

**SUPERSEDES ARTICLES OF ASSOCIATION DATED 27 MAY 2008**

Company number: SC220297

**THE COMPANIES ACT 2006**

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

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**ARTICLES OF ASSOCIATION  
OF  
DUMFRIES AND GALLOWAY HOUSING PARTNERSHIP LIMITED**

**PRELIMINARY**

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

**DEFINITIONS AND INTERPRETATION**

2. In the Articles (as hereinafter defined) unless the context otherwise requires:

“2005 Act”	Means the Charities and Trustee Investment (Scotland) Act 2005.
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“the Act”	Means the Companies Act 2006 and any statutory modification or re-enactment thereof for the time being in force.
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“Articles”	Means these Articles of Association as originally adopted or as altered from time to time.
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“Board”	Means the Board of directors of the Company from time to time.
“Board Members”	Means the directors for the time being of the Company and shall (save where expressly excluded) include co-optees to the Board pursuant to Article 40.
“Chairperson”	Means the Chairperson of the Board appointed prior to Article 54(1) or in his absence any vice or deputy chairperson appointed pursuant to Article 54(4).
“clear days”	in relation to the period of a notice means 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..
“Closely Connected”	has the meaning ascribed to that term in the Code of Conduct
“Code of Conduct”	means the code of conduct for Board Members and members of District Management Committees adopted from time to time by the Board.
“District Management Committees”	Means the Committees created from time to time by the Board for the purposes of assisting the Company in its aim to be responsive to local needs and aspirations.
“executed”	Means in relation to any contract, agreement or other document and includes any mode of execution.
“Housing Act”	Means the Housing (Scotland) Act 2001.
“Independent Board Member”	Means a Board Member who is not a Tenant Board Member.
“Independent Member”	Means any Member designated as such pursuant to Article 9(4).
“Local Authority Person”	Means any person:

- (i) who is or has been a member of a Relevant Council in the preceding 12 months; or
- (ii) who is an officer of a Relevant Council ( which for these purposes shall not include employees with non-managerial posts apart from housing employees); or
- (iii) who is both an employee and either a director, manager, secretary or other similar officer of a company which is under the control of a Relevant Council; and
- (iv) in the case of a Board Member, who is the spouse or cohabiting partner of or a person Closely Connected to a person falling within categories (i), (ii) or (iii) above.

“Member”	Means any person, firm, company or other organisation who is admitted to membership of the Company in accordance with the provisions of these Articles.
“Office”	Means the registered office of the Company.
“Officer Bearer”	Means the chairperson, secretary, treasurer or vice chairperson of the Company.
“OSCR”	Means the Office of the Scottish Charity Regulator, as constituted by Section 1 of the 2005 Act as a Non-Ministerial Department of the Scottish Administration and having its principal place of business at 2nd Floor, Quadrant House, 9 Riverside Drive, Dundee, DD1 4NY.
“Registered Social Landlord”	Means a social landlord registered on the register maintained by The Scottish Housing Regulator pursuant to section 57 of the Housing Act .
“Relevant Business”	Means a business trading for profit:  (a) of which a Board Member or any person Closely Connected to a Board Member is a principal proprietor; and/or

(b) in respect of which a Board Member or any person Closely Connected to a Board Member has direct or significant management control or responsibility.

“Relevant Council”	Means Dumfries and Galloway Council or its successors in title.
“Scottish Housing Regulator ”	means the body known as The Scottish Housing Regulator, having its head office at Highlander House, 58 Waterloo Street, Glasgow G2 7DA, being an executive agency acting on behalf of Scottish Ministers (so that, for the avoidance of doubt, a reference to “The Scottish Housing Regulator” shall be deemed to include a reference to Scottish Ministers) and any other body which takes over all or substantially all of its regulatory and supervisory powers and responsibilities and any body which takes over any or all of its grant making powers and responsibilities in each case in relation to the provision of social housing.
“the seal”	Means the common seal of the Company.
“Secretary”	Means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary.
“Standing Orders”	means the standing orders of the Company adopted from time to time by the Board.
“Tenant”	Means a tenant of the Company from time to time occupying a residential property under a Scottish secure tenancy or any statutory tenancy which from time to time may replace such tenancy.
“Tenant Board Member”	Means a Board Member appointed pursuant to Article 38.
“Tenant Member”	Means a Member who is at the time of admission to membership a Tenant and is designated as such in accordance with Article 9(5).

“Transfer”	Means the transfer of not less than 90% of the housing stock of the Relevant Council to the Company.
“the United Kingdom”	Means Great Britain and Northern Ireland.

4. (1) Unless the context otherwise requires, words or expressions contained in these regulations bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these regulations become binding on the Company.
- (2) In these Articles words importing individuals shall, unless the context otherwise require, include corporations and words importing the singular number shall include the plural, and vice versa and words importing the masculine gender shall include the feminine gender.
- (3) Without prejudice to the foregoing, each reference to the Housing Act shall include reference to the equivalent or replacement provision in the Housing (Scotland) Act 2010 or to any subsequent re-enactment or amendment thereof.

