

**CONSTITUTION
OF
Student Facilities and Services (UCC) Designated Activity Company**

MEMORANDUM OF ASSOCIATION

1. The name of the Company is Student Facilities and Services (UCC) Designated Activity Company.
2. The company is a designated activity company limited by shares, that is to say a private company limited by shares registered under Part 16 of the Companies Act 2014.
3. The main object for which the Company is established is:
 - (a) As requested by UCC to manage and operate facilities on the campus of University College Cork – National University of Ireland, Cork ("UCC") for students or staff including, catering, food, stationary, facilities and creche for the purpose of enhancing the student experience and the advancement of the education of students at UCC.
 - (b) In furtherance of the main object of the company shall have the following powers:
 - (i) To acquire whether on lease, licence or by purchase or otherwise and for any estate, interest or tenure whether freehold or leasehold or other estate, any buildings, lands or other hereditaments so as to build, restore, alter, enlarge, maintain, furnish and endow on-campus facilities, including bookshops, coffee bars, food stores, creches, snack and refreshment areas, student clubs, reading and music rooms, meeting rooms, student union facilities and any other facilities which may be availed of by students and staff of UCC, together with all ancillary administrative facilities required in connection with same.
 - (ii) To develop and turn to account any land owned by the Company or in which the Company has an interest and in particular by laying out and preparing the same for building purposes, constructing, altering, pulling down, decorating, maintaining, fitting up and improving buildings and conveniences, and by planting, paving, draining,

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farming, cultivating, letting on building lease or building agreement and by advancing money to and entering into contracts and arrangements of all kinds with builders, tenants and others.

- (iii) To improve, manage, service, develop, exchange, lease, license, mortgage, enfranchise, dispose of, sell turn to account or otherwise deal with all or any part of the property or rights of the Company as may be deemed expedient and do all or any of the above things either as principal, agent, contractor, trustees, agents, subsidiaries or otherwise if the same may be seen directly or indirectly to benefit the purposes for which the Company is established.
- (iv) To apply the whole or any part of the property vested in the Company whether as capital or income.
- (v) To do such other things as may be deemed incidental or conducive to the attainment of the above main object.

And it is hereby declared that in the construction of this Clause, the word "company", except where used in reference to this Company, shall be deemed to include any person or partnership or other body of persons, whether incorporated or not incorporated and whether domiciled in Ireland or elsewhere, and words denoting the singular number only shall include the plural number and vice versa.

4. Every member if the Company 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 afterwards, for payment of debts and liabilities of the Company contracted before he ceases to be a member and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one Euro.

4. Winding-up

If upon winding up or dissolution of the company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the company but shall be given or transferred to some other charitable institution or institutions having main objects similar to the main objects of the company and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as imposed on the company under or by virtue of Clause 5 hereof: such institution or institutions to be determined by the members of the company at or before the time of dissolution, and if so far as effect cannot be given to such provisions, then to some charitable object.

5. Income and Property

The income and property of the company shall be applied solely towards the promotion of its main object(s) as set forth in this Memorandum of Association. No portion of the company's income and property shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to members of the company. No Director shall be appointed to any office of the Company paid by salary or fees, or receive any remuneration or other benefit in money or money's worth from the company. However, nothing shall prevent any payment in good faith by the company of:

- (a) reasonable and proper remuneration to any member, officer or servant of the company (not being a Director) for any services rendered to the company;
- (b) reasonable and proper out-of-pocket expenses incurred by any Director in connection with their attendance to any matter affecting the company;

6. Additions, Alterations or Amendments

No addition, alteration or amendment shall be made to or in the provisions of this Memorandum for the time being in force unless the same shall have been previously approved in writing by the Revenue Commissioners.

7. Keeping of Accounts

Annual audited accounts shall be kept and made available to the Revenue Commissioners on request.

