

THE COMPANIES ACT 2006

COMPANY LIMITED BY GUARANTEE AND
NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

of

THE ASSOCIATION FOR CULTURAL ENTERPRISES
COMPANY REGISTRATION NUMBER - 06480726 (ENGLAND AND WALES)

1. NAME

The name of the company is the Association for Cultural Enterprises ("the Charity"). Company No. 06480726 (England and Wales).

2. REGISTERED OFFICE

The registered office of the Charity is to be in England and Wales.

3. OBJECTS

The objects of the Charity are:

- 3.1 to provide education and training for all of its members and the general public on commerce in the cultural and heritage sector; and
- 3.2 to promote the voluntary sector for the benefit of the public by assisting voluntary organisations and charities to maximise their revenue by providing a

forum for sharing information and ideas on commerce in the cultural and heritage sector.

4. POWERS

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

- 4.1 to provide training and education;
- 4.2 to provide a forum for the continuous exchange amongst its members of ideas and information on commerce for the cultural and heritage sector;
- 4.3 to promote or carry out research;
- 4.4 to provide advice;
- 4.5 to organise (or to make grants or loans towards the costs of others organising) meetings, lectures, conferences broadcasts or courses of instruction;
- 4.6 to publish or distribute information;
- 4.7 to co-operate with other bodies;
- 4.8 to support, administer or set up other charities and undertake and execute charitable trusts;
- 4.9 to raise funds (but not by means of taxable trading);
- 4.10 to take and accept any gift of money property or other assets whether subject to any special trusts or not;
- 4.11 to borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Act);
- 4.12 to acquire or hire property rights or privileges of any kind and to construct restore improve maintain and alter such property;
- 4.13 to let or dispose of or turn to account property of any kind (but only in accordance with the restrictions imposed by the Charities Act);

- 4.14 to make planning applications, applications for consent under bye-laws or building regulations or other similar applications;
- 4.15 to pay any rent and other outgoings and expenses and execute and do all such other instruments acts and things as may be requisite in connection with the use maintenance upkeep expansion alteration or improvement of such property;
- 4.16 to purchase lease or hire and operate and maintain any equipment necessary or convenient for the administration of the Charity;
- 4.17 to make grants or loans of money and to give guarantees;
- 4.18 to set aside funds for special purposes or as reserves against future expenditure;
- 4.19 to draw make accept endorse discount negotiate execute and issue promissory notes bills cheques and other instruments and to operate bank accounts;
- 4.20 to deposit or invest funds in any manner (but to invest only after obtaining advice from a financial expert, unless the Trustees reasonably conclude that in all the circumstances it is unnecessary or inappropriate to do so, and having regard to the suitability of investments and the need for diversification);
- 4.21 to delegate the management of investments to a financial expert, but only on terms that:
 - 4.21.1 the investment policy is set down in writing for the financial expert by the Trustees;
 - 4.21.2 every transaction is reported promptly to the Trustees;
 - 4.21.3 the performance of the investments is reviewed regularly with the Trustees;
 - 4.21.4 the Trustees are entitled to cancel the delegation arrangement at any time;
 - 4.21.5 the investment policy and the delegation arrangement are reviewed at least once a year;

- 4.21.6 all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt;
- 4.21.7 the financial expert must not do anything outside the powers of the Trustees.
- 4.22 To arrange for investments or other property of the Charity to be held in the name of a nominee (being a corporate body registered or having an established place of business in England and Wales) acting under the control of the Trustees or of a financial expert acting under their instructions and to pay any reasonable fee required;
- 4.23 To insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required;
- 4.24 To insure the Trustees against the costs of a successful defence to a criminal prosecution brought against them as charity trustees or against personal liability incurred in respect of any act or omission which is or is alleged to be a breach of trust or breach of duty unless the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;
- 4.25 Subject to Article 5, to employ paid or unpaid agents, staff or advisers;
- 4.26 To provide and contribute to superannuation or pension funds for the officers and servants of the Charity or any of them or otherwise to assist such officers and servants their widows and children;
- 4.27 To enter into contracts to provide services to or on behalf of other bodies;
- 4.28 To arrange for the amalgamation or merger of the Charity with any charitable organisation the purposes of which in their opinion are similar to the purposes of the Charity either alone or as amalgamated;
- 4.29 To establish or acquire subsidiary companies to assist or act as agents for the Charity;

- 4.30 To pay the reasonable and proper costs of forming and administering the Charity;
- 4.31 To do anything else within the law which promotes or helps to promote the Objects.

