

# **Upper Eskdale Development Group**

*A Charitable Company Limited by Guarantee*

Company No. SC306741

Incorporated 14th August 2006

Scottish Charity No. SC043890

**ARTICLES of ASSOCIATION**

## UPPER ESKDALE DEVELOPMENT GROUP

A Company Limited by Guarantee

Company No. SC306741

# ARTICLES of ASSOCIATION

as amended 20th July 2012

and 26th January 2013

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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**

2. In these articles of association, unless the context requires otherwise:-

(a) "Act" means the Companies Act 2006;

(b) "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 2006, providing (in either case) that its objects are limited to charitable purposes;

(c) "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;

(d) "electronic form" has the meaning given in section 1168 of the Act;

(e) "OSCR" means the Office of the Scottish Charity Regulator;

(f) "property" means any property, heritable or moveable, real or personal, wherever situated; and

(g) "subsidiary" has the meaning given in section 1159 of the Act.

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 objects of the Company are to promote any charitable purpose for the benefit of the community in the Civil Parish of Eskdalemuir (referred to as "the Community") and in particular:

4.1 To promote sustainable development within the Community, where 'sustainable development' means development which meets the needs of the present without compromising the ability of future generations to meet their own needs, and which protects or improves the natural environment.

4.2 To provide recreational facilities and organise recreational activities in the interests of social welfare, available to members of the Community and the public at large, with the object of improving their conditions of life.

4.3 To advance environmental protection or improvement through the maintenance, improvement or provision of public amenities and through the preservation of buildings and sites of historic, architectural or other importance to the Community.

4.4 To advance education and in particular to promote opportunities for learning for the benefit of members of the Community and the general public.

4.5 To advance education through the promotion of the arts and culture.

4.6 To relieve poverty through the provision of training or retraining, particularly amongst unemployed people in the Community, and through the provision of skills and work experience which will assist in obtaining employment.

4.7 To promote and protect the wellbeing and physical health of the members of the Community.

4.8 To provide or assist in the provision of housing for people in necessitous circumstances within the Community, provided that such power shall not extend to relieving any local authorities or other bodies of a statutory duty to provide or improve housing.

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:-

### **General**

7.1 To manage community land and associated assets for the benefit of the Community and the public in general.

7.2 To encourage and develop a spirit of voluntary or other commitment by, or co-operation with individuals, unincorporated associations, societies, federations, partnerships, corporate bodies, agencies, undertakings, local authorities, unions, co-operatives, trusts and others and any groups or groupings thereof willing to assist the company to achieve its objects.

7.3 To promote and carry out research, surveys and investigations and to promote, develop and manage initiatives, projects and programmes.

7.4 To provide advice, consultancy, training, tuition, expertise and assistance.

7.5 To create training and employment opportunities by the provision of workspace, buildings and/or land for use on favourable terms;

7.6 To prepare, organise, promote and implement training courses, exhibitions, lectures, seminars, conferences, events and workshops, to collect, collate, disseminate and exchange information and to prepare, produce, edit, publish, exhibit and distribute articles, pamphlets, books and other publications, music and drama and other materials, all in any medium.

### **Property**

7.7 To register an interest in land and to exercise the right to buy under the Land Reform (Scotland) Act 2003 including any statutory amendment or re-enactment thereof for the time being in force ("the Land Reform Act").

7.8 To purchase, take on lease, hire, or otherwise acquire any property suitable for the company and to construct, convert, improve, develop, conserve, maintain, alter and demolish any buildings or erections whether of a permanent or temporary nature, and manage and

operate or arrange for the professional or other appropriate management and operation of the company's property.

7.9 To improve, manage, develop, or otherwise deal with, all or any part of the property and rights of the company.

7.10 To sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the property of the company.

7.11 To establish and administer a building fund or funds or guarantee fund or funds or endowment fund or funds.

### **Employment**

7.12 To employ, contract with, train and pay such staff (whether employed or self-employed) as are considered appropriate for the proper conduct of the activities of the company 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.

7.13 To engage such consultants and advisers as are considered appropriate from time to time.

### **Funding and Financial**

7.14 To take such steps as may be deemed appropriate for the purpose of raising funds for the activities of the company.

7.15 To accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust.

7.16 To borrow or raise money for the objects and to give security in support of any such borrowings by the company and/or in support of any obligations undertaken by the company.