## **OBJECTS**

5. The objects of the Company shall be primarily in Scotland to operate for the relief of those in need by reason of age, ill health, disability, financial hardship or other disadvantage through:
  - (1) the provision, construction, improvement and/or management of land and accommodation;
  - (2) the provision of care; and
  - (3) the undertaking of any activity allowed under Section 58 of the Housing (Scotland) Act 2001 (as amended by the Housing (Scotland) Act 2006 and the Registered Social Landlords (Purposes or Objects) (Scotland) Order 2006) which is charitable both for the purposes of section 7 of the Charities and Trustee Investment (Scotland) Act 2005 and also section 505 of the Income and Corporation Taxes Act 1988.

## **POWERS**

6. The Company shall have power to do any thing that a natural or corporate person can lawfully do which is necessary or expedient in furtherance of its objects unless prohibited in these Articles provided that:

- (1) the Company shall not accept money on deposit;
  - (2) subject to the terms of Article 5, the Board may determine and change conditions under which the Company borrows or lends money; and
  - (3) the Company shall not lend money to Members save with the prior written consent of The Scottish Housing Regulator or any successor regulatory body.
7. Without limiting the powers described in Article 6, the Company shall have power to:
- (1) take or grant or otherwise dispose of any interest in land;
  - (2) carry out works to land, buildings or other property;
  - (3)
    - (a) subject to such consents as may be required by law to borrow money, issue loan stock or raise money in such manner as the Company shall think fit and to secure the repayment of any money borrowed raised or owing by such security as the Company shall see fit (including by way of floating charge) upon the whole or any part of the Company's property or assets (whether present or future) and also by giving similar security to secure and guarantee the performance by the Company of any obligation or liability it may undertake or which may become binding on it provided that the total borrowing at any time is not more than £500 million;
    - (b) in respect of any proposed borrowing for the purposes of Article 7(3)(a) the amount remaining undischarged of any index-linked loan previously borrowed by the Company or any deep discounted security shall be deemed to be the amount needed to repay such borrowing in full if the pre-existing borrowing became repayable in full at the time of the proposed borrowing;
    - (c) for the purposes of Article 7(3)(a) in respect of any proposed borrowing intended to be index-linked or on any deep discounted security the amount of borrowings shall be deemed to be the proceeds of such proposed borrowings that would be receivable by the Company at the time of the proposed borrowing;
    - (d) the Company shall not pay more than the market rate of interest as determined by the Board having regard to the terms of the loan on any money it borrows;
  - (4)
    - (a) to enter into and perform a Rate Cap Transaction, or series of Rate Cap Transactions, or to enter into a Collar Transaction or series of Collar

Transactions or an Interest Rate Swap Transaction where in relation to any such Transaction the following conditions are satisfied namely that:

- (i) the relevant instruments relate solely to amounts denominated in Sterling;
- (ii) the relevant transaction provides (in the case of an interest rate swap) for the Company to undertake to pay a specified fixed rate on an applicable notional sum denominated in Sterling, but not otherwise;
- (iii) the relevant transaction in the case of a Collar Transaction provides for the simultaneous buying of an instrument relating to a rate cap and the selling of an instrument providing for a floor at a lower strike price to such Cap;
- (iv) any counterparty to the transaction is one of the principal clearing banks in the United Kingdom;
- (v) the Board or a duly authorised sub-committee established under the Articles considers the entry by the Company into such transaction(s) to be in the best interests of the Company.

PROVIDED that at the time of entry into any such transaction(s) the sum of the Calculation Amount of any such transaction previously entered into and remaining in effect and the Calculation Amount of the proposed transaction(s) shall not exceed (x) the aggregate amount of the Company's Variable Rate Borrowings either at the Effective Date or (y) having regard at the Effective Date to the Company's obligations to repay Variable Rate Borrowings, the amount of Variable Rate Borrowings which will be outstanding at any time on or prior to the proposed Termination Date.

- (b) Before exercising its power under Article 7(4)(a) the Company shall obtain and consider proper advice on the question whether the transaction is satisfactory having regard to:
  - (i) the possible fluctuations in the rate of interest payable by the Company on its Variable Rate Borrowings during the terms of the relevant transaction;
  - (ii) the Company's ability to meet its payment obligations under such Borrowings during the term of the relevant transaction(s) if such transaction was or were not entered into;

- (iii) the payment obligation under the relevant transaction(s); and
  - (iv) the Company's actual and projected annual income and expenditure position.
- (c) For the purposes of Article 7(4)(b) proper advice shall mean the advice of a person who is reasonably believed by the Board to be qualified by his ability in the practical experience of financial matters and rate cap transactions, such advice may be given by a person notwithstanding that he gives it in the course of his employment as an Officer.
- (d) A person entering into a relevant transaction as a Floating Rate Payer with the Company who has received a written certificate signed by the Secretary confirming the Company's compliance with Articles 7(4)(b) and (c) shall not be concerned to enquire further whether or not the Company has complied with the provisions of Articles 7(4)(b) and (c) and such transaction shall be valid at the date it is entered into and throughout its term in favour of such person (or any assignee or successor in title) whether or not the provisions of Articles 7(4)(b) and (c) have been complied with.
- (e) For the purposes of this Rule:
  - (i) "Calculation Amount" "Effective Date" "Floating Rate Payer" "Term" and "Termination Dated" have the respective meanings given in the 1991 International Swaps and Derivatives Association (ISDA) Definitions as amended from time to time;
  - (ii) "Variable Rate Borrowings" mean any borrowing by the Company pursuant to Article 7(3) in respect of which the rate of interest has not been fixed for a term in excess of twelve months and the term "fixed" shall exclude any borrowing where the rate of interest is indexed in accordance with a retail price index or other published index; and
  - (iii) "Rate Cap Transaction" "Collar Transaction" and "Interest Rate Swap Transaction" mean respectively any transaction so designated within the meaning of the category "Swap Transaction" as defined in the 1991 ISDA Definitions as amended from time to time.



