

**APPENDIX A**

The Companies Act 2006

Company Limited by Guarantee and not having a Share Capital

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**Memorandum and Articles of Association**  
**of**

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**Draft Documentation**  
**Prepared by Hastings Voluntary Action**

## The Companies Act 2006

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**The Companies Act 2006**  
**Company Limited by Guarantee and not having a Share Capital**  
**Memorandum of Association of the Stade Community Facilities Group**

Each subscriber to this Memorandum of Association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

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<i>Name of each subscriber</i>	<i>Authentication by each subscriber</i>
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## The Companies Act 2006

### Articles of Association of the Stade Community Facilities Group

#### INTERPRETATION

##### 1. Defined Terms

1.1 In the Articles, unless the context requires otherwise, the following terms shall have the following meanings:

Term	Meaning
(a) “Address”	includes a number or address used for the purposes of sending or receiving Documents by Electronic Means;
(b) “Articles”	the Charity’s Articles of association;
(c) “Chair”	has the meaning given in Article 10;
(d) “Charity”	Stade Community Facilities Group;
(e) “Circulation Date”	in relation to a written resolution, has the meaning given to it in the Companies Acts;
(f) “Clear Days”	in relation to the period of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;
(g) “Companies Acts”	means the Companies Acts (as defined in Section 2 of the Companies Act 2006), in so far as they apply to the Charity;
(h) “Conflict of Interest”	any direct or indirect interest of a Trustee (whether personal, by virtue of a duty of loyalty to another organisation or otherwise) that conflicts, or might conflict with the interests of the Charity;
(i) “Connected Person”	any person falling within one of the following categories: (a) any spouse, civil partner, parent, child, brother, sister, grandparent or grandchild of a Trustee; or (b) the spouse or civil partner of any person in (a); or (c) any person living with a Trustee as his or her partner; or (d) any Charity, partnership or firm of which a Trustee is a paid Trustee, member, partner or employee, or shareholder holding more than 1% of the capital;
(j) “Document”	includes, unless otherwise specified, any document sent or supplied in Electronic Form;
(k) “Electronic Form” and “Electronic	have the meanings respectively given to them in Section 1168 of the Companies Act 2006;

## **Means”**

- (l) “Financial Expert or Experts”** an individual, Charity or firm who, or which, is authorised to give investment advice under the Financial Services and Markets Act 2000;
- (m) “Hard Copy” and “Hard Copy Form”** have the meanings respectively given to them in the Companies Act 2006;
- (n) “Secretary”** the secretary of the Charity (if any);
- (o) “Subsidiary Company”** any Charity in which the Charity holds more than 50% of the shares, controls more than 50% of the voting rights attached to the shares or has the right to appoint a majority of the board of the Charity; and
- (p) “Trustee”** a Trustee of the Charity, and includes any person occupying the position of Trustee, by whatever name called;
- (q) “Writing”** the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise.

1.2 Subject to clause 3 of this Schedule, any reference in the Articles to an enactment includes a reference to that enactment as re-enacted or amended from time to time and to any subordinate legislation made under it.

1.3 Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the Companies Acts as in force on the date when these Articles become binding on the Charity.

## **OBJECTS AND POWERS**

### **2. Objects**

The Charity’s objects are specifically restricted to the following:

The general object of the Charitable Company is to promote the development of community facilities (buildings and open spaces) in the Stade Area<sup>1</sup> of the Old Town in Hastings and manage such facilities to ensure that the public derive benefit from them in order to maximise social capital, support the development of community groups in the area and improve the delivery of public services to residents of the Old Town.

To provide in conjunction with other groups partners and stakeholders a diverse programme of activities, events and improve opportunities for local residents to access services including but not confined to, education and training, arts and culture, leisure and recreation, health and wellbeing, information advice and guidance.

To offer affordable physical space to other community groups, charities and voluntary organisations to enable them to further their objects to benefit the public

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<sup>1</sup> Defined for the purposes of this document as the area marked on the map found at appendix 1.