7.17 To set aside funds not immediately required as a reserve or for specific purposes.

7.18 To invest any funds which are not immediately required for the activities of the company in such investments as may be considered appropriate, which may be held in the name of a nominee company under the instructions of the Board of Directors, and to dispose of, and vary, such investments.

7.19 To make grants or loans of money and to give guarantees.

### **Development**

7.20 To establish, manage and/or support any other charitable organisation, and to make donations for any charitable purpose falling within the objects.

7.21 To establish, acquire and hold shares in, operate and administer and/or otherwise acquire any separate trading company or association, whether charitable or not, whose activities may further one or more of the above objects, or may generate income to support the activities of the company.

7.22 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, mutual assistance, or sharing profit with any charitable organisation.

7.23 To enter into contracts to provide services to or on behalf of others.

## **Insurance and Protection**

7.24 To effect insurance of all kinds (which may include indemnity insurance in respect of directors and employees).

7.25 To oppose, or object to, any application or proceedings which may prejudice the interests of the company.

## **Ancillary**

7.26 To pay the costs of forming the company and its subsequent development.

7.27 To carry out the objects as principal, agent, contractor, trustee or in any other capacity.

7.28 To do anything which may be incidental or conducive to the objects so long as these are charitable.

7.29 To carry on any other activities which further any of the above objects.

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

8.1 The income and property of the company shall be applied solely towards promoting the company's objects (as set out in clause 4).

8.2 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.

8.3 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.

8.4 No benefit (whether in money or in kind) shall be given by the company to any member or director (subject to prior agreement by the Board of Directors) except

(a) repayment of out-of-pocket expenses; or

(b) reasonable payment in return for particular services (not being of a management nature) actually rendered to the company; or

(c) payment of interest, at a rate not exceeding the commercial rate, on money lent to the company by any member or director; or

(d) payment of rent at a rate not exceeding the open market rent for property let to the company by any member or director; or

(e) the purchase of property from any member or director, provided that such purchase is at or below market value, or the sale of property to any member or director, provided that such sale is at or above market value.

## **Liability of members**

9. Each member undertakes that if the company is wound up while he/she is a member (or within one year after he/she ceases to be a member), he/she will contribute - up to a maximum of £1 - to the assets of the company, to be applied towards:

(a) payment of the company's debts and liabilities contracted before he/she ceases to be a member; and

(b) payment of the costs, charges and expenses of winding up.

## **General structure**

10. The structure of the company consists of:-

(a) the MEMBERS – comprising Ordinary Members who have the right to attend the annual general meeting and any extraordinary general meeting and have important powers under the articles of association and the Act; in particular, the members elect people to serve as directors and take decisions in relation to changes to the articles themselves; Associate Members and Junior Members; and

(b) the DIRECTORS - who hold regular meetings during the period between annual general meetings, set the strategy and policy of the company, generally control and supervise the activities of the company; in particular, the directors are responsible for monitoring the financial position of the company.

## **THE MEMBERS**

### **Qualifications for membership**

11. The members of the company shall consist of the subscribers to the memorandum of association and such other persons as are admitted to membership under articles 15 to 17.

12. Membership shall be open to

12.1 Ordinary Members: those individuals aged 18 and over who:

(a) are ordinarily resident in the Community; and

(b) are entitled to vote at a local government election in a polling district that includes the Community or part of it; and

(c) who support the objects of the company;

declaring that, if an Ordinary Member ceases to comply with these criteria, he or she will be reclassified as an Associate Member and be notified of this by the company.

12.2 Associate Members: those individuals who are not ordinarily resident in the Community and those organisations wherever located that support the objects. Associate Members are neither eligible to stand for election to the Board nor to vote at any general meeting. Each member which is an organisation shall appoint one named Authorised Representative to represent and act for such member at all general meetings. Any change in the appointment of an Authorised Representative may be made at any time by the appointing member, but only by written notice to the company. Such notice will take effect upon its receipt by the company.

12.3 Junior Members: those individuals who are aged between 12 and 17 who support the objects. Junior Members are neither eligible to stand for election to the Board nor to vote at any general meeting.

13. 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.