- (5) To insure and arrange insurance cover for the Company from and against all such risks as the Board may think fit and to pay any premium in respect of such insurance.
- (6) To insure and arrange insurance cover for and to indemnify its Members, employees and voluntary workers from and against all such risks incurred in the proper performance of their duties as it shall consider appropriate and to pay any premium in relation to indemnity insurance in respect of liabilities of its Board Members or any of them which would otherwise attach to them in respect of any negligence, default, breach of duty or breach of trust of which they may be guilty in respect of the Company PROVIDED THAT such insurance shall not extend to any liability in respect of an act or omission which such Board Member or Board Members knew or ought reasonably to have known was a breach of duty or trust or which was committed by such Board Member or Board Members recklessly without due regard as to whether such act or omission might be a breach of duty or trust.
- (7) To invest any monies of the Company not immediately required for the furtherance of its objects as it determines and as permitted by law.
- (8) Subject to such consents as may be required by law and compliance with all formal guidance issued by the Company's regulators (if any) to purchase or otherwise acquire or to encourage or promote any in any way support or aid the establishment and development of any subsidiary or associated company established for the purposes of carrying on any trade or business either for the purpose of raising funds for the Company or for the furtherance of the objects of the Company.
- (9) To make donations, grants or loans or provide services or assistance to such persons and organisations and on such terms as the Company shall think fit to further the objects of the Company PROVIDED THAT in case the Company shall take or hold any property which may be subject to any trusts, the Company shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts.

#### **APPLICATION OF INCOME AND PROPERTY**

- 8. The income and property of the Company shall be applied solely towards the promotion of its charitable objects as set forth in Article 5 and no portion thereof shall be paid or transferred, directly or indirectly (save as may otherwise be provided in terms of this Article 8) by way of dividend, bonus or otherwise howsoever by way of profit, to Members and no Board Member shall be appointed to any office of the Company paid by

salary or fees or receive any remuneration or other benefit or money or money's worth from the Company PROVIDED THAT nothing in this Article 8 shall prevent any payment in good faith by the Company:

- (1) of reasonable and proper remuneration (including pensions, contributory pension payments, payment of premiums to pension policies and terminal grants and gratuities) to any officer or employee of the Company (not being a Member or Board Member) in return for any services rendered to the Company;
- (2) of fees, remuneration or other benefit in money or money's worth to a company of which a Board Member may be a member holding not more than 2% of the share capital of the company;
- (3) to any Board Member of reasonably and properly incurred out-of pocket expenses and of any additional allowances and payments permitted by The Scottish Housing Regulator or any successor regulatory body;
- (4) of reasonable and proper remuneration to any employee thereof (not being a Board Member) in return for any services rendered to the Company; and
- (5) of reasonable and proper interest on money lent by any body corporate notwithstanding that such body corporate shall be a Member or Board Member.

PROVIDED FURTHER THAT nothing shall prevent a disposal by the Company of a property whether by way of sale, lease, tenancy, licence or otherwise to any person in good faith and in pursuance of the objects of the Company notwithstanding the fact that such person may be a Member and/or Board Member and further nothing shall prevent the Company from managing a property in accordance with its objects notwithstanding the fact that the tenant, lessee, owner occupier or licensee of such property may be a Member or Board Member SUBJECT TO the proviso that any Board Member who is a beneficiary of the Company shall not be entitled to speak in any debate or cast his/her vote in respect of any matter relating solely to the property of which he/she is lessee, owner occupier, tenant or licensee and shall absent himself/herself from such proceedings but such Board Member shall be entitled to speak and vote in respect of matters which relate not only to such property but also to other properties owned or managed by the Company.

#### **ADMISSION OF MEMBERS**

9. (1) Such persons as are admitted to membership in accordance with these Articles shall be Members of the Company. No person shall be admitted as a Member of the Company unless he is approved by the Board. The Board is entitled at its absolute discretion to grant or refuse any application for membership.

- (2) The Board may not admit any person as a Member who is under 16 years of age.
  - (3) The Board may not admit any employee of the Company to membership of the Company PROVIDED THAT employees of the Company who are also Tenants may be admitted to membership of the Company.
  - (4) Every Member shall, on admittance, be designated by the Board as a Tenant Member or an Independent Member and such status shall be stated in the register of Members. The decision of the Board as to the designation of the Members shall be final and binding.
10. A corporation which is a Member shall be invited to nominate a person to act as its representative in the manner provided in Section 323 of the Act. Such representative shall have the right on behalf of the corporation (and to the extent only to which the corporation would if a person be entitled to do so) to attend meetings of the Company and vote thereat, and generally exercise all rights of membership on behalf of the corporation. A corporation may from time to time revoke the nomination of such representative, and nominate another representative in his place. All such nominations and revocations shall be in writing. A representative of a corporation may not be a Member in his own right.

