



**THE COMPANIES ACT 2006**

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

**ARTICLES OF ASSOCIATION**

**of**

**STRONSAY DEVELOPMENT TRUST**

**Company Number SC271553**

**(adopted by special resolution passed on 26 February 2014)**

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**Constitution of company**

- 1 The model articles of association as prescribed in Schedule 2 to The Companies (Model Articles) Regulations 2008 are excluded in respect of this company.

**Defined terms and interpretation**

- 2 In these articles of association, unless the context requires otherwise:
- 2.1 "Act" means The Companies Act 2006;

- 2.2 “charity” means a body which is either a “Scottish charity” within the meaning of section 13 of The Charities and Trustee Investment (Scotland) Act 2005 or a “charity” within the meaning of section 1 of The Charities Act 2011, providing (in either case) that its objects are limited to charitable purposes;
  - 2.3 the expression “charitable” shall mean a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of sections 505 and 506 of the Income and Corporation Taxes Act 1988
  - 2.4 “charitable purpose” means a charitable purpose under section 7 of The Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;
  - 2.5 “community body” means a community body within the meaning of section 34 of the Land Reform (Scotland) Act 2003;
  - 2.6 “crofting community body” means a crofting community body within the meaning of section 71 of the Land Reform (Scotland) Act 2003;
  - 2.7 “electronic form” has the meaning given in section 1168 of the Act;
  - 2.8 “OSCR” means the Office of the Scottish Charity Regulator;
  - 2.9 “property” means any property, heritable or moveable, real or personal, wherever situated;
  - 2.10 “subsidiary” has the meaning given in section 1159 of the Act; and
  - 2.11 “sustainable development” means development which meets the needs of the present without compromising the ability of future generations to meet their own needs.
- 3 Any reference to a provision of any legislation (including any statutory instrument) shall include any statutory modification or re-enactment of that provision in force from time to time.

## **Objects**

- 4 The company has been formed to benefit the community of Stronsay which comprises the following postcodes: KW172AG, KW172AF, KW172AR, KW172AJ, KW172AN, KW172AT, KW172AS, KW172AE (“**the Community**”) with the following objects:
- 4.1 To provide recreational facilities and organise recreational activities, with the object of improving the conditions of life for members of the Community.
  - 4.2 To advance education through:
    - 4.2.1 the provision and supervision of learning-orientated extra-curricular activities for school and pre-school children;

- 4.2.2 the promotion of opportunities for learning for the benefit of the general public; and
- 4.2.3 the promotion of training, particularly among residents of the Community, and with particular reference to skills which assist the participants in obtaining paid employment.
- 4.3 To advance the arts, heritage and culture.
- 4.4 To advance environmental protection and improvement through the provision, maintenance and/or improvement of public open space and other public amenities and other environmental and regeneration projects (but subject to appropriate safeguards to ensure that the public benefits so arising clearly outweigh any private benefit thereby conferred on private landowners).
- 4.5 To provide, or assist in the provision of, housing for those in need by reason of age, ill-health, disability, financial hardship or other disadvantage within the Community.
- 4.6 To prevent and relieve poverty particularly among the residents of the Community.
- 4.7 To advance citizenship within the Community by encouraging, stimulating and supporting volunteering projects.
- 4.8 To preserve, for the benefit of the general public, the historical, architectural and constructional heritage that may exist in and around the Community in buildings (including any structure or erection, and any part of a building as so defined) of particular beauty or historical, architectural or constructional interest.
- 4.9 To advance the health and wellbeing of the residents of the Community and to prevent or relieve ill-health among residents of the Community and provision of health education for such residents.
- 4.10 To promote, establish, operate and/or support other similar schemes which are in furtherance of charitable purposes for the benefit of the residents of the Community.
- 5 The company's objects are restricted to those set out in article 4 (but subject to article 6).
- 6 The company may (subject to first obtaining the consent of OSCR) add to, remove or alter the statement of the company's objects in article 4; on any occasion when it does so, it must give notice to the registrar of companies and the amendment will not be effective until that notice is registered on the register of companies.

## **Powers**

- 7 In pursuance of the objects listed in article 4 (but not otherwise) the company shall have the following powers:

- 7.1 To manage community land and associated assets for the benefit of the Community and the public in general as an important part of the protection and sustainable development of Scotland's natural environment.
- 7.2 To establish, maintain, develop and/or operate a centre or centres providing facilities for childcare, community learning, healthy living initiatives, educational and cultural activities, training activities, leisure pursuits and accommodation for community groups, and for public sector agencies which provide services of benefit to the Community, and which may include refreshment facilities.
- 7.3 To advise in relation to, prepare, organise, conduct and/or support training courses, educational and training events and activities of all kinds.
- 7.4 To design, prepare, publish and/or distribute information packs, leaflets, books, newsletters, magazines, posters and other publications, audio visual recordings, multimedia products and display materials, and to create and maintain a website or websites.
- 7.5 To promote, operate, co-ordinate, monitor, and/or support other projects and programmes (which may include workspace projects) which further the aims of the company.
- 7.6 To provide information, advisory support and/or consultancy services which further the aims of the company.
- 7.7 To liaise with local authorities, central government authorities and agencies, local enterprise companies, charitable/community benefit bodies and others, all with a view to furthering the aims of the company.
- 7.8 To carry on any further activities which further any of the above objects.
- 7.9 To promote companies whose activities may further one or more of the above objects, or may generate income to support the activities of the company, acquire and hold shares in such companies and carry out, in relation to any such company which is a subsidiary of the company, all such functions as may be associated with a holding company.
- 7.10 To acquire and take over the whole or any part of the undertaking and liabilities of any body holding property or rights which are suitable for the company's activities.
- 7.11 To purchase, take on lease, hire or otherwise acquire, any property or rights which are suitable for the company's activities.
- 7.12 To register any interest in land and to exercise the right to buy under the provisions of Part 2 of the Land Reform (Scotland) Act 2003 (including any statutory amendment or re-enactment of those provisions which may be in force from time to time).
- 7.13 To improve, manage, develop, or otherwise deal with, all or any part of the property and rights of the company.