14. The company shall have not fewer than 20 members at any time, with the majority of the members of the company consisting of Ordinary Members; in the event that the number of members falls below 20 or that the majority of members of the company does not consist of Ordinary Members, the Board may not conduct any business other than to ensure the

admission of sufficient Ordinary Members to achieve the minimum number and/or maintain the majority.

### **Application for membership**

15. Any person who wishes to become a member must sign, and lodge with the company, a written application for membership.

16. The directors shall consider each application for membership at the first directors' meeting which is held after receipt of the application. No application shall be denied without good cause, and the directors shall explain their reasons for rejecting any application.

17. Membership shall not be restricted or withheld, and members may not be expelled, on the basis of gender, age (subject to 12.3 above), ethnic background, disability, caring responsibilities, sexual orientation, religious belief, or marital status.

### **Membership subscription**

18. The Ordinary Members may at any or each annual general meeting fix the annual subscriptions (and, if relevant, different rates thereof for different categories).

19. Members shall be required to pay the appropriate annual membership subscription, where fixed. Only those members who have paid their current subscription, where fixed, are entitled to take part in and vote at any general meeting.

20. An individual who, or organisation which, ceases to be a member (for whatever reason) shall not be entitled to any refund of membership subscription.

### **Register of members**

21. The directors shall maintain a register of members, setting out the full name and address of each member, the relative category of membership, the date on which he/she was admitted to membership, and the date on which any person ceased to be a member.

### **Cessation of membership**

22. A member shall cease to be a member if:

22.1 he/she sends written notice of resignation to the company; or

22.2 being an individual, he/ she becomes insolvent or apparently insolvent or makes any arrangement with his /her creditors; or

22.3 being an organisation, it goes into receivership, goes into liquidation, dissolves or otherwise ceases to exist (the right of membership not being assignable); or

22.4 the annual subscription due remains outstanding for more than six calendar months (and provided that the member in question has been given at least one written reminder) and if the Board chooses to expel that member from membership; or

22.5 a resolution that a member be expelled is passed by a majority of at least 75% of the members present and voting at a General Meeting, of which not less than 21 days' previous notice specifying the intention to propose such resolution and the grounds on which it is proposed shall have been sent to all directors, all members and the company secretary and also to the member whose removal is in question, such member being entitled to be heard at that meeting; or



22.6 being an individual, he/ she dies (the right of membership not being assignable).

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

23. The directors shall convene an annual general meeting in each year (but excluding the year in which the company is formed); the first annual general meeting shall be held not later than 18 months after the date of incorporation of the company.

24. Not more than 15 months shall elapse between one annual general meeting and the next.

25. The business of each annual general meeting shall include:-

(a) a report by the chair on the activities of the company

(b) consideration of the annual accounts of the company

(c) the election/re-election of directors

(d) fixing of annual subscriptions

(e) appointment of the auditor or independent examiner.

26. The directors may convene an extraordinary general meeting at any time.

27. The directors must convene an extraordinary general meeting if there is a valid requisition by members (under section 303 of the Act) or a requisition by a resigning auditor (under section 518 of the Act).

### **Notice of general meetings**

28. At least 14 clear days' notice must be given of an annual general meeting or extraordinary general meeting.

29. The reference to "clear days" in article 28 shall be taken to mean that, in calculating the period of notice, the day after the notice is posted, (or, in the case of a notice sent by electronic means, the day after it was sent) and also the day of the meeting should be excluded.

30. A notice calling a meeting shall specify the time and place of the meeting; it shall (a) indicate the general nature of the business to be dealt with at the meeting and (b) if a special resolution (see article 33) (or a resolution requiring special notice under the Act) is to be proposed, shall also state that fact, giving the exact terms of the resolution.

31. A notice convening an annual general meeting shall specify that the meeting is to be an annual general meeting; any other general meeting shall be called an extraordinary general meeting.

32. Notice of every general meeting shall be given

(a) in hard copy form

(b) in writing or, (where the individual to whom notice is given has notified the company of an address to be used for the purpose of electronic communication) in electronic form; or

(c) (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.

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

33. For the purposes of these articles, a “special resolution” means a resolution passed by 75% or more of the votes cast on the resolution at an annual general meeting or extraordinary general meeting, providing proper notice of the meeting and of the intention to propose the resolution has been given in accordance with articles 28 to 32; 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.

