

## **COMPANY NOT HAVING A SHARE CAPITAL**

### **Articles of Association for Honiton Community Complex (Company No 8409289)**

#### **1 Name**

1.1 The company's name is Honiton Community Complex (and in this document it is called the 'Charity').

#### **2 Interpretation**

2.1 In the Articles:

'Address' means a postal address or, for the purposes of electronic communication, a fax number, an e-mail or postal address or a telephone number for receiving text messages in each case registered with the Charity;

'the Articles' means the Charity's Articles of association;

'the Charity' means the company intended to be regulated by the Articles;

'Clear Days' in relation to the period of a notice means a period excluding:

- (i) the day when the notice is given or deemed to be given; and
- (ii) the day for which it is given or on which it is to take effect;

'the Commission' means the Charity Commission for England and Wales;

'Companies Acts' means the Companies Acts (as defined in section 2 of the Companies Act 2006) insofar as they apply to the Charity;

'Connected Person' has the meaning stated in Article 38

'the Council' means Honiton Town Council or such other local government authority, as agreed by the Directors, which exercises the powers which Honiton Town Council had on the date of the adoption of these Articles in relation to the Charity and the Charity's property;

'Council Member' is defined in article 10.1.2;

'the Directors' means the directors of the Charity. The Directors are charity trustees as defined by section 177 of the Charities Act 2011;

'Document' includes, unless otherwise specified, any document sent or supplied in Electronic Form;

'Electronic Form', 'Electronic Copy' and 'Electronic Means' have the meanings given in section 1168 of the Companies Act 2006;

'Local Authority', and 'a company which is controlled by a Local Authority', shall have the meaning given to them in section 68 of the Local Government and Housing Act 1989,

'Local Authority Associated Person' means a Local Authority Associated Person as defined in section 69(5) of the Local Government and Housing Act 1989 who is associated with a Local Authority which has a business relationship with the Charity as defined by s69(3) of the Local Government and Housing Act 1989;

‘the Memorandum’ means the Charity’s memorandum of association;

‘Members’ means the members of the Charity and ‘Membership’ has the corresponding meaning

‘Officers’ includes the Directors and the Secretary (if any);

‘the Seal’ means the common seal of the Charity if it has one;

‘Secretary’ means any person appointed to perform the duties of the Secretary of the Charity;

‘the United Kingdom’ means Great Britain and Northern Ireland; and words importing one gender shall include all genders, and the singular includes the plural and vice versa.

2.2 Unless the context otherwise requires words or expressions contained in the Articles have the same meaning as in the Companies Acts but excluding any statutory modification not in force when this constitution becomes binding on the Charity.

2.3 Apart from the exception set out at Article 2.2 a reference to an Act of Parliament includes any statutory modification or re-enactment of it for the time being in force.

2.4 The following Articles shall not be amended without the consent of the Council Member, which must not be unreasonably withheld:

2.4.1 Article 10.1

2.4.2 Article 11.2;

2.4.3 Article 17.2.2, Article 17.4 and

2.4.4 Article 19.1

### **3 Liability of Members**

3.1 The liability of the Members is limited to a sum not exceeding £10, being the amount that each Member undertakes to contribute to the assets of the Charity in the event of its being wound up while he, she or it is a Member or within one year after he, she or it ceases to be a Member, for:

3.1.1 payment of the Charity’s debts and liabilities incurred before he, she or it ceases to be a Member;

3.1.2 payment of the costs, charges and expenses of winding up; and

3.1.3 adjustment of the rights of the contributories among themselves.

### **4 Objects**

4.1 The Charity’s objects (‘Objects’) are specifically restricted to the following :

4.1.1 to advance the education of the public in Honiton and East Devon, in particular (but without limitation) in the arts;

4.1.2 to further or benefit the residents of Honiton and East Devon, without distinction of age, sex, sexual orientation, race or of political, religious or other opinions by associating together the said residents and the local authorities, voluntary and other organisations operating in those areas in a common effort to provide facilities in the

interests of social welfare for recreation and leisure time occupation with the objective of improving the conditions of life for the residents; and

- 4.1.3 to advance, for the benefit of the public in Honiton and East Devon, such other purposes as are exclusively charitable under the law of England and Wales as the Directors may from time to time determine;

in particular (but without limitation) by the establishment, maintenance and management of a community centre for charitable activities promoted by the Charity.

- 4.2 Nothing in the Articles shall authorise an application of the property of the Charity for purposes which are not charitable in accordance with section 7 of the Charities and Trustee Investment (Scotland) Act 2005 and/or section 2 of the Charities Act (Northern Ireland) 2008.