- 7.14 To sell, let, hire out, license, or otherwise dispose of, all or any part of the property and rights of the company.
- 7.15 To lend money and give credit (with or without security) and to grant guarantees and issue indemnities.
- 7.16 To borrow money, and to give security in support of any such borrowings by the company, in support of any obligations undertaken by the company or in support of any guarantee issued by the company.
- 7.17 To employ such staff as are considered appropriate for the proper conduct of the company's activities, and to make reasonable provision for the payment of pension and/or other benefits for members of staff, ex-members of staff and their dependants.
- 7.18 To engage such consultants and advisers as are considered appropriate from time to time.
- 7.19 To effect insurance of all kinds (which may include officers' liability insurance).
- 7.20 To invest any funds which are not immediately required for the company's activities in such investments as may be considered appropriate (and to dispose of, and vary, such investments).
- 7.21 To liaise with other voluntary sector bodies, local authorities, UK or Scottish government departments and agencies, and other bodies, all with a view to furthering the company's objects.
- 7.22 To establish and/or support any other charitable body, and to make donations for any charitable purpose falling within the company's objects.
- 7.23 To take such steps as may be deemed appropriate for the purpose of raising funds for the company's activities.
- 7.24 To accept grants, donations and legacies of all kinds (and to accept any reasonable conditions attaching to them).
- 7.25 To oppose, or object to, any applications or proceedings which may prejudice the company's interests.
- 7.26 To enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of the company, and to enter into any arrangement for co-operation or mutual assistance with any charitable body.
- 7.27 To do anything which may be incidental or conducive to the attainment of any of the objects of the company.

## **Restrictions on use of the company's assets**

- 8 The income and property of the company shall be applied solely towards promoting the company's objects (as set out in article 7) and in particular (but without limiting the generality of that provision) any surplus funds or assets of the company must be applied for the benefit of the Community.
- 9 No part of the income or property of the company shall be paid or transferred (directly or indirectly) to the members of the company, whether by way of dividend, bonus or otherwise (but such that the company may make any payment to any individual who is a member of the company, where such payment is in direct furtherance of the charitable purposes of the company).
- 10 No director of the company shall be appointed as a paid employee of the company; no director shall hold any office under the company for which a salary or fee is payable.
- 11 No benefit (whether in money or in kind) shall be given by the company to any director except:
  - 11.1 repayment of out-of-pocket expenses; or
  - 11.2 reasonable payment in return for particular services (not being of a management nature) actually rendered to the company.
  - 11.3 a payment in direct furtherance of the charitable purposes of the company.

## **Liability of members**

- 12 The liability of the members is limited.
- 13 Every member of the company undertakes to contribute such amount as may be required (not exceeding £1) to the company's assets if it should be wound up while he/she is a member or within one year after he/she ceases to be a member, for payment of the company's debts and liabilities contracted before he/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.

## **General structure**

- 14 The structure of the company consists of:
  - 14.1 the MEMBERS - who have the right to attend general meetings. The Full Members (as defined in article 19) have important powers under the articles of association and the Act; in particular, the Full Members elect people to serve as directors and take decisions in relation to changes to the articles themselves;
  - 14.2 the DIRECTORS - who hold regular meetings during the period between annual general meetings, and generally control and supervise the activities of the company; in particular, the directors are responsible for monitoring the financial position of the company.

## **Membership**

- 15 The members of the company shall comprise such individuals as are admitted to membership under the articles of association of the company in force from time to time.
- 16 Membership shall cease on death.
- 17 A member may not transfer his/her membership to any other person.

## **Categories of members**

- 18 For the purposes of these articles:
- “Full Member”** means a member admitted under article 19; **“Full Membership”** shall be construed accordingly;
- “Associate Member”** means a member admitted under article 21; **“Associate Membership”** shall be construed accordingly; and

## **Qualifications for membership**

- 19 Full Membership shall (subject to articles 15, 20 and 23) be open to any person aged 18 years or over who:
- 19.1 is ordinarily resident in the Community (as defined in article 4 above);
- 19.2 is entitled to vote at a local government election in a polling district that includes the Community or part of it; and
- 19.3 supports the aims and activities of the company.
- 20 An individual once admitted to Full Membership shall cease to be a member if he/she ceases to be eligible for full membership in terms of article 19.
- 21 Associate Membership shall (subject to articles 15 and 23) be open to:
- 21.1 any individual aged 18 years or over who is not eligible for Full Membership but wishes to support the aims and activities of the company; and
- 21.2 any individual who has been nominated for membership by a voluntary organisation wherever located which wishes to support the aims and activities of the company.
- 22 No more than one individual nominated under article 21.2 by each voluntary organisation may be a member of the company at any given time.
- 23 Employees of the company shall not be eligible for membership; a person who becomes an employee of the company after admission to membership shall automatically cease to be a member.