8. The liability of the members is limited.

9. The Share Capital of the Company is EUR 6,348.69 divided into 5,000 shares of EUR1.269738 each with power to increase the share capital. The shares in the

original or any increased share capital may be divided into several classes and there may be attached thereto respectively any preferential, deferred or other special rights, privileges, conditions or restrictions. The issued Share Capital of the Company shall at all times be held by University College Cork for the benefit of the community and the furthering of the main objects of the Company and may only be transferred to another charitable body within the meaning of Section 207 Taxes Consolidation Act 1997.

ARTICLES OF ASSOCIATION

1. TABLE A

The regulations in Part II of Table A in the First Schedule to the Act (as amended by the Acts) will apply to the Company subject to the alterations herein contained and will, so far as not inconsistent with these regulations, bind the Company and the shareholders.

2. INTERPRETATION

2.1 Definitions: In these Articles:

"Act" means the Companies Act, 1963;

"Acts" means the Companies Acts, 1963 to 2006;

"Auditors" means the auditors or auditor for the time being of the Company;

"Single-Member Company Regulations" means the European Communities (Single-Member Private Limited Companies) Regulations, 1994;

"Table A" means Table A in the First Schedule to the Act (as amended by the Acts);

"UCC" means University College Cork -National University of Ireland, Cork;

"1983 Act" means the Companies (Amendment) Act, 1983;

"1990 Act" means the Companies Act, 1990

Construction: In these Articles, unless a contrary intention is stated, a reference to:

- (a) the singular shall include the plural and vice versa;
- (b) either gender includes the other;
- (c) a person shall be construed as a reference to any individual firm or company, corporation, governmental entity or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (d) a person includes that person's legal personal representative, permitted assigns and successors;
- (e) time shall be construed by reference to whatever time may from time to time be in force in Ireland;
- (f) any agreement document or instrument is to the same as amended, novated, modified, supplemented or replaced from time to time;
- (g) 'including' means comprising, but not by way of limitation to any class, list or category;

(h) 'writing' shall include a reference to any electronic mode of representing or reproducing words in visible form.

2.3 Headings: Headings are to be ignored in the construction of these Articles.

2.4 'The Acts' in Table A: All references in Table A to the Companies Acts, 1963 to 1983 will be construed as references to the Acts.

3. SHARE CAPITAL

3.1 Capital Structure: The capital of the Company is EUR 6,348.69, divided into 5,000 shares of EUR1.269738 each.

3.2 The Issuance of New Shares:

- (a) Unless otherwise determined in writing by all members, and except where the shares concerned are to be issued upon a capitalisation of profits or reserves, any unissued shares in the capital of the Company from time to time shall, before they are issued, be offered to all the holders of shares in the Company in proportion to the nominal value of the shares held by them respectively (and that offer shall be at the same price and on the same terms to each such holder). Each such offer shall be made by notice specifying the number and class of shares offered, the proportionate entitlement of the member to whom it is addressed, the price per share, and a period (not being less than 30 days) within which the offer, if not accepted, will be deemed to have been declined and after the expiration of period so stipulated, the directors shall offer the shares so declined or deemed to have been declined to the persons who have, within the stipulated period, accepted all the shares offered to them, in the same manner as the original offer, stipulating a period (not being less than 14 days) within which the offer, if not accepted, will be deemed to have been declined. If any shares comprised in such a further offer are declined or deemed to have been declined, then that further offer shall be withdrawn in respect of those shares. At the expiration of the time limited by the notice(s), the directors shall allot and issue the shares so offered to or amongst the members who have notified their willingness to take all or any of such shares in accordance with the terms of the offer. No member shall be obliged to take more than the maximum number of shares he has indicated his willingness to take.
- (b) Any shares not accepted pursuant to paragraph (a) above, or not capable of being so offered except by way of fractions, and any shares released from the provisions of paragraph (a) above in the manner contemplated by that paragraph, or to which that paragraph does not apply, shall subject to the provisions of Section 20 of the 1983 Act, be at the disposal of the directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper.
- (c) The directors are generally and unconditionally authorised to exercise all powers of the Company to allot relevant securities (as defined for the purposes of section 20 of the 1983 Act) up to an amount equal to the authorised but unissued share capital of the Company as at the date of adoption of these Articles, and such authority will expire five years from that date save that the Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the directors may allot relevant securities in pursuance of such offer or agreement

as if the authority conferred hereby had not expired.