34. In addition to the matters expressly referred to elsewhere in these articles, the provisions of the Act allow the company, by special resolution,

(a) to alter its name; or

(b) to alter any provision of these articles or adopt new articles of association; or

(c) to wind up of the company; or

(d) to purchase or sell or to grant a lease over any heritable property owned by or leased to the company or any of its subsidiaries and to purchase or take the tenant's part in any lease or sub-lease of heritable property wherever situated; or

(e) to form, acquire or dispose of any subsidiary; or

(f) to create or issue or allow to come into being any mortgage, security, charge or other encumbrance upon any part or parts of the property or assets of the company or to obtain any advance or credit in any form other than normal trade credit, or to create or issue by any subsidiary of any debenture or loan stock.

35. For the purposes of these articles, an “ordinary resolution” means a resolution passed by majority vote (taking account only of those votes cast in favour as compared with those votes against), at an annual general meeting or extraordinary general meeting, providing proper notice of the meeting has been given in accordance with articles 28 to 32.

36. A resolution in writing signed by or on behalf of all or a sufficient majority of the Ordinary Members shall be as valid and effective as if the same had been passed at a general meeting of the company duly convened and held. Such resolution may consist of several documents in the same form, each signed by or on behalf of one or more Ordinary Members.

### **Procedure at general meetings**

37. No business shall be dealt with at any general meeting unless a quorum is present; the quorum for a general meeting shall be 10% of the Ordinary Members entitled to vote (each being a member or a proxy for a member).

38. If a quorum is not present within 15 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.

39. The chair of the company, whom failing the vice-chair, shall (if present and willing to act as chairperson) preside as chairperson of each general meeting; if neither the chair nor the vice-chair is present and willing to act as chairperson within 15 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 that meeting.

40. 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.

41. The chairman of the meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote.

42. Every Ordinary Member 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 and Junior members are not entitled to vote.

43. Any Ordinary Member who wishes to appoint a proxy to vote on his/her behalf at any meeting (or adjourned meeting):

(a) shall lodge with the company, at the company's registered office, a written instrument of proxy signed by him/her;

(b) The form appointing the proxy shall be in the following form:

*Name of company:*

*I.....,*

*of.....,*

*being an Ordinary Member of the above company hereby*

*appoint.....,*

*of .....*

*and, failing him or her, .....*

*of.....,*

*as my proxy to vote for me on my behalf at the (Annual/Extraordinary) meeting of the company to be held on..... and at any adjournment thereof.*

*This form is to be used in favour of/against the resolution.*

*Signed.....day of .....*

*Signature of member appointing proxy .....*

(c) The form appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a certified copy thereof, shall be lodged at the Registered Office not less than forty-eight hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the form proposes to vote, and in default the instrument of proxy shall not be treated as valid.

(d) No instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution, unless it expressly states to the contrary, in which event it shall be treated as valid until rescinded by the granter in writing at the Registered Office.

(e) A vote given in accordance with the terms of a form of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of the death,

insanity or revocation as aforesaid shall have been received at the Registered Office before the commencement of the meeting or adjourned meeting at which the proxy is used (not having been deliberately withheld).

44. An instrument of proxy which does not conform with the provisions of article 43, or which is not lodged or sent in accordance with such provisions, shall be invalid.

45. A member shall not be entitled to appoint more than one proxy to attend on the same occasion.

46. 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 and need not be a member of the company.

47. A vote given, or ballot demanded, by proxy shall be valid notwithstanding that the authority of the person voting or demanding a ballot had terminated prior to the giving of such vote or demanding of such ballot, unless notice of such termination was received by the company at the company's registered office (or, where sent by electronic means, was received by the company at the address notified by the company to the members for the purpose of electronic communications) before the commencement of the meeting or adjourned meeting at which the vote was given or the ballot demanded.

48. If there are an equal number of votes for and against any resolution, the chairperson of the meeting shall be entitled to a casting vote.

49. 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 persons present in person at the meeting and entitled to vote (whether as members or proxies for members)); 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.

50. 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.