## **Application for membership**

- 24 Any person who wishes to become a member must sign, and lodge with the company, a written application for membership; an application for membership must be accompanied by a remittance to meet the full amount of the membership subscription applicable to the category of membership for which he/she is applying (if any); in the case of an application under article 21.2, the application must also be signed by an appropriate office bearer of the voluntary organisation which is nominating him/her for membership.
- 25 A person applying for membership shall lodge with his/her application such evidence (if any) in support of his/her application as the directors may request.
- 26 The directors may, at their discretion, refuse to admit any person to membership where they have reasonable grounds to believe that he/she might, if admitted to membership, act in a manner which would damage the reputation of the company, undermine the efficiency of its operations and/or disrupt the proper conduct of its meetings.
- 27 For the avoidance of doubt, membership cannot be restricted or withheld and members may not be expelled on the basis of gender, age, ethnic background, disability, caring responsibilities, sexual orientation, religious belief or marital status.
- 28 The directors shall, within a period of seven days after the meeting at which an application for membership is considered, notify the applicant in writing as to whether he/she has been admitted to membership (which decision has been based solely on an individual meeting the qualifications for membership as specified in article 19 or, in relation to an application for Associate Membership, articles 21 and 30); if the decision was to refuse admission in accordance with this article, the directors shall return to the applicant the remittance lodged by him/her under article 24.

## **Minimum number of members**

- 29 The minimum number of Full Members is 20.
- 30 The number of Full Members must exceed the number of Associate Members.
- 31 In the event that the number of Full Members falls below 20 or that the number of Associate Members is equal to or exceeds the number of Full Members, the directors shall not conduct any business other than to ensure the admission of sufficient Full Members to achieve the minimum number and/or to ensure that the number of Full Members exceeds the number of Associate Members.

## **Membership subscriptions**

- 32 The Full Members may, by ordinary resolution, determine the amount (if any) of the annual membership subscription for each category of membership; unless otherwise determined, there shall be no annual membership subscription.

- 33 The annual membership subscription (if any) shall be due on each accounting reference date of the company and shall (subject to articles 24 and 36) be taken to cover the period from one accounting reference date to the date falling immediately prior to the next accounting reference date.
- 34 The directors shall give to the members at least 10 days' notice of each accounting reference date; each notice shall specify the amount of the membership subscription (if any) which will be due and shall state the possible consequence (under the following article) of failure to make payment.
- 35 If the company has not received a member's annual membership subscription within 14 days after the accounting reference date on which it fell due, the directors may by resolution expel that person from membership; if, however, proper notice under article 34 was not given, a member shall not be liable to be expelled under this article unless he/she fails to pay the subscription within 24 days after notice requiring payment has been given to him/her.
- 36 A person who ceases to be a member shall not be entitled to any refund (total or partial) of the membership subscription.

### **Register of members**

- 37 The directors shall maintain a register of members, setting out the full name and address of each member, the category of membership into which he/she falls, the date on which he/she was admitted to membership, and the date on which any person ceased to be a member; in the case of a member who was admitted under article 21.2, the entry against his/her name shall also include details of the voluntary organisation which nominated him/her for membership.

### **Withdrawal from membership**

- 38 Any person who wishes to withdraw from membership shall sign, and lodge with the company, a written notice to that effect; on receipt of the notice by the company, he/she shall cease to be a member.
- 39 A voluntary organisation which has nominated an individual for membership may withdraw its nomination at any time by written notice to the company to that effect; on receipt of the notice by the company, the individual in question shall automatically cease to be a member of the company.

### **Expulsion from membership**

- 40 Subject to articles 41 to 45, the company may, by special resolution, expel any individual from membership.
- 41 Any member who wishes to propose at any meeting a resolution for the expulsion of any individual from membership shall lodge with the company written notice of his/her intention to do so (identifying the member concerned and specifying the grounds for the proposed expulsion) not less than six weeks before the date of the meeting.

- 42 The company shall, on receipt of a notice under the preceding article, forthwith send a copy of the notice to the member concerned, and the member concerned shall be entitled to make written representations to the company with regard to the notice.
- 43 If representations are made to the company in pursuance of the preceding article, the company shall (unless such representations are received by the company too late for it to do so):-
- 43.1 state the fact of the representations having been made in the notice convening the meeting at which the resolution is to be proposed; and
- 43.2 send a copy of the representations to every individual to whom notice of the meeting is or was given.
- 44 Whether or not a copy of written representations has been given to each of the individuals entitled to receive notice of the meeting, the member concerned shall be entitled to be heard on the resolution at the meeting.
- 45 Failure to comply with any of the provisions of articles 41 to 44 shall render any resolution for the expulsion of an individual from membership invalid.
- 46 An individual expelled from membership under articles 40 to 44 shall cease to be a member with effect from the time at which the relevant resolution is passed; any person expelled from membership under article 40 shall not be eligible for re-admission to membership for a period of 12 months following his/her expulsion.

