

APPENDIX 1

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

Of

**[DENBIGHSHIRE LEISURE LIMITED]**

**PRIVATE COMPANY LIMITED BY GUARANTEE**

**Articles of Association of**

**Denbighshire Leisure Limited**

**1. DEFINITIONS**

1.1 In these articles, unless the context requires otherwise;

**Act** means the Companies Act 2006

**Articles** means the Company's Articles of Association from the time being in force

**elected member** means an elected member of the Member.

**Interested Director** has the meaning provided for in Article 12.1

**Member** means a member of the Company, which at the time of adoption of these Articles is Denbighshire County Council

**Model Articles** the model articles of association for private companies limited by guarantee contained in Schedule 2 to the Companies (Model Articles) Regulations 2008, as amended prior to the date of adoption of these Articles

1.2 In these Articles words importing individuals shall, unless the context otherwise require, include corporations and words importing the singular number shall include the plural, and vice versa and words importing the masculine gender only shall include the feminine gender.

**2. MODEL ARTICLES**

2.1 The Model Articles, shall apply to the Company save in so far as they are excluded or varied hereby and such Model Articles (save as so excluded or varied) together with the following articles shall be the Articles of the Company.

### 3. **LIABILITY OF MEMBERS**

3.1 The liability of each Member is limited to £10, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member, for

3.1.1 payment of the Company's debts and liabilities contracted before he ceases to be a Member,

3.1.2 payment of the costs, charges and expenses of the winding up, and

3.1.3 adjustment of the rights of the contributories among themselves.

### 4. **OBJECTS**

4.1 The Company's objects (**Objects**) are:

4.1.1 to provide and manage leisure, sports, cultural and heritage services for the benefit of the public

4.1.2 liaise, cooperate and partner, wherever appropriate, with all statutory, voluntary and other bodies in the pursuance of these services

4.1.3 to enter into partnerships or arrangements of all kinds to sustain, improve or extend facilities and services

4.1.4 to ensure sustainability of services by maximising income and by seeking all possible avenues of funding for the services

4.1.5 promoting, maintain and improving access to suitable services, activities and facilities

4.1.6 bringing together and coordinating the efforts of persons (corporate or otherwise) concerned or interested in the attainment of all or any of the company's objects

4.1.7 to improve health and well-being, by promoting increased participation to reduce obesity, anti-social behaviour and the health inequality gap

4.1.8 to promote jobs and strengthen the local economy

## 5. POWERS

5.1 In pursuance of the Objects, the Company has the power to:

- 5.1.1 buy, lease or otherwise acquire and deal with any property real or personal and any rights or privileges of any kind over or in respect of any property real or personal and to improve, manage, develop, construct, repair, sell, lease, mortgage, charge, surrender or dispose of or otherwise deal with all or any part of such property and any and all rights of the Company;
- 5.1.2 borrow and raise money in such manner as the directors shall think fit and secure the repayment of any money borrowed, raised or owing by mortgage, charge, lien or other security on the Company's property and assets;
- 5.1.3 invest and deal with the funds of the Company not immediately required for its operations in or upon such investments, securities or property as may be thought fit;
- 5.1.4 subscribe for, take, buy or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority in any part of the world;
- 5.1.5 lend and advance money or give credit on such terms as may seem expedient and with or without security to customers and others, to enter into guarantees, contracts of indemnity and suretyships of all kinds to receive money on deposit or loan upon such terms as the Company may approve and to secure or guarantee the payment of any sums of money or the performance of any obligation by any company, firm or person including any holding company or subsidiary;
- 5.1.6 lobby, advertise, publish, educate, examine, research and survey in respect of all matters of law, regulation, economics, accounting, governance, politics and/or other issues and to hold meetings, events and other procedures and co-operate with or assist any other body or organisation in each case in such way or by such means as may, in the opinion of the directors, affect or advance the principal object in any way;

- 5.1.7 pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company and to contract with any person, firm or company to pay the same;
- 5.1.8 enter into contracts to provide services to or on behalf of other bodies;
- 5.1.9 provide and assist in the provision of money, materials or other help;.
- 5.1.10 open and operate bank accounts and other facilities for banking and draw, accept, endorse, issue or execute promissory notes, bills of exchange, cheques and other instruments;
- 5.1.11 incorporate subsidiary companies to carry on any trade; and
- 5.1.12 do all such other lawful things as are incidental or conducive to the pursuit or to the attainment of the Objects set out in article 4.

