

Company No· 07181701

The Companies Act 2006

Company limited by guarantee
and not having a Share Capital

ARTICLES OF ASSOCIATION

of

HIGH PERFORMANCE COMPUTING WALES

ARTICLES AS AMENDED ON 12 NOVEMBER 2013

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COMPANIES HOUSE

1. **PRELIMINARY**

The model articles contained Schedule 2 to the Companies (Model Articles) Regulations 2008 in force at the time of adoption of these Articles shall not apply to the Company and these Articles alone shall constitute the Articles of the Company

2. **INTERPRETATION**

2.1 In these Articles, unless the context otherwise requires:

Act	the Companies Act 2006 including any statutory modification or reenactment thereof for the time being in force
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Board	the Board of management of the Company comprised of the members of the Board
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Board Member	a person duly appointed or elected as a member of the of the Company as provided by these Articles
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in writing	includes printing, lithography, typewriting, photography, facsimile, electronic communication (as defined in the Electronic Communications Act 2000 and to the extent lawful and valid) and other modes of representing or reproducing words in
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	permanent visible form
Member	a member of the Company
Member's Representative	A representative of a Member, appointed pursuant to Article 7 4 of these Articles
Regulations	regulations, procedures, policies or other rules made from time to time by the Board pursuant to these Articles
Secretary	The Secretary to the Company appointed in accordance with Article 16 of these Articles
these Articles	these Articles of Association of the Company from time to time in force
Company	The company limited by guarantee known as High Performance Computing Wales

2.2 Words importing the singular number only shall include the plural, and vice versa

2.3 Subject as aforesaid, and unless the context otherwise requires, words and expressions defined in the Act shall bear the same meanings in these Articles

2.4 Any reference herein to the provisions of any enactment shall extend to and include any amendment or reenactment of or substitution for the same effected by any subsequent enactment

3 **LIABILITY OF MEMBERS**

3.1 The liability of the Members is limited.

3.2 Every Member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up while he or she is a Member, or within one year after he or she ceases to be a Member, for payment of the debts and liabilities of the Company contracted before he or she ceases to be a Member, and of 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 £1 00

4 THE OBJECTS

The objects of the Company shall be, for the benefit of the community, to advance learning and knowledge in the field of high performance computing, and in other fields by teaching and research, and to engage in activities to promote and contribute to scientific, cultural, social, environmental and economic research and development within Wales and beyond

5 POWERS

5.1 The Company shall have the following powers which it may exercise for the purpose of or in connection with carrying out or furthering its objects

- 5 1 1 Subject to such consents as may be required by law, to borrow and raise money for the furtherance of the objects of the Company in such manner and on such security as the Company may think fit
- 5 1 2 To raise funds and to invite and receive contributions from any person or persons whatsoever by way of subscription, donation or otherwise provided that this shall be without prejudice to the ability of the Company to disclaim any gift, legacy or bequest in whole or in part in such circumstances as the Company may think fit
- 5 1 3 To lend money and give credit to, to take security for such loans or credit from, and to guarantee and become or give security for the performance of contracts and obligations by, any person or company
- 5 1 4 To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, and other negotiable, transferable, or mercantile instruments
- 5 1 5 To subscribe for either absolutely or conditionally or otherwise acquire and hold shares, stocks, debentures, debenture stock or other securities or obligations of any other company
- 5 1 6 To act as Trustee or Manager of any property, endowment, legacy, bequest or gift made to the Company to further the objects of the Company and to invest any funds as the Company may think fit subject nevertheless to such

conditions (if any) and such consents (if any) as may for the time being be imposed or required by law