To support the presentation of The Stade as a unique cultural and historical area and undertake work to promote or improve the physical, cultural or economic environment within that area

### 3. **Powers**

To further its objects, the Charity may:

- 3.1.1 provide and assist in the provision of money, materials or other help;
- 3.1.2 organise and assist in the provision of conferences, courses of instruction, exhibitions, lectures and other educational activities;
- 3.1.3 publish and distribute books, pamphlets, reports, leaflets, journals, films, tapes and instructional matter on any media;
- 3.1.4 promote, encourage, carry out or commission research, surveys, studies or other work, making the useful results available;
- 3.1.5 provide or procure the provision of counselling and guidance
- 3.1.6 provide or procure the provision of advice or information
- 3.1.7 alone or with other organisations seek to influence public opinion and make representations to and seek to influence governmental and other bodies and institutions regarding the reform, development and implementation of appropriate policies, legislation and regulations provided that all such activities shall be confined to those which an English and Welsh charity may properly undertake;
- 3.1.8 enter into contracts to provide services to or on behalf of other bodies;
- 3.1.9 acquire or rent any property of any kind and any rights or privileges in and over property and construct, maintain, alter and equip any buildings or facilities arranging such insurance or other collateral arrangements that may be necessary;
- 3.1.10 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 36 and 36 of the Charities Act 1993, as amended by the Charities Act 2006;
- 3.1.11 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 a security for a grant or the discharge of an obligation. The charity must comply as appropriate with sections 38 and 39 of the Charities Act 1993, as amended by the Charities Act 2006, if it wishes to mortgage land;

- 3.1.12 set aside funds for special purposes or as reserves against future expenditure but only in accordance with the written policy about reserves;
- 3.1.13 invest the Charity's money not immediately required for its objects in or upon any investments, securities, or property;
- 3.1.14 arrange for investments or other property of the Charity to be held in the name of a nominee or nominees (being a corporate body registered or having an established place of business in England and Wales) under the control of the Trustees or of a Financial Expert or Experts acting under their instructions and pay any reasonable fee required;
- 3.1.15 lend money and give credit to, take security for such loans or credit and guarantee or give security for the performance of contracts by any person or company;
- 3.1.16 open and operate bank accounts and other facilities for banking and draw, accept, endorse, issue or execute promissory notes, bills of exchange, cheques and other instruments;
- 3.1.17 accept (or disclaim) gifts of money and any other property;
- 3.1.18 to raise funds. In doing so, the charity must not undertake any taxable permanent trading activity and must comply with any relevant statutory regulations;
- 3.1.19 trade in the course of carrying out the objects of the Charity and carry on any other trade which is not expected to give rise to taxable profits;
- 3.1.20 incorporate subsidiary companies to carry on any trade;
- 3.1.21 subject to Article 4
  - (a) engage and pay employees, consultants and professional or other advisers; and
  - (b) make reasonable provision for the payment of pensions and other retirement benefits to or on behalf of employees and their spouses and dependants;
  - (c) Engage volunteers or pro-bono support from professionals to further the charities objects
- 3.1.22 establish and support or aid in the establishment and support of any other organisations and subscribe, lend or guarantee money or property for charitable purposes included in the Objects;
- 3.1.23 become a member, associate or affiliate of or act as trustee or appoint trustees of any other organisation (including without limitation



any charitable trust of permanent endowment property held for any of the charitable purposes included in the Charity's objects);

- 3.1.24 undertake and execute charitable trusts;
- 3.1.25 amalgamate or merge with or acquire or undertake all or any of the property, liabilities and engagements of any body having objects wholly or in part similar to those of the Charity;
- 3.1.26 co-operate with charities, voluntary bodies, statutory authorities and other bodies and exchange information and advice with them;
- 3.1.27 to acquire, merge with or enter into any partnership or joint venture arrangement with any other charity;
- 3.1.28 insure the property of the Charity against any foreseeable risk and take out other insurance policies as are considered necessary by the Trustees to protect the Charity;
- 3.1.29 provide indemnity insurance for the Trustees or any other officer of the Charity in accordance with, and subject to the conditions in, section 73F of the Charities Act 1993 as amended by the Charity Act 2006; and
- 3.1.30 do all such other lawful things as may further the Charity's objects.

### **LIMITATION ON PRIVATE BENEFITS**

#### **4. Directors' benefits**

- 4.1 Provision of goods and services, employment, other remuneration/financial benefits – directors/connected persons
- 4.2 No director 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 and to the charity;
  - (c) be employed by, or receive any remuneration from, the charity; unless
    - i. the payment is permitted by article 4.3; or
    - ii. the directors obtain the prior written approval of the Commission and fully comply with any procedures it prescribes.