(d) In accordance with section 23(10) of the 1983 Act, the application of sub-sections (1), (7) and (8) of that section 23 is excluded in relation to the allotment by the Company of equity securities (as defined by sub-section (13) of that section 23).

3.3 **Purchase of Own Shares:** Subject to and in accordance with the provisions of the Acts, the Company may purchase its own shares (including any redeemable shares).

3.4 **Redeemable Shares:** Subject to the provisions of and in accordance with the Acts the Company may:

(a) issue any shares on terms that they are to be redeemed or are liable to be redeemed at the option of the Company on such terms and in such manner as may be provided by these Articles;

(b) convert any of its shares into redeemable shares which are to be redeemed or are liable to be redeemed at the option of the Company on such terms and in such manner as may be provided by these Articles;

(c) cancel any shares purchased or redeemed pursuant to these articles or hold them as treasury shares, with liberty to re-issue any such shares as shares of any class or classes.

3.5 **Financial Assistance:** The Company may give any form of financial assistance which is permitted by the Acts for the purpose of or in connection with a purchase or subscription made or to be made by any person of or for any shares in the Company or in the Company's holding company and regulation 10 of Part I of Table A is modified accordingly in its application to the Company.

4. TRANSFER OF SHARES

4.1 **Execution of Stock Transfer:** The instrument of transfer of a fully paid up share need not be signed by or on behalf of the transferee and regulation 22 of Part I of Table A is modified accordingly in its application to the Company.

4.2 **Directors' Discretion:** The directors may, in their absolute discretion, and without assigning any reason for doing so, decline to register any transfer of any share, whether or not it is a fully paid share. Regulation 3 of Part II of Table A is modified accordingly in its application to the Company.

5. GENERAL MEETINGS

5.1 **Location:** Annual general meetings shall be held in Ireland unless in respect of any particular meeting either all the members entitled to attend and vote at such meeting consent in writing to its being held elsewhere or a resolution providing that it be held elsewhere has been passed at the preceding annual general meeting. Extraordinary general meetings may be held in or outside Ireland. Regulation 47 of Part I of Table A will not apply and regulation 50 will be construed as if the words "within the State" were deleted there from.

5.2 **Auditors' Requisition:** An extraordinary general meeting shall be convened upon the requisition of the Auditors under the circumstances described in section 186 of the 1990 Act, as well as upon the requisition described in regulation 50 of Part I of Table A

6. PROCEEDINGS AT GENERAL MEETINGS

6.1 **Chairman:** The chairman, if any, of the directors shall preside as chairman at every general meeting of the Company, or if there is no such chairman, or if he is not present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the directors present shall elect one of their number to be chairman of the meeting. When there is an equality of votes, the chairman of the meeting shall not be entitled to a second or casting vote.

6.2 **Delivery of Proxies:** The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority shall be deposited at the office or at such other place within the State as is specified for that purpose in the notice convening the meeting, before the commencement of the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, before the commencement of the taking of the poll and, in default, the instrument of proxy shall not be treated as valid.

6.3 **Poll:** A poll may be demanded at any general meeting by any member present in person or by proxy who is entitled to vote thereat and regulation 59 of Part I of Table A is modified accordingly in its application to the Company.

7. VOTES OF MEMBERS

No Votes for Certain Shares: For so long as:

- (a) the Company holds shares as treasury shares; or
- (b) any subsidiary of the Company holds shares in the Company

the Company or the subsidiary as the case may be shall not exercise any voting rights in respect of the shares and regulations 63 to 73 of Part I of Table A are modified accordingly in their application to the Company.