## **5 Powers**

- 5.1 The Charity has power to do anything which is calculated to further its Object(s) or is conducive or incidental to doing so. In particular, the Charity has power:
  - 5.1.1 to raise funds, subject to Article 5.1.26 and provided that the Charity must comply with any statutory regulations;
  - 5.1.2 to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
  - 5.1.3 to sell, lease or otherwise dispose of all or any part of the property belonging to the Charity. In exercising this power, the Charity must comply as appropriate with sections 117 and 122 of the Charities Act 2011;
  - 5.1.4 to borrow money and to charge the whole or any part of the property belonging to the Charity as security for repayment of the money borrowed or as security for a grant or the discharge of an obligation. The Charity must comply as appropriate with sections 124 - 126 of the Charities Act 2011 if it wishes to mortgage land;
  - 5.1.5 to enter into any derivative arrangement in connection with any investment provided that the derivative arrangement is ancillary to the investment (being entered into in order to manage the risk and / or transaction costs associated with the investment) and is not a speculative venture;
  - 5.1.6 to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
  - 5.1.7 to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Objects;
  - 5.1.8 to acquire, merge with or to enter into any partnership or joint venture arrangement with any other Charity;
  - 5.1.9 to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
  - 5.1.10 to make loans of money and give credit and to give guarantees or security for the performance of any obligations by any person or company;

- 5.1.11 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required;
- 5.1.12 to employ and remunerate such staff as are necessary for carrying out the work of the Charity. The Charity may employ or remunerate a Director only to the extent it is permitted to do so by Article 6 and 7 and provided it complies with the conditions in those Articles;
- 5.1.13 to:
- (a) deposit or invest funds;
  - (b) employ a professional fund-manager; and
  - (c) arrange for the investments or other property of the Charity to be held in the name of a nominee;
- in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;
- 5.1.14 to delegate the management of investments to any person provided that:
- (a) the delegate is authorised to carry on investment business under the provisions of the Financial Services and Markets Act 2000;
  - (b) the investment policy is set out in writing by the Directors;
  - (c) the performance of the investments is reviewed regularly with the Directors;
  - (d) the investment policy and the delegation arrangements are reviewed at least once a year;
  - (e) all payments due to the delegate are on a scale or at a level which is agreed in advance and are notified promptly to the Directors on receipt by the delegate; and
  - (f) the delegate must not do anything outside the powers of the Directors;
- 5.1.15 to provide indemnity insurance for the Directors in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011;
- 5.1.16 to pay out of the funds of the Charity the costs of forming and registering the Charity;
- 5.1.17 to hold festivals, seminars, conferences, lectures, tours and courses;
- 5.1.18 to promote or carry out research and to disseminate such research;
- 5.1.19 to provide advice and to publish or distribute information in any form;
- 5.1.20 to make grants, awards, prizes or donations;
- 5.1.21 to enter into contracts to provide services to or on behalf of other bodies;
- 5.1.22 to establish, support or acquire subsidiary companies;
- 5.1.23 to open and operate bank accounts and banking facilities;

- 5.1.24 to solicit and accept grants, donations, endowments, gifts, legacies and bequests of assets on any terms;
- 5.1.25 to enter into any contract or agreement (including any finance lease, licence or sponsorship agreement);
- 5.1.26 to carry on any trade in so far as the trade is;
  - (a) exercised in the course of the actual carrying out of the Objects of the Charity; or
  - (b) ancillary to the carrying out of the Objects; or
  - (c) not taxable trading.

## **6 Application of income and property**

- 6.1 The income and property of the Charity shall be applied solely towards the promotion of the Objects and no part of that income or property may be paid, transferred or applied by way of benefit to any Director except:
  - 6.1.1 A Director is entitled to be reimbursed from the property of the Charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the Charity.
  - 6.1.2 A Director may benefit from trustee indemnity insurance cover purchased at the Charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
  - 6.1.3 A Director may receive an indemnity from the Charity in the circumstances specified in Article 32.
  - 6.1.4 A company in which a Director has no more than a 2% shareholding may receive payment from the Charity.
  - 6.1.5 A Director may receive benefit or payment authorised by Article 7.
- 6.2 Subject to Article 7, none of the income or property of the Charity may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any Member. This does not prevent a Member who is not also a Director receiving:
  - 6.2.1 a benefit from the Charity in the capacity of a beneficiary of the Charity;
  - 6.2.2 reasonable and proper remuneration for any goods or services supplied to the Charity;
  - 6.2.3 remuneration under a contract of employment with the Charity;
  - 6.2.4 interest at a reasonable rate on money lent to the Charity;
  - 6.2.5 a reasonable rent or hiring fee for property let or hired to the Charity;
  - 6.2.6 a benefit from the Charity in their capacity as an employee, volunteer or donor to the Charity, where such benefit is in the best interests of the Charity.
- 6.3 For the avoidance of doubt, nothing in these Articles shall prevent the Charity, in furtherance of the Objects, from conferring a benefit on another charity of which a Member

or Director is a charity trustee or member, provided that it does not confer any benefit on that member or Director respectively.

## **7 Benefits and payments to Directors and Connected Persons**

### **7.1 General provisions**

7.1.1 No Director (whether in his or her capacity as a member or director of the Charity) or Connected Person may:

- (a) buy any goods or services from the Charity on terms preferential to those applicable to members of the public;
- (b) sell goods, services, or any interest in land to the Charity;
- (c) be employed by, or receive any remuneration from, the Charity;
- (d) receive any other financial benefit from the Charity;

unless the payment is permitted by Article 7.2, or authorised by the court or the Charity Commission.

In this Article a 'financial benefit' means a benefit, direct or indirect, which is either money or has a monetary value.

### **7.2 Scope and powers permitting Directors' or Connected Persons' benefits**

7.2.1 A Director or Connected Person may receive a benefit from the Charity in the capacity of a beneficiary of the Charity.