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

- 4.3
- i. A director or connected person may receive a benefit from the charity in the capacity of a beneficiary of the charity provided that a majority of the directors do not benefit in this way.
  - ii. 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, section 73A to 73C to the Charities Act 1993.
  - iii. Subject to article 4.4 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.
  - iv. A director or connected person may receive interest on money lent to the charity at a reasonable and proper rate which must be 2% (or more) per annum below the base rate of a clearing bank to be selected by the directors.
  - v. A director or connected person may receive rent for premises let by the director or connected person to the charity if the amount of the rent and the other terms of the lease are reasonable and proper and provided that the director concerned shall withdraw from any meeting at which such a proposal or the rent or other terms of the lease and under discussion.
  - vi. The directors may arrange for the purchase, out of the fund of the charity, of insurance designed to indemnify the directors in accordance with the terms of, and subject to the conditions in, section 73F of the Charities Act 1993.
  - vii. 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.

4.4 The charity and its directors may only rely upon the authority provided by article 4.3(iii) 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:
  - (i) The charity or its directors (as the case may be); and
  - (ii) 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) The other 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 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 6(4)(A).
- 4.5 (a) In sub-clauses (2)-(4) of this article 6 “charity” shall include any company in which the charity:
- § holds more than 50% of the shares; or
  - § controls more than 50% of the voting rights attached to the shares; or
  - § has the right to appoint one or more directors to the board of the company;
- (b) In sub-clause (4) of this article 6, sub-clause (2) of article 45 and sub-clause (2) of article 46 “connected person” means:
- i. a child, parent, grandchild, grandparent, brother or sister of the director;
  - ii. the spouse or civil partner of the director or of any person falling within paragraph (i) above;
  - iii. a person carrying on business in partnership with the director or with any person falling within paragraph (i) or (ii) above;
  - iv. an institution which is controlled –
    - i. by the director or any connected person falling within paragraph (i), (ii) or (iii) above; or
    - ii. by two or more persons falling within sub-paragraph (i), when taken together
  - v. a body corporate in which –

- i. the director or any connected person falling within paragraphs (i) to (iii) has a substantial interest or;
  - ii. two or more persons falling within sub-paragraph (i) who, when taken together, have a substantial interest.
- (c) Paragraphs 2 to 4 f Schedule 5 to the Charities Act 1993 apply for the purposes of interpreting the terms used in this sub-clause.

## **LIABILITY, INDEMNITY AND WINDING UP**

### **5. Liability of Members**

- 5.1 The liability of each member is limited to £1, 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:
  - 5.1.1 payment of the Charity's debts and liabilities contracted before he, she or it ceases to be a member,
  - 5.1.2 payment of the costs, charges and expenses of winding up, and
  - 5.1.3 adjustment of the rights of the contributories among themselves.

### **6. Indemnity**

- 6.1 Without prejudice to any indemnity to which a Trustee may otherwise be entitled, every Trustee of the Charity shall be indemnified out of the assets of the Charity in relation to any liability incurred by him or her in that capacity but only to the extent permitted by the Companies Acts; and every other officer of the Charity may be indemnified out of the assets of the Charity in relation to any liability incurred by him or her in that capacity, but only to the extent permitted by the Companies Acts.

### **7. Winding up**

If any property remains after the Charity has been wound up or dissolved and the debts and liabilities have been satisfied it may not be paid to or distributed among the members of the Charity (except to a member that is itself a charity which would qualify to benefit under this Article), but must be given to some other institution or institutions with similar objects which is or are regarded as charitable under the law of every part of the United Kingdom. The institution or institutions to benefit may be chosen by resolution of the members at or before the time of winding up or dissolution, and subject to any such resolution of the members may be chosen by resolution of the Trustees at or before the time of winding up or dissolution.

## TRUSTEES

### ***TRUSTEES' POWERS AND RESPONSIBILITIES***

#### **8. Trustees' general authority**

Subject to the Articles, the Trustees are responsible for the management of the Charity's business, for which purpose they may exercise all the powers of the Charity unless they are subject to any restrictions imposed by the Companies Acts, the Articles or by any special resolution.

#### **9. Members' reserve power**

9.1 The members may, by special resolution, direct the Trustees to take, or refrain from taking, specified action.

9.2 No such special resolution invalidates anything which the Trustees have done before the passing of the resolution.

#### **10. Chair**

The Trustees may appoint one of their number to be the chair of the Trustees for such term of office as they determine and may at any time remove him or her from that office.

