

Company Number: 4240341

THE COMPANIES ACTS 1985 TO 1989

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

ARTICLES OF ASSOCIATION

of

e LEARNING HOLDING COMPANY LIMITED

GENERAL

1. In these Articles the following words shall have the following meanings:

<u>Word</u>	<u>Meaning</u>
“the Act”	The Companies Act 1985 as amended by the Companies Act 1989
“Article”	An article of these Articles
“these Articles”	These Articles of Association and the regulations of the Company from time to time in force
“the Board”	The Board of directors of the Company
“the Chair”	The Chair for the time being of the Company
“clear days”	In relation to a period of notice means that period excluding the day when the notice is given or deemed to be given or on which it is to take effect

“the Company”	The company incorporated hereunder
“notified representative”	The representative of a member who receives notice of and attends general meetings on behalf of that member and of whose identity and status the Secretary has been notified in writing
“month”	Calendar month
“the Office”	The registered office of the Company
“person”	Any individual or corporate body
“the Secretary”	The Secretary for the time being of the Company
“the United Kingdom”	Great Britain and Northern Ireland
“writing”	Written, printed or lithographed, or partly one and partly another, and other models of representing or producing words in a visible form

And words importing the singular number only shall include the plural number, and vice versa.

Subject as aforesaid, any words or expressions defined in the Act, shall if not inconsistent with the subject or context, bear the same meanings in the Articles.

2. The provisions of section 352 of the Act shall be observed by the Company and every member of the Company shall either sign a written consent to become a member or sign the register of members on becoming a member.
3. The Company is established for the purposes expressed in its Memorandum of Association.

MEMBERSHIP

4. The first members of the Company shall be:

- 4.1 University of York; and
 - 4.2 Manchester Metropolitan University.
5. Subject to the provisions of Article 9, the members of the Company shall be those higher education institutions directly in receipt of funding from the Higher Education Funding Council for England, the Scottish Higher Education Funding Council, the Higher Education Funding Council for Wales or the Department of Higher and Further Education, Training and Employment, Northern Ireland or their successor bodies and which notify the Board of their wish to become members of the Company.

DETERMINATION OF MEMBERSHIP

6. A member may at any time resign their membership of the Company by giving at least one month's notice to the Company.
7. Such notice shall be in writing addressed to the Secretary at the Office.
8. Membership of the Company may be revoked by the Board in accordance with Article 9.
9. The Board may revoke the membership of any member of the Company if the Board is satisfied that the member:
 - 9.1 no longer satisfies the criterion for membership in Article 5;
 - 9.2 has become bankrupt or insolvent or has made any arrangement or composition with or its creditors generally.

GENERAL MEETINGS

10. 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
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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 months after its incorporation it need not hold it in the year of its incorporation or in the following year.

11. All general meetings other than annual general meetings shall be called extraordinary general meetings.
12. The Board may whenever they think fit convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or in default may be convened by such requisitionists, as provided by section 368 of the Act.
13. Not less than 21 clear days' written notice of every annual general meeting and of every general meeting convened to pass a special resolution, and not less than 14 clear days' written notice of every other general meeting shall be given in the manner hereinafter mentioned to such persons (including the auditors) as are under these Articles or under the Act entitled to receive such notices from the Company, such written notice to specify the place, the day and the hour of meeting and, in the case of special business, the general nature of that business.
14. The accidental omission to give notice of a general meeting to, or the non-receipt of such notice by, any person entitled to receive notice hereof shall not invalidate any resolution passed, or proceeding had, at any general meeting.

PROCEEDINGS AT GENERAL MEETINGS

15. All business shall be deemed special business that is transacted at an extraordinary general meeting and all that is transacted at an annual general meeting shall also be deemed special, with the exception of the consideration of the profit and loss account and balance sheet, the reports of the Board and of

- the auditors, and the appointment of, and the fixing of the remuneration of, the auditors.
16. No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. Save as herein otherwise provided fifteen members present personally shall be a quorum. A member shall be regarded as being present personally through the presence of its notified representative.
17. 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 members present shall be a quorum.
18. A resolution in writing signed by all the members for the time being entitled to receive notice of and attend and vote at general meetings shall be as valid and effectual as if it had been passed at a meeting of members duly convened and held and may consist of several documents in the like form (including facsimile transmission) each signed by one or more members.
19. The Chair of the Board or in his or her absence some other member of the Board shall preside as Chair of the meeting, but if neither the Chair nor such other member of the Board (if any) be present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be Chair.
20. The Chair 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.

21. 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 adjournment meeting.
22. At any general meeting a resolution put to the vote of the meeting 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 Chair or by at least three members present in person or by proxy, and unless a poll be so demanded a declaration by the Chair of a meeting that a resolution has been carried, or carried unanimously or by particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the minute book of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution. The demand for a poll may be withdrawn.
23. Subject to the provisions of Article 22 of these Articles, if a poll be demanded in manner aforesaid, it shall be taken at such time and place, and in such manner, as the Chair of the meeting shall direct, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
24. No poll shall be demanded on the election of a Chair of a meeting, or on any question of adjournment.
25. In the case of an equality of votes, whether on a show of hands or on a poll, the resolution shall be deemed not to have been passed. The Chair shall not have a second or casting vote.
26. 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.