#### **General meetings (meetings of members)**

- 47 The directors shall convene an annual general meeting in each year.
- 48 Not more than 15 months shall elapse between one annual general meeting and the next.
- 49 The business of each annual general meeting shall include:-
- 49.1 a report by the chair on the activities of the company; and
- 49.2 the election/re-election of directors, as referred to in articles 82 to 88.
- 50 The directors must convene a general meeting if there is a valid requisition by the members (under section 303 of the Act) or a requisition by a resigning auditor (under section 518 of the Act).
- 51 Subject to the provisions of articles 47, 48 and 50, the directors may convene general meetings whenever they think fit.

#### **Notice of general meetings**

- 52 At least 14 clear days' notice of each general meeting must be given to all the members and directors, and (if auditors are in office at the time) to the auditors.

- 53 The reference to “clear days” in article 52 shall be taken to mean that, in calculating the period of notice, the day on which the notice is given and also the day of the meeting, should be excluded.
- 54 A notice calling a meeting shall specify the time, date and place of the meeting; it shall (a) indicate the general nature of any business to be dealt with at the meeting; (b) if a special resolution (see article 71) (or a resolution requiring special notice under the Act) is to be proposed, also state that fact, giving the exact terms of the resolution; and (c) contain a statement informing members of their right to appoint a proxy.
- 55 A notice convening an annual general meeting shall specify that the meeting is to be an annual general meeting.
- 56 Notice of every general meeting shall be given:
- 56.1 in hard copy form;
- 56.2 (where the individual or body to which notice is given has notified the company of an address to be used for the purpose of electronic communication) in electronic form; or
- 56.3 (subject to the company notifying members of the presence of the notice on the website, and complying with the other requirements of section 309 of the Act) by means of a website.

### **Proceedings at general meetings**

- 57 No business shall be dealt with at any general meeting unless a quorum is present; the quorum for a general meeting shall be 12 persons entitled to vote, each being a Full Member or a proxy for a Full Member; for the avoidance of doubt, no account shall be taken of the presence of any Associate Member in determining whether a quorum is present.
- 58 If the quorum required under article 57 is not present within 30 minutes after the time at which a general meeting was due to commence – or if, during a meeting, a quorum ceases to be present – the meeting shall stand adjourned to such time and place as may be fixed by the chairperson of the meeting.
- 59 The Chair of the company shall (if present and willing to act as chairperson) preside as chairperson of each general meeting; if the chair is not present and willing to act as chairperson within 30 minutes after the time at which the meeting was due to commence, the directors present at the meeting shall elect from among themselves the person who will act as chairperson of the meeting.
- 60 The Chairperson of a general meeting may, with the consent of the meeting, adjourn the meeting to such time and place as the chairperson may determine.
- 61 Full Members shall have one vote, which (whether on a show of hands or on a secret ballot) may be given either personally or by proxy; Associate Members shall not be entitled to vote.

- 62 A Full member who wishes to appoint a proxy to vote on his/her behalf at any meeting
- 62.1 shall lodge with the company, at the company's registered office, not less than 48 hours before the time for holding the meeting, a written instrument of proxy (in such form as the directors require), signed by him/her; or
- 62.2 shall send to the company at such address as may have been notified to the members by the company for that purpose, an electronic communication containing the appointment of a proxy, providing such electronic communication is received by the company at such address not less than 48 hours before the time for holding the meeting.
- 63 An instrument of proxy, or electronic communication containing the appointment of a proxy, which does not conform with provisions of article 62, or which is not lodged or sent in accordance with such provisions, shall be invalid; a member shall not be entitled to appoint more than one proxy to attend the same meeting.
- 64 A proxy need not be a member of the company.
- 65 A proxy appointed to attend and vote at any meeting instead of a member shall have the same right as the member who appointed him/her to speak at the meeting.
- 66 If there is an equal number of votes for and against any resolution, the chairperson of the meeting shall (subject to article 67) be entitled to a casting vote.
- 67 The chairperson of the meeting shall not be entitled to a casting vote unless he/she is a Full Member of the company.
- 68 A resolution put to the vote at a general meeting shall be decided on a show of hands unless a secret ballot is demanded by the chairperson (or by at least two Full Members present in person at the meeting); a secret ballot may be demanded either before the show of hands takes place, or immediately after the result of the show of hands is declared.
- 69 If a secret ballot is demanded, it shall be taken at the meeting and shall be conducted in such a manner as the chairperson may direct; the result of the ballot shall be declared at the meeting at which the ballot was demanded.
- 70 Associate Members shall be entitled to attend and speak at any general meeting.

### **Special resolutions and ordinary resolutions**

- 71 For the purposes of these articles, a "special resolution" means (but subject to articles 74 to 77) a resolution passed by 75% or more of the votes cast on the resolution at a general meeting, providing proper notice of the meeting and of the intention to propose the resolution has been given in accordance with articles 52 to 56; for the avoidance of doubt, the reference to a 75% majority relates only to the number of votes cast in favour of the resolution as compared with the number of votes cast against the resolution, and accordingly no account shall be taken of abstentions or members absent from the meeting.

- 72 In addition to the matters expressly referred to elsewhere in these articles, the provisions of the Act allow the company, by special resolution:
- 72.1 to alter its name;
  - 72.2 to alter any provision of these articles or adopt new articles of association.
- 73 For the purposes of these articles, an “ordinary resolution” means (but subject to articles 74 to 77) a resolution passed by majority vote (taking account only of those votes cast in favour as compared with those votes cast against, and (as applicable) the chairperson’s casting vote) at a general meeting, providing proper notice of the meeting has been given in accordance with articles 52 to 56.