5. BENEFITS TO MEMBERS AND TRUSTEES

- 5.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to any member or members of the Charity but:

- 5.1.1 members who are not Trustees may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied;
- 5.1.2 members (including Trustees) may be paid interest at a reasonable rate on money lent to the Charity;
- 5.1.3 members (including Trustees) may be paid a reasonable rent or hiring fee for property let or hired to the Charity;
- 5.1.4 individual members who are not Trustees but who are beneficiaries may receive charitable benefits in that capacity.

- 5.2 A Trustee must not receive any payment of money or other material benefit (whether directly or indirectly) from the Charity except:

- 5.2.1 as mentioned in Clauses 4.24, 5.1.2, 5.1.3 or 5.3;
- 5.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity;
- 5.2.3 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
- 5.2.4 payment to any company in which a Trustee has no more than a 1% shareholding;

- 5.2.5 in exceptional cases, other payments or benefits (but only with the written approval of the Commission in advance).
- 5.3 Any Trustee (or any firm or company of which a Trustee is a member or employee) may enter into a contract with the Charity to supply goods or services in return for a payment or other material benefit but only if:
 - 5.3.1 the goods or services are actually required by the Charity;
 - 5.3.2 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 Clause 5.4;
 - 5.3.3 no more than one half of the Trustees are subject to such a contract in any financial year.
- 5.4 Whenever a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or a committee the Trustee concerned must:
 - 5.4.1 declare an interest at or before discussion begins on the matter;
 - 5.4.2 withdraw from the meeting for that item unless expressly invited to remain in order to provide information;
 - 5.4.3 not be counted in the quorum for that part of the meeting;
 - 5.4.4 withdraw during the vote and have no vote on the matter.
- 5.5 This clause may not be amended without the prior written consent of the Commission.

6. LIMITED LIABILITY

The liability of members is limited.

7. GUARANTEE

Every member promises, if the Charity is dissolved while he, she or it remains a member or within 12 months afterwards, to pay up to one pound towards the costs of dissolution and the liabilities incurred by the Charity while the contributor was a member.

8. DISSOLUTION

8.1 If the Charity is dissolved, the assets (if any) remaining after provision has been made for all its liabilities must be applied in one or more of the following ways:

8.1.1 by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects;

8.1.2 directly for the Objects or charitable purposes within or similar to the Objects;

8.1.3 in such other manner consistent with charitable status as the Commission approves in writing in advance.

8.2 A final report and statement of account must be sent to the Commission.

9. MEMBERSHIP

9.1 The number of members with which the Charity proposes to be registered is unlimited.

9.2 The Charity must maintain a register of members in accordance with section 113 of the 2006 Act.

9.3 The Subscribers are the first members of the Charity but shall cease to be members once twenty or more organisations have also become members in accordance with Article 9.4.

9.4 Subject to Article 9.3, membership of the Charity is open to any organisation interested in promoting the Objects that:

9.4.1 has charitable status or is otherwise run as a not for profit organisation (which may include a cultural venue or cultural department of a local authority holding membership via the local authority);