#### **LIMITED LIABILITY**

11. The liability of the Members is limited.

#### **MEMBERS' GUARANTEE**

12. Every Member undertakes to contribute to the assets of the Company, in the event of the same being wound up while he/she is a Member, or within one year after he/she ceases to be a Member, for payment of the debts and liabilities of the Company contracted before he/she ceases to be a Member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding £1.00.

#### **CESSATION OF MEMBERSHIP**

13. Any Member may resign from the Company by giving one (1) month's notice (or such other period as the Board may in its discretion accept) in writing duly signed to the Secretary and thereupon such Member shall be deemed to have ceased to be a Member from the date of the expiration of such notice.
14. Any Member may be removed from the Company by a resolution of the Company passed by a majority of at least two-thirds of the votes cast at a General Meeting of which not less than twenty-eight clear days' notice specifying the intention to propose such

resolution shall have been sent to the Member whose removal is proposed and to all the other Members of the Company. Notice of the general nature of the grounds on which such resolution is proposed shall be sent to the Member whose removal is proposed at least twenty-eight clear days before the meeting, and he or its representative for this purpose shall be entitled to be heard by the meeting.

15. (1) The rights of any Member shall be personal and shall not be transferable and shall automatically cease if the Member, being a corporation, passes a resolution for winding-up (otherwise than for the purpose of a solvent amalgamation or reconstruction where the resulting entity assumes all of the obligations of the Member) or a court makes an order to that effect, or being an individual commits any act of bankruptcy, becomes incapable by reason of mental disorder or dies, or if the Member, being a corporation, ceases to carry on its business or substantially the whole of its business, or if the Member (whether a corporation or not) becomes or is declared insolvent or commits any act of bankruptcy or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors or if a liquidator, receiver, administration, Trustee, manager or similar officer is appointed in relation to any of the assets of the Member or any analogous step is taken in connection with the Member's insolvency, bankruptcy or dissolution.
- (2) A Tenant Member shall automatically cease to be a Member if they cease to be a Tenant PROVIDED THAT this Article 15(3) shall not apply in respect of a Tenant Member temporarily ceasing to be a Tenant as a result of the demolition of or works carried out to that Tenant Member's home.
- (3) An Independent Member shall automatically cease to be a Member if they become a Tenant.
- (4) The cessations referred to in Articles 15(1) to (3) above shall take place forthwith upon the occurrence of the events set out in such Articles and without the need of notice being given to the Member concerned.
- (5) The Board may terminate the membership of a Member (not being a Tenant Member) if they fail to notify the Secretary of a change of address, or if they have failed to either attend or submit apologies for five annual general meetings.

#### **GENERAL MEETINGS AND RESOLUTIONS**

16. All General Meetings other than Annual General Meetings shall be called Extraordinary General Meetings.

17. The Board may call General Meetings and, on the requisition of Members pursuant to the provisions of the Act, shall forthwith proceed to convene an Extraordinary General Meeting for a date not later than 28 days after receipt of the requisition. If there are not within the United Kingdom sufficient Board Members to call a General Meeting, any Board Member or any Member may call a General Meeting.
18. (1) An Annual General Meeting and an Extraordinary General Meeting called for the passing of a special resolution or a resolution appointing a person as a Board Member shall be called by at least twenty-one clear days' notice. All other Extraordinary General Meetings shall be called by at least fourteen clear days' notice but a General Meeting may be called by shorter notice if it is so agreed:
- (a) in the case of an Annual General Meeting, by all the Members entitled to attend and vote thereat; and
- (b) in the case of any other General Meeting by a majority in number of the Members having a right to attend and vote being a majority together holding (subject to the provisions of any elective resolution of the Company for the time being in force) not less than ninety-five per cent of the total voting rights at the General Meeting of all Members.
- (2) The notice shall specify the time and place of the Meeting and, in the case of an Annual General Meeting, shall specify the Meeting as such.
- (3) The Notice shall be given to all the Members and to the Board Members and Auditors.
- (4) Any Member entitled to attend at a General Meeting shall be entitled to appoint another person (whether a Member or not) as his proxy to attend instead of him and any proxy so appointed shall have the same right as the Member to speak at the Meeting.
- (5) The Annual General Meeting shall be held within six months of the end of the financial year of the Company.
19. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.
20. (1) No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business. Six Members or, if the number of Members at any time exceeds sixty Members, one-tenth thereof or 25 Members (whichever is lower) shall form a quorum PROVIDED THAT if there

are fewer than six such members all members of the Company shall form a quorum.

- (2) If a quorum is not present within half an hour from the time appointed for a General Meeting the General Meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Board Members may determine.
  - (3) If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting then notwithstanding Article 20(1) the Members present shall constitute a quorum.
21. The Chairperson or, in his absence, any vice chair appointed by the Board in accordance with Article 54(4), whom failing some other Board Member nominated by the Board Members, shall preside as chairperson of the meeting, but if neither the Chairperson nor any vice chair nor such other Board Member (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the Members present shall elect a Board Member to be Chairperson.
22. If no Board Member is willing to act as Chairperson, or if no Board Member is present within fifteen minutes after the time appointed for holding the meeting the Members present and entitled to vote shall choose one of their number to be Chairperson provided that if the Chairperson arrives after the meeting has commenced, he will take over as Chairperson as soon as the current agenda item is concluded.
23. Any Board Member shall, notwithstanding that he is not a Member, be entitled to attend and speak at any General Meeting or meeting of a class or type of Member.
24.
  - (1) The Chairperson may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place.
  - (2) The Chairperson may also, without the consent of the meeting, adjourn the meeting (whether or not it has commenced or is quorate) either indefinitely or to such other time and place as he or the Board Members decide if it appears to him that:-
    - (a) the number of persons wishing to attend cannot be conveniently accommodated in the place appointed for the meeting; or