7.2.2 [A Director or Connected Person may receive a benefit from the Charity in their capacity as a volunteer or donor to the Charity, where such benefit is in the best interests of the Charity.]

7.2.3 A Director or Connected Person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the Charity where that is permitted in accordance with, and subject to the conditions in, sections 185 and 186 of the Charities Act 2011.

7.2.4 Subject to Article 7.3 a Director or Connected Person may provide the Charity with goods that are not supplied in connection with services provided to the Charity by the Director or Connected Person.

7.2.5 A Director or Connected Person may receive interest on money lent to the Charity at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).

7.2.6 A Director or Connected Person may receive rent for premises let by the Director or Connected Person to the Charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The Director concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.

7.2.7 A Director or Connected Person may take part in the normal trading and fundraising activities of the Charity on the same terms as Members of the public.

### **7.3 Payment for supply of goods only – controls**

7.3.1 The Charity and its Directors may only rely upon the authority provided by Article 7.2.4 if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in an agreement in writing between the Charity or its Directors (as the case may be) and the Director or Connected Person supplying the goods ('the supplier') under which the supplier is to supply the goods in question to or on behalf of the Charity.
- (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- (c) Directors are satisfied that it is in the best interests of the Charity to contract with the supplier rather than with someone who is not a Director or Connected Person. In reaching that decision the Directors must balance the advantage of contracting with a Director or Connected Person against the disadvantages of doing so.
- (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the Charity.
- (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of Directors is present at the meeting.
- (f) The reason for their decision is recorded by the Directors in the minute book.
- (g) A majority of the Directors then in office are not in receipt of remuneration or payments authorised by Article 7.

7.4 In sub-clauses 7.2 and 7.3 of this Article:

7.4.1 'Charity' includes any Company in which the Charity:

- (a) holds more than 50% of the shares; or
- (b) controls more than 50% of the voting rights attached to the shares; or
- (c) has the right to appoint one or more Directors to the board of the Company.

7.4.2 'Connected Person' includes any person within the definition in Article 38 'Interpretation'.

## **8 Declaration of Directors' interests**

8.1 A Director must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Charity or in any transaction or arrangement entered into by the Charity which has not previously been declared. A Director must absent himself or herself from any discussions of the Charity Directors in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the Charity and any personal interest (including but not limited to any personal financial interest).

## 9 **Conflicts of interests and conflicts of loyalties**

- 9.1 If a conflict of interests arises for a Director because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in the Articles, the unconflicted Directors may authorise such a conflict of interests where the following conditions apply:
- 9.1.1 the conflicted Director is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;
  - 9.1.2 the conflicted Director does not vote on any such matter and is not to be counted when considering whether a quorum of Directors is present at the meeting; and
  - 9.1.3 the unconflicted Directors consider it is in the interests of the Charity to authorise the conflict of interests in the circumstances applying.
- 9.2 In this Article a conflict of interests arising because of a duty of loyalty owed to another organisation or person only refers to such a conflict which does not involve a direct or indirect benefit of any nature to a Director or to a Connected Person.

## 10 **Members**

- 10.1 The Members of the Charity shall be:
- 10.1.1 The subscribers to the memorandum ;
  - 10.1.2 the Council (the "**Council Member**");
  - 10.1.3 the Directors; and
  - 10.1.4 such other individuals as may be appointed by the Directors in accordance with Rules made by the Directors under Article 33 from time to time.
- 10.2 Membership is not transferable.
- 10.3 The Directors must keep a register of names and addresses of the Members.

## 11 **Termination of Membership**

- 11.1 Subject to Article 11.2, Membership is terminated if:
- 11.1.1 the Member, being an individual, dies or, if it is an organisation, ceases to exist;
  - 11.1.2 the Member resigns by written notice to the Charity unless, after the resignation, there would be fewer than two Members;
  - 11.1.3 any sum due from the Member to the Charity is not paid in full within six months of it falling due;
  - 11.1.4 [the Member, being an individual, is convicted of an offence and the Directors resolve that it is undesirable in the interests of the Charity that he or she remains a Member of the Charity];
  - 11.1.5 [the Member, being an employee, volunteer or Director of the Charity ceases to be an employee, volunteer or Director (as the case may be), unless the Directors resolve that he or she should continue to be a Member and he or she so consents;]



11.1.6 the Member is removed from Membership by a resolution of the Directors that it is in the best interests of the Charity that his or her or its Membership is terminated. A resolution to remove a Member from Membership may only be passed if:

- (a) the Member has been given at least twenty-one days' notice in writing of the meeting of the Directors at which the resolution will be proposed and the reasons why it is to be proposed;
- (b) the Member or, at the option of the Member, the Member's representative (who need not be a Member of the Charity) has been allowed to make representations to the meeting, provided that, if the Member or the Member's representative does not attend the meeting to make representations, the Directors may remove the Member in his absence.

11.2 The membership of the Council Member is terminated if and only if:

11.2.1 the Council Member resigns by written notice, unless, after the resignation there would be fewer than two Members; or

11.2.2 the Council Member ceases to exist.

## 12 **General meetings**

12.1 The Charity must hold an annual general meeting within eighteen months after the date of adoption of these Articles.

12.2 An annual general meeting must be held in each subsequent year and not more than fifteen months may elapse between successive annual general meetings.