- 9.4.2 applies to the Charity in the form required by the Trustees;
 - 9.4.3 is approved by the Trustees; and
 - 9.4.4 signs the register of members or consents in writing to become a member either personally or (in the case of a member organisation) through an authorised representative.
- 9.5 The Trustees may establish different classes of membership and prescribe their respective privileges and duties and set the amounts of any subscriptions on an annual basis.
- 9.6 Notice of any subscription charges shall be provided to each member at last two clear months before any subscription becomes due. The Executive may request such financial information from both new and existing members in order to decide on the amount of subscription to be charged to the member as long as subscriptions remain linked to financial income from trading activities.
- 9.7 Associate membership of the Charity is open to any individual or organisation.
- 9.8 Membership is terminated if the member concerned:
- 9.8.1 gives at least one month's written notice of resignation to the Charity and its membership shall cease at the end of the membership year in which the one month's notice expires;
 - 9.8.2 dies or (in the case of an organisation) ceases to exist;
 - 9.8.3 is more than three months in arrears in paying the relevant subscription provided the member is sent at least one written reminder at least one month after the invoice has been sent (but in such a case the member may be reinstated on payment of the amount due);
 - 9.8.4 is removed from membership by resolution of the Trustees on the grounds that in their reasonable opinion the member's continued membership is harmful to the Charity (but only after notifying the member in writing and considering the matter in the light of any

written representations which the member concerned puts forward within 14 clear days after receiving notice);

9.8.5 is removed from membership by resolution of the Charity but only after notifying the member in writing and considering the matter in the light of any representations the member makes in writing or at a general meeting of the Charity; or

9.8.6 stops operating as a not for profit organisation.

9.9 Membership of the Charity is not transferable.

10. GENERAL MEETINGS

10.1 Members are entitled to attend general meetings either personally or by proxy or (in the case of a member organisation) by an authorised representative. Proxy forms must be delivered to the Secretary at least 24 hours before the meeting. General meetings are called on at least 14 clear days' written notice specifying the business to be discussed.

10.1.1 In determining attendance at a general meeting, it is irrelevant whether any two or more members attending it are in the same physical location as each other.

10.1.2 Two or more persons who are not in the same physical location as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

10.1.3 The Trustees may make such lawful arrangements as they see fit in respect of physical attendance and/or Remote Attendance at a general meeting. The entitlement of any person to attend and participate in a general meeting shall be subject to such arrangements.

10.1.4 When the Trustees have made arrangements to facilitate Remote Attendance:

- (a) the provisions of the Articles shall be treated as modified to permit such arrangements and in particular:
 - (i) a person attending a general meeting by Remote Attendance shall be treated as being present and/or present in person at the meeting for the purposes of the Articles, including without limitation the provisions of the Articles relating to the quorum for the meeting and rights to vote at the meeting, unless the Articles expressly provide to the contrary; and
 - (ii) references in these Articles to the place of a general meeting shall be treated as references to the place specified as such in the notice of general meeting;
- (b) the Trustees must ensure that the notice of the meeting includes details of the arrangements for Remote Attendance, and any relevant restrictions, in addition to any other information required by the relevant Companies Acts;
- (c) the arrangements must specify:
 - (i) how those attending by Remote Attendance may communicate with the meeting, for example by using an electronic platform to communicate with the chair and/or others attending the meeting in writing;
 - (ii) how those attending by Remote Attendance may vote;
- (d) Insofar as not disapplied by any arrangements made under Article 10.1.3:
 - (i) the arrangements for Remote Attendance may be changed or withdrawn in advance of the meeting by the Trustees, who must give the members as much notice as practicable of the change;
 - (ii) in the event of technical failure or other technical issues during the meeting (including, for example, difficulties in establishing whether the meeting is quorate) the chair of the meeting may adjust or withdraw the arrangements for Remote Attendance and/or adjourn the meeting if in their view this is necessary or expedient for the efficient conduct of the meeting;
 - (iii) under no circumstances shall the inability of one or more persons (being entitled to do so) to access, or continue to access,

the technology being used for Remote Attendance at the meeting (despite adequate technology being made available by the Charity) affect the validity of the meeting or any business conducted at the meeting, provided a quorum is present at the meeting.