- 5 1 7 To purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges and to construct, maintain and alter any buildings or erections which the Company may think necessary for the promotion of its objects
 - 5 1 8 Subject to such consents as may be required by law, to sell, let, mortgage, dispose of or turn to account all or any of the property or assets of the Company with a view to the furtherance of its objects.
 - 5 1 9 To employ and engage such staff and contractors as are necessary for the furtherance of the objects of the Company
 - 5 1 10 To make all reasonable and necessary provision for the payment of pensions and superannuation to or on behalf of employees and their widows and other dependants
 - 5 1 11 To provide indemnity insurance to cover the liability of the members of Board (or any of them) which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to the company. Provided that any such insurance shall not extend to any claim arising from any act or omission which the members of Board (or any of them) knew to be a breach of trust or breach of duty or which was committed by the members of Board (or any of them) in reckless disregard of whether it was a breach of trust or breach of duty or not
 - 5 1 12 To co-operate by whatever means with other persons, companies, institutions, bodies or associations to further the objects of the Company, including, but without limitation, by establishing with them companies, trusts, and other associations or bodies or by participating with them in joint ventures or joint working arrangements
 - 5 1 13 To establish and support or aid the establishment and support of any charitable trusts, associations or institutions and to subscribe or guarantee money for charitable purposes in any way connected with or calculated to further any of the objects of the Company
 - 5 1 14 To enter into research contracts and other contracts of any kind
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- 5 1 15 To do all or any of the things hereinbefore authorised either alone or in conjunction with any other charitable organisation, institution, society or body with which this Company is authorised to amalgamate
- 5 1 16 To pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company
- 5 1.17 To demand, charge and receive fees in respect of any of the Company's activities
- 5.1 18 To do anything incidental to the conduct of an educational institution, including founding scholarships or exhibitions, making grants and giving prizes
- 5 1 19 To do anything which may be done by a natural person, but only to the extent to which the same may lawfully be done by a company having exclusively charitable objects
- 5 1.20 To do all such other lawful things as are necessary for or ancillary to the attainment of the above objects or any of them

Provided that -

- 5 1 21 In case the Company shall take or hold any property which may be subject to any trusts, the Company shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts
- 5.1.22 The objects of the Company shall not extend to the regulation of relations between workers and employers or organisations of workers and organisations of employers
- 5 1 23 In case the Company shall take or hold any property subject to the jurisdiction of the Charity Commissioners for England and Wales, the Company shall not sell, mortgage, charge or lease the same without such authority, approval or consent as may be required by law, and as regards any such property the Board of the Company shall be chargeable for any such property that may come into their hands and shall be answerable and accountable for their own acts receipts neglects and defaults, and for the due administration of such property in the same manner and to the same extent as they would as such Board have been if no incorporation had been effected, and the incorporation of the Company shall not diminish or impair any control or authority exercisable by the Chancery Division or

the Charity Commissioners over such Board but they shall as regards any such property be subject jointly and separately to such control or authority as if the Company were not incorporated

6 APPLICATION OF PROPERTY AND INCOME

6 1 The income and property of the Company, shall be applied solely towards the promotion of the objects of the Company as set forth in this Memorandum of Association and subject to the following paragraphs no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to the Members of the Company and no member of its Board shall (except as herein expressly mentioned) 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

6 2 PROVIDED that nothing herein shall prevent the Company, for the purposes of doing anything which furthers the objects of the Company, from making payment in good faith to any Member by way of gift, grant, loan or otherwise, nor from transferring any property to any Member nor from conferring any other benefit on any Member, for so long as such Member is a charity

6.3 AND FURTHER PROVIDED that nothing herein shall prevent the Company from making payment in good faith

6 3 1 of interest on money lent by any Member at a reasonable commercial rate or by a Board Member at a reasonable rate per annum, in which latter case the rate shall not exceed 2 per cent less than the base lending rate for the time being prescribed by the Company's bankers or 2% whichever is the greater,

6 3 2 of reasonable and proper out-of-pocket expenses incurred by a Board Member in connection with his or her attendance to any matter affecting the Company,

6 3 3 of reasonable and proper rent for premises demised or let by any Member or any Board Member,

6 3 4 of fees remuneration or other benefit in money or moneys worth to any Company of which a Board Member may also be a member holding not more than 1/100th part of the capital, and

6 3 5 of any premium in respect of any indemnity insurance to cover the liability (including in respect of legal and other professional fees) of the Members of Board (or any of them) which by virtue of any rule of law would otherwise attach to them in respect of any negligence default breach of trust or breach of duty of which they may be guilty in relation to the Company Provided that any such insurance shall not extend so as to cover any Board Member against the consequences of his or her own fraud or deliberate or reckless wrongdoing nor from having to repay to the Company any sums which he or she had wrongfully received from the Company, and it shall be lawful for Members of Board to consider and vote upon proposals for the Company to take out such insurance,

6 3 6 to any Member for services rendered to the Company at a reasonable rate and such Member shall be reimbursed for expenses properly incurred on behalf of the Company,

6 3 7 to any member of the Board of any sum or benefit which it is lawful for a Charity from time to time to pay or to provide to one of its trustees