12.3 The Directors may call a general meeting at any time.

## 13 **Notice of general meetings**

13.1 The minimum periods of notice required to hold a general meeting of the Charity are:

13.1.1 twenty-one Clear Days for an annual general meeting;

13.1.2 fourteen Clear Days for all other general meetings.

13.2 A general meeting may be called by shorter notice if it is so agreed by a majority in number of Members having a right to attend and vote at the meeting, being a majority who together hold not less than 90 percent of the total voting rights.

13.3 The notice must specify the date time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an annual general meeting, the notice must say so. The notice must also contain a statement setting out the right of Members to appoint a proxy under section 324 of the Companies Act 2006 and Article 14.5.

13.4 The notice must be given to all the Members and to the Directors and auditors.

13.5 The proceedings at a meeting shall not be invalidated because a person who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the Charity.

## **14 Proceedings at general meetings**

### **14.1 Quorum**

14.1.1 No business shall be transacted at any general meeting unless a quorum is present.

14.1.2 A quorum is:

- (a) Five Members present in person or by their authorised representative or by proxy and entitled to vote upon the business to be conducted at the meeting; or
- (b) one tenth of the total Membership at the time whichever is the greater

14.1.3 Any person other than an individual which is a Member of the Charity may by resolution of its directors, trustees or other governing body authorise such person as it thinks fit to act as its authorised representative at any meeting of the Charity and the person so authorised shall be entitled to exercise the same powers on behalf of the person which he represents as that person would exercise if it were an individual Member of the Charity.

14.1.4 If:

- (a) a quorum is not present within half an hour from the time appointed for the meeting; or
- (b) during a meeting a quorum ceases to be present;

the meeting shall be adjourned to such time and place as the Directors shall determine.

14.1.5 The Directors must reconvene the meeting and must give at least seven Clear Days' notice of the reconvened meeting stating the date, time and place of the meeting.

14.1.6 If no quorum is present at the reconvened meeting within fifteen minutes of the time specified for the start of the meeting the Members present in person or by their authorised representative or by proxy at that time shall constitute the quorum for that meeting.

### **14.2 Chair**

14.2.1 General meetings shall be chaired by the individual who has been appointed to chair meetings of the Directors.

14.2.2 If there is no such individual or he or she is not present within fifteen minutes of the time appointed for the meeting a Director nominated by the Directors shall chair the meeting.

14.2.3 If there is only one Director present and willing to act, he or she shall chair the meeting.

14.2.4 If no Director is present and willing to chair the meeting within fifteen minutes after the time appointed for holding it, the Members present in person or by their authorised representative or by proxy and entitled to vote must choose an individual from their number to chair the meeting.

### 14.3 **Adjournment**

- 14.3.1 The Members present in person or by their authorised representative or by proxy at a meeting may resolve by ordinary resolution that the meeting shall be adjourned.
- 14.3.2 The person who is chairing the meeting must decide the date, time and place at which the meeting is to be reconvened unless those details are specified in the resolution.
- 14.3.3 No business shall be conducted at a reconvened meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- 14.3.4 If a meeting is adjourned by a resolution of the Members for more than seven days, at least seven Clear Days' notice shall be given of the reconvened meeting stating the date, time and place of the meeting.

### 14.4 **Voting**

- 14.4.1 Subject to Article 35.1 and 36.1, any vote at a meeting shall be decided by a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded:
  - (a) by the person chairing the meeting; or
  - (b) by at least two Members present in person or by their authorised representative or by proxy and having the right to vote at the meeting; or
  - (c) by a Member or Members present in person or by their authorised representative or by proxy and representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting.
- 14.4.2 The declaration by the person who is chairing the meeting of the result of a vote shall be conclusive unless a poll is demanded.
- 14.4.3 The result of the vote must be recorded in the minutes of the Charity but the number or proportion of votes cast need not be recorded.
- 14.4.4 A demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the person who is chairing the meeting.
- 14.4.5 If the demand for a poll is withdrawn the demand shall not invalidate the result of a show of hands declared before the demand was made.
- 14.4.6 A poll must be taken as the person who is chairing the meeting directs, who may appoint scrutineers (who need not be Members) and who may fix a time and place for declaring the results of the poll.
- 14.4.7 The result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 14.4.8 A poll demanded on the election of a person to chair a meeting or on a question of adjournment must be taken immediately.
- 14.4.9 A poll demanded on any other question must be taken either immediately or at such time and place as the person who is chairing the meeting directs.

14.4.10 The poll must be taken within thirty days after it has been demanded.

14.4.11 If the poll is not taken immediately at least seven Clear Days' notice shall be given specifying the time and place at which the poll is to be taken

14.4.12 If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.

#### **14.5 Content of proxy notices**

14.5.1 Proxies may only validly be appointed by a notice in writing (a 'proxy notice') which-

- (a) states the name and address of the Member appointing the proxy;
- (b) identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
- (c) is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the Directors may determine; and
- (d) is delivered to the Charity in accordance with the Articles and any instructions contained in the notice of the general meeting to which they relate.

14.5.2 The Charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

14.5.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

14.5.4 Unless a proxy notice indicates otherwise, it must be treated as -

- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
- (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

#### **14.6 Delivery of proxy notices**

14.6.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Charity by or on behalf of that person.

14.6.2 An appointment under a proxy notice may be revoked by delivering to the Charity a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.