## 6. **INCOME**

- 6.1 The income and property of the Company shall be applied solely in promoting the Objects.
- 6.2 No dividends or bonus may be paid or capital otherwise returned to the Member, provided that this article 6 shall not prevent any payment by the Company of:
  - 6.2.1 reasonable out of pocket expenses properly incurred by any director;
  - 6.2.2 reasonable and proper remuneration and/or expenses to a Member, any other officer or servant of the Company for any services rendered to the Company or in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company;
  - 6.2.3 any interest on money lent by any Member at a reasonable and proper rate;  
or
  - 6.2.4 reasonable and proper rent for premises demised or let by a Member.

## 7. **WINDING UP**

- 7.1 On the winding-up or dissolution of the Company, any assets or property that remains available to be distributed or paid, shall be distributed or paid to the Member for the time being in proportion to their voting rights on a poll at general meetings of the Company.

## 8. **DIRECTORS' MEETING**

8.1 A director may waive the requirement that notice of a meeting of the directors be given to him at any time before or after the date on which the meeting is held by notifying the Company to that effect. Where a director gives such notice to the Company after the meeting has been held, that does not affect the validity of the meeting or of any business conducted at it.

## 9. **QUORUM FOR DIRECTORS MEETING**

9.1 The quorum for the transaction of business of the directors shall be any three directors. Article 11(2) of the Model Articles shall be modified accordingly.

9.2 If the total number of directors for the time being is less than the quorum required [or does not include a director who is not an elected member,] the directors must not take any decision other than a decision to call a general meeting so as to enable the Member to appoint further directors. Article 11(3) of the Model Articles shall not apply to the Company.

## 10. **CASTING VOTE**

10.1 If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairperson or other director chairing the meeting shall not have a casting vote. Article 13 of the Model Articles are excluded.

## 11. **INFORMATION SHARING**

11.1 Any director shall be entitled from time to time to disclose to the Member such information concerning the business and affairs of the Company as he shall at his discretion see fit, subject only to the condition that if there be more than one shareholder, the director concerned shall ensure that each of the shareholders receives the same information on an equal footing.

## 12. **AUTHORISATION OF DIRECTORS' CONFLICTS OF INTEREST**

12.1 For the purposes of section 175 of the Act, the Member (and not the directors) shall have the power to authorise any matter which would or might otherwise constitute or give rise to a breach by a director (**Interested Director**) of the duty to avoid conflicts of interest set out in that section of the Act. Any reference in these articles to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

- 12.2 The Interested Director must provide the Member with such details as are necessary for the Member to consider any request to authorise a conflict of interest.
- 12.3 Authorisation of a matter under article 12 shall be effective only if:
- 12.3.1 the matter in question shall have been proposed in writing for consideration by the directors, or in such other manner as the directors may determine;
  - 12.3.2 any requirement as to the quorum at the meeting of the directors at which the matter is considered is met without counting the director in question and any other interested director (together the Interested Directors); and
  - 12.3.3 the matter was agreed to without the Interested Directors voting or would have been agreed to if the votes of the Interested Directors had not been counted.
- 12.4 Any authorisation by a Member of a matter under Article 12 may
- 12.4.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised.
  - 12.4.2 be on such terms and/or conditions as the Member may determine, whether at the time such authorisation is given or subsequently and may be varied or terminated by the Member at any time. Such terms or conditions may include (without limitation) terms and conditions as to the duration, renewal and/or revocation of the authorisation, and/or the exclusion of the Interested Directors from all information and discussion of the matter in question. A director shall comply with any obligations imposed on him pursuant to any such authorisation.
- 12.5 A director, notwithstanding his office, may be a director or other officer of, employed by, an elected member of or otherwise interested in, the Member and no authorisation under article 12 shall be necessary in respect of any such interest.
- 12.6 Any director shall be entitled from time to time to disclose to a Member such information concerning the business and affairs of the Company as he shall at his discretion see fit.
- 12.7 If a director receives or has received any information otherwise than by virtue of his position as a director of the Company and in respect of which he owes a duty of confidentiality to another person, the director is under no obligation to:

12.7.1 disclose any such information to the Company, the directors or any other director or employee of the Company; or

12.7.2 use or apply any such information in connection with the performance of his duties as a director;

provided that to the extent that such duty of confidentiality arises out of a situation or relationship which would or might otherwise constitute or give rise to a breach by the director of the duty to avoid conflicts of interest set out in section 175 of the 2006 Act, this article shall apply only if such situation or relationship has been authorised by the Member under article 12.

12.8 A director shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he (or a person connected with him) derives from any matter authorised by the Member under article 12 and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit.

### **13. APPOINTMENT AND REMOVAL OF DIRECTORS**

13.1 Unless otherwise determined by ordinary resolution, the number of directors is not subject to any maximum and the minimum number is [four].