PROVIDED ALWAYS in each case that no such person shall be entitled to vote upon any resolution relating to any payment to nor benefit conferred upon himself or herself nor to the conditions of his or her employment by the Company,

7 THE MEMBERS

7.1 The Members of the Company are the following institutions

Aberystwyth University

Bangor University

The University of Glamorgan

Cardiff University

Swansea University

The University of Wales

7 2 The Members may by unanimous decision admit other institutions to be Members

7 3 A Member may not withdraw from membership of the Company until after the fourth anniversary of the date of incorporation of the Company, following which a

Member may give not less than twelve calendar months notice in writing to the Secretary of its intention so to withdraw and upon the expiration of such notice it shall cease to be a Member.

- 7 4 Each Member shall, by notice in writing to the Secretary, appoint an individual being a senior member of staff or of the governing body of such Member who is to be that Member's representative, for the purpose of attending any general meeting or for doing any other thing on behalf of such Member under these Articles

8 GENERAL MEETINGS

- 8 1 The Company shall in each year hold a General Meeting as its Annual General Meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it Not more than 15 months shall elapse between the date of one Annual General Meeting of the Company and that of the next The Annual General Meeting shall be held at such time and place in the United Kingdom as the Board shall determine.

- 8.2 All business transacted at a general meeting shall be deemed special except for the following business transacted at an annual general meeting consideration of income and expenditure account, balance sheet, reports of the Board and the Auditors, registration of members of the Board, appointment of, and fixing the remuneration of, Auditors

- 8.3 The Board, any Member or the Chair of the Board may call a general meeting at any time by notice in writing to the Secretary, who shall convene a meeting as soon as possible

9 NOTICE OF GENERAL MEETINGS

- 9 1 An Annual General Meeting and a meeting called for the passing of a Special Resolution shall be called by at least 21 clear days' notice in writing. All other general meetings shall be called by at least 14 clear days' notice in writing Each notice shall be inclusive both of the day on which it is served or deemed to be served and of the day for which it is given The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and shall be given to all Members, members of the Board and Auditors

- 9 2 A general meeting may also be called by shorter notice if it is so agreed in accordance with section 307 of the Act

- 9 3 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings of that meeting.

10 PROCEEDINGS AT GENERAL MEETINGS

- 10 1 The Chair or deputy Chair of the Board shall be the Chair at a general meeting, but if neither of these is present within fifteen minutes after the time appointed for holding the same, the Members present shall choose a Chair from amongst the Members' Representatives present
- 10 2 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. A quorum shall exist when there are present Members' Representatives for no less than five Members, or their proxies.
- 10 3 Subject to Article 12 5 9, each Member whose Member's Representative or proxy is present at a General Meeting shall have one vote
- 10 4 Subject to Article 7.2, decisions at General Meetings shall only be carried where (1) there is a simple majority of votes in favour and (2) at least four Members vote in favour
- 10 5 Subject to the other provisions of this Article 10, proceedings at general meetings shall be as determined by the Board in Regulations from time to time

11 THE BOARD

- 11 1 Each Member shall appoint one senior member of staff to be a Board Member
- 11 2 The Members shall in General Meeting, after consultation with the Welsh Ministers, appoint one Board Member to be the Chair of the Board. Such person shall be someone who has suitable skills and experience but, unless the Members shall unanimously agree otherwise, shall not be an employee of, a student of nor a member of the governing body of any Member
- 11 3 The Members in General Meeting may appoint further members of the Board. Such person shall have suitable skills and experience but, unless the Members shall unanimously agree otherwise, shall not be employees of, students at nor members of the governing bodies of any Member. The maximum number of members of the Board appointed under this Article 11 3 shall be determined by the Company in

General Meeting, but unless and until so fixed there shall be no maximum number and the minimum number of members of the Board shall be two

11.4 The members of the Board shall be paid all reasonable out of pocket expenses properly incurred by them in attending and returning from meetings of the Board or any committee of the Board or General Meetings of the Company or in connection with the business of the Company

11.5 No defect in the qualification, appointment, election or continuance in office of any Board Member shall invalidate any proceedings or decision of the Board or of any Committee in which he or she participated, except for any proceedings or decision of the Board in relation to a matter coming under Article 6 from which he or she benefited, unless it can be established that any decision of the Board would have been the same had he or she not participated in it or proceedings relating to it.