14.6.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

14.6.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

## 14.7 **Written resolutions**

14.7.1 A resolution in writing agreed by a simple majority (or in the case of a special resolution by a majority of not less than 75%) of the Members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective provided that:

- (a) a copy of the proposed resolution has been sent to every eligible Member;
- (b) a simple majority (or in the case of a special resolution a majority of not less than 75%) of Members has signified its agreement to the resolution; and
- (c) it is contained in an authenticated document which has been received at the registered office within the period of 28 days beginning with the circulation date.

14.7.2 A resolution in writing may comprise several copies to which one or more Members have signified their agreement.

14.7.3 In the case of a Member that is an organisation, its authorised representative may signify its agreement.

## 14.8 **Votes of Members**

14.8.1 Subject to Article 35 and 36, every Member, whether an individual or an organisation, shall have one vote.

14.8.2 Any objection to the qualification of any voter must be raised at the meeting at which the vote is tendered and the decision of the person who is chairing the meeting shall be final.

14.8.3 The organisation must give written notice to the Charity of the name of its representative. The representative shall not be entitled to represent the organisation at any meeting unless the notice has been received by the Charity. The representative may continue to represent the organisation until written notice to the contrary is received by the Charity.

14.8.4 Any notice given to the Charity will be conclusive evidence that the representative is entitled to represent the organisation or that his or her authority has been revoked. The Charity shall not be required to consider whether the representative has been properly appointed by the organisation.

## 15 **Directors**

15.1 A Director must be an individual aged 16 years or older.

15.2 No one may be appointed a Director if he or she would be disqualified from acting under the provisions of Article 18.4

15.3 The minimum number of Directors shall be 5 but (unless otherwise determined by ordinary resolution) shall not be subject to any maximum.

15.4 The first Directors shall be those persons notified to Companies House as the first Directors of the Charity.

15.5 A Director may not appoint an alternate Director or anyone to act on his or her behalf at meetings of the Directors.

## 16 Powers of Directors

16.1 The Directors shall manage the business of the Charity and may exercise all the powers of the Charity unless they are subject to any restrictions imposed by the Companies Acts, the Articles or any special resolution.

16.2 No alteration of the Articles or any special resolution shall have retrospective effect to invalidate any prior act of the Directors.

16.3 Any meeting of Directors at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Directors.

## 17 Appointment of Directors

17.1 The Board shall be composed of no fewer than [• five] Directors and such maximum number as the Directors may determine from time to time.

17.2 The Board shall be constituted as follows:

17.2.1 **Nominated Directors:** Up to 2 Directors [appointed/nominated] by the Members under Article 17.3;

17.2.2 **Council Directors:** Up to 2 Directors appointed by the Council under Article 17.4; and

17.2.3 **Appointed Directors:** further Directors appointed by the Directors under Article 17.5.

### 17.3 Nominated Directors

17.3.1 The Members shall have the right to appoint up to 2 Directors by ordinary resolution, [whose appointment shall, subject as below, be confirmed by the Board of Directors,] provided that:

- (a) the Members must exercise this right in the best interests of the Charity;
- (b) the Members may not nominate as a Director any person who would be disqualified from acting under Article 15.1 or Article 15.2 or who does not meet the conditions under 17.6.1; and
- (c) the Members must act in accordance with Article 17.6.2.

17.3.2 [In relation to the appointment of Nominated Directors:

- (a) the Secretary shall, at least eight weeks before the date of the expiry of the term of office of a Nominated Director, give notice of the expiry of that term to the Members;
- (b) the Members may, by ordinary resolution, appoint up to 2 persons as Directors; and
- (c) the Board of Directors shall be entitled, without stating reasons, to disapprove a nomination, to request the nomination of two alternative individuals together with such relevant information about those individuals as may be reasonably required and shall thereupon confirm one of the alternatives proposed.]

## 17.4 Council Directors

17.4.1 The Council shall have the right to appoint two] Directors, provided that:

- (a) the Council must exercise this right in the best interests of the Charity;
- (b) the Council may not appoint as a Director any person who would be disqualified from acting under Article 15.1 or Article 15.2 or who does not meet the conditions under 17.6.1;
- (c) the Council must act in accordance with Article 17.6.2; and
- (d) a person appointed as a Council Director shall act as such in his or her own right and not as the delegate or representative of the Council.

17.4.2 In relation to the appointment of Council Directors:

- (a) the Secretary shall, at least eight weeks before the date of the expiry of the term of office of a Council Director, give notice of the expiry of that term to the Council;
- (b) the person appointed as a Council Director may be, but need not be associated with the Council.

## 17.5 Appointed Directors

17.5.1 Appointed Directors shall be appointed to the Board by resolution of the Board. The Directors may from time to time at their discretion determine any criteria for appointment as an Appointed Director, provided appointed Directors must meet the qualification requirements in Article 17.6.1 and that the Directors must exercise their appointment rights in accordance with Article 17.6.2.

## 17.6 Qualifications for appointment

17.6.1 No person shall be appointed or elected as a Director unless that person has declared in writing in such form as the Directors shall reasonably require that he or she supports the Objects and if appointed will as a Director work for the benefit of the Charity.