#### **11. Trustees may delegate**

11.1 Subject to the Articles, the Trustees may delegate any of their powers or functions to any committee of two or more Trustees but the terms of any delegation must be recorded in the minute book;

11.2 Subject to the Articles the Trustees may delegate to any person or committee the implementation of their decisions or day to day management of the affairs of the Charity;

11.3 The directors may impose conditions when delegating, including the conditions that;

11.3.1 The relevant powers are to be exercised exclusively by the committee to whom they delegate;

11.3.2 No expenditure may be incurred on behalf of the charity except in accordance with a budget previously agreed with the directors.

11.4 The directors may revoke or alter delegation.

11.5 All acts and proceedings of any committees must be fully and promptly reported to the directors.

11.6 The Trustees may by power of attorney or otherwise appoint any person to be the agent of the Charity for such purposes and on such conditions as they determine.

## 12. **Delegation of investment management**

The Trustees may delegate the management of investments to a Financial Expert or Experts.

### ***DECISION-MAKING BY TRUSTEES***

## 13. **General meeting**

13.1 The charity must hold its first annual general meeting within eighteen months after the date of its incorporation.

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

## 14. **Trustees to take decisions collectively**

Any decision of the Trustees must be either a majority decision at a meeting or a decision taken in accordance with Article 20.

## 15. **Notice of general meeting**

15.1 The minimum periods of notice required to hold a general meeting of the charity are:

15.1.1 Twenty-one clear days for an annual general meeting or a general meeting called for the passing of a special resolution;

15.1.2 Fourteen clear days for all other general meetings.

15.2 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.

15.3 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 19.

15.4 The notice must be given to all the members and to the directors and auditors.

15.5 Notice of Trustees' meetings need not be in Writing and may be sent by Electronic Means to an Address provided by the Trustee for the purpose.

- 15.6 Proxies may only validly be appointed by a notice in writing (a “proxy notice”) which –
- 15.6.1 States the name and address of the member appointing the proxy;
  - 15.6.2 Identifies the person appointed to be that member’s proxy and the general meeting in relation to which that person is appointed;
  - 15.6.3 Is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the directors may determine; and
  - 15.6.4 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.
- 15.7 The charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 15.8 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.
- 15.9 Unless a proxy notice indicates otherwise, it must be treated as:
- 15.9.1 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
  - 15.9.2 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.
- 16. Participation in Trustees’ meetings**
- 16.1 Subject to the Articles, Trustees participate in a Trustees’ meeting, or part of a Trustees’ meeting, when:
- 16.1.1 the meeting has been called and takes place in accordance with the Articles; and
  - 16.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 16.2 In determining whether Trustees are participating in a Trustees’ meeting, it is irrelevant where any Trustee is or how they communicate with each other.
- 16.3 If all the Trustees participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.
- 17. Quorum for Trustees’ meetings**
- 17.1 At a Trustees’ meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

17.2 The quorum for Trustees' meetings may be fixed from time to time by a decision of the Trustees, but it must never be less than two, and unless otherwise fixed it is [two or one-third of the total number of Trustees, whichever is the greater].

17.3 If:

17.3.1 A quorum is not present within half an hour from the time appointed for the meeting; or

17.3.2 During a meeting a quorum ceases to be present;

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

17.4 The Trustees 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.

17.5 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 proxy at that time shall constitute the quorum for that meeting.

## 18. **Chairing of Trustees' meetings**

18.1 The Chair, if any, or in his or her absence another Trustee nominated by the Trustees present shall preside as chair of each Trustees' meeting.

18.2 If there is no such person 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.

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

18.4 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 proxy and entitled to vote must choose one of their number to chair the meeting.

## 19. **Decision-making at meetings**

Questions arising at a Trustees' meeting shall be decided by a majority of votes. In the case of an equality of votes, the chair of the meeting shall be entitled to a casting vote in addition to any other vote he or she may have.

## 20. **Decisions without a meeting**

20.1 The Trustees may take a unanimous decision without a Trustees' meeting in accordance with this Article by indicating to each other by any means, including without limitation by Electronic Means, that they share a common view on a matter. Such a decision may, but need not, take the form of a



resolution in Writing, copies of which have been signed by each Trustee or to which each Trustee has otherwise indicated agreement in Writing.

