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**THE COMPANIES ACT 2006  
COMPANY LIMITED BY GUARANTEE AND NOT  
HAVING A SHARE CAPITAL**

**ARTICLES OF ASSOCIATION  
OF  
SCOTTISH SEABIRD CENTRE**

**Adopted at the Annual General Meeting on 30 June 2022**

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**Ref: LZP/DSR/SC/13/25**

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**THE COMPANIES ACT 2006  
COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL**

**ARTICLES of ASSOCIATION  
of  
SCOTTISH SEABIRD CENTRE**

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## **GENERAL**

### **Structure**

1. The structure of the Trust consists of:-
  - (a) **MEMBERS<sup>1</sup>** – who have the right to attend the annual general meeting (and any general meeting) and have the right to vote, and who also have important powers under the Articles of Association and the Companies Acts; in particular, the members take decisions in relation to changes to the Articles themselves.
  - (b) **TRUSTEES** – who hold regular meetings during the period between annual general meetings, and generally control and supervise the activities of the Trust; in particular, the Trustees are responsible for monitoring the financial position of the Trust; the Trustees are also Company Directors.

## **MEMBERS**

### **Registers of members**

2. The Trustees shall maintain a register of members, setting out the full name and address of each member and the date on which any member ceased to be a member.

### **Classes of membership**

3. There shall be one class of member and every member shall have the right to vote.

### **Qualifications and Applications for membership**

4. The Trust may admit up to five hundred members as members of the Trust or such other number as the Trustees may from time to time resolve by ordinary resolution.
5. The following persons may be admitted as members of the Trust:
  - (a) individuals and organisations who support the objects of the Trust and who are admitted to membership in accordance with the terms of Article 6 below.
6. Any person or organisation who wishes to become a member must sign, and lodge with the Trust, a written application for membership and the Trustees
  - (a) may, at their discretion, refuse to admit any person to membership.
  - (b) shall consider each application for membership, where possible, at the first committee meeting, which is held after receipt of the application;
  - (c) shall, within a reasonable time after the meeting, notify the applicant of their decision on the application.
7. All members must adhere to the terms of these Articles and to any rules as prescribed by the Trustees from time to time as may be necessary, expedient or convenient for the proper conduct and management of the Trust or which

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<sup>1</sup> It should be noted that the members of the Company for Company law purposes are quite separate and distinct from the Trust's public membership scheme the latter being a scheme that is open to members of the public generally.

are necessary to regulate any other matter in relation to the members of the Trust. Any member found to be in breach of the Articles or any such rules may be removed from membership by resolution of the Trustees in accordance with Article 9 below.

#### **Withdrawal from membership**

8. Any member who wishes to withdraw from membership shall sign, and lodge with the Trust, a written notice to that effect; on receipt of the notice by the Trust, they shall cease to be a member.

#### **Removal from membership**

9. Any member may be removed from membership by resolution of the Trustees, providing the following procedures have been observed:-
  - (a) at least 14 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed removal; and
  - (b) the member concerned shall be entitled to be heard on the resolution at the meeting at which the resolution is proposed.

#### **Termination/Transfer of Membership**

10. Membership shall cease:
  - (a) on death;
  - (b) if a member resigns in accordance with Article 8 or if a member is removed in accordance with Article 9; or
  - (c) in the case of a corporate body or other organisation, on receivership, liquidation, dissolution or striking-off of the body which constituted the member.
11. A member may not transfer his/her/their membership to any other person, except in the case of member organisations who may vary their authorised representatives from time to time as they see fit.

### **MEETING FORMATS**

12. All meetings of the Charity, its Trading subsidiary and committees can be conducted as in person, by virtual means (conference telephone, video link or similar) or as hybrid meetings that are both in person and virtual. Every effort will be made to ensure all participants can be heard and can hear each other without the need to be physically present at the same location.

### **GENERAL MEETINGS**

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

13. The Trustees:
  - (a) shall convene an annual general meeting in each year;
  - (b) shall ensure that not more than 15 months elapse between one annual general meeting and the next;
  - (c) may convene a general meeting at any time; and
  - (d) must convene a general meeting if there is a valid requisition by no less than 10% of the members of the Trust from time to time.