- 10.2 There is a quorum at a general meeting if the number of members or authorised representatives present in person or by proxy is at least 15, or a number equal to 5% of the total membership, whichever is greater.
- 10.3 The Chair or (if the Chair is unable or unwilling to do so) some other member elected by those present presides at a general meeting.
- 10.4 Except where otherwise provided by the 2006 Act, every issue is decided by a majority of the votes cast. A resolution put to the meeting shall be decided on a show of hands unless before, or on the declaration of the result of a show of hands a poll is duly demanded. A poll may be demanded:
 - 10.4.1 by the Chair;
 - 10.4.2 by at least two members of the Executive; or
 - 10.4.3 by at least two voting members.
- 10.5 Except for the chair of the meeting, who has a second or casting vote, every member present, whether in person or by proxy, or through an authorised representative, has one vote on each issue.
- 10.6 A written resolution passed in accordance with the 2006 Act is as valid as a resolution actually passed at a general meeting. For this purpose the written resolution may be set out in more than one document.
- 10.7 The Charity must hold an AGM in every year which all members are entitled to attend and not more than fifteen months shall elapse between AGMs. The first AGM shall be held within 18 months after the Charity's incorporation.
- 10.8 At an AGM the members:

- 10.8.1 receive the accounts of the Charity for the previous financial year;
 - 10.8.2 receive the Trustees' report on the Charity's activities since the previous AGM;
 - 10.8.3 accept the retirement of those Trustees who wish to retire or who are retiring under Article 11.5;
 - 10.8.4 elect persons to be Trustees to fill the vacancies arising, subject to Article 11.4;
 - 10.8.5 appoint auditors for the Charity;
 - 10.8.6 may confer on any individual (with his or her consent) the honorary title of Patron, President or Vice-President of the Charity; and
 - 10.8.7 may determine any issues of policy or deal with any other business put before them.
- 10.9 Any meeting which is not an AGM is a general meeting.
- 10.10 A general meeting may be called at any time by the Trustees.
- 10.11 A general meeting may be called on a written request to the Trustees from at least 10% of its members or, if more than twelve months have passed since the Charity last held a general meeting, from 5% of its members.
- 10.12 On receipt of a written request made pursuant to Article 10.11, the Trustees must call a general meeting within 21 days and the general meeting must be held not more than 28 days after the date of the notice calling the general meeting.
- 10.13 In addition to and without prejudice to the provisions of Section 168 of the 2006 Act the Charity may by Ordinary Resolution remove any Trustee before the expiration of his period of office and may by Ordinary Resolution appoint another suitably qualified person in his stead but any person so appointed shall hold his office only until the next AGM when they shall be eligible for reappointment as a Trustee at the AGM (and if reappointed, their term of office

shall be treated as commencing and continuing without a break from the date the Trustee was originally appointed by Ordinary Resolution, including for the purpose of calculating the retirement date under Article 11.5).

10.14 Associate members have no voting rights but may attend meetings of the Charity and, at the Chair's discretion, be heard on any topic before the Meeting.

10.15 An organisation may vote by its duly authorised representative appointed as provided by Section 323 of the 2006 Act.

10.16 An instrument appointing a proxy may be in any form which the Trustees approve, subject to it complying with the requirements of the 2006 Act.

11. THE TRUSTEES

11.1 The Trustees as charity trustees have control of the Charity and its property and funds.

11.2 The Trustees when complete consist of at least six and not more than thirteen individuals.

11.3 The subscribers to the Memorandum were the first Trustees of the Charity.

11.4 The Trustees elected under Article 10.8.4 shall be affiliated to or employed by a member.

11.5 Each Trustee shall retire from office at the AGM nearest to the third anniversary of the commencement of his or her term of office.

11.6 Any retiring Trustee at an AGM who remains qualified may be re-appointed at the same AGM, provided that no Trustee may be re-appointed under this Article more than two times (subject to Article 11.8).