VOTES OF MEMBERS

27. Subject as hereinafter provided, each member shall have one vote.
28. Save as herein expressly provided, no member other than a member duly registered shall be entitled to vote on any question either personally or by proxy, or as a proxy for another member, at any general meeting.
29. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the Chair whose decision shall be final and conclusive.
30. Votes may be given either personally or by proxy. A vote is given personally where it is given by a member or a member's notified representative.
31. The instrument appointing a proxy for a member or a member's notified representative shall be in writing and must be deposited at the Office not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.
32. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of the death, insanity 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.

33. An instrument appointing a proxy shall be in the following form or as near thereto as circumstances will admit:

”e Learning Holding Company Limited”

I [postholder]..... of [institution]..... a member/notified representative of e Learning Holding Company Limited hereby appointand failing her/him, as my proxy to vote for me on my behalf at the annual/extraordinary general meeting of e Learning Holding Company Limited to be held on and at any adjournment thereof.

Signed

Dated

This form is to be used in favour of/against the resolution/unless otherwise instructed the proxy will vote as he or she thinks fit”.

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

THE BOARD OF DIRECTORS OF THE COMPANY

34. The first director shall be Sir Brian Fender.
35. Upon the constitution of the Board of the Company pursuant to Article 37, the first director shall become one of the four directors appointed under Article 37.3.
36. As soon as possible following incorporation of the Company and unless and until otherwise determined by a general meeting, the Board of the Company shall be constituted as follows:
- 36.1 six directors appointed by Universities UK or its successor body;
- 36.2 two directors appointed by the Standing Conference of Principals or its successor body;

- 36.3 four directors appointed by the Higher Education Funding Council for England or its successor body following consultation by the Higher Education Funding Council for England with the Scottish Higher Education Funding Council the Higher Education Funding Council for Wales and the Department of Higher and Further Education, Training and Employment, Northern Ireland or their respective successor bodies.
37. The directors shall appoint one of their number as Chair of the Board.
38. A person may not become a director unless he or she has attained the age of 18 years. There shall be no limit as to the age at which a person having become a director may continue so to act.
39. Appointment of directors pursuant to Article 36 shall, in each case, be made by notice in writing to the Board and shall be for a term of no more than three years, renewable once.
40. Any director appointed under Article 36 of these Articles may be removed from office by his or her appointors by notice in writing to the Company before the expiration of his or her period of office notwithstanding anything in these Articles or in any agreement between the Company and such director; and the appointor shall be entitled to appoint any person in his or her stead.
41. On the resignation, disqualification or death of a director his or her appointor shall be entitled to appoint any person in his or her stead.

POWERS OF THE BOARD

42. 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 do on behalf of the Company all such acts as may be exercised and done by the Company, and as are not by the
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Act or by the Articles required to be exercised or done by the Company in general meeting, subject nevertheless to any such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if such regulation had not been made.

43. The members of the Board for the time being may act notwithstanding any vacancy in their body; provided always that in case the members of the Board shall at any time be or be reduced in number to less than the quorum prescribed under Article 46 of these Articles, it shall be lawful for them to act as the Board for the purpose of summoning a general meeting, but not for any other purpose.

PROCEEDINGS OF THE BOARD

44. The Board shall meet together at least once a year (and more frequently as they may from time to time think fit) for the dispatch of business, and may adjourn and otherwise regulate their meetings as they think fit.
45. A member of the Board shall be treated as present at a meeting of the Board notwithstanding that he or she is not physically present if he or she is in communication with the meeting by voice or video telecommunication link and, for the purpose of these Articles, meetings of the Board shall include meetings held by voice or video telecommunication link provided that the voice or video telecommunication link is so arranged that it is possible for each member of the Board to hear and be heard by, or in the case of video telecommunication link, see and be seen by each other person participating in the meeting and the terms “meeting” and “meet” shall be construed accordingly.
46. A quorum shall be five Directors PROVIDED THAT at least one of those five shall be a director appointed under Article 36.1 or 36.2 and one shall be a
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director appointed under Article 36.3. A member of the Board who is in communication by voice or video telecommunication link for the purposes of a meeting of the Board pursuant to Article 45, shall be counted as part of the quorum for such meeting, provided that the voice or video telecommunication link is so arranged that it is possible for each member of the Board participating in the meeting to hear and be heard by each other person participating in the meeting. Questions arising at any meeting shall be decided by a majority of votes, each member of the Board present having one vote. In case of an equality of votes the Chair shall not have a second or casting vote and the resolution shall not be passed.

47. Any three members of the Board may, at any time, summon a meeting of the Board by notice served upon the several members of the Board. A notified representative of a member of the Board who is absent from the United Kingdom shall only be entitled to notice of a meeting if he or she has provided the Company with an address for service.
48. 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 these Articles vested in the Board generally.
49. All acts bona fide done by any meeting 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.
50. 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 all business transacted at such meetings, and any such minutes of any meeting, if purporting to be signed by the Chair of such meeting, or by the

Chair of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.