14. The business of each annual general meeting shall include:-
- (a) a report by the Chair on the activities of the Trust;
  - (b) consideration of the annual accounts of the Trust;
  - (c) the election/re-election of Trustees, as referred to in Article 34;
  - (d) the appointment of Auditors of the Trust.

**Notice of general meetings**

15. At least 14 clear days' notice must be given of an annual general meeting or general meeting and where:-
- (a) the term "clear days" in this Article 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 contained in an electronic communication, the day after the time when it was sent) and also the day of the meeting, should be excluded;
  - (b) any notice calling a meeting shall specify the time and place of the meeting; it shall:-
    - i. indicate the general nature of the business to be dealt with at the meeting; and
    - ii. if a special resolution (see article 28) (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.
  - (c) 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 a general meeting; and
  - (d) notice of every general meeting shall be given either in writing or (where the party to whom notice is given has notified the Trust of an address to be used for the purpose of electronic communications) by way of an electronic communication to all the members and Trustees, and (if there are auditors in office at the time) to the auditors.

**Procedure at general meetings**

16. No business shall be dealt with at any general meeting unless a quorum is present and where:
- (a) the quorum for a general meeting shall be 5 persons personally present and entitled to vote, each being a member or a duly authorised representative of a member organisation; and
  - (b) if a quorum 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 Chair of the meeting.
17. The Chair of the Trust shall (if present and willing to act as Chair) preside as Chair of each general meeting;
- (a) if the Chair is not present and willing to act as Chair within 30 minutes after the time at which the meeting was due to commence, the Trustees present at the meeting shall elect from among themselves the person who will act as Chair of that meeting; and
  - (b) may, with the consent of the meeting, adjourn the meeting to such time and place as the Chair may determine.

18. Every member shall have one vote, which (whether on a show of hands or on a secret ballot) must be given personally or by proxy. Members present only by proxy shall not be entitled to vote on a show of hands, but for the avoidance of doubt, authorised representatives of any member corporation or other organisation may vote on a show of hands. Any votes cast by proxy shall only be valid where the terms of Articles 23 to 27 below are complied with in full. A member who is not an individual shall vote through their duly authorised representatives.
19. A resolution may be decided by postal ballot if so decided by the Board.
20. If there is an equal number of votes for and against any resolution, the Chair of the meeting shall be entitled to a casting vote.
21. 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 Chair (or by at least two 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.
22. If a secret ballot is demanded, it shall be taken at the meeting and shall be conducted in such a manner as the Chair may direct; the result of the ballot shall be declared at the meeting at which the ballot was demanded.
23. A resolution in writing signed by all the members for the time being entitled to receive notice of, and to attend and vote at general meetings (or being organisations, by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting duly convened and held.

#### **Proxies**

24. A proxy appointed to attend and vote at any meeting in place of a member shall have the same right as the member who appointed him/her/them to speak at the meeting. Except in the case of a corporation, no person shall be entitled to act as a proxy who is not himself/herself/themself a member of the Trust and entitled to be present and vote in his/her/their own right.
25. An instrument appointing a proxy shall be in writing and shall be signed by the appointer or his/her/their attorney where applicable. The Trustees may, but shall not be required to, require evidence of the authority of any such attorney. The instrument appointing a proxy does not require to be witnessed.
26. An instrument appointing a proxy must be left at the Trust's registered office or such other place (if any) specified for that purpose in the notice convening the meeting not less than forty-eight hours before the start time of the meeting or adjourned meeting (or in the case of a poll, before the time appointed for taking the poll) at which it is to be used, and in default it shall not be treated as valid.
27. An instrument appointing a proxy shall be deemed to confer authority to demand, or join in demanding, a poll. The instrument appointing a proxy is also valid for any adjournment of the meeting to which it relates.
28. A vote given by a 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 instrument of proxy was executed, provided that no intimation in writing of such death, insanity or revocation shall have been received by the Trust at the registered office before the commencement of the meeting or the adjourned meeting or poll at which the vote is given.

