not been authorised to vote) is as valid as a resolution passed at a meeting. For this purpose the resolution may be contained in more than one document.
- 4.5 Every Trustee has one vote on each issue but, in case of equality of votes, the chairman of the meeting has a second or casting vote.
- 4.6 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

## **5 Trustees' powers**

5.1 The Trustees have the following powers in the administration of the Charity in their capacity as Trustees:

- 5.1.1 to appoint (and remove) any person (who may be a Trustee) to act as **Secretary** in accordance with the **Companies Act**;
- 5.1.2 to appoint a Chairman from among the Trustees appointed by the Members pursuant to article 3.3.1,
- 5.1.3 to appoint a Treasurer and other honorary officers from among their number;
- 5.1.4 to delegate any of their functions to committees consisting of two or more individuals appointed by them. At least one member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees;
- 5.1.5 to make standing orders consistent with the Memorandum, the Articles and the Companies Act to govern proceedings at general meetings;
- 5.1.6 to make rules consistent with the Memorandum, the Articles and the Companies Act to govern their proceedings and proceedings of committees;
- 5.1.7 to make regulations consistent with the Memorandum, the Articles and the Companies Act to govern the administration of the Charity and the use of its seal (if any);
- 5.1.8 to establish procedures to assist the resolution of disputes or differences within the Charity;
- 5.1.9 to exercise in their capacity as Trustees any powers of the Charity which are not reserved to the Members.

## **6 Benefits and Conflicts**

6.1 The income, property, and funds of the Charity must be used only for promoting the Objects and do not belong to the Members but:

- 6.1.1 Members who are not Trustees or **Connected Persons** may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied; and,
- Subject to compliance with Article 6.4:
- 6.1.2 Members, Trustees and **Connected Persons** may be paid interest at a reasonable rate on money lent to the Charity;
- 6.1.3 Members, Trustees and **Connected Persons** may be paid a reasonable rent or hiring fee for property let or hired to the Charity; and
- 6.1.4 Members, Trustees and Connected Persons may receive charitable benefits on the same terms as any other Beneficiaries.
- 6.2 A Trustee must not receive any payment of money or other **material benefit** (whether directly or indirectly) from the Charity except:
- 6.2.1 as mentioned in Articles 6.1 or 6.3;
- 6.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity;
- 6.2.3 the benefit of **indemnity insurance** as permitted by the Charities Act;
- 6.2.4 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
- 6.2.5 in exceptional cases, other payments or benefits (but only with the written consent of the Commission in advance and where required by the Companies Act the approval or affirmation of the Members).
- 6.3 No Trustee or Connected Person may be employed by the Charity except in accordance with Article 6.2.5, but any Trustee or Connected Person may enter into a written contract with the Charity, as permitted by the Charities Act, to supply services and associated goods in return for a payment or other material benefit but only if:
- 6.3.1 the services or services and associated goods are actually required by the Charity, and the Trustees decide that it is in the best interests of the Charity to enter into such a contract;

- 6.3.2 the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in Article 6.4; and
  - 6.3.3 no more than half of the Trustees are subject to such a contract in any financial year.
- 6.4 Subject to Article 6.5, any Trustee who becomes a **Conflicted Trustee** in relation to any matter must:
  - 6.4.1 declare the nature and extent of his or her interest before discussion begins on the matter;
  - 6.4.2 withdraw from the meeting for that item after providing any information requested by the Trustees;
  - 6.4.3 not be counted in the quorum for that part of the meeting; and
  - 6.4.4 be absent during the vote and have no vote on the matter.
- 6.5 When any Trustee is a Conflicted Trustee, the Trustees who are not Conflicted Trustees, if they form a quorum without counting the Conflicted Trustee and are satisfied that it is in the best interests of the Charity to do so, may by resolution passed in the absence of the Conflicted Trustee authorise the Conflicted Trustee, notwithstanding any conflict of interest or duty which has arisen or may arise for the Conflicted Trustee, to:
  - 6.5.1 continue to participate in discussions leading to the making of a decision and/or to vote; or
  - 6.5.2 disclose to a third party information confidential to the Charity; or
  - 6.5.3 take any other action not otherwise authorised which does not involve the receipt by the Conflicted Trustee or a Connected Person of any payment or material benefit from the Charity; or
  - 6.5.4 refrain from taking any step required to remove the conflict.
- 6.6 Articles 6.1 to 6.5 shall not apply to any arrangement made between the Charity and a Member, or between the Charity and any subsidiary or any subsidiary undertaking

(as the same are defined in sections 1159 and 1162 of the Companies Act 2006) of a Member.

- 6.7 This provision may be amended by special resolution but, where the result would be to permit any material benefit to a Trustee or Connected Person, only with the prior written consent of the Commission.