13.2 Notwithstanding any other provision of these Articles, the Member may at any time and from time to time appoint any person to be a director or remove any director from office,

13.3 Every such appointment or removal shall be effected by notice in writing to the Company and shall take effect immediately (or on such later date, if any, specified in the notice). Any such notice of appointment or removal may consist of several documents in similar form, each signed by or on behalf of the Member.

### **14. TERMINATION OF A DIRECTOR'S APPOINTMENT**

14.1 Notwithstanding any other provision of these Articles, a person ceases to be a director, in the following circumstances;

14.1.1 as soon as he has for more than three consecutive months been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated; or

14.1.2 being an elected member at the time of his appointment as a director, he ceases to be an elected member or is disqualified as an elected member at any time; or

14.1.3 being an officer of the Member at the time of his appointment as a director, his employment by the Member is terminated for any reason.

## 15. **DELEGATION AND COMMITTEES**

15.1 The directors may not delegate any of the powers which are conferred upon them under these Articles to any person or committee without the prior written consent of the Member. Model Article 5(1) and 6 (1) are excluded.

## 16. **MEMBERS**

16.1 The subscriber to the Memorandum is the first Member.

16.2 No person shall be admitted as a member unless he or she is approved by the existing Member.

## 17. **MEMBERS' RESERVE POWER AND APPROVAL RIGHTS**

17.1 The Member may, by special resolution, direct the directors to take, or refrain from taking, specified action.

17.2 No such special resolution invalidates anything which the directors have done before the passing of the resolution.

## 18. **QUORUM FOR GENERAL MEETINGS**

18.1 No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

18.2 One person entitled to vote shall be a quorum if that person is a duly authorised representative of the controlling Member.

18.3 At any time where the company has one Member:

18.3.1 any decision that may be taken by the company in general meeting may be taken by that Member solely; and

18.3.2 such decision is effective as if agreed by the company in general meeting.

18.4 The Directors may attend and speak at general meetings, with the prior consent of the Member. Article 26 (1) of the Model Articles are modified accordingly.

18.5 Article 26 (2) of the Model Articles shall not apply to the Company.

19. **PROXIES AND CORPORATE REPRESENTATIVES**

19.1 The failure of any proxy or corporate representative to vote in accordance with any instructions given by the Member by whom such proxy or corporate representative is appointed shall not invalidate the result of any vote in which the proxy or corporate representative has participated and the Company and the directors shall be under no duty to enquire as to the instructions given to any such proxy or corporate representative.

20. **MEANS OF COMMUNICATION TO BE USED**

20.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:

20.2 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five working days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five working days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

20.2.1 if properly addressed and delivered by hand, when it was given or left at the appropriate address;

20.2.2 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and

20.2.3 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article, no account shall be taken of any part of a day that is not a working day.

20.3 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the 2006 Act.

## 21. **INDEMNITY**

21.1 The Company may indemnify any relevant officer out of the assets of the Company from and against any loss, liability or expense incurred by him or them in relation to the Company (including any liability incurred in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the 2006 Act)) **provided that** this article shall have effect, and any indemnity provided by or pursuant to it shall apply, only to the extent permitted by, and subject to the restrictions of, the 2006 Act. This article does not allow for or provide (to any extent) an indemnity which is more extensive than as permitted by the 2006 Act and any such indemnity is limited accordingly. This article is also without prejudice to any indemnity to which any person may otherwise be entitled. Article 38 of the Model Articles shall not apply to the Company.

21.2 To the extent permitted by, and subject to the restrictions in, the 2006 Act and without prejudice to any indemnity to which he may otherwise be entitled, the board shall have the power to provide funds to meet any expenditure incurred or to be incurred by any relevant officer in defending any criminal or civil (including regulatory) proceedings, or in connection with an application under the 2006 Act, or to enable him to avoid incurring such expenditure.

21.3 Without prejudice to the provisions of article 39 of the Model Articles, the directors may exercise all the powers of the Company to purchase and maintain insurance for the benefit of any person who is a relevant officer or an employee or former employee of the Company or any associated company or who is or was a trustee of a retirement benefits scheme or another trust in which a relevant officer or an employee or former employee is or has been interested, indemnifying him against liability for negligence, default, breach of duty or breach of trust or any other liability which may lawfully be insured against by the Company.

21.4 In these articles:

21.5 companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate;

21.6 **relevant officer** means any current or former director, alternate director, secretary or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined in section 235(6) of the 2006 Act)), other than any person (whether an officer or not) engaged by the Company (or associated company) as an auditor, to the extent he acts as an auditor.

22. **RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

22.1 The Member and its authorised representatives shall have the right, on giving to the Company reasonable advance notice, during normal business hours to inspect the books and records of the Company and any subsidiary of the Company. Article 36 of the Model Articles shall not apply to the Company.