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

29. 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 general meeting, providing proper notice of the meeting and of the intention to propose the resolution has been given in accordance with Article 15, 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.
30. 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;
  - (b) to alter its Objects or Activities; and
  - (c) to alter any provision of these articles or adopt new articles of association.
31. 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, and (as applicable) the Chair's casting vote), at an annual general meeting or extraordinary general meeting, providing proper notice of the meeting has been given in accordance with Article 15.

## **TRUSTEES**

### **Number of Trustees**

#### **Eligibility and Maximum period in office for Trustees**

32. There shall be no less than five Trustees of the Trust at any time and there shall be no more than fifteen Trustees of the Trust at any time, including the Chair.
33. A person shall not be eligible for election/appointment as a Trustee unless he/she/they is/are a member of the Trust.
34. The Trustees shall comprise:
- (a) such other persons as may be elected as Trustees by the Board or by the members of the Trust from time to time.
35. A Trustee who has served a term of four years shall retire from office at the next Annual General Meeting. A Trustee due to retire may stand for re-election by the Board provided that if the Trustee has already served two consecutive terms of four years (being a total period of eight consecutive years) he/she/they must retire and may not stand for re-election as a Trustee for a period of at least 2 years from the date of his/her/their retirement.
36. In addition to the Trustees so elected, the Board may co-opt further Trustees of the Trust for such period as the Trustees shall agree. Co-opted Trustees shall be required to be members of the Trust.
37. Any casual vacancy on the Board may be filled by the Board and any person appointed to fill such a casual vacancy shall hold office until the conclusion of the next annual general meeting of the Trust and shall be eligible for election at that meeting.

### **Remuneration of Trustees**

38. The Trust may remunerate any Trustee in respect of work carried out by him/her/their on behalf of the Trust, provided always that the Trust complies with the conditions for remuneration set out in section 67 of the Charities and Trustee Investment (Scotland) Act 2005.

### **Termination of office**

39. A Trustee shall automatically vacate office if:-
- (a) he/she/they ceases to be a Trustee through the operation of any provision of the Act or becomes prohibited by law from being a Trustee;
  - (b) he/she/they is/are sequestered;
  - (c) he/she/they becomes debarred under any statutory provision from being involved in the management or control of a charity;
  - (d) he/she/they becomes incapable for medical reasons of fulfilling the duties of his/her/their office and such incapacity is expected to continue for a period of more than six months;
  - (e) he/she/they ceases to be a member of the Trust;
  - (f) he/she/they resigns office by notice to the Trust;
  - (g) he/she/they is/are absent (without permission of the Trustees) from more than three consecutive meetings of the Trustees, and the Trustees resolve to remove him/her/them from office; or
  - (h) he/she/they is/are removed from office by resolution of the Trustees, in which case such resolution shall only be valid if:
    - (i) the Trustee who is the subject of the resolution is given reasonable prior written notice by the Trustees of the grounds upon which the resolution for his/her/their removal is to be proposed; and
    - (ii) the Trustee concerned is given the opportunity to address the meeting of Trustees at which the resolution is proposed, prior to the resolution being put to the vote; and
    - (iii) at least two thirds (to the nearest round number) of the Trustees then in office vote in favour of the resolution.

### **Register of Trustees/Trustees interests**

40. The Trustees shall maintain a register of Trustees, setting out full details of each Trustee, including the date on which he/she/they became a Trustee, and specifying the date on which any person ceased to hold office as a Trustee and containing details of Trustees' interests.

### **Office bearers**

41. The Trustees shall appoint a Chair and such other office bearers (if any) as they consider appropriate.
42. The office bearers shall hold office without limit of time.
43. A person elected to any office shall cease to hold that office if he/she/they ceases to be a Trustee, or if he/she/they resigns from that office by written notice to that effect.



### **Powers of Trustees**

44. Subject to the provisions of the Act, the Memorandum of Association and these Articles, and subject to any directions given by special resolution, the Trust and its assets and undertaking shall be managed by the Trustees, who may exercise all the powers of the Trust.
45. A meeting of the Trustees at which a quorum is present may exercise all powers exercisable by the Trustees.