17.6.2 In appointing Directors, the Charity, the Directors and the Council shall use their reasonable endeavours first to secure that not less than one half of the Directors (including any Directors appointed by the Council) are residents of Honiton and East Devon and secondly to seek out and appoint persons whose ability, experience of professional qualifications can reasonably be expected to benefit the Charity.

## 18 Term of office

18.1 Subject to Article 19.1, the normal term of office for Nominated Directors and Appointed Directors shall be [three] years. A Director shall be eligible for re-election by the Directors for [one] further term of three years.

18.2 After a Director elected under Article 17.3.1 or appointed under Article 17.4.1(d) has served [two] consecutive terms in office, he or she shall be eligible for re-election only after a year has elapsed since he or she retired as Director, unless the Board considers it would be in the best interests of the Charity for the Director to be eligible for re-election on his or her retirement for such number of further terms as the Directors shall resolve.

18.3 Subject to Article 19.1, the term of office of a Council Director shall be determined by the Council.

18.4 No appointment of a Director may cause the number of Directors to exceed any number fixed as the maximum number of Directors.

## **19 Disqualification and removal of Directors**

19.1 A Director (including a person appointed by the Council) shall cease to hold office if he or she:

19.1.1 ceases to be a Director by virtue of any provision in the Companies Acts or is prohibited by law from being a Director;

19.1.2 is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of those provisions);

19.1.3 ceases to be a Member of the charity;

19.1.4 in the written opinion, given to the Charity, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a Director and may remain so for more than three months;

19.1.5 resigns as a Director by notice to the Charity (but only if at least two Directors will remain in office when the notice of resignation is to take effect); or

19.1.6 is absent without the permission of the Directors from all their meetings held within a period of six consecutive months and the Directors resolve that his or her office be vacated.

19.1.7 being a person appointed by the Council under Article 17.4, is removed by the Council;

19.1.8 [is removed by unanimous resolution of the other Directors].

## **20 Remuneration of Directors**

20.1 The Directors must not be paid any remuneration unless it is authorised by Article 7.

## **21 Proceedings of Directors**

21.1 The Directors may regulate their proceedings as they think fit, subject to the provisions of the Articles.

21.2 Any Director may call a meeting of the Directors.

21.3 The Secretary (if any) must call a meeting of the Directors if requested to do so by a Director.

21.4 Subject to Article 35, questions arising at a meeting shall be decided by a majority of votes.

21.5 In the case of an equality of votes, the person who is chairing the meeting shall have a second or casting vote.

21.6 A meeting may be held by suitable Electronic Means agreed by the Directors in which each participant may communicate with all the other participants.



## 22 **Quorum**

- 22.1 No decision may be made by a meeting of the Directors unless a quorum is present at the time the decision is purported to be made. 'Present' for the purpose of this Article 22 includes being present by suitable Electronic Means agreed by the Directors in which a participant or participants may communicate with all the other participants.
- 22.2 The quorum shall be two or the number nearest to one-third of the total number of Directors, whichever is the greater, or such larger number as may be decided from time to time by the Directors.
- 22.3 A Director shall not be counted in the quorum present when any decision is made about a matter upon which that Director is not entitled to vote.
- 22.4 If the number of Directors is less than the number fixed as the quorum, the continuing Directors or Director may act only for the purpose of filling vacancies or of calling a general meeting.

## 23 **Chair**

- 23.1 The Directors shall appoint a Director to chair their meetings and may at any time revoke such appointment.
- 23.2 If no-one has been appointed to chair meetings of the Directors or if the person appointed is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the Directors present may appoint one of their number to chair that meeting.
- 23.3 The person appointed to chair meetings of the Directors shall have no functions or powers except those conferred by the Articles or delegated to him or her by the Directors.

## 24 **Written resolutions**

- 24.1 A resolution in writing or in Electronic Form agreed by all of the Directors entitled to receive notice of a meeting of the Directors and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held.
- 24.2 The resolution in writing may comprise several documents containing the text of the resolution in like form to each of which one or more Directors has signified their agreement.

## 25 **Delegation**

- 25.1 The Directors may delegate any of their powers or functions to a committee of two or more Directors but the terms of any delegation must be recorded in the minute book.
- 25.2 The Directors may impose conditions when delegating, including the conditions that:
- 25.2.1 the relevant powers are to be exercised exclusively by the committee to whom they delegate;
  - 25.2.2 no expenditure may be incurred on behalf of the Charity except in accordance with a budget previously agreed with the Directors.
- 25.3 The Directors may revoke or alter a delegation.
- 25.4 All acts and proceedings of any committees must be fully and promptly reported to the Directors.

## 26 **Validity of Directors' decisions**

- 26.1 Subject to Article 26.2, all acts done by a meeting of Directors, or of a committee of Directors, shall be valid notwithstanding the participation in any vote of a Director:
- 26.1.1 who was disqualified from holding office;
  - 26.1.2 who had previously retired or who had been obliged by these Articles to vacate office;
  - 26.1.3 who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;
- if without:
- (a) the vote of that Director; and
  - (b) that Director being counted in the quorum;
- the decision has been made by a majority of the Directors at a quorate meeting.
- 26.2 Article 26.1 does not permit a Director or a Connected Person to keep any benefit that may be conferred upon him or her by a resolution of the Directors or of a committee of Directors if, but for Article 26.1, the resolution would have been void, or if the Director has not complied with Article 8.