- (b) the conduct of persons attending the meeting prevents or is likely to prevent the orderly holding or continuance of the meeting; or
  - (c) an adjournment is otherwise necessary for the business of the meeting to be properly conducted; or
  - (d) a proposal of such importance is made that the consideration of a larger number of members is desirable.
- (3) When a meeting is adjourned indefinitely, the time and place for the adjourned meeting shall be fixed by the Board. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of the original meeting. Otherwise, it shall not be necessary to give notice of an adjournment or of the business to be transacted at the adjourned meeting.
- (4) If the Chairperson considers that the meeting place specified in the notice convening the meeting is inadequate to accommodate all those entitled and wishing to attend, the meeting shall nevertheless be duly constituted and its proceedings valid provided that the Chairperson is satisfied that adequate facilities are available to ensure that members who cannot be accommodated are able to participate in the business of the meeting and to see and hear all persons present who speak (whether by the use of microphones, loud-speakers, audio visual communications equipment or otherwise), whether in the meeting place or elsewhere, and to be seen and heard by all other persons in the same manner.

### **VOTES OF MEMBERS**

25. (1) A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:-
- (a) by the Chairperson; or
  - (b) by one-tenth of the Members present having the right to vote at the meeting,
- and a demand by a person as proxy for a Member shall be the same as a demand by a Member.
- (2) On a show of hands, every Member present in person shall have one vote. Where, however, an appointed proxy is present in accordance with Article 18(4), and so declares, the Chairperson shall direct a poll.

- (3) Where a vote is by a poll every Member present in person or who has appointed a representative has one vote. Where an appointed proxy is present, he must advise the Chairperson and the Chairperson shall direct that the vote be by poll.
  - (4) In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson shall be entitled to a casting vote in addition to any other vote he may have.
  - (5) The Chairperson shall demand a poll in relation to the election of any one or more Independent Board Members under Article 39 (5) where the number of candidates standing for election exceeds the number of vacant places.
26. Unless a poll is duly demanded, a declaration by the Chairperson that a resolution: has been carried; or carried unanimously or by a particular majority; or lost; or not carried by a particular majority, together with an entry to that effect in the minutes of the meeting, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
27. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the Chairperson and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
28. A poll shall be taken as the Chairperson directs and he may appoint scrutineers (who need not be Members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
29. A poll demanded on the election of a Chairperson or on a question of adjournment or in relation to the election of one or more Independent Board Members shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the Chairperson directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
30. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.



31. A resolution in writing executed by or on behalf of each Member who would have been entitled to vote upon it if it had been proposed at a General Meeting at which he was present shall be as effectual as if it had been passed at a General Meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more Members.
32. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the Chairperson whose decision shall be final and conclusive.
33. An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointer and shall be in the form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the Board may approve) set out in Appendix A to these Articles.
34. Where it is desired to afford Members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the Board Members may approve) set out in Appendix B to these Articles. The maximum number of proxy votes that can be cast by one person shall be 10.
35. This instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the Board Members may:-
  - (1) be deposited at the Office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - (2) in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or
  - (3) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the Chairperson or to the Secretary or to any Board Member; and
  - (4) an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

36. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Company at the Office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

### **COMPOSITION OF THE BOARD**

37. (1) The Company shall have a Board. The minimum number of Board Members shall be seven (subject to the terms of Article 50.4) and the maximum number of Board Members (including co-optees appointed pursuant to Article 40) shall be fifteen, unless additional Board Members are appointed after nomination by The Scottish Housing Regulator under Article 37(7).
- (2) No more than five Board Members may be Local Authority Persons.
- (3) No more than seven Board Members may be Tenants.
- (4) No more than eight Board Members may be Independent Members.
- (5) In the event that at any time there shall be fewer than seven Tenant Board Members or eight Independent Board Members then (subject to the terms of Article 50.4) the remaining Board Members shall use reasonable endeavours to appoint further Board members and may continue to act and exercise all of the powers of the Board until the next following Annual General Meeting.
- (6) No person may act as a Tenant Board Member or an Independent Board Member unless they are a Member of the Company or the nominees of member groups or organisations.
- (7) The Board may from time to time appoint additional Board Members nominated by The Scottish Housing Regulator for such period and on such terms as The Scottish Housing Regulator may specify. Such Board Members shall be entitled to take part in the deliberations of the Board and vote at any Board meetings thereof on all matters and from the date of such appointment shall be included in the expression "Board Member".
- (8) The First Board Members shall be those persons named in the statement delivered pursuant to Section 12(1) of the Act who shall be deemed to have been appointed under these Articles. Future Board Members shall be appointed as provided subsequently in these Articles.

- (9) No Board Member may act as such until they have signed and delivered to the Board a statement, confirming that they will meet their obligations to the Board and the Company as set out in the Code of Conduct. Any Board Member who has, without good cause, failed to sign such a statement within four weeks of election or appointment to the Board shall immediately cease to be a Board Member.