### **Trustees Declarations of Interests**

46. The Trustees may, in accordance with the requirements set out in Articles 48 to 52, authorise any matter proposed to them by any Trustee which would, if not authorised, involve or constitute a Trustee (an "Interested Trustee") breaching or infringing his/her/their duty under section 175 of the Act to avoid conflicts of interest (the "Conflict").
47. Any authorisation under Articles 48 to 52 will be effective only if:
  - (a) the matter in question, to the extent permitted by the Act, shall have been proposed by any Trustee for consideration at a meeting of the Board of Trustees in the same way that any other matter may be proposed to the Trustees under the provisions of these Articles or in such other manner as the Trustees may determine;
  - (b) any requirement as to the quorum at the meeting of the Trustees at which the matter is considered is met without counting the Interested Trustee; and
  - (c) the matter was agreed to without the Interested Trustee voting or would have been agreed to if the Interested Trustee had not been counted in the vote.
48. Any authorisation of a matter under Articles 48 to 52 may (whether at the time of giving the authority or subsequently):
  - (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
  - (b) be subject to such terms and for such duration, or impose such limits or conditions as the Trustees may determine on the Interested Trustee; or
  - (c) be terminated or varied by the Trustees at any time.

This will not affect anything done by the Trustee prior to such termination or variation in accordance with the terms of the authorisation.

49. Where the Trustees authorise a Conflict they may provide, without limitation (whether at the time of giving the authority or subsequently) that the Trustee:
  - (a) is excluded from discussions (whether at meetings of the Board of Trustees or otherwise) related to the Conflict;

- (b) is not given any documents or other information relating to the Conflict; or
- (c) may or may not vote (or may or may not be counted in the quorum) at any future meeting of Trustees in relation to any resolution relating to the Conflict.

Notwithstanding the fact that the Trustees have made provisions (or otherwise) under this Article 48, the Interested Trustee whose Conflict has been authorised shall not be in breach of his/her/their duties to the Trust where the Interested Trustee, of his/her/their own accord, does not attend any discussions, refuses to receive any documents or information relating to the Conflict or refuses to vote on any resolution relating to the Conflict (or refuses to do or does any similar action).

50. Where the Trustees authorise a Conflict:

- (a) the Interested Trustee will be obliged to conduct himself/herself/themself in accordance with any terms imposed by the Trustees in relation to the Conflict; and
- (b) the Interested Trustee will not breach or infringe any duty he/she/they owes to the Trust by virtue of sections 171 to 177 of the Act provided he/she/they acts in accordance with such terms, limits and conditions (if any) as the Trustees may impose in respect of its authorisation.
- (c) the Trustees may decide (whether at the time of giving the authority or subsequently) that, if a Trustee has obtained any information through his/her/their involvement in the Conflict otherwise than as a Trustee of the Trust and in respect of which he/she/they owes a duty of confidentiality to another person, the Trustee is under no obligation to:
  - i. disclose such information to the Trustees or to any Trustee or other officer or employee of the Trust;
  - ii. use or apply any such information in performing his/her duties as a Trustee;

where to do so would amount to a breach of that confidence and, accordingly, by not disclosing, using or applying such information, the Trustee shall not be in breach or infringe his/her duties to the Trust in terms of Sections 171 to 177 of the Act.

51. A Trustee is not required, by reason of being a Trustee (or because of the fiduciary relationship established by reason of being a Trustee), to account to the Trust for any remuneration, profit or other benefit which he/she/they derives from or in connection with a relationship involving a Conflict which has been authorised by the Trustees or by the Trust (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract, agreement or arrangement relating to a Conflict that has been authorised by the Board of Trustees shall be liable to be avoided on such grounds.

**Personal interests**

52. A Trustee who is in any way, whether directly or indirectly, interested in a proposed transaction or arrangement with the Trust shall declare the nature and extent of his/her/their interest to the other Trustees before the Trust

enters into the transaction or arrangement in accordance with the Act. For the purposes of this Article, a Trustee shall be deemed to have a personal interest in an arrangement if any partner or other close relative of his/hers/their or any firm of which he/she/they is/are a partner or any limited company of which he/she/they is/are a substantial shareholder or Trustee (or any other party who/which is deemed to be connected with him/her/them for the purposes of the Act), has a personal interest in that arrangement.