## 27 **Seal**

- 27.1 If the Charity has a Seal it must only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the Seal is affixed and unless otherwise so determined it shall be signed by a Director and by the Secretary (if any) or by a second Director.

## 28 **Minutes**

- 28.1 The Directors must keep minutes of all:
- 28.1.1 appointments of officers made by the Directors;
  - 28.1.2 proceedings at meetings of the Charity;
  - 28.1.3 meetings of the Directors and committees of Directors including:
    - (a) the names of the Directors present at the meeting;
    - (b) the decisions made at the meetings; and
    - (c) where appropriate the reasons for the decisions.

## 29 **Accounts**

- 29.1 The Directors must prepare for each financial year accounts as required by the Companies Acts. The accounts must be prepared to show a true and fair view and follow accounting standards issued or adopted by the Accounting Standards Board or its successors and adhere to the recommendations of applicable Statements of Recommended Practice.
- 29.2 The Directors must keep accounting records as required by the Companies Act.

## **30 Annual Report and Return and Register of Charities**

- 30.1 The Directors must comply with the requirements of the Charities Act 2011 with regard to the:
- 30.1.1 transmission of a copy of the statements of account to the Commission;
  - 30.1.2 preparation of an Annual Report and the transmission of a copy of it to the Commission;
  - 30.1.3 preparation of an Annual Return and its transmission to the Commission.
- 30.2 The Directors must notify the Commission promptly of any changes to the Charity's entry on the Central Register of Charities.

## **31 Means of communication to be used**

- 31.1 Subject to the Articles, anything sent or supplied by or to the Charity under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Charity.
- 31.2 Subject to the Articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being.
- 31.3 Any notice to be given to or by any person pursuant to the Articles:
- 31.3.1 must be in writing; or
  - 31.3.2 must be given in Electronic Form.
- 31.4 The Charity may give any notice to a Member either:
- 31.4.1 personally; or
  - 31.4.2 by sending it by post in a prepaid envelope addressed to the Member at his or her address; or
  - 31.4.3 by leaving it at the address of the Member; or
  - 31.4.4 by giving it in Electronic Form to the Member's address.
  - 31.4.5 by placing the notice on a website and providing the person with a notification in writing or in Electronic Form of the presence of the notice on the website. The notification must state that it concerns a notice of Company meeting and must specify the place date and time of the meeting.
- 31.5 A Member who does not register an address with the Charity or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the Charity.
- 31.6 A Member present in person at any meeting of the Charity shall be deemed to have received notice of the meeting and of the purposes for which it was called.

- 31.7 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.
- 31.8 Proof that an Electronic Form of notice was given shall be conclusive where the Company can demonstrate that it was properly addressed and sent, in accordance with section 1147 of the Companies Act 2006.
- 31.9 In accordance with section 1147 of the Companies Act 2006 notice shall be deemed to be given:
  - 31.9.1 48 hours after the envelope containing it was posted; or
  - 31.9.2 in the case of an Electronic Form of communication, 48 hours after it was sent.

## 32 Indemnity

- 32.1 The Charity shall indemnify a relevant Director against any liability incurred in that capacity, to the extent permitted by sections 232 to 234 of the Companies Act 2006
- 32.2 In this Article a 'relevant Director' means any Director or former Director of the Charity.
- 32.3 The Charity may indemnify an auditor against any liability incurred by him or her or it
  - 32.3.1 in defending proceedings (whether civil or criminal) in which judgment is given in his or her or its favour or he or she or it is acquitted; or
  - 32.3.2 in connection with an application under section 1157 of the Companies Act 2006 (power of Court to grant relief in case of honest and reasonable conduct) in which relief is granted to him or her or it by the Court.

## 33 Rules

- 33.1 The Directors may from time to time make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the Charity.
- 33.2 The bye laws may regulate the following matters but are not restricted to them:
  - 33.2.1 the admission of Members of the Charity (including the admission of organisations to Membership) and the rights and privileges of such Members (including those attaching to any different classes of membership created by the Directors), and the subscriptions and other fees or payments to be made by Members;
  - 33.2.2 the conduct of Members of the Charity in relation to one another, and to the Charity's employees and volunteers;
  - 33.2.3 the criteria or process for nomination of Directors by the Members;
  - 33.2.4 the criteria for appointment of Directors by the Directors;
  - 33.2.5 the setting aside of the whole or any part or parts of the Charity's premises at any particular time or times or for any particular purpose or purposes;
  - 33.2.6 the procedure at general meetings and meetings of the Directors in so far as such procedure is not regulated by the Companies Acts or by the Articles;
  - 33.2.7 generally, all such matters as are commonly the subject matter of Company rules.

- 33.3 The Charity in general meeting has the power to alter, add to or repeal the rules or bye laws.
- 33.4 The Directors must adopt such means as they think sufficient to bring the rules and bye laws to the notice of Members of the Charity.
- 33.5 The rules or bye laws shall be binding on all Members of the Charity. No rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in, the Articles.