## **7 Records and Accounts**

- 7.1 The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to keeping records, the audit or independent examination of accounts and the preparation and transmission to the Registrar of Companies and the Commission of information required by law including:

- 7.1.1 annual returns;
- 7.1.2 annual reports; and
- 7.1.3 annual statements of account.

- 7.2 The Trustees must also keep records of:

- 7.2.1 all proceedings at meetings of the Trustees;
- 7.2.2 all resolutions in writing;
- 7.2.3 all reports of committees; and
- 7.2.4 all professional advice obtained.

- 7.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any time during normal office hours.

- 7.4 A copy of the Charity's **constitution** and latest available statement of account must be supplied on request to any Trustee. Copies of the latest accounts must also be supplied in accordance with the Charities Act to any other person who makes a written request and pays the Charity's reasonable costs.

## **8 Membership**

- 8.1 The Charity must maintain a register of Members.

- 8.2 Buckinghamshire New University of High Wycombe Campus, Queen Alexandra Road, High Wycombe, Buckinghamshire HP11 2JZ is the sole Member of the Charity as of the date of adoption of these Articles.
- 8.3 **Membership** is open to any person interested in furthering the Objects and approved by the Trustees and the Members.
- 8.4 The form and the procedure for applying for Membership is to be prescribed by the Trustees.
- 8.5 Membership is not transferable.
- 8.6 The Trustees may establish different classes of Members and set out their respective rights and obligations.
- 8.7 Membership of a Member shall terminate:
- 8.7.1 on the Member, being an organisation, ceasing to exist;
  - 8.7.2 on the passing of a resolution by all the Members (including the Member whose membership is proposed to terminate) either in writing or at a general meeting confirming that it is in the best interests of the Charity that the relevant Member ceases to be a Member; or
  - 8.7.3 on the winding up of the Charity.

## **9 General Meetings**

- 9.1 Members are entitled to attend general meetings in person or by proxy (but only if the appointment of a proxy is in writing and notified to the Charity before the commencement of the meeting).
- 9.2 General meetings are called on at least 14 and not more than 28 **clear days'** written notice indicating the business to be discussed and (if a **special resolution** is to be proposed) at least 28 clear days' written notice setting out the terms of the proposed special resolution.
- 9.3 There is a quorum at a general meeting
- 9.3.1 where the Charity has two or more members, at least two members are present in person or by proxy; or

- 9.3.2 where the Charity has only one member, one member is present in person or by proxy.
- 9.4 The chairman at a general meeting is elected by the Members present in person or by proxy in his/her capacity as a Member and not as proxy for another Member.
- 9.5 Except where otherwise provided by the Articles or the Companies Act, every issue is decided by **ordinary resolution**.
- 9.6 Every Member present in person or by proxy has one vote on each issue.
- 9.7 Except where otherwise provided by the Articles or the Companies Act, a written resolution (whether an ordinary or a special resolution) is as valid as an equivalent resolution passed at a general meeting. For this purpose the written resolution may be set out in more than one document.
- 9.8 The Charity may (but need not) hold an AGM in any year.
- 9.9 Members must annually:
- 9.9.1 receive the accounts of the Charity for the previous **financial year**;
  - 9.9.2 receive a written report on the Charity's activities;
  - 9.9.3 be informed of the retirement of those Trustees who wish to retire or who are retiring by operation of the Articles;
  - 9.9.4 elect Trustees to fill any vacancies arising;
  - 9.9.5 appoint reporting accountants or auditors for the Charity.
- 9.10 Members may also from time to time:
- 9.10.1 confer on any individual (with his/her consent) the honorary title of Patron, President or Vice-President of the Charity; and
  - 9.10.2 discuss and determine any issues of policy or deal with any other business put before them by the Trustees.
- 9.11 A general meeting may be called by the Trustees at any time and must be called within 21 days of a written request from one or more Trustees (being Members), at least 10%

of the Membership or (where no general meeting has been held within the last year) at least 5% of the Membership.

- 9.12 A technical defect in the appointment of a Member of which the Members are unaware at the time does not invalidate a decision taken at a general meeting or a Written Resolution.

## **10 Limited Liability**

- 10.1 The liability of Members is limited.

## **11 Guarantee**

- 11.1 Every Member promises, if the Charity is dissolved while they remain a Member or within one year after they cease to be a member, to pay up to £1 towards:

11.1.1 payment of those debts and liabilities of the Charity incurred before they ceased to be a Member;

11.1.2 payment of the costs, charges and expenses of winding up; and

11.1.3 the adjustment of rights of contributors among the Member(s).

## **12 Communications**

- 12.1 Notices and other documents to be served on Members or Trustees under the Articles or the Companies Act may be served:

12.1.1 by hand;

12.1.2 by post;

12.1.3 by suitable electronic means; or

through publication in the Charity's newsletter or on the Charity's website.

- 12.2 The only address at which a Member is entitled to receive notices sent by post is an address in the U.K. shown in the register of Members.