8. MEMBERS' WRITTEN RESOLUTIONS

A resolution in writing made pursuant to regulation 6 of Part II of Table A may consist of one document or two or more documents to the same effect each signed by one or more members.

9. SINGLE-MEMBER COMPANY

9.1 **Single Member Status:** If at any time the Company has only one member, that is to say that all the issued shares of the Company are registered in the name of a single person, it will be a single-member company within the meaning of the Single-Member Company Regulations.

9.2 **Applicable Provisions:** If and so long as the Company is a single-member company, the following provisions of this Article 9 will apply notwithstanding anything to the contrary in these Articles or Table A.

9.3 **Annual General Meetings:** The sole member may decide to dispense with the holding of annual general meetings. Such decision will be effective for the year in which it is made and subsequent years, but nevertheless the sole member or the Auditors may require the holding of an annual general meeting in any such year in

accordance with the procedure laid down in the Single-Member Company Regulations.

- 9.4 **Accounts & Associated Reports:** Where a decision to dispense with the holding of annual general meetings is in force, the accounts and the directors' and Auditors' reports that would otherwise be laid before an annual general meeting shall be sent to the sole member as provided in the Single-Member Company Regulations, and the provisions of the Acts with regard to the annual return and the accounts which apply by reference to the date of the annual general meeting will be construed as provided in the Single-Member Company Regulations.
- 9.5 **Quorum at General Meetings:** The sole member, present in person or by proxy, is a sufficient quorum at a general meeting.
- 9.6 **Resolutions of Shareholders:** All matters requiring a resolution of the Company in general meeting (except the removal of the Auditors from office) may be validly dealt with by a decision of the sole member. The sole member must provide the Company with a written record of any such decision or, if it is dealt with by a written resolution under regulation 6 of Part II of Table A, with a copy of that resolution, and the decision or resolution shall be recorded and retained by the Company.

10. DIRECTORS

Board of Directors

10.1 **Board of Directors:** The Company shall have nine directors, appointed as follows: -

- a. The President for the time being of UCC (the "President of UCC") shall have the right at any time and from time to time to appoint up to six persons as directors of the Company (each hereinafter called a "UCC Nominee") at least 3 of whom shall be external to the University and 3 of whom shall be University Officers. At least 1 University Officer shall be an academic staff member
The President of UCC Students Union may propose external directors to the President of UCC. Such proposals may be accepted or rejected by the President of UCC at his/her absolute discretion. Each UCC Nominee shall hold office until he is removed by Notice in writing from the President of UCC to the secretary of the Company or dies or vacates office and neither the Company in General Meeting or the directors shall have the power to fill any such vacancy which shall at all times be filled by nomination by the President of UCC;
- b. The President for the time being of the UCC Students Union (the "S.U. President") shall have the right at any time and from time to time to appoint up to 3 persons, (each of whom shall be a full time officer of the UCC Students Union) as directors of the Company (each hereinafter called a "S.U. Nominee"). Subject as aforesaid each S.U. Nominee shall hold office for a period of one year from the 30th June in each year . In the event of the death of any S.U. Nominee or his vacating office neither the Company in General Meeting or the directors shall have the power to fill any such vacancy which shall at all times be filled by nomination by the S.U. President ;

- c. A person who, following his appointment as Director of the Company shall act as Chairperson of the Board of Directors, shall be appointed by the President of

UCC following consultation with the S.U. President. The Chairperson shall hold office for a period of three years. The Chairperson may be removed by Notice in writing from the President of UCC (following consultation with the S.U. President) to the secretary of the Company. If the Chair is removed or dies or vacates office, neither the Company in General Meeting or the directors shall have the power to fill any such vacancy which shall at all times be filled by nomination by the President of UCC following consultation with the S.U. President.