## **THE DIRECTORS**

### **Maximum number of directors**

51. The number of directors shall be not less than 5 and not more than 9 comprising:-

(a) up to six individual persons elected as directors by the Ordinary Members in terms of Article 53 ("the Elected Directors"), who must themselves be Ordinary Members; and

(b) one individual persons appointed by Eskdalemuir Community Council, one individual person appointed by Eskdalemuir Ex-services Memorial Public Hall Committee in terms of Article 56 ("the Appointed Directors"); and

(c) up to three individual persons co-opted in terms of Article 57 ("the Co-opted Directors"), so as to ensure a spread of skills and experience within the Board;

PROVIDED THAT at all times:-

(a) a majority of the directors are members of the local community, elected by and from the Ordinary Members; and

(b) no more than one-third of the directors shall be nominees or appointees of statutory agencies.

### **Eligibility of directors**

52. A person shall not be eligible for election/appointment as a director unless he/she is a member of the company.

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

53. At each annual general meeting, the Ordinary Members may (subject to article 52) elect any member (providing he/she is willing to act) to be a director. The nomination shall be in writing, signed by not less than any two Ordinary Members delivered to the registered office not less than 7 days prior to the date of the AGM in question and wherein the nominee shall confirm his or her willingness to act as an Elected Director.

54. The directors may at any time appoint any member (providing he/she is willing to act) to be a director (subject to article 51).

55. At each annual general meeting, one-third of the elected directors shall retire from office - but shall then be eligible for re-election.

### **Appointed Directors**

56. One individual may be appointed by Eskdalemuir Community Council, and one individual may be appointed Eskdalemuir Ex-services Memorial Public Hall (ESMPH) Committee in respect of which the following shall apply:

56.1 On receipt of the notice for each AGM of the company, Eskdalemuir Community Council and Eskdalemuir ESMPH Committee (or their successors) intimate the director being appointed by it at the AGM, by written notice delivered to the registered office not less than 2 days before the start of the meeting, failing which any director previously appointed by it shall remain in office; and

56.2 Eskdalemuir Community Council and Eskdalemuir ESMPH Committee (or its successors) may appoint or remove its appointed director at any time, by written notice to that effect delivered to the registered office not less than 2 days before the meeting at which the change is to take effect.

### **Co-opted Directors**

57. Up to three individuals may be co-opted from time to time by the Board of Directors itself, as follows:

57.1 subject to Article 57.3, a Co-opted Director shall serve until the next AGM after his or her co-option;

57.2 a Co-opted Director can be re-co-opted at such next AGM;

57.3 a Co-opted Director can be removed from office at any time by a simple majority of the Board; and

57.4 for the avoidance of doubt, a Co-opted Director may participate fully in and vote at all Board meetings which he or she attends.

58. The Board may from time to time fill any casual vacancy arising as a result of the retirement of any Elected Director from or after the date of such retirement until the next AGM.

#### **Termination of office**

59. A director shall automatically vacate office if:-

- (a) he/she ceases to be a director through the operation of any provision of the Act or becomes prohibited by law from being a director
- (b) he/she becomes debarred under any statutory provision from being a charity trustee
- (c) 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 six months
- (d) he/she ceases to be a member of the company
- (e) he/she becomes an employee of the company
- (f) he/she resigns office by notice to the company
- (g) he/she is absent (without permission of the directors) from more than three consecutive meetings of the directors, and the directors resolve to remove him/her from office
- (h) he/she is removed from office by ordinary resolution (special notice having been given) in pursuance of section 168 of the Act.

#### **Register of directors**

60. 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**

61. The directors shall elect from among themselves a chair and a treasurer, and such other office bearers (if any) as they consider appropriate.

62. 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.

63. 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.

#### **Powers of directors**

64. Subject to the provisions of the Act and these articles, and subject to any directions given by special resolution, the company and its assets and undertaking shall be managed by the directors, who may exercise all the powers of the company.

65. A meeting of the directors at which a quorum is present may exercise all powers exercisable by the directors.

#### **Personal interests**

66. Any director and/or employee who has a personal interest in any prospective or actual contract or other arrangement with the company must declare that interest either generally to the Board or specifically to any relevant meeting of the company. A personal interest includes not only the interest of the director or employee in question, but also his/ her partner, close

relative or business associate, or any firm of which he/ she is a partner or employee, or any limited company of which he/ she is a director, employee or shareholder of more than 5% of the equity.