#### **RETIREMENT AND ELECTION OF BOARD MEMBERS**

38. (1) At every annual general meeting of the Company two of the Tenant Board Members shall retire from office.
- (2) The Tenant Board Members to retire at each annual general meeting shall be those who have been longest in office since they last became Tenant Board Members, but as between persons who became Board Members on the same day those to retire shall be chosen by lot if not agreed.
- (3) Prior to the second and every subsequent annual general meeting, direct or indirect elections shall be held among the Tenant Members for the Tenant Board Members to be appointed thereat. The mode and manner of such elections shall be as the Board may from time to time determine subject at all times to compliance with Article 29.
- (4) The Company Secretary shall announce the results of the elections referred to in Article 38(3) at each relevant annual general meeting and the Tenants so elected shall duly become Tenant Board Members.
39. (1) At every annual general meeting of the Company two of the Independent Board Members shall retire from office.
- (2) The Independent Board Members to retire at each annual general meeting shall be those who have been longest in office since they last became Independent Board Members but as between persons who became Board Members on the same day those to retire shall be chosen by lot if not agreed.
- (3) If, at the meeting at which a Board Member retires in accordance with Article 39(1), there are no other candidates to fill the post the retiring Board Member shall, if willing to act, be deemed to have been re-appointed unless a resolution not to reappoint the Board Member is passed by the meeting.
- (4) No person shall be eligible for election as an Independent Board Member at any general meeting unless he is nominated by the Board. The Independent Board Members shall be individuals who have skills and/or experience that are

necessary or desirable to further the objects of the Company. The skills and/or experience which prospective Independent Board Members must have shall be as determined by the Board from time to time.

- (5) If at the Annual General Meeting the number of Independent Members standing for election is equal to the number of Independent Members to be elected, the Chairperson will declare them elected without a vote. If there are more candidates standing for election than there are vacant places, those present at the General Meeting will elect members onto the Board. The method of election will subject to Article 25(5) be decided by the Chairperson PROVIDED THAT a vote must be taken in relation to each place to be filled on the Board.
- (6) Subject to the terms of Articles 37, 39(3) and 39(4), the Company may by Ordinary Resolution in General Meeting appoint any person who is willing to act as an Independent Board Member to fill a vacancy.
- (7) Not less than seven nor more than twenty-eight clear days before the date appointed for holding a general meeting notice shall be given to all who are entitled to receive notice of the meeting of any person (other than a Board Member retiring by rotation at the meeting) who is recommended by the Board for appointment or reappointment as an Independent Board Member at the meeting. The notice shall give the particulars of that person which would, if he were so appointed or re-appointed, be required to be included in the Company's register of Board Members.
- (8) Any candidate for election to the Board shall submit a written statement to the Company in such form as the Board from time to time determines. It shall set out the candidate's full name, address and occupation, and the reasons for their suitability to be a Board Member.
- (9) Nominations must include a signed statement from each member being nominated to show that they are willing to be elected.
- (10) The statement and nomination shall be delivered to the registered office at least seven days before the meeting at which the vacancies on the Board are to be filled.

#### **CASUAL VACANCIES AND CO-OPTIONS**

- 40. (1) Subject to Article 37 the Board may appoint a person who is willing to act to be a Board Member to fill a vacancy. A Board Member so appointed shall hold office

only until the next following annual general meeting. If not re-appointed at such annual general meeting he shall vacate office at the conclusion thereof.

- (2) The Board may from time to time co-opt persons to the Board and may at any time revoke such co-option. Co-optees cannot be Tenants or executive officers of the Company. No more than one-third of Board Members shall be co-opted PROVIDED THAT nothing in this Article 40(2) shall preclude or prevent a Tenant from being co-opted to fill a vacancy amongst the Tenant Board Members and any such Tenant shall not be treated as a co-optee for the purposes of this Article 40(2) or Article 40(3) or Article 41(25).
- (3) Co-optees can take part in the Board's discussions and vote at Board meetings on all matters except those which directly affect these Articles, the membership of the Company or the election of the Company's Office Bearers.

#### **DISQUALIFICATION AND REMOVAL OF BOARD MEMBERS**

- 41. A Board Member must leave the Board if the majority of the Members voting at a General Meeting decide this. The Members will then elect someone to take his/her place. If a replacement is not elected at the General Meeting, the Board may appoint a Board Member.

A person cannot become or remain or be re-elected or re-appointed as a Board Member if that person:-

- (1) ceases to be a Board Member by virtue of any provision of the Act or becomes prohibited by law from being a company director; or
- (2) becomes bankrupt or makes any formal arrangement or composition with all of his creditors; or
- (3) is, or may be, suffering from mental disorder and either:-
  - (a) is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
  - (b) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his/her detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
- (4) resigns his office by notice to the Company; or