51. A resolution in writing signed by all the members for the time being of the Board who are entitled to receive notice of a meeting of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and constituted. Any such resolution may consist of several documents in the like form (including facsimile transmission) and signed by one or more of the Board for the time being entitled to receive notice of a meeting of the Board.

DELEGATION OF THE FUNCTIONS OF THE BOARD

52. The Board may delegate any of its functions to committees other than those functions specified in Article 54. Such committees shall consist of such persons as the Board thinks fit so long as one or more of such persons is a Board member, and any committee so formed shall, in exercise of the powers so delegated, conform to all regulations imposed upon 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. The acts and proceedings of such committees shall be reported fully to the Board.
53. One such committee which shall be established by the Board shall be known as the Audit Committee which will hold at least one meeting annually and, subject always to Article 55, will have the following terms of reference:
- 53.1 to advise the Board on the appointment of the Auditors of the Company and to monitor the performance and effectiveness of the appointed Auditors;
- 53.2 to satisfy itself that satisfactory arrangements are in place to promote economy, efficiency and effectiveness;
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- 53.3 to ensure compliance with Turnbull standards;
 - 53.4 to consider the draft annual accounts for recommendation to the Board;
 - 53.5 to report as appropriate to the Board, but in any event at least annually.
54. The Board shall not delegate any of the following matters to a committee:
- 54.1 the approval of the annual estimates of income and expenditure;
 - 54.2 ensuring the solvency of the Company and the safeguarding of its assets;
 - 54.3 the grant, amendment, renewal or termination of any licence granted by the Company.

DISQUALIFICATION OF DIRECTORS

55. The office of a Director shall be vacated if:
- 55.1 a notice removing him or her from office is served in accordance with the provisions of Article 40;
 - 55.2 by notice in writing to the Company he or she resigns his or her office;
 - 55.3 he or she becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
 - 55.4 he or she becomes of unsound mind;
 - 55.5 he or she ceases to hold office by virtue of any provision of the Act or he or she becomes prohibited by law from being a director of the Company.

SECRETARY

56. The Secretary shall be appointed by the Board for such term, at such remuneration and upon such conditions as the Board shall think fit and any Secretary so appointed may be removed by the Board. The provisions of sections 283 and 284 of the Act shall apply.

ACCOUNTS

57. The Board shall cause accounting records to be kept in accordance with the requirements of the Act.
58. The accounting records shall be kept at the Office, or subject to the provisions of the Act, at such other place or places as the Board shall think fit, and shall be open to the inspection of the members of the Company, of any organisation approved by the Board for so long as it is so approved, of the officers of the Company and of the Auditors of the Company.
59. At the Annual General Meeting in each year the Board shall in accordance with the provisions of the Act lay before the Company a profit and loss account for the period since the last preceding accounting reference date or (in the case of the first account) since the incorporation of the Company together with a proper balance sheet made up as at the same date. 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 be annexed or attached thereto or to accompany the same shall, not less than twenty-one clear days before the date of the meeting at which they are to be laid, be delivered or sent by post to the Auditors and to all other persons entitled to receive notices of general meetings in accordance with Section 240 of the Act in the manner in which notices are hereinafter directed to be served. The report of the Board

and the Auditors' report shall be laid before the Company in general meeting as required by Section 241 of the Act.

AUDIT

60. In accordance with the provisions of the Act once at least in every year the accounts of the Company shall be examined and the correctness of the profit and loss account and balance sheet ascertained by one or more properly qualified Auditor or Auditors.
61. Auditors shall be appointed and their duties regulated in accordance with the provisions of the Act.

NOTICES

62. A notice may be served by the Company upon any member, either personally or by sending it through the post in a prepaid letter, addressed to such member's notified representative at the address notified to the Secretary for service; PROVIDED THAT service may be effected by such other methods as have been notified by a member in writing to the Secretary as being acceptable methods of service, such methods to include but not be limited to facsimile and electronic mail.
63. 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 input 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 office as a prepaid first class letter. Any notice, if served by facsimile or electronic mail or such other method of service as shall have been specified by a member as acceptable, shall be deemed to have been served one hour after receipt by the dispatcher of a notice or message confirming successful transmission, and in proving such service it shall be sufficient to prove that the notice was directed to the proper number or address and that transmission to that number or address was confirmed to the dispatcher as having been successful.

INDEMNITY

64. Subject to the provisions of the Act but without prejudice to any indemnity to which a member of the Board may otherwise be entitled, every member of the Board or other officer of the Company shall be indemnified out of the assets of the Company against any liability incurred by him or her in defending any proceedings, whether civil or criminal, for acts or omissions committed in the course of their employment or engagement by the Company.

Company Number: 4240341

THE COMPANIES ACTS 1985 TO 1989
COMPANY LIMITED BY GUARANTEE AND
NOT HAVING A SHARE CAPITAL
MEMORANDUM AND ARTICLES OF ASSOCIATION

of

e LEARNING HOLDING COMPANY LIMITED

Incorporated on 25 June 2001



100 Fetter Lane
London EC4A 1BN
DX 45 London

Tel: 020-7242 1011 • Fax: 020-7894 6640