67. Additionally, the Board may resolve at any time to require all directors and employees to deliver a Notice of Relevant Interests to the registered office, as they arise and at least annually. In that event, the Board shall determine from time to time what interests shall be relevant interests and shall ensure that a Register of Notices of Relevant Interests is maintained, which shall be open for inspection by both the Board and members of the company and, with the express prior written approval of the director or employee concerned, by members of the public.

68. Whenever a director finds that there is a personal interest, as defined in Article 66, he/ she has a duty to declare this to the Board meeting in question. It will be up to the chairman of the meeting in question to determine:

(a) whether the potential or real conflict simply be noted in the minutes of any relevant meeting, or

(b) whether the director in question, whilst being permitted to remain in the meeting in question, must not take part in discussions or decisions relating to such matter, or

(c) whether the director in question should be required to be absent during that particular element of the meeting and, in terms of Article 78, where a director leaves, or is required to leave, the meeting he or she no longer forms part of the quorum for that portion of the meeting.

69. Provided

(a) he/she has declared his/her interest

(b) he/she has not voted on the question of whether or not the company should enter into the relevant arrangement and

(c) the requirements of article 66 are complied with,

a director will not be debarred from entering into an arrangement with the company in which he/she has a personal interest (or is deemed to have a personal interest under article 66) and may retain any personal benefit which he/she gains from his/her participation in that arrangement.

70. 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.

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

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

(b) 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); and

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

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

### **Procedure at directors' meetings**

73. Any director may call a meeting of the directors or request the secretary to call a meeting of the directors.

74. Meetings of the Board may take place in person or by telephone conference call, video conference call or by any other collective electronic means approved from time to time by the Board.

75. Not less than 14 clear days' notice in writing shall be given of any meeting of the Board at which a decision in relation to any of the matters referred to in Article 34 is to be made, which notice shall be accompanied by an agenda and any papers relevant to the matter to be decided. All other Board meetings shall require not less than 7 days' prior notice, unless all directors agree unanimously in writing to dispense with such notice on any specific occasion.

76. Questions arising at a meeting of the directors shall be decided by a majority of votes; if an equality of votes arises, the chairperson of the meeting shall have a casting vote.

77. The quorum for Board meetings shall be not less than 50% of all the directors, provided that the Elected Directors are always in the majority at any Board meeting. No business shall be dealt with at a Board meeting unless such a quorum is present.

78. A director shall not be counted in the quorum at a meeting (or at least the relevant part thereof) in relation to a resolution on which, whether because of personal interest or otherwise, he or she is not entitled to vote.

79. 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.

80. A resolution in writing, whether in one or several documents in the same form each signed by one or more directors or members of any relative sub-committee as appropriate, shall be as valid and effectual as if it had been passed at a meeting of the Board or of such sub-committee duly convened and constituted.

81. Unless he/she is unwilling to do so, the chair of the company shall preside as chairperson at every directors' meeting at which he/she is present; if the chair is unwilling to act as chairperson or is not present within 15 minutes after the time when the meeting was due to commence, the directors present shall elect from among themselves the person who will act as chairperson of the meeting.

82. The directors may, at their discretion, allow any person whom 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.

83. 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.

84. For the purposes of article 83, 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.

85. The company may, by ordinary resolution, suspend or relax to any extent – either generally or in relation to any particular matter – the provisions of articles 83 to 84.

### **Conduct of directors**

86. Each of the directors shall, in exercising his/her functions as a director of the company, act in the interests of the company; and, in particular, must

(a) seek, in good faith, to ensure that the company acts in a manner which is in accordance with its objects (as set out article 4)

(b) act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person

(c) in circumstances giving rise to the possibility of a conflict of interest of interest between the company and any other party

(i) put the interests of the company before that of the other party, in taking decisions as a director

(ii) where any other duty prevents him/her from doing so, disclose the conflicting interest to the company and refrain from participating in any discussions or decisions involving the other directors with regard to the matter in question

(d) ensure that the company complies with any direction, requirement, notice or duty imposed on it by the Charities and Trustee Investment (Scotland) Act 2005.