12. **TENURE OF OFFICE OF MEMBERS OF THE BOARD**

12.1 Board Members appointed under Article 11.1 shall serve unless and until he or she is removed from office or replaced by the member which appointed him or her and provided that he or she remains eligible in accordance with the other provisions of this **Article 12**

12.2 The term of office of any Board Member appointed under Article 11.2 or 11.3 shall be for three years

12.3 Any Board Member shall be eligible to be reappointed as long as that Board Member is still eligible in accordance with this **Article 12**

12.4 No person shall be eligible for appointment as a Board Member if, on the date of the appointment taking effect, the person in question is under the age of 18

12.5 A Board Member shall, cease to be a Board Member if he or she

12.5.1 being appointed under Article 11.1 is removed from office by the Member which appointed him or her giving written notice to the Secretary

12.5.2 resigns his or her office as Board Member by one month's notice in writing to the Secretary, such resignation being effective from the date of receipt of the notice or date of resignation specified therein whichever shall be the later,

12.5.3 becomes a patient as defined in the Mental Health Act 1983,

- 12 5 4 becomes bankrupt or makes any arrangement or composition with his or her creditors generally,
 - 12 5 5 in the case of a Board Member appointed under Article 11 2 or Article 11 3 becomes an employee of or student at or member of the governing body of any Member provided that this Article 12 5 5 shall not apply to the extent that the Members were aware of and unanimously agreed to the Board Member being an employee of or student at or member of the governing body of any Member as at the date of appointment pursuant to Article 11.2 or Article 11 3,
 - 12 5 6 absents himself or herself from attendance at meetings of the Board continuously for a period of twelve months without special leave of absence from the Board, and the Board passes a resolution that he or she has by reason of such absence vacated office,
 - 12 5 7 is unable or unfit to discharge the functions of a Board Member, and the Board passes a resolution that he or she is, by reason of being unable or unfit to discharge the functions of a Board Member, removed from office,
 - 12.5.8 is the subject of any disqualification order made under the Company Directors Disqualification Act 1986 or is otherwise prohibited by law from acting as a director of a company or trustee of a charity,
 - 12 5 9 is removed from office by resolution duly passed pursuant to Section 168 of the Act PROVIDED THAT, in the case of such a resolution seeking to remove from office a Board Member appointed under Article 11 1, the Member which appointed such Board Member shall be entitled to the same number of votes as there are Members
- 12 6 A Board Member appointed or elected to fill a casual vacancy shall hold office only for the unexpired term of office of the Board Member in whose place he or she is appointed or elected
- 12 7 A Board Member may appoint another Board Member to be his or her alternate and to vote on his her or her behalf at a meeting of the Board. Each Member shall, at the same time as it appoints a Board Member under Article 11 1 notify the Secretary of an individual who shall be another senior member of the staff of such Member who shall be entitled to act as an alternate for the Board Member appointed by such Member A Member may change the identity of the person so nominated by no less

than fourteen days' notice to the Secretary. No person may act as an alternate for a Board Member save for a person appointed or nominated under this Article 12.7

13 POWERS AND DUTIES OF THE BOARD

13.1 The Board has responsibility for the entire control and management of the Company

13.2 Subject to the other provisions of these Articles, the Board may create, dissolve and set terms of reference for such committees of the Board as it sees fit, which may include persons who are not members of the Board

13.3 Subject to **Article 13.4** and to any other restrictions on delegation imposed by these Articles or by law, the Board may delegate to any committee of the Board, to the Chair of the Board or of any committee thereof to the Secretary or to any employee of the Company, and on such terms and conditions as it shall from time to time think fit, the exercise of all or any of the powers and duties conferred upon it by these Articles

13.4 The Board shall not delegate any matter relating to:

13.4.1 the approval of the annual estimates of income and expenditure of the Company;

13.4.2 ensuring the solvency of the Company and ensuring the safeguarding of its assets,

13.4.3 the recommendation of the annual accounts to the Company in General Meeting and all matters referred to in **Article 17.2**,

13.4.4 making recommendations to the Company in General Meeting for the approval, revoking, amendment or variation of these Articles or any of them;

13.4.5 the approval, revoking, amendment or variation of the Regulations or any of them,