At the end of a three-year period as Chair, the Chairperson may be extended as either Chairperson or as a Director for a further three-year period at the end of which no further extension to either role shall be possible.;

- 10.2 No Rotation: The directors will not retire at the first annual general meeting or by rotation, or require to be re-elected in general meeting following appointment. Regulations 92 to 100 inclusive of Part I of Table A are excluded in their entirety and shall not apply to the Company.
- 10.3 No Share Qualification: A director or alternate director will not be required to hold any shares in the Company by way of qualification, and regulation 77 of Part I of Table A will not apply.
- 10.4 Executive Directors: The directors shall not have the right to appoint one or more of themselves to be managing director or any other category of executive director of the Company. Regulations 110 and 112 inclusive of Part I of Table A are excluded in their entirety and shall not apply to the Company.
- 10.5 Alternate Directors:
- (a) Any director who is a UCC Nominee may from time to time appoint any person approved by the President of UCC to be his alternate and may at any time revoke any such appointment.
 - (b) Any director who is an S.U. Nominee may from time to time appoint any person approved by the S.U. President to be his alternate and may at any time revoke any such appointment.
 - (c) The Chairperson of the directors may from time to time appoint any person approved by the President of UCC, following consultation with the S.U. President, to be his alternate and may at any time revoke any such appointment.
 - (d) An alternate director shall be entitled to attend and vote at any meeting of the directors at which the appointor is not personally present and, in the absence of the appointor, to exercise all the powers, rights, duties and authorities of the appointor as a director including (without limitation) with regard to the signing or countersigning of instruments to which the seal of the Company is affixed, but excluding the right to appoint an alternate.

- (e) A person may act as an alternate for more than one director and while he is so acting will be entitled to a separate vote for each director he is representing and, if he is himself a director, his vote as an alternate will be in addition to his own vote. An alternate will be counted for the purpose of reckoning whether a quorum is present at any meeting attended by him at which he is entitled to vote.
- (f) An alternate director shall not be entitled to be remunerated otherwise than out of the fees (if any) of the appointor.
- (g) An appointment of an alternate director or revocation of any such appointment shall be effected by notice in writing given by the appointor to the Secretary.
- (h) An alternate director's appointment will terminate if for any reason the appointor ceases to be a director.
- (i) Regulation 9 of Part II of Table A will not apply to the Company.

10.6 Disqualification of Directors: The office of director shall be vacated if the director:

The office of a Director shall be vacated if the Director:

- (a) is adjudged bankrupt in any part of the world, or makes any arrangement or composition with his or her creditors generally;
- (b) is prohibited from being a director by any order made under any provision of the Acts, or is made the subject of a declaration under section 150 of the 1990 Act;
- (c) becomes unsound of mind;
- (d) resigns his office by notice in writing to the Company;
- (e) is absent from meetings of the directors for six successive months without leave, and his alternate director (if any) shall not during such period have attended in his stead;
- (f) is convicted of an indictable offence, and the directors resolve that his office be vacated; or
- (g) is removed from office by a resolution duly passed pursuant to Section 182 of the Act, or under any provision of these Articles;

and regulation 91 of Part I of Table A shall not apply to the Company.

11. POWERS AND DUTIES OF DIRECTORS

- 11.1 Powers to Borrow and Grant Security:** The directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital or any part thereof and, subject to section 69 of the Companies Act 2014 Act, to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party. Regulation 79 of Part I of Table A will not apply to the Company.
- 11.2 Interests in Contracts:** The obligations of a director to disclose the nature of his interest in any contract or proposed contract with the Company will apply equally to any shadow director who shall declare his interest in the manner prescribed by section 231 of the 2014 Act.
- 11.3 Directors' Contracts:** No contract will be entered into by the Company for the employment of: or the provision of services by, a director or a director of a holding company of the Company containing a term to which section 235 of the 2014 Act applies without obtaining the approval provided for in that section, and regulation 85 of Part I of Table A is modified accordingly in its application to the Company.