- (5) is removed from office by a resolution (or written notice signed by) at least half of all the other Board Members from time to time provided that the vote to ask a Board Member to leave the Board must relate to one of the following issues:-
- (i) failure to perform to the published standards laid down from time to time by the Scottish Federation of Housing Associations, The Scottish Housing Regulator and the Office of the Scottish Charity Regulator;
  - (ii) failure to comply with the Code of Conduct and/or the Financial Regulations; or
  - (iii) serious or persistent breach of the Company's Articles or Standing Orders.
- (6) in the case of a Board Member who is a Member or representative of a Member ceases to be a Member of the Company or the representative of a Member (as the case may be) or if the Member whom the Board Member represents ceases to be a Member;
- (7) shall for more than six consecutive months have been absent without permission of the Board from meetings of the Board held during that period;
- (8) in the opinion of a qualified medical doctor, is unable to go to Board Meetings for 12 months because of incapacity due to a physical or mental illness;
- (9) is involved in litigation with the Company (other than litigation between the relevant Council and the Company);
- (10) has been convicted of an offence involving dishonesty which is not spent by virtue of the Rehabilitation of Offenders Act 1974 or an offence under the 2005 Act;
- (11) is or will be away for a period of 12 months and are thus unable to attend the Board Meetings;
- (12) has been removed by The Scottish Housing Regulator , the Housing Corporation, Tai Cymru or any successor regulatory body from the Board of another Registered Social Landlord;
- (13) is or becomes disqualified from being a charity trustee pursuant to section 69 of the 2005 Act or have been suspended or removed as a charity trustee pursuant to section 34 of the 2005 Act;
- (14) is under the age of 18;

- (15) is or has within the last six months been in significant arrears in respect of any of their obligations to the Company for a reason which was not due to housing benefit processing delays PROVIDED THAT in assessing any such issue the Board shall act reasonably;
- (16)
  - (a) has been in serious or persistent breach of their tenancy agreement with the Company PROVIDED THAT in assessing any such issue the Board shall act reasonably;
  - (b) has damaged property leased to them by the Company or caused distress or nuisance to neighbours;
  - (c) has during the past six months received housing benefit which they were not entitled to because they gave false information;
- (17) breaches any rules of confidentiality to which Board Members may be subject in terms of the Code of Conduct or otherwise;
- (18) has deliberately claimed expenses to which they were not entitled;
- (19) has failed to disclose a financial interest personally or in respect of a Relevant Business or in any other way whatsoever in a contract or other transaction with the Company under Article 48;
- (20) has failed to disclose a relevant interest in accordance with Article 52(1);
- (21) in the case of a Tenant Board Member ceases to be a Tenant PROVIDED THAT this Article 41(21) shall not apply in respect of a Tenant Board Member temporarily ceasing to be a Tenant as a result of the demolition of or works carried out to that Tenant Board Member's home;
- (22) is a Tenant Board Member and becomes a Local Authority Person;
- (23) is an Independent Board Member and becomes a Tenant;
- (24) is a Tenant and wishes to stand as an Independent Board Member;
- (25) is a co-optee pursuant to Article 40 and their co-option is revoked by the other Board Members;
- (26) is or becomes an employee of the Company or Closely Connected to such an employee;

- (27) following an investigation carried out in accordance with the terms of the Code of Conduct, is found to be or have been in serious or persistent breach of any duties imposed on charity trustees pursuant to section 66 of the 2005 Act; or
- (28) after 1 April 2015, at an annual general meeting, has served as a Board Member for a continuous period of nine years or more and the Board has not resolved to permit that person to stand again or otherwise be nominated for re-election or re-appointment.

### **POWERS OF THE BOARD**

- 42. Subject to the provisions of the Act and the Articles, the business of the Company shall be managed by the Board who may exercise all the powers of the Company. No alteration of the Articles shall invalidate any prior act of the Board which would have been valid if that alteration had not been made. The powers given by this regulation shall not be limited by any special power given to the Board by the Articles and a meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.
- 43. The Board may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

### **BORROWING POWERS**

- 44. The Board may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit, and to grant any heritable security, floating charge or other security over its undertaking and property, or any part thereof, and to issue any debenture, whether outright or as security for any debt, liability or obligation of the Company or of any third party.

### **DELEGATION OF BOARD MEMBERS' POWERS**

- 45. The Board may delegate any of their powers to its District Management Committees. The Board may also delegate any of their powers to any committee consisting of Board Members provided that no more than a third of the Members of such a committee may be co-optees. They may also delegate to the Chairperson/or any vice or deputy Chairperson or to any Office Bearer such of their powers as they consider desirable to be exercised by them. Any such delegation to District Management Committees or any committee may be made subject to any conditions the Board may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a District Management Committee or a committee shall be governed by the Articles regulating the proceedings of the Board so far as they are capable of applying.



## **ALTERNATE BOARD MEMBERS**

46. No Board Member shall be entitled to appoint any person as an alternate Board Member.

## **BOARD MEMBERS' EXPENSES**

47. The Board Members may be paid all travelling, hotel, and other expenses reasonably and properly incurred by them in connection with their attendance at meetings of the Board or committees of the Board or general meetings or separate meetings of classes or types of Member or of the holders of debentures of the Company or otherwise in connection with the discharge of their duties.