53. A Trustee who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by the Trust shall declare the nature and extent of his/her/their interest to the other Trustees as soon as is reasonably practicable in accordance with the Act, unless the interest has already been declared under Article 51.
54. Subject, where applicable, to the disclosures required under Article 51 and Article 52, and to any terms and conditions imposed by the Trustees in accordance with these Articles a Trustee shall be entitled to vote in respect of any proposed or existing transaction or arrangement with the Trust in which he/she/they is/are interested and if he/she/they shall do so his vote shall be counted and he/she/they shall be taken into account in ascertaining whether a quorum is present.
55. A Trustee need not declare an interest under Article 51 and Article 52 as the case may be:
  - (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
  - (b) of which the Trustee is not aware, although for this purpose a Trustee is treated as being aware of matters of which he/she/they ought reasonably to be aware;
  - (c) if, or to the extent that, the other Trustees are already aware of it, and for this purpose the other Trustees are treated as aware of anything of which they ought reasonably to be aware; or
  - (d) if, or to the extent that, it concerns the terms of his/her/their service contract that have been, or are to be, considered at a meeting of the Board of Trustees.
56. Provided he/she/they has declared his/her/their interest a Trustee will not be debarred from entering into an arrangement with the Trust in which he/she/they has a personal interest and may retain any personal benefit which he/she/they gains from his/her/their participation in that arrangement.

## **TRUSTEES' MEETINGS**

### **Procedure at Trustees' meetings**

57. Board meetings will be held on a regular basis. Any Trustee may call a meeting of the Trustees or request the Secretary to call a meeting of the Trustees.

58. The Trustees can agree to confirm decisions by telephone or by written resolution as alternatives to confirming decisions at Trustees meetings.
59. A Trustee may participate in a meeting of the Trustees (or of a committee of Trustees) by means of electronic communication provided that throughout the meeting all persons participating in the meeting are able to communicate interactively with all other parties participating in the meeting. Participation in this manner is deemed to constitute presence in person at the meeting.
60. Questions arising at a meeting of the Trustees shall be decided by a majority of votes; if an equality of votes arises, the Chair of the meeting shall have a casting vote.
61. No business shall be dealt with at a meeting of the Trustees unless a quorum is present; the quorum for meetings of the Trustees shall be four. If at any time the number of Trustees in office falls below the number fixed as the quorum, the remaining Trustee(s) may act only for the purpose of filling vacancies or of calling a general meeting.
62. The Trustees shall from time to time elect a Chair of the Trust. Unless he/she/they is/are unwilling to do so, the Chair of the Trust shall preside as Chair at every Trustees' meeting at which he/she/they is/are present; if the Chair is unwilling to act as Chair or is not present within 5 minutes after the time when the meeting was due to commence, the Vice Chair (if any) shall act as Chair of the meeting, failing whom the Trustees present shall elect from among themselves the person who will act as Chair of the meeting.
63. The Trustees may, at their discretion, allow any person who they reasonably consider appropriate, to attend and speak at any meeting of the Trustees; for the avoidance of doubt, any such person who is invited to attend a Trustees' meeting shall not be entitled to vote.
64. A Trustee shall not vote at a Trustees' meeting (or at a meeting of a committee) on any resolution concerning a matter in which he/she/they has a personal interest which conflicts (or may conflict) with the interests of the Trust unless authorised to do so by the other Trustees in accordance with procedures set out in these Articles.
65. A Trustee shall not be counted in the quorum present at a meeting in relation to a resolution on which he/she/they is not entitled to vote.
66. The Trustees may be paid all travelling and other expenses reasonably incurred by them in connection with their attendance at meetings of the Trustees, general meetings, or meetings of committees, or otherwise in connection with the carrying-out of their duties.
67. The Trust may, by ordinary resolution, suspend or relax to any extent – either generally or in relation to any particular matter – the provisions of Articles 58 to 64.