20.2 A decision which is made in accordance with Article 20.1 shall be as valid and effectual as if it had been passed at a meeting duly convened and held, provided the following conditions are complied with:

20.2.1 approval from each Trustee must be received by one person being either such person as all the Trustees have nominated in advance for that purpose or such other person as volunteers if necessary (“the Recipient”), which person may, for the avoidance of doubt, be one of the Trustees;

20.2.2 following receipt of responses from all of the Trustees, the Recipient must communicate to all of the Trustees (by any means) whether the resolution has been formally approved by the Trustees in accordance with this Article 20.2;

20.2.3 the date of the decision shall be the date of the communication from the Recipient confirming formal approval;

20.2.4 the Recipient must prepare a minute of the decision in accordance with Article 33.

## 21. **Conflicts of interest**

21.1 Whenever a Trustee finds himself or herself in a situation that is reasonably likely to give rise to a Conflict of Interest, he or she must declare his or her interest to the Trustees.

21.2 If any question arises as to whether a Trustee has a Conflict of Interest, the question shall be decided by a majority decision of the other Trustees.

21.3 Whenever a Trustee has a Conflict of Interest either in relation to a matter to be discussed at a meeting or a decision to be made in accordance with Article 20:

21.3.1 if the Conflict of Interest relates to a benefit permitted under Article 4(B) then the Trustee must comply with Article 21.4;

21.3.2 for all other Conflicts of Interest, either the Trustee must comply with Article 21.4 or authorisation must be given by the unconflicted Trustees under Article 21.

21.4 If a Trustee with a Conflict of Interest is required to comply with Article 20.4 he or she must:

21.4.1 remain only for such part of the meeting as in the view of the other Trustees is necessary to inform the debate;

21.4.2 not be counted in the quorum for that part of the meeting; and

21.4.3 withdraw during the vote and have no vote on the matter.

21.5 When a Trustee has a Conflict of Interest which he or she has declared to the Trustees, he or she shall not be in breach of his or her duties to the Charity by withholding confidential information from the Charity if to disclose it would result in a breach of any other duty or obligation of confidence owed by him or her.

## **22. Trustees' power to authorise a conflict of interest**

22.1 The Trustees have power to authorise a Trustee to be in a position of Conflict of Interest provided:

22.1.1 this power cannot be used to authorise a Conflict of Interest arising from a benefit permitted under Article 4.2(c)

22.1.2 in relation to the decision to authorise a Conflict of Interest, the conflicted Trustee must comply with Article 21.4;

22.1.3 in authorising a Conflict of Interest, the Trustees can decide the manner in which the Conflict of Interest may be dealt with and, for the avoidance of doubt, they can decide that the Trustee with a Conflict of Interest can participate in a vote on the matter and can be counted in the quorum;

22.1.4 the decision to authorise a Conflict of Interest can impose such terms as the Trustees think fit and is subject always to their right to vary or terminate the authorisation; and

22.1.5 nothing in this Article 21 shall have the effect of allowing the Trustees to authorise a benefit that is not permitted in accordance with Article 4.

22.2 If a matter, or office, employment or position, has been authorised by the Trustees in accordance with Article 22.1 then, even if he or she has been authorised to remain at the meeting by the other Trustees, the Trustee may absent himself or herself from meetings of the Trustees at which anything relating to that matter, or that office, employment or position, will or may be discussed.

22.3 A Trustee shall not be accountable to the Charity for any benefit which he or she derives from any matter, or from any office, employment or position, which has been authorised by the Trustees in accordance with Article 22.1 (subject to any limits or conditions to which such approval was subject).

## **23. Register of Trustees' interests**

The Trustees shall cause a register of Trustees' interests to be kept. A Trustee 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 Trustee must absent himself or herself from any discussions of the Trustees 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).

**24. Number of Trustees**

There shall be at least three Trustees.

***APPOINTMENT AND RETIREMENT OF TRUSTEES***

**25. Methods of appointing Trustees**

25.1 Those persons notified to the Registrar of Companies as the first Trustees of the Charity shall be the first Trustees.

25.2 Any person who is willing to act as a Trustee, and is permitted by law to do so, may be appointed to be a Trustee by a decision of the Trustees by special resolution.