12. PROCEEDINGS OF DIRECTORS

- 12.1 Quorum:** The quorum necessary for the transaction of the business of the directors shall be three who shall comprise a UCC Nominee, an S.U. Nominee and the Chairperson of the directors and Regulation 102 of Part I of Table A shall not apply to the Company.
- 12.2 Casting Vote:** Where there is an equality of votes in relation to a question arising at any meeting, the Chairperson of the directors shall have a second or casting vote.
- 12.3 Written Resolutions:** A resolution in writing signed by all of the directors shall be as valid as if it had been passed at a meeting of the directors duly convened and held and may consist of several documents in the like form each signed by one or more directors. Regulation 109 of Part I of Table A shall not apply to the Company.
- 12.4 Meetings of Directors:** The directors shall meet not less than four times annually but may meet more frequently as required and Regulation 101 of Part I of Table A is modified accordingly in its application to the Company.
- 12.5 Board Meetings by Telephone:**
- (a) For the purposes of these Articles, the contemporaneous linking together by telephone or other means of audio communication, in a manner contemplated by this Article, of a number of directors not less than the quorum shall be deemed to constitute a meeting of the

directors, and all the provisions in these Articles as to meetings of the directors shall apply to such meetings **provided that:**

- (i) each of the directors taking part in the meeting must be able speak, be heard and to hear each of the other directors taking part;
- (ii) at the commencement of the meeting each director must acknowledge his presence and that he accepts that the conversation shall be deemed to be a meeting of the directors; and
- (iii) a director may not cease to take part in the meeting by disconnecting his telephone or other means of communication unless he has previously obtained the express consent of the chairman of the meeting, and a director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he has previously obtained the express consent of the chairman of the meeting to leave the meeting as aforesaid.

- (b) A minute of the proceedings at such meeting by telephone or other means of communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairman of the meeting.

12.6 Committees of Directors: The meetings and proceedings of any committee formed by the directors will be governed by the provisions of these articles regulating the meetings and proceedings of directors so far as the same are applicable and are not superseded by any regulations imposed on such committee by the directors.

13. ACCOUNTS

The Company will comply with the provisions of the Acts and all other relevant legislation with regard to accounts, and regulations 125 to 129 (inclusive) of Part I of Table A are modified accordingly in their application to the Company.

14. CAPITALISATION OF PROFITS

The reference in regulation 130 to section 64 of the Act will be construed as a reference to section 207 of the 1990 Act.

15. AUDITORS

The Auditors will be appointed and removed and their rights and duties regulated in accordance with the Acts. The Auditors will be entitled to attend any general meeting and to receive all notices of and other communications relating to, any general meeting which any member is entitled to receive, and

to be heard on any part of the business which concerns them as auditors. Regulation 132 of Part I of Table A will not apply.

16. NOTICES

A notice to be given by the Company to any person entitled to receive it (the "addressee") shall be in writing and may be given to the addressee personally, delivered or posted (properly addressed and prepaid) to his registered address or transmitted by electronic mail to any electronic mail address, or by facsimile machine to any facsimile machine number, which the addressee may have furnished to the Company for the purpose. A notice given in a manner referred to in this Article will be deemed to be given as follows:

- (a) if given to the addressee personally or delivered, when so given or delivered;
- (b) if posted, in the case of the notice of a meeting, 24 hours after posting or, in any other case, at the time at which the letter would be delivered in the ordinary course of post;
- (c) if transmitted by electronic mail, six hours after sending, (provided that if the sender receives notification that the transmission has not been successful, then it shall not be deemed to have been delivered); and
- (d) if transmitted by telecopier, when so transmitted provided the correct code or telecopier number is received on the transmission report.

Regulation 133 of Table A will not apply.

17. INDEMNITY

Subject to the Acts, every director, managing director, agent, auditor, secretary and other officer for the time being of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal in relation to his acts while acting in such office, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 391 of the Act in which relief is granted to him by the court. Regulation 138 of Part I of Table A will not apply.