### **Written resolutions**

- 74 A written resolution can be passed by the members of the company (having been proposed by either the members or the directors in accordance with the procedures detailed in Chapter 2 of Part 13 of the Act) and will have effect as if passed by the members of the company in general meeting; a written resolution is passed when the required majority of eligible members have signified their agreement to it by sending to the company (in hard copy or electronic form) an authenticated document which identifies the resolution to which it relates and which indicates the member’s agreement to it (agreement to which cannot thereafter be revoked).
- 75 For the purposes of the preceding article:-
- 75.1 the reference to “eligible members” is to those members who would have been entitled to vote on the resolution on the circulation date of the resolution (which is either (a) the date on which copies of the written resolution are sent or submitted to the members in accordance with the procedures detailed in Chapter 2 of Part 13 of the Act; or (b) if copies are sent or submitted to members on different days, the first of those dates);
  - 75.2 the reference to “required majority” is to the majority required to pass an ordinary or a special resolution under the Act, as follows:-
    - 75.2.1 in order to pass an ordinary resolution by way of written resolution, it must be passed (in accordance with article 74) by members representing a simple majority of the total voting rights of eligible members;
    - 75.2.2 in order to pass a special resolution by way of written resolution, it must be passed (in accordance with article 74) by members representing not less than 75% of the total voting rights of eligible members and the resolution must specifically state that it was proposed as a special resolution.
- 76 For the avoidance of doubt, a resolution to remove a director (under section 168 of the Act) or a resolution to remove an auditor (under section 510 of the Act) cannot be proposed as a written resolution under article 74.

- 77 For the purposes of article 74, a proposed written resolution will lapse if it is not passed before the end of a period of 28 days beginning with the circulation date (as defined in article 75), and the agreement of any member to a written resolution will be ineffective if signified after the expiry of that period.

### **Categories of directors**

- 78 For the purposes of these articles:

"**Elected Director**" means a director elected, re-elected or appointed under articles 82 to 88;

"**Co-opted Director**" means a director appointed or re-appointed under articles 89 to 91.

### **Number of directors**

- 79 The maximum number of directors shall be 15, of whom no more than 12 may be Elected Directors and no more than 5 may be Co-opted Directors.
- 80 The minimum number of directors shall be 7.
- 81 The Elected Directors shall at all times constitute a majority of the directors.

### **Election, retiral, re-election: Elected Directors**

- 82 Any Full Member who wishes to be considered for election as a director at an annual general meeting must lodge with the company a written notice (in such form as the directors require), confirming that he/she is willing to be appointed; the notice must be signed by him/her and must be lodged with the company at least seven days before the date of the annual general meeting.
- 83 At an annual general meeting the Full Members may (subject to articles 79 and 84) elect as a director (an "Elected Director") any Full Member who has confirmed his/her willingness to be appointed in accordance with article 82.
- 84 The procedure which must be followed in order for a Full Member to be validly elected as an Elected Director shall be as follows:
- 84.1 the election shall be conducted by way of a secret ballot at the annual general meeting, with each Full Member being entitled to one vote in respect of each candidate, which may be given either personally or by proxy;
  - 84.2 there will one ballot paper listing all candidates, and the Full Member (or his/her proxy) will have the option of voting in favour of each candidate's election, voting against the candidate's election or abstaining from voting;
  - 84.3 a candidate must receive a minimum of 51 per cent (to the nearest round number) of votes in his/her favour (taking account only of those votes cast in favour as compared with the total number of votes which are cast in relation to

- that candidate), before he/she can be taken to have been elected as an Elected Director;
- 84.4 if there are fewer candidates than vacancies, all candidates receiving in excess of 51 per cent of votes in their favour (calculated in accordance with article 84.3), shall be taken to have been elected as Elected Directors;
- 84.5 if there are more candidates than vacancies, of those who are eligible (having achieved at least 51 per cent of votes in their favour (calculated in accordance with article 84.3), the candidate with the highest number of votes in his/her favour, shall first be taken to have been elected as an Elected Director, and any remaining vacancies shall be filled based on the highest number of votes received per candidate (but excluding for the avoidance of doubt any candidate who is not eligible, through the operation of article 84.3) until all vacancies are filled;
- 84.6 in the event that for the last of the available vacancies, two or more candidates eligible under article 84.3 receive the same number of votes in favour of their election, the candidate to be elected shall be decided by some random method;
- 84.7 the results of the elections shall be declared at the meeting (and this shall include details as to any spoiled ballot papers);
- 84.8 for the avoidance of doubt, a candidate who has not achieved a minimum of 51 per cent of the votes in his/her favour (calculated in accordance with article 84.3) shall be deemed to have failed to have been elected as a director.
- 85 The directors may at any time appoint any Full Member (providing he/she is willing to act) to be a director (an “Elected Director”), either to fill a vacancy or (subject to article 79) as an additional director.
- 86 At each annual general meeting:
- 86.1 any Elected Director who was appointed by the directors (under article 85) in the period from the date of the last annual general meeting shall retire from office; and
- 86.2 out of the remaining Elected Directors, three shall retire from office.
- 87 The directors to retire under article 86.2 shall be those who have been longest in office since they were last appointed or re-appointed; if two or more directors were appointed or re-appointed on the same date, the question of which of them is to retire under article 86.2 shall be decided by some random method.
- 88 The Full Members may (subject to article 79) at any annual general meeting may re-elect any Elected Director who retires from office at the meeting under article 86 (providing he/she is willing to act); if any such Elected Director is not re-appointed, he/she shall retain office until the meeting appoints someone in his/her place or, if it does not do so, until the end of the meeting.