25.3 At the first Trustee meeting the names of Trustees will be divided by ballot to form three groups. During each 12 month period one group shall submit themselves for re-election or re-nomination (if their status as a Trustee comes about as a result of a relationship with a Third Party Organisation

25.4 No person may be appointed as a Trustee unless that person is a member.

**26. Termination of Trustee's appointment**

26.1 A person ceases to be a Trustee as soon as:

26.1.1 that person ceases to be a member;

26.1.2 that person ceases to be a Trustee by virtue of any provision of the Companies Act 2006, or is prohibited from being a Trustee by law;

26.1.3 that person is disqualified under the Charities Act 1993 by virtue of Section 72 (or any statutory re-enactment or modification of that provision) from acting as a trustee of a charity;

26.1.4 a bankruptcy order is made against that person, or an order is made against that person in individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

26.1.5 a composition is made with that person's creditors generally in satisfaction of that person's debts;

26.1.6 the Trustees reasonably believe he or she is suffering from mental disorder and incapable of acting and they resolve that he or she be removed from office;

26.1.7 notification is received by the Charity from the Trustee that the Trustee is resigning from office, and such resignation has taken effect in accordance with its terms (but only if at least three Trustees will remain in office when such resignation has taken effect);

26.1.8 the Trustee fails to attend three consecutive meetings of the Trustees and the Trustees resolve that the Trustee be removed for this reason; or

26.1.9 at a meeting of the Trustees at which at least half of the Trustees are present, a resolution is passed that he or she be removed from office. Such a resolution shall not be passed unless the Trustee has been given at least 14 clear days' notice that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been afforded a reasonable opportunity of either, at the option of the Trustee being removed, being heard by or of making written representations to the Trustees.

## **MEMBERS**

### ***BECOMING AND CEASING TO BE A MEMBER***

#### **27. Trustees as members**

The Trustees from time to time shall be the only members of the Charity.

#### **28. Termination of membership**

28.1 Membership is not transferable and ceases on death.

28.2 A member shall cease to be a member if a member ceases to be a Trustee:

### ***DECISION MAKING BY MEMBERS***

#### **29. Members' meetings**

29.1 The Trustees may call a meeting of the members at any time.

29.2 Such meetings must be held in accordance with the provisions regarding such meetings in the Companies Acts.

#### **30. Written resolutions of members**

30.1 Subject to Article 30.3, a written resolution of the members passed in accordance with this Article 30 shall have effect as if passed by the members in general meeting:

30.1.1 A written resolution is passed as an ordinary resolution if it is passed by a simple majority of the total voting rights of eligible members.

30.1.2 A written resolution is passed as a special resolution if it is passed by members representing not less than 75% of the total voting rights of

eligible members. A written resolution is not a special resolution unless it states that it was proposed as a special resolution.

- 30.2 In relation to a resolution proposed as a written resolution of the Charity the eligible members are the members who would have been entitled to vote on the resolution on the Circulation Date of the resolution.
- 30.3 A members' resolution under the Companies Acts removing a Trustee or an auditor before the expiration of his or her term of office may not be passed as a written resolution.
- 30.4 A copy of the written resolution must be sent to every member together with a statement informing the member how to signify their agreement to the resolution and the date by which the resolution must be passed if it is not to lapse. Communications in relation to written notices shall be sent to the Charity's auditors in accordance with the Companies Acts.
- 30.5 A member signifies their agreement to a proposed written resolution when the Charity receives from him or her an authenticated Document identifying the resolution to which it relates and indicating his or her agreement to the resolution.
- 30.5.1 If the Document is sent to the Charity in Hard Copy form, it is authenticated if it bears the member's signature.
- 30.5.2 If the Document is sent to the Charity by Electronic Means, it is authenticated [if it bears the member's signature] or [if the identity of the member is confirmed in a manner specified by the Trustees] or [if it is accompanied by a statement of the identity of the member and the Charity has no reason to doubt the truth of that statement] or [if it is from an email Address specified by the member to the Charity for the purposes of receiving Documents or information by Electronic Means].
- 30.6 A written resolution is passed when the required majority of eligible members have signified their agreement to it.
- 30.7 A proposed written resolution lapses if it is not passed within 28 days beginning with the Circulation Date.

## **ADMINISTRATIVE ARRANGEMENTS AND MISCELLANEOUS**

### **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 Acts provide 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 Trustee in connection with the taking of decisions by Trustees may also be sent or supplied by the means by which that Trustee has asked to be sent or supplied with such notices or Documents for the time being.