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

68. The Trustees may delegate any of their powers to any sub-committee consisting of two or more Trustees and such other persons (if any) as the Trustees may determine; they may also delegate to the Chair of the Trust (or the holder of any other post) such of their powers as they may consider appropriate. Any delegation of powers under this Article may be made subject to:-
  - (a) such conditions as the Trustees may impose and may be revoked or altered; and

- (b) such rules of procedure for any sub-committee as prescribed by the Trustees.

## **ADMINISTRATION**

### **Secretary**

69. The Trustees shall appoint a Secretary for such term, at such remuneration (if any), and upon such conditions, as they may think fit; the Secretary may be removed and replaced or not (at the Trustees' sole discretion) by the Trustees at any time.

### **Minutes**

70. The Trustees shall ensure that minutes are made of all proceedings at general meetings, Trustees' 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 Chair of the meeting.

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

71. The Trustees shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements for both companies and charities.
72. No member shall (unless he/she/they is/are a Trustee) have any right of inspecting any accounting or other records, or any document of the Trust, except as conferred by statute or as authorised by the Trustees or as authorised by ordinary resolution of the Trust.

### **Notices**

73. Any notice, document or other information shall be deemed served on or delivered to the intended recipient:-
- (a) if properly addressed and sent by pre-paid UK first class post to an address (last intimated by him/her/them) to the Trust in the UK 48 hours after it is posted;
  - (b) a member whose registered address is not within the United Kingdom shall be entitled to receive notices at such address and such notices shall be sent to the Member by airmail. Notices sent overseas shall be deemed to be given at the expiry of a period of 5 days after the envelope containing it was posted. Sections 1143 to 1148 together with schedules 4 and 5 of the Act shall apply;
  - (c) if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - (d) if properly addressed and sent or supplied by electronic mail (e-mail) (in the case of a member who has notified the Trust of an address to be used for the purpose of electronic communications) one hour after the e-mail was sent or supplied; and
  - (e) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is so deemed to have received) notice of the fact that the material is on the website.

For the purposes of this Article, no account will be taken of any part of a day that is not a business day (where a "business day" means any day (other than a Saturday, Sunday or public holiday in Scotland) on which clearing banks in Edinburgh are generally open for business). In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purposes of the Act.

## **MISCELLANEOUS**

### **Winding-up**

74. If the Trust is dissolved or wound up, the liquidator shall, if there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, then the property shall not be paid to or distributed among the members of the Trust, but shall be paid, given, transferred or distributed to such body or bodies to be determined by the members of the Trust at the time of the dissolution or winding up:

- (a) being a charitable body or bodies having objects so far as practicable similar to the Objects of the Trust; and
- (b) being a charitable body or bodies which shall prohibit the distribution of its or their assets, income and property among its or their members to an extent at least as great as is imposed on the Trust;

or failing which such other charitable body or bodies as are willing to take the property of the Trust.

### **Indemnity**

75. Without prejudice to Articles 79 and 80 and subject to the provisions of and to the extent permitted by the Act, but without prejudice to any indemnity to which the person concerned may otherwise be entitled, every Trustee or other officer of the Trust (other than any person (whether an officer or not) engaged by the Trust as auditor) shall be indemnified out of the assets of the Trust against any liability incurred by him for negligence, default, breach of duty or breach of trust in relation to the affairs of the Trust, provided that this Article shall be deemed not to provide for, or entitle any such person to, indemnification to the extent that it would cause this Article, or any element of it, to be treated as void under the Act.
76. Subject to the Act and any agreement made between a Trustee and the Trust in accordance with the Act, a Trustee shall be indemnified out of the Trust's assets against any expenses which that Trustee incurs in connection with:
- (a) civil proceedings in relation to the Trust (unless judgment is given against the Trustee and the judgment is final);
  - (b) criminal proceedings in relation to the Trust (unless the Trustee is convicted and the conviction is final); or
  - (c) any application for relief from liability for negligence, default, breach of duty or breach of trust in relation to the Trust (unless the court refuses to grant the Trustee relief, and the refusal is final).
77. For the purposes of Article 75 judgment, conviction or refusal of relief becomes final if:

- (a) the period for bringing an appeal (or any further appeal) has ended; and
  - (b) any appeal brought is determined, abandoned or otherwise ceases to have effect.
78. Every Trustee or other officer or auditor of the Trust shall be indemnified out of the assets of the Trust against any loss or liability which he/she/they may sustain or incur in connection with the execution of the duties of his/her/their office; that may include, without prejudice to that generality, any liability incurred by him/her/them in defending any proceedings (whether civil or criminal) in which judgement is given in his/her/their favour or in which he/she/they is/are acquitted or any liability in connection with an application in which relief is granted to him/her/them by the court from liability for negligence, default or breach of trust in relation to the affairs of the Trust.
79. The indemnity contained in Article 74 shall be subject to the provisions of the Act and is without prejudice to any other indemnity to which a Trustee may otherwise be entitled.

#### **Insurance**

80. Subject to the Act, the Trustees may decide to purchase and maintain insurance, at the expense of the Trust, for the benefit of any relevant officer in respect of any relevant loss.

In this Article:-

- (a) a "relevant officer" means any Trustee or former Trustee of the Trust, any other officer or employee or former officer or employee of the Trust or its associate (but not the auditors), or any trustee of a pension fund or employee benefits trust of the Trust;
- (b) a "relevant loss" means any loss or expenditure which has been or may be incurred by a relevant officer in connection with that relevant officer's duties, powers or responsibilities in relation to the Trust or an associate or its pension fund or employee benefits trust; and
- (c) an "associate" means any subsidiary or subsidiary undertaking or holding Trust of such Trust and any other subsidiary or subsidiary undertaking of any holding Trust of such Trust ("holding Trust" and "subsidiary company" having the meanings set out in section 1159 and Schedule 6 of the Act.

#### **Liability of Members**

81. The liability of the members is limited to One pound. Every member of the Trust undertakes to contribute to the assets of the Trust in the event of the same being wound up while he/she/they is/are a member, or within one year after he/she/they ceases to be a member, for payment of the:-

- (a) debts and liabilities of the Trust contracted before he/she/they ceases to be a member;
- (b) costs, charges and expenses of winding up,

and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding £1.

82. The income and property of the Trust shall be applied solely towards the promotion of the objects of the Trust as set out in the Trust's Memorandum of Association and subject to the following paragraphs no portion thereof shall

be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to the members of the Trust. Nothing herein shall prevent any payment in good faith by the Trust:-

- (a) of out-of-pocket expenses incurred in carrying out duties by any member, Trustee, officer or employee of the Trust;
- (b) reasonable payment in return for services rendered to the Trust;
- (c) director/trustee indemnity insurance; and
- (d) payment or benefits permitted in terms of the Charities and Trustee Investment (Scotland) Act 2005.

### INTERPRETATION

83. In these articles

**"Act"** means the Companies Act 2006 and any reference in these Articles to a provision of the Act shall be taken to include any statutory modification or re-enactment of that provision which is in force at the time;

**"Articles"** means these Articles and any reference to **"Article"** shall be a reference to a specific article therein;

**"Board"** means the Board of Trustees for the time being of the Trust;

**"electronic communication"** has the same meaning as is assigned to that expression in the Electronic Communications Act 2000;

**"Memorandum of Association"** means the Memorandum of Association of the Trust;

**"Members"** means the persons admitted to membership of the Trust in terms of Article 5( see footnote <sup>2</sup> below); and

**"person"** means any individual, organisation or body including any authorised representative of any organisation or body.

84. Unless the context requires otherwise, words or expressions used in these Articles bear the same meaning as in the Act (as said Act is in force at the date of adoption of these Articles). For the avoidance of doubt:-

- (a) headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- (b) unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
  - i. any subordinate legislation from time to time made under it; and
  - ii. any amendment or re-enactment and includes any statute,

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<sup>2</sup> As per the footnote to Article 1(a) it should be noted that the members of the Company for Company law purposes are quite separate and distinct from the Trust's public membership scheme the latter being a scheme that is open to members of the public generally.



statutory provision or subordinate legislation which it amends or re-enacts.

- (c) reference in these articles to the singular shall be deemed to include the plural.
- (d) any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.