## **BOARD MEMBERS' APPOINTMENTS AND INTERESTS**

48. (1) A Board Member may not have any financial interest whether: personally; or as a member of a Relevant Business; or as a director or senior employee (being an employee with managerial status) of a Relevant Business; or in any other way whatsoever in any contract or other transaction with the Company unless it is permitted by these Articles or the Code of Conduct.
- (2) Each Board Member shall, in accordance with the terms of the Code of Conduct, ensure that the Secretary has at all times an up to date register of that Board Member's interests, including:
- (a) all Relevant Businesses in which he or she has an interest as:
    - (i) a director or senior employee;
    - (ii) a member; or
    - (iii) the owner or controller of more than 2% of the issued share capital in a company,
  - (b) all interests as an official or elected member of any statutory body;
  - (c) all interests as the occupier of any property owned or managed by the Company;
  - (d) all interests as the recipient of any services from the Company; or
  - (e) any other significant or material interest, having regard to the terms of the Code of Conduct.
- (3) For the purposes of Articles 48(1), 48(2) and 52, a Board Member shall not be treated as having an interest:

- (a) of which the Board Member has no knowledge and of which it is unreasonable to expect him to have knowledge;
    - (b) in the establishment of a policy in respect of Board Member expenses payable pursuant to Article 47.
  - (4) For the avoidance of doubt, for the purposes of these Articles, a Board Member shall be treated as having an interest in a matter and shall be required to declare such an interest if a person Closely Connected to that Board Member has any interest in the relevant matter.
49. The Company shall not pay or grant any benefit to anyone who is a Board Member or a co-optee or a member of a committee of the Board, unless it is expressly permitted by these Articles or by the Code of Conduct.

### **BOARD MEETINGS**

50. (1) The Board may regulate its proceedings as it thinks fit provided that it must meet at least six times a year and the quorum for the transaction of the business of the Board at the time when the meeting proceeds to business shall be eight, provided that co-optees shall not be counted towards the quorum.
- (2) If a quorum is not present within half an hour from the time appointed for a Board Meeting the Board Meeting shall, if requested by a majority of those Board Members present, be adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Board Members present may determine. The Chairperson may also, with the consent of the meeting, adjourn the meeting (whether or not it has commenced or is quorate) either indefinitely or to such other time and place as he or the Board Members decide if it appears to him that:
- (a) the number of persons wishing to attend cannot be conveniently accommodated in the place appointed for the meeting;
  - (b) the conduct of persons attending the meeting prevents or is likely to prevent the orderly holding or continuance of the meeting;
  - (c) an adjournment is otherwise necessary for the business of the meeting to be properly conducted; or
  - (d) a proposal of such importance is made that the consideration of a larger number of Board Members is desirable.

- (3) If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting then notwithstanding Article 50(1) the Board Members present shall constitute a quorum.
  - (4) The Board will continue to act while it has vacancies for Board Members. However, if at any time the number of Board Members falls below seven, the Board can continue to act only for another two months. If at the end of that period the Board has not found new Board Members to bring the number of Board Members up to seven, the only power it will have is to act to bring the number of Board Members up to seven.
51. Questions arising at a Board Meeting shall be decided by a majority of votes and each Board Member present in person shall be entitled to one vote. In the case of an equality of votes, the Chairperson shall have a second or casting vote.
52. (1) A Board Member must declare any personal or other external interests on an annual basis in accordance with the Code of Conduct. If any Board Member has: (a) any conflict of interest; or (b) a financial interest as described in Article 48(1); or (c) an interest other than a financial interest in any contract or other agreement about to be discussed at a meeting, which, in any case, is not permitted under these Articles, that Board Member must tell the Board. The Board Member in question will be required to leave the meeting while the matter is discussed and will not be allowed to vote on the matter or to stay in the meeting while any vote on the matter is being held. If the Board Member in question is inadvertently allowed to stay in the meeting and vote on the matter, his vote will not be counted.
- (2) For the avoidance of doubt, each of the following shall constitute a conflict of interest in terms of Article 52(1):
- (a) a contractual arrangement (proposed or actual) between the Company and any statutory body of which the Board Member is an official or elected member;
  - (b) a proposed contractual arrangement between the Company and any subsidiary or associate of the Company, where the Board Member is also a director or officer of the subsidiary or associate;
  - (c) consideration by a Tenant Board Member of their own tenancy or housing arrangements or those of any person Closely Connected to any such Tenant Board Member;
  - (d) consideration by a Board Member of any payments or benefits to be made to: that Board Member; any person Closely Connected to any such Board

Member; or to a Relevant Business in accordance with the terms of the Code of Conduct.

53. If a question arises at a meeting of the Board or of a committee of the Board as to the right of a Board Member to vote in respect of a particular matter, the question may, before the conclusion of the meeting, be referred to the remaining Board Members and the question shall be decided by a majority of votes. In the case of an equality of votes, the Chairperson shall be entitled to a casting vote in addition to any other vote he may have.
54. (1) At the first Board Meeting following each annual general meeting the Board Members shall appoint one of their number to be the Chairperson of the Board to hold office until the next annual general meeting and may remove him from that office by a vote of two thirds of those Board Members present at a Board meeting called for that purpose.
- (2) Unless he is unwilling to do so, the Board Member so appointed shall preside at every meeting of the Board at which he is present. But if there is no Board Member holding that office, or if the Board Member holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, any vice chairperson appointed in accordance with Article 54(4) shall preside, failing which the Board Members present may appoint one of their number to be chairperson of the meeting provided that if the Chairperson arrives late he shall take over as chairperson of the meeting as soon as the current agenda item is concluded.
- (3) The Chairperson can be re-elected but must not hold office continuously for more than five concurrent years.
- (4) The Board may appoint a vice or deputy chairperson to act in the absence of the Chairperson on such terms as the Board shall think fit.
55. All acts done by a meeting of the Board, or of a committee of the Board or by