- 31.3 A Trustee may agree with the Charity that notices or Documents sent to that Trustee in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

**32. Irregularities**

The proceedings at any meeting or on the taking of any poll or the passing of a written resolution or the making of any decision shall not be invalidated by reason of any accidental informality or irregularity (including any accidental omission to give or any non-receipt of notice) or any want of qualification in any of the persons present or voting or by reason of any business being considered which is not specified in the notice unless a provision of the Companies Acts specifies that such informality, irregularity or want of qualification shall invalidate it.

**33. Minutes**

- 33.1 The Trustees must cause minutes to be made in books kept for the purpose:

33.1.1 of all appointments of officers made by the Trustees;

33.1.2 of all resolutions of the Charity and of the Trustees (including, without limitation, decisions of the Trustees made without a meeting); and

33.1.3 of all proceedings at meetings of the Charity and of the Trustees, and of committees of Trustees, including the names of the Trustees present at each such meeting;

and any such minute, if purported to be signed (or in the case of minutes of Trustees' meetings signed or authenticated) by the chair of the meeting at which the proceedings were had, or by the chair of the next succeeding meeting, shall, as against any member or Trustee of the Charity, be sufficient evidence of the proceedings.

- 33.2 The minutes must be kept for at least ten years from the date of the meeting, resolution or decision.

**34. Records and accounts**

The Trustees shall comply with the requirements of the Companies Acts and of the Charities Act 1993 as to maintaining a members' register, keeping financial records, the audit or examination of accounts and the preparation and transmission to the Registrar of Companies and the Charity Commission of:

34.1 annual reports;

34.2 annual returns; and

34.3 annual statements of account.

34.4 Except as provided by law or authorised by the Trustees or an ordinary resolution of the Charity, no person is entitled to inspect any of the Charity's accounting or other records or Documents merely by virtue of being a member.

35. **Seal**

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 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.

36. **Accounts**

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 or Recommended Practice.

37. **Annual Report and Return and Register of Charities**

37.1 The directors must comply with the requirements of the Charities Act 1993

37.1.1 Transmission of a copy of the statements of account to the Commission;

37.1.2 Preparation of an Annual Report and the transmission of a copy of it to the Commission;

37.1.3 Preparation of an Annual Return and its transmission to the Commission.

37.2 The directors must notify the Commission promptly of any changes to the charity's entry on the Central Register of Charities.

37.3 In accordance with section 1147 of the Companies Act 2006 notice shall be deemed to be given:

37.3.1 48 hours after the envelope containing it was posted; or

37.3.2 in the case of an electronic form of communication, 48 hours after it was sent.

38. **Rules**

38.1 The directors may from time to time make such reasonable and proper rules or by-laws as they may deem necessary or expedient for the proper conduct and management of the charity.

38.2 The by-laws may regulate the following matters but are not restricted to them:

- 38.2.1 The admission of members of the charity (including the admission of organisations to membership) and the rights and privileges of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;
  - 38.2.2 The conduct of the members of the charity in relation to one another, and to the charity's employees and volunteers;
  - 38.2.3 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;
  - 38.2.4 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;
  - 38.2.5 Generally, all such matters as are commonly the subject matter of company rules.
- 38.3 The charity in general meeting has the power to alter, add or to repeal the rules or by-laws.
  - 38.4 The directors must adopt such means as they think sufficient to bring the rules and by-laws to the notice of members of the charity.
  - 38.5 The rules or by-laws shall be binding on all members of the charity. No rule or by-law shall be inconsistent with, or shall affect or repeal anything contained in, the articles.

## 39. **Dissolution**

- 39.1 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
  - 39.1.1 Directly for the Objects; or
  - 39.1.2 By transfer to any charity or charities for purposes similar to the Objects; or
  - 39.1.3 To any charity or charities for use for particular purposes that fall within the Objects.
- 39.2 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;
  - 39.2.1 Directly for the Objects



39.2.2 By transfer to any charity or charities for purposes similar to the Objects; or

39.2.3 To any charity or charities for use for particular purposes that fall within the Objects.

39.3 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 39.1 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.

**40. Exclusion of model Articles**

The relevant model Articles for a Charity limited by guarantee are hereby expressly excluded.