11.7 A Trustee's term of office automatically terminates if he or she:

11.7.1 is disqualified under the Charities Act from acting as a charity trustee and is not authorised by the Charity Commission to continue acting;

- 11.7.2 is incapable whether mentally or physically of managing his or her own affairs;
 - 11.7.3 is absent without the permission of the Executive from more than two-thirds of the meetings of the Trustees held within a period of one year and the Trustees resolve that his office is to be vacated;
 - 11.7.4 is not an Independent Trustee and ceases to be affiliated to or employed by a member (but such a person may be reinstated by resolution passed by all the other Trustees on resuming an affiliation with a member of the Charity before the next AGM);
 - 11.7.5 resigns by written notice to the Trustees (but only if at least two Trustees will remain in office); or
 - 11.7.6 is removed by ordinary resolution of the members present and voting at a general meeting after the meeting has invited the views of the Trustee concerned and considered the matter in the light of any such views.
- 11.8 The Trustees may at any time co-opt any person duly qualified to be appointed as a Trustee to fill a vacancy in their number or as an additional Trustee, but a co-opted Trustee holds office only until the next AGM when they shall be eligible for reappointment as a Trustee at the AGM (and if reappointed, their term of office shall be treated as commencing and continuing without a break from the date the Trustee was co-opted, including for the purpose of calculating the retirement date under Article 11.5).
- 11.9 A co-opted Trustee under Article 11.8 or a Trustee elected under Article 10.8.4 may include a person who is not employed or affiliated to a member (**“Independent Trustee”**) provided that:
- 11.9.1 The Trustees have resolved such person is duly qualified to serve as a Trustee of the Charity and his/her appointment is in the best interests of the Charity; and

11.9.2 The Trustees shall ensure there is never a majority of Independent Trustees serving on the Board.

11.10 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.

12. PROCEEDINGS OF TRUSTEES

12.1 The Trustees must hold at least four meetings each year.

12.2 A quorum at a meeting of the Trustees is four Trustees, provided that no meeting of the Trustees shall be quorate where the number of Independent Trustees is greater than the number of other Trustees in attendance at the meeting.

12.3 Notice shall be given to each Trustee in advance of each meeting.

12.4 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.

12.5 The Chair or (if the Chair is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.

12.6 Every issue may be determined by a simple majority of the votes cast at a meeting and a written resolution circulated to all the Trustees and approved by a simple majority of them is as valid as a resolution passed at a meeting and for this purpose the resolution may be contained in more than one document and will be treated as passed when the majority have signified their agreement to it.

12.7 Except for the chair of the meeting, who has a second or casting vote, every Trustee has one vote on each issue.

12.8 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

13. POWERS OF TRUSTEES

The Trustees have the following powers in the administration of the Charity:

- 13.1 to appoint (and remove) any individual (who may be a Trustee) to act as Secretary to the Charity;
- 13.2 to appoint a Chair, Treasurer and other honorary officers from among their number;
- 13.3 to delegate any of their functions to committees consisting of two or more individuals appointed by them (but at least one member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees);
- 13.4 to make Standing Orders consistent with these Articles and the 2006 Act to govern proceedings at general meetings;
- 13.5 to make Rules consistent with these Articles and the 2006 Act to govern proceedings at their meetings and at meetings of committees;
- 13.6 to make Regulations consistent with these Articles and the 2006 Act to govern the administration of the Charity and the use of its seal (if any);
- 13.7 to establish procedures to assist the resolution of disputes within the Charity;
- 13.8 to exercise any powers of the Charity which are not reserved to a general meeting;
- 13.9 if the Trustees shall at any time be or be reduced in number to less than the number prescribed by Article 11.2 it shall be lawful for them to act as Trustees for the purposes of admitting persons as Trustees filling up vacancies in their body or summoning a General Meeting but not for any other purpose.