13.4.6 the termination of the membership of any Member or Board Member, or

13.4.7 any act or thing which under or by law cannot be delegated

13.5 The Board shall not delegate to any person who is not a Board Member or to any body or committee that does not consist of a majority of members of the Board the authorisation of expenditure of any moneys or the disposal of any assets of the

Company except in accordance with such Procedures and within such limits as the Board deems reasonably necessary for the proper performance by such person or body of the functions assigned to that person or body and notified to them accordingly

14 PROCEEDINGS OF THE BOARD

- 14 1 The quorum for meetings of the Board shall be 5 Board Members appointed by the Members under Article 11 1 No business shall be transacted at any meeting of the Board unless a quorum is present
- 14 2 If the Chair is absent or unable or unwilling to preside at a meeting of the Board, the members of the Board present may appoint another Board Member to chair the meeting
- 14 3 If no quorum is present within half an hour of the time for which the meeting was called, the meeting shall be cancelled If a quorum ceases to be present at any time during the meeting, the meeting shall be adjourned
- 14 4 Each Board Member (or his or her alternate) shall have one vote, save for the Chair, who shall be entitled only to a casting vote in the event of a deadlock.
- 14 5 Decisions at Board meetings shall only be carried where (1) there is a simple majority of votes in favour and (2) at least four Board Members appointed under Article 11 1 or their alternates vote in favour
- 14 6 The Welsh Ministers may appoint an observer to attend Board meetings.
- 14 7 Subject to the above, proceedings of the Board shall be as determined by the Board in Regulations from time to time.

15 INTERESTS OF MEMBERS OF THE BOARD AND CODE OF CONDUCT

- 15 1 A Board Member shall declare any pecuniary, personal or family interest in any matter under discussion and shall take no part in the consideration of any such matter in which he or she shall have any such interest and shall not vote thereon and shall (unless invited to remain) withdraw during the course of discussion, other than where proposals for the insurance of members of the Board against liabilities are being discussed If necessary, the Chair or in his or her absence or where the matter relates to the Chair's interests, the remaining members of the Board shall determine the matter by simple majority

15 2 The Board shall maintain, publish and keep under review a code of conduct for members of the Board. The code of conduct shall (without limitation and without prejudice to Article 15 3 or any Regulations made under it) include provisions for securing that the governance of the Company and the proceedings of the Board are conducted in accordance with the law, with integrity and in an accountable manner, and that any conflicts of interest are identified, and appropriately dealt with. Each Board Member shall adhere to the code of conduct.

15 3 The Board shall make such Regulations relating to conflicts of interest or other matters contained in the code of conduct as it determines from time to time.

16. **THE SECRETARY**

The Board shall appoint a Secretary to the Board, who shall act as Secretary of the Company, and may suspend or remove such person from that appointment. If required, the Board may from time to time appoint an assistant Secretary or Secretaries to act in the absence of the Secretary and may suspend or remove such person or persons from that appointment.

17 **ACCOUNTS AND FINANCIAL PROCEDURES**

17.1 Matters relating to Accounts and financial procedures shall be as set out by the Board in Regulations from time to time.

17.2 The Board shall from time to time in accordance with the Act, and as otherwise required by these Articles or the Regulations, cause to be prepared and to be laid before the Company in General Meeting such income and expenditure accounts, balance sheets, cash flow statements, group accounts (if any) and reports as are referred to in the Act, these Articles or the Regulations.

18 **AUDITORS**

Auditors shall be appointed and their duties regulated in accordance with the Act, these Articles and the Regulations.

19 **REGULATIONS**

19 1 The Board shall have power to make Regulations concerning such matters with regard to the government and conduct of the Company as it shall think fit. Any specific provision of these Articles which requires the Board or gives the Board the power to make Regulations in relation to particular matters or in particular circumstances shall be without prejudice to the general power of the Board to make

Regulations, whether relating to such particular matters or circumstances or otherwise Provided that no Regulation shall have effect if and to the extent that it is inconsistent with the Articles of Association of the Company, or

- 19 2 Save as provided in this Article, every Regulation made by the Board shall have effect as if the same was contained in these Articles save that they may at any time or times be revoked or varied by the Board in like manner as they may be made

20 **DISSOLUTION**

If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever then that property shall not be paid to or distributed among the members of the Company but shall be given or transferred to such other charitable institution or institutions in Wales as the Members shall decide, having objects in regard to Higher Education similar to the 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 is imposed on the Company