### **Appointment, vacating of office, re-appointment: Co-opted Directors**

- 89 Subject to article 79, the directors may at any time appoint any individual (other than an employee of the company) to be a director (“**a Co-opted Director**”) providing he/she is willing so to act, either on the basis that he/she has special skills or experience which would be of assistance to the board or on the basis that he/she has been nominated by an organisation or agency with which the company has close contact in the course of its activities.
- 90 At the conclusion of each annual general meeting, all of the Co-opted Directors shall vacate office.
- 91 Immediately following each annual general meeting, the directors may (subject to article 79) re-appoint any person who, as a Co-opted Director, vacated office under the preceding article at the conclusion of the annual general meeting; the directors may alternatively appoint someone in his/her place or resolve not to fill the vacancy.

### **Disqualification and removal of directors**

- 92 A director shall vacate office if:
- 92.1 he/she ceases to be a director by virtue of any provision of the Act or becomes prohibited by law from being a director or a charity trustee (within the meaning of the Charities and Trustee Investment (Scotland) Act 2005);
  - 92.2 he/she is sequestered;
  - 92.3 he/she becomes incapable for medical reasons of fulfilling the duties of his/her office and such incapacity is expected to continue for a period of more than 6 months;
  - 92.4 he/she becomes an employee of the company;
  - 92.5 (in the case of an Elected Director), he/she ceases to be a member of the company;
  - 92.6 he/she resigns office by notice to the company;
  - 92.7 he/she is absent for a period of more than 3 months (without permission of the directors) from meetings of directors held during that period and the directors resolve to remove him/her from office;
  - 92.8 he/she is removed from office by resolution of the directors on the grounds that he/she is considered to have committed a material breach of the code of conduct for directors in force from time to time (as referred to in article 107);
  - 92.9 he/she is removed from office by resolution of the directors on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under Section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or

92.10 he/she is removed from office by ordinary resolution (special notice having been given) in pursuance of section 168 of the Act.

93 A resolution under paragraphs 92.8 or 92.9 shall be valid only if:

93.1 the director who is the subject of the resolution is given reasonable prior written notice by the directors of the grounds upon which the resolution for his/her removal is to be proposed;

93.2 the director concerned is given the opportunity to address the meeting of directors at which the resolution is proposed, prior to the resolution being put to the vote; and

93.3 at least two-thirds (to the nearest round number) of the directors then in office vote in favour of the resolution.

### **Register of directors**

94 The directors shall maintain a register of directors, setting out full details of each director, including the date on which he/she became a director, and also specifying the date on which any person ceased to hold office as a director.

### **Office bearers**

95 The directors shall elect from among themselves a Chair and Treasurer and any other such office bearers (if any) as they consider appropriate.

96 A director shall not be eligible for appointment as the Chair or Treasurer if he/she is a Co-opted Director.

97 All of the office bearers shall cease to hold office at the conclusion of each annual general meeting, but shall then be eligible for re-election.

98 A person elected to any office shall cease to hold that office if he/she ceases to be a director, or if he/she resigns from that office by written notice to that effect.

### **Directors' interests**

99 Subject to the provisions of the Act and of the Charities and Trustee Investment (Scotland) Act 2005 and articles 8 to 11 and provided that he/she has disclosed to the directors the nature and extent of any personal interest which he/she has (unless immaterial) and has complied with the code of conduct (as referred to in article 107), a director (notwithstanding his/her office):

99.1 may be a party to, or have some other personal interest in, any transaction or arrangement with the company or any associated company;

99.2 may be a party to, or have some other personal interest in, any transaction or arrangement in which the company or any associated company has an interest;

99.3 may be a director or secretary of, or employed by, or have some other personal interest in, any associated company; and

99.4 shall not, because of his/her office, be accountable to the company for any benefit which he/she derives from any such office or employment or from any such transaction or arrangement or from any interest in any such company;

and no such transaction or arrangement shall be liable to be treated as void on the ground of any such interest or benefit.

100 For the purposes of the preceding article, an interest of which a director has no knowledge and of which it is unreasonable to expect him/her to have knowledge shall not be treated as an interest of his/hers; the references to “**associated company**” shall be interpreted as references to any subsidiary of the company or any other company in which the company has a direct or indirect interest.

101 The directors shall be entitled, for the purposes of section 175 of the Act, to authorise (by way of resolution to that effect) any Conflict Situation that may arise (such that the duty of the director concerned, under that section, to avoid conflicts of interest is not infringed) and to amend or vary any such authorisation; the directors may give such authorisation subject to such terms and conditions as they may consider appropriate and reasonable in the circumstances.

102 For the purposes of article 101, a “Conflict Situation” means any situation or matter (other than one which cannot reasonably be regarded as likely to give rise to a conflict of interest) in which any director has or could have a direct or indirect interest that conflicts, or possibly might conflict, with the interests of the company; and such that:

102.1 the situations and matters which fall within this definition may include (without limitation) (a) a situation where a director of the company becomes an employee, director, member of the management committee, officer or elected representative of a body which is a party to a significant contract with the company (or which is competing with the company in the context of any grant application) and (b) any such situation or matter which relates to the exploitation of any property, information or opportunity (irrespective of whether the company could take advantage of the property, information or opportunity);

102.2 “conflict of interest” for this purpose includes a conflict of interest and duty, and a conflict of duties.