- 12.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:

- 12.3.1 24 hours after being sent by electronic means, posted on the Charity's website or delivered by hand to the relevant address;
  - 12.3.2 two clear days after being sent by first class post to that address;
  - 12.3.3 three clear days after being sent by second class or overseas post to that address;
  - 12.3.4 immediately on being handed to the recipient personally; or, if earlier,
  - 12.3.5 as soon as the recipient acknowledges actual receipt.
- 12.4 A technical defect in service of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

### **13 Dissolution**

- 13.1 If the Charity is dissolved, the assets (if any) remaining after providing for all its liabilities must be applied in one or more of the following ways:
- 13.1.1 by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects;
  - 13.1.2 directly for the Objects or for charitable purposes which are within or similar to the Objects;
  - 13.1.3 in such other manner consistent with charitable status as the Commission approves in writing in advance.
- 13.2 A final report and statement of account must be sent to the Commission.
- 13.3 This provision may be amended by special resolution but only with the prior written consent of the Commission.

### **14 Interpretation**

- 14.1 The Articles are to be interpreted without reference to the model articles under the Companies Act, which do not apply to the Charity.
- 14.2 In the Articles, unless the context indicates another meaning:

“**AGM**” means an annual general meeting of the Charity;

**"Articles"** means the Charity's Articles of Association and Article refers to a particular Article;

**"Chairman"** means the chairman of the Trustees;

**"Charity"** means the company governed by the Articles;

**"Charities Act"** means the Charities Acts 1992 to 2006;

**"charity trustee"** has the meaning prescribed by the Charities Act;

**"clear day"** does not include the day on which notice is given or the day of the meeting or other event;

**"Commission"** means the Charity Commission for England and Wales or any body which replaces it;

**"Companies Act"** means the Companies Acts 1985 to 2006;

**"Conflicted Trustee"** means a Trustee in respect of whom a conflict of interest arises or may reasonably arise because the Conflicted Trustee or a Connected Person is receiving or stands to receive a benefit (other than payment of a premium for indemnity insurance) from the Charity, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the Charity;

**"Connected Person"** means, in relation to a Trustee, a person with whom the Trustee shares a common interest such that he/she may reasonably be regarded as benefiting directly or indirectly from any material benefit received by that person, being either a member of the Trustees family or household or a person or body who is a business associate of the Trustee, and (for the avoidance of doubt) does not include a company with which the Trustee's only connection is an interest consisting of no more than 1% of the voting rights;

**"constitution"** means the Memorandum and the Articles and any special resolutions relating to them;

**"custodian"** means a person or body who undertakes safe custody of assets or of documents or records relating to them;

**“electronic means”** refers to communications addressed to specified individuals by telephone, fax or email or, in relation to meetings, by telephone conference call or video conference;

**“financial expert”** means an individual, company or **firm** who is authorised to give investment advice under the Financial Services and Markets Act 2000;

**“financial year”** means the Charity’s financial year;

**“firm”** includes a limited liability partnership;

**“Independent Trustee”** means a Trustee who in the reasonable opinion of the Trustees is independent of the Members in character and judgement and who does not have any relationships or involvement in circumstances which are likely to unduly affect, or are likely to appear to affect, the Trustee’s judgement on matters concerning the Charity, the Trustees, or the Members;

**“indemnity insurance”** has the meaning prescribed by the Charities Act;

**“material benefit”** means a benefit, direct or indirect, which may not be financial but *has a monetary value*;

**“Member”** and **“Membership”** refer to company Membership of the Charity;

**“month”** means calendar month;

**“nominee company”** means a corporate body registered or having an established place of business in England and Wales which holds title to property for another;

**“ordinary resolution”** means a resolution agreed by a simple majority of the Members present and voting at a general meeting or in the case of a written resolution by Members who together hold a simple majority of the voting power. Where applicable, *“Members”* in this definition means a class of Members;

**“Objects”** means the Objects of the Charity as defined in Article 1;

**“Resolution in writing”** means a written resolution of the Trustees;

**“Secretary”** means a company secretary;

**“special resolution”** means a resolution of which at least 14 days’ notice has been given agreed by a 75% majority of the Members present and voting at a general

meeting or in the case of a written resolution by Members who together hold 75% of the voting power. Where applicable, “Members” in this definition means a class of Members;]

“**taxable trading**” means carrying on a trade or business in such manner or on such a scale that some or all of the profits are subject to corporation tax;

“**Trustee**” means a director of the Charity and “Trustees” means the directors but where a Trustee is a corporate body “Trustee” includes where appropriate the named representative of the Trustee;

“**written**” or “**in writing**” refers to a legible document on paper or a document sent by electronic means which is capable of being printed out on paper;

“**written resolution**” refers to an ordinary or a special resolution which is in writing;

“**year**” means calendar year.

- 14.3 Expressions not otherwise defined which are defined in the Companies Act have the same meaning.
- 14.4 References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.