### **Delegation to sub-committees**

87. The Board may delegate any of its powers to sub-committees, each consisting of not less than one director and such other person or persons appointed directly by the Board or under delegated authority by the sub-committee.

88. Any sub-committee shall exercise its delegated powers within the remit and regulations imposed on it by the Board.

89. The meetings and proceedings of any sub-committee shall be governed by the provisions of these Articles for regulating the meetings and proceedings of the Board so far as applicable and so far as these are not superseded by any regulations made by the Board.

90. All sub-committees shall regularly and promptly circulate, or ensure the regular and prompt circulation of, the minutes of its meetings to all directors.

### **Secretary**

91. The directors shall (notwithstanding the provisions of the Act) appoint a company secretary, and determine the terms and conditions of the appointment and the remuneration

(if any) payable to the company secretary; the company secretary may be removed by them at any time.

92. The Board may appoint a minute secretary for such term, at such remuneration (if any), and upon such conditions as it may think fit. The Board may remove the minute secretary at any time.

93. The Board may appoint a treasurer for such term and upon such conditions as it may think fit. The Board may remove the treasurer at any time.

94. The Board may appoint a principal officer of the company on such terms and conditions as it may think fit. He/she shall attend Board and sub-committee meetings as appropriate or required, but shall not be entitled to a vote.

#### **Honorary patron(s)**

95. The Ordinary Members in general meeting may, on a proposal from the Board, agree to the appointment of one or more Honorary Patrons of the company, who would be appointed either for such fixed period as the Ordinary Members determine or for an unspecified period until such appointment be terminated by them. The Honorary Patron or Patrons are entitled to notice of all general meetings and to attend and contribute to discussion but shall not be entitled to vote.

#### **Minutes**

96. The directors shall ensure that minutes are made of all proceedings at general meetings, directors' meetings and meetings of committees; a minute of any meeting shall include the names of those present, and (as far as possible) shall be signed by the chairperson of the meeting.

#### **Operation of bank accounts**

97. 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.

#### **Accounting records and annual accounts**

98. The directors shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements.

99. The directors shall prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions or if they otherwise think fit, they shall ensure that an audit of such accounts is carried out by a qualified auditor.

100. No member shall (unless he/she is a director) have any right of inspecting any accounting or other records, or any document of the company, except as conferred by statute or as authorised by the directors or as authorised by ordinary resolution of the company.

#### **Notices**

101. A notice may be served by the company upon any member, either personally or by sending it by post, fax, e-mail or other appropriate electronic means, addressed to such member at his or her or its address as appearing in the Register of Members.

102. Any notice, whether served by post or otherwise, shall be deemed to have been served on the day following that on which the letter containing the same is put into the post or is otherwise despatched.

103. The business of the company and all its correspondence with and notification to or from members may be conducted equally validly and effectively if transmitted by fax or e-mail or other appropriate electronic means (except where a member specifically requests all such correspondence and notification by post) or otherwise if publicised on the company's website where the company has advised each member of this and has taken due steps to notify by other reasonable means all other members who state that they do not have access to the internet.

### **Winding-up**

104. The winding-up of the company may take place only on the decision of not less than 75% of its ordinary members who are present and voting at a general meeting called specifically (but not necessarily exclusively) for the purpose.

105. If on the winding-up of the company any property remains after satisfaction of all the company's debts and liabilities, such property (including any land acquired by it in terms of the Land Reform Act) shall be transferred to such community body or bodies (whether incorporated or unincorporated) as may be determined by the members of the company at or before the time of dissolution (or, failing such determination, by such court as may have or acquire jurisdiction), to be used solely for a charitable purpose or charitable purposes.

106. For the avoidance of doubt, a body to which property is transferred under article 105 may be a member of the company.

107. To the extent that effect cannot be given to article 105 (as read with article 106), the relevant property shall be applied to some charitable purpose or purposes.

### **Indemnity**

108. Every director or other officer or auditor of the company shall be indemnified (to the extent permitted by sections 232, 234, 235, 532 and 533 of the Act) out of the assets of the company 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.

109. The company shall be entitled to purchase and maintain for any director insurance against any loss or liability which any director or other officer of the company may sustain or incur in connection with the execution of the duties of his/her office, and such insurance may extend to liabilities of the nature referred to in section 232(2) of the Act (negligence etc. of a director).