103 For the avoidance of doubt, article 101 shall not apply to a conflict of interest arising in relation to a transaction or arrangement with the company; any conflict of interest of that nature shall be governed by the provisions of articles 99 and 100 and articles 122 to 124 and the code of conduct referred to in article 107.

104 The directors shall procure that a register of directors’ interests is maintained in accordance with the provisions in this regard contained in the code of conduct for directors referred to in article 107.

### **Conduct of directors**

105 It is the duty of each director of the company to take decisions (and exercise his/her other powers and responsibilities as a director) in such a way as he/she considers, in

good faith, will be most likely to promote the success of the company in achieving its objects (as set out in article 4) and will be in the interests of the company, and irrespective of any office, post, engagement or other connection which he/she may have with any other body which may have an interest in the matter in question.

106 Without prejudice to the principle set out in article 105, each of the directors shall have a duty, in exercising functions as a charity trustee, to act in the interests of the company; and, in particular, must:

106.1 seek, in good faith, to ensure that the company acts in a manner which is in accordance with its charitable purposes;

106.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;

106.3 in circumstances giving rise to the possibility of a conflict of interest between the company and any party responsible for the appointment of that director, put the interests of the company before that of the other party;

106.4 where any other duty prevents him/her from doing so, disclose the conflicting interest to the company and refrain from participating in any deliberation or decision of the other directors with regard to the matter in question;

106.5 ensure that the company complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.

107 Each of the directors shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board of directors from time to time; for the avoidance of doubt, the code of conduct shall be supplemental to the provisions relating to the conduct of directors contained in these articles of association, and the relevant provisions of these articles shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

### **Directors' remuneration and expenses**

108 No director may serve as an employee (full time or part time) of the company, and no director may be given any remuneration by the company for carrying out his/her duties as a director or as Chair or the holder of any other office under article 95.

109 Where a director provides services to the company or might benefit from any remuneration paid to a connected party for such services, then:

109.1 the maximum amount of the remuneration must be specified in a written agreement and must be reasonable;

109.2 the directors must be satisfied that it would be in the interests of the company to enter into the arrangement (taking account of that maximum amount);

109.3 less than half of the directors must be receiving remuneration from the company (or benefit from remuneration of that nature).

- 110 The directors may be paid all travelling and other expenses reasonably incurred by them in connection with their attendance at meetings of directors, general meetings or meetings of committees of directors or otherwise in connection with the carrying-out of their duties.

### **Powers of directors**

- 111 Subject to the provisions of these articles and to any directions given by special resolution, the business of the company shall be managed by the directors who may exercise all the powers of the company.
- 112 A meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.

### **Proceedings of directors**

- 113 Subject to the provisions of these articles, the directors may regulate their proceedings as they think fit.
- 114 Any director may call a meeting of the directors or request the secretary to call a meeting of the directors.
- 115 Questions arising at a meeting of directors shall be decided by a majority of votes; if an equality of votes arises, the chairperson of the meeting shall (subject to article 116) have a casting vote.
- 116 The chairperson of the meeting shall not be entitled to have a casting vote if he/she is a Co-opted Director.
- 117 No business shall be dealt with at a meeting of the directors unless a quorum is present; the quorum for meetings of the directors shall (subject to article 118) be six.
- 118 A quorum shall not be deemed to be constituted at any meeting of directors unless the Elected Directors form a majority of the total number of directors present at the meeting.
- 119 If at any time the number of directors in office falls below the number fixed as the quorum, the remaining director(s) may act only for the purpose of filling vacancies or of calling a general meeting.
- 120 Unless he/she is unwilling to do so, the Chair of the company shall preside as chairperson at every meeting of directors at which he/she is present; if the Chair is unwilling to act as chairperson of a meeting of directors or is not present within 15 minutes after the time when the meeting was due to commence, the directors shall elect from among themselves the person who will act as chairperson of the meeting.
- 121 The directors may, at their discretion, allow any person who they reasonably consider appropriate, to attend and speak at any meeting of the directors; for the avoidance of doubt, any such person who is invited to attend a directors' meeting shall not be entitled to vote.

- 122 A director shall not vote at a directors' meeting (or at a meeting of a committee) on any resolution concerning a matter in which he/she has a personal interest which conflicts (or may conflict) with the interests of the company; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- 123 For the purposes of article 122, a person shall be deemed to have a personal interest in a particular matter if any partner or other close relative of his/hers or any firm of which he/she is a partner or any limited company of which he/she is a substantial shareholder or director, has a personal interest in that matter.
- 124 A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he/she is not entitled to vote.
- 125 A personal interest held by a director who has appointed an alternate director shall be treated as a personal interest of the alternate director.
- 126 The company may (subject to the Charities and Trustee Investment (Scotland) Act 2005) by ordinary resolution, suspend or relax to any extent, either generally or in relation to any particular matter, the provisions of articles 122 to 124.
- 127 Each director must keep confidential all proceedings and discussions at board meetings unless he/she has been given prior authorisation to disclose a particular matter, by majority decision of the board.
- 128 If a question arises at a meeting of directors or at a meeting of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairperson of the meeting; his/her ruling in relation to any director other than himself/herself shall be final and conclusive.