#### **34 Disputes**

- 34.1 If a dispute arises between Members of the Charity about the validity or propriety of anything done by the Members of the Charity under these Articles, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

#### **35 Avoiding influenced company status**

- 35.1 Notwithstanding the number of Members from time to time, the maximum aggregate number of votes exercisable by Local Authority Associated Persons shall never exceed 19.9% of the total number of votes exercisable by Members in general meeting and, if that would otherwise be the case, and the votes of the other Members having a right to vote at the meeting will be increased on a pro-rata basis.
- 35.2 No person who is a Local Authority Associated Person may be appointed or elected as a Director if, once the appointment or election had taken effect, the number of Directors who are Local Authority Associated Persons would represent 20% or more of the total number of Directors. Upon any resolution put to the Directors, the maximum aggregate number of votes exercisable by any Directors who are Local Authority Associated Persons shall represent a maximum of 19.9% of the total number of votes cast by the Directors on such a resolution and, if the votes of Directors who are Local Authority Associated Persons would otherwise exceed 19.9% of such votes, the votes of the other Directors having a right to vote at the meeting will be increased on a pro-rata basis.
- 35.3 No person who is a Local Authority Associated Person is eligible to be appointed or elected to the office of Director unless his appointment or election to such office is authorised by the local authority to which he is associated.
- 35.4 If;
- 35.4.1 at the time of either his becoming a Member of the Charity or his first appointment or election to office as a Director any Member or Director was not a Local Authority Associated Person but later becomes so during his membership or tenure as a Director; and
- 35.4.2 as a result of that Director becoming a Local Authority Associated Person the number of Directors who are Local Authority Associated Persons would represent 20% or more of the total number of Directors or the aggregate number of votes exercisable by Local Authority Associated persons exceed 19.9% of the total number of votes exercisable by Members in general meeting;
- that Director shall be deemed to have immediately resigned his membership and/or resigned from his office as a Director as the case may be.
- 35.5 If at any time the number of Directors or Members who are also Local Authority Associated Persons would (but for the provisions of this Article 35) represent 20% or more of the total

number of Directors or Members (as the case may be) then a sufficient number of the Directors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned as Directors or Members (as the case may be) immediately before the occurrence of such an event to ensure that at all times the number of such Directors or Members (as the case may be) is never equal to or greater than 20% of the total number of Directors or Members (as the case may be). Directors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned in order of their appointment or election date the most recently appointed or elected resigning first.

## **36 Avoiding controlled company status**

- 36.1 Notwithstanding the number of Members from time to time, the maximum aggregate number of votes exercisable by a Local Authority, including the Council, or by a company which is controlled by a Local Authority, shall never exceed 50% of the total number of votes exercisable by Members in general meeting, if that would otherwise be the case, and the votes of the other Members having a right to vote at the meeting will be increased on a pro-rata basis.
- 36.2 Notwithstanding the Council's right to appoint Directors under Article 17.4.1 and the Members right to nominate Directors under Article 17.3.1, no Local Authority, including the Council or company controlled by a Local Authority, shall have the right to appoint or nominate or remove more than 50% of the Directors and, if that would otherwise be the case, the number of Directors which the Directors have the right to appoint under Article 17.5.1 shall be deemed to increase to such a number that this is no longer the case.
- 36.3 Any agreement between the Members which grants any Local Authority or company controlled by a Local Authority, the right to control a majority of the voting rights in the Charity shall be deemed void.

## **37 Dissolution**

- 37.1 The Members of the Charity may at any time before, and in expectation of, its dissolution resolve that any net assets of the Charity after all its debts and liabilities have been paid, or provision has been made for them, shall on or before the dissolution of the Charity be applied or transferred in any of the following ways:
- 37.1.1 directly for the Objects; or
  - 37.1.2 by transfer to any Charity or charities for purposes similar to the Objects; or
  - 37.1.3 to any Charity or charities for use for particular purposes that fall within the Objects.
- 37.2 Subject to any such resolution of the Members of the Charity, the Directors of the Charity may at any time before and in expectation of its dissolution resolve that any net assets of the Charity after all its debts and liabilities have been paid, or provision made for them, shall on or before dissolution of the Charity be applied or transferred:
- 37.2.1 directly for the Objects; or
  - 37.2.2 by transfer to any Charity or charities for purposes similar to the Objects; or
  - 37.2.3 to any Charity or charities for use for particular purposes that fall within the Objects.

37.3 In no circumstances shall the net assets of the Charity be paid to or distributed among the Members of the Charity (except to a Member that is itself a Charity) and if no resolution in accordance with Article 37.1 is passed by the Members or the Directors the net assets of the Charity shall be applied for charitable purposes as directed by the Court or the Commission.

## 38 Interpretation

38.1 In Article 7, Article 9.2 and Article 26 'Connected Person' means:

38.1.1 a child, parent, grandchild, grandparent, brother or sister of the Director or Member;

38.1.2 the spouse or civil partner of the Director or Member or of any person falling within Article 38.1.1 above;

38.1.3 a person carrying on business in partnership with the Director or with any person falling within Article 38.1.1 and 38.1.2 above;

38.1.4 an institution which is controlled –

(a) by the Director or any Connected Person falling within Article 38.1.1, 38.1.2 or 38.1.3 above; or

(b) by two or more persons falling within sub-clause (a), when taken together

38.1.5 a body corporate in which –

(a) the Director or any Connected Person falling within Article 38.1.1 to 38.1.3 has a substantial interest; or

(b) two or more persons falling within Article 38.1.5 who, when taken together, have a substantial interest.

(c) Sections 350 – 352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this Article.