14. RECORDS & ACCOUNTS

- 14.1 The Trustees must comply with the requirements of the 2006 Act and the Charities Act as to keeping financial records, the audit of accounts and the preparation and transmission to the Registrar of Companies and the Commission of:

- 14.1.1 annual reports;

- 14.1.2 annual returns; and
- 14.1.3 annual statements of account.
- 14.2 The Trustees must keep proper records of:
 - 14.2.1 all proceedings at general meetings;
 - 14.2.2 all resolutions of members passed otherwise than at a general meeting;
 - 14.2.3 all proceedings at meetings of the Trustees;
 - 14.2.4 all reports of committees; and
 - 14.2.5 all professional advice obtained.
- 14.3 The records referred to in Articles 14.2.1, 14.2.2 and 14.2.3 must be kept for 10 years from the date of the resolution, general meeting or Trustees' meeting, as relevant.
- 14.4 Accounting records relating to the Charity must be made available for inspection by any Trustee at any reasonable time during normal office hours and may be made available for inspection by members who are not Trustees if the Trustees so decide.
- 14.5 A copy of the Charity's latest available statement of account must be supplied on request to any Trustee or member. A copy must also be supplied within two months to any other person who makes a written request and pays the Charity's reasonable costs.

15. NOTICES

- 15.1 Notices under these Articles may be sent by hand, or by post or by suitable electronic means or (where applicable to members generally) may be published in any suitable journal or national newspaper circulating in the area of benefit or any newsletter distributed by the Charity or by posting it on any website.
- 15.2 The only address at which a member is entitled to receive notices is the address shown in the register of members.

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

15.3.1 twenty four hours after being sent by electronic means or delivered by hand to the relevant address;

15.3.2 two clear days after being sent by first class post to that address;

15.3.3 three clear days after being sent by second class or overseas post to that address;

15.3.4 on the date of publication of a newspaper containing the notice;

15.3.5 on the date on which the notice was posted on a website;

15.3.6 on being handed to the member (or, in the case of a member organisation, its authorised representative) personally or, if earlier;

15.3.7 as soon as the member acknowledges actual receipt.

15.4 The address for serving any notice on the Charity shall be the registered office of the Charity for the time being.

15.5 A technical defect in the giving of notice of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

16. INTERPRETATION

16.1 In these Articles:

"2006 Act" means the Companies Act 2006;

"AGM" means an annual general meeting of the Charity;

"area of benefit" means geographical area;

"these Articles" means these articles of association;

"authorised representative" means an individual who is authorised by a member organisation to act on its behalf at meetings of the Charity and whose name is given to the Secretary;

"beneficiaries" means qualifications of beneficiaries;

"Board" means the Trustees from time to time;

"Chair" means the chair of the Trustees;

"Charity" means the Company governed by these Articles;

"Charities Act" means the Charities Act 2011;

"charity trustee" has the meaning prescribed by section 177 of the Charities Act;

"clear days" means the period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

"Commission" means the Charity Commissioners for England and Wales;

"financial expert" means an individual, company or firm who is an authorised person or an exempted person within the meaning of the Financial Services and Markets Act 2000;

"general meeting" means a general meeting of the Charity;

"Independent Trustee" has the meaning given in Article 11.9;

"material benefit" means a benefit which may or may not be financial but which has a monetary value;

"member" and "membership" refer to membership of the Charity;

"Memorandum" means the Charity's Memorandum of Association;

"month" means calendar month; "Objects" means the Objects of the Charity as defined in Article 3 of these Articles;

“Remote Attendance” means remote attendance at a general meeting by such means as are approved by the Trustees in accordance with Article 10.1.3;

"Secretary" means the Secretary of the Charity;

"taxable trading" means carrying on a trade or business on a continuing basis for the principal purpose of raising funds and not for the purpose of actually carrying out the Objects, and the profits of which are liable to tax;

"Trustee" means a director of the Charity and "Trustees" means all of the directors;

"written" or "in writing" refers to a legible document on paper including a fax message or email;

"year" means calendar year.

- 16.2 Expressions defined in the 2006 Act have the same meaning in the Memorandum and these Articles.
- 16.3 References to an Act of Parliament are to the Act as amended or re-enacted from time to time and to any subordinate legislation made under it.