### **Delegation to committees of directors and holders of offices**

- 129 The directors may delegate any of their powers to any committee consisting of one or more directors and other such persons (if any) as the directors may determine; they may also delegate to the Chair of the company (or the holder of any other post) such of their powers as they may consider appropriate.
- 130 Any delegation of powers under the preceding article may be made subject to such conditions as the directors may impose and may be revoked or altered.
- 131 The rules of procedure for any sub-committee shall be as prescribed by the directors.

### **Operation of bank accounts**

- 132 The signatures of two out of the signatories appointed by the directors shall be required in relation to all operations (other than lodgement of funds) on the bank and building society accounts held by the company; at least one out of the two signatures must be the signature of a director.

### **Secretary**

- 133 The directors shall (notwithstanding the provisions of the Act) appoint a company secretary, and on the basis that the term of office, remuneration (if any), and other

terms and conditions attaching to the appointment of the company secretary shall be as determined by the directors; the company secretary may be removed by the directors at any time.

### **Minutes**

- 134 The directors shall ensure that minutes are made (in books kept for the purpose) of all proceedings at general meetings, meetings of the directors, and meetings of committees of directors; a minute of any meeting of directors or of a committee of directors shall include the names of the directors present and (as far as possible) shall be signed by the chairperson of that meeting.

### **Accounts**

- 135 The directors shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements.
- 136 The accounting records shall be maintained by the Treasurer and overseen by the Chair, or otherwise by, or as determined by, the directors; such records shall be kept at such place or places as the directors think fit and shall always be available for inspection by the directors.
- 137 Subject to article 138, the directors shall ensure that an audit of the annual accounts is carried out by an auditor.
- 138 Notwithstanding the provisions of article 137, an audit (within the meaning of the Act) by a company auditor (as defined in the Act) shall not be required, in a case where the company is exempt (under the Act) from the requirement to have an audit, if and to the extent that proper arrangements for the auditing of the company's accounts are made in a manner which satisfies the requirements of the Act and paragraph (f) of subsection 34(1) of the Land Reform (Scotland) Act 2003.
- 139 The directors shall prepare annual accounts, complying with all relevant statutory requirements.
- 140 Except as provided by law or authorised by the directors or an ordinary resolution of the company, no individual or body is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a member.

### **Notices**

- 141 Any notice to be given in pursuance of these articles shall be given either in writing or by way of electronic means.
- 142 The company may give any notice to a member either personally or by sending it by post in a pre-paid envelope addressed to the member at his/her registered address or by leaving it at that address; in the case of a member who has notified the company of an electronic address to be used for this purpose, the company may give any notice to that member by way of electronic means.

- 143 A member may give any notice to the company either by sending it by post in a pre-paid envelope addressed to the company at its registered office or by leaving it, addressed to the company secretary, at the company's registered office or (where the company has notified the member of an electronic address to be used for this purpose) by way of electronic means.
- 144 Any notice, if sent by post, shall be deemed to have been given at the expiry of 48 hours after posting; for the purpose of proving that any notice was given, it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted.
- 145 Any notice sent by electronic means shall be deemed to have been given at the expiry of 48 hours after it is sent; for the purpose of proving that any notice sent by electronic means was indeed sent, it shall be sufficient to provide any of the evidence referred to in the relevant guidance issued from time to time by the Chartered Institute of Secretaries and Administrators.
- 146 A member present or represented at any meeting of the company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

### **Winding up**

- 147 If on the winding-up of the company any property remains after satisfaction of all the company's debts and liabilities, such property shall not be paid to or distributed among the members of the company; instead, that property shall (subject to article 149) be transferred to such other community body or bodies or to a crofting community body or bodies as may be determined by the members (subject to the identity of the transferee body or bodies being first approved by the Scottish Ministers).
- 148 If the members do not resolve to transfer any property of the nature referred to in article 147 to a community body or bodies or crofting community body or bodies approved by Scottish Ministers, such property shall instead be transferred to the Scottish Ministers or to such charity as the Scottish Ministers may direct.
- 149 No property shall be transferred under article 147 or 148 to any body unless it is a Scottish charity.

### **Indemnity**

- 150 Every director or other officer or auditor of the company shall be indemnified out of the assets of the company (to the extent permitted by sections 232, 234, 235, 532 and 533 of the Act) against any loss or liability which he/she may sustain or incur in connection with the execution of the duties of his/her office; that may include, without prejudice to that generality (but only to the extent permitted by those sections of the Act), any liability incurred by him/her in defending any proceedings (whether civil or criminal) in which judgement is given in his/her favour or in which he/she is acquitted **or** any liability in connection with an application in which relief is granted to him/her by the court from liability for negligence, default or breach of trust in relation to the affairs of the company.



## **Insurance**

- 151 For the avoidance of doubt, the company shall be entitled (subject to the provisions of section 68A of the Charities and Trustee Investment (Scotland) Act 2005) to purchase and maintain for any director insurance against any loss or liability which he/she may sustain or incur in connection with the execution of the duties of his/her office, and such insurance may (subject to the provisions of section 68A of the Charities and Trustee Investment (Scotland) Act 2005) extend to liabilities of the nature referred to in section 232(2) of the Act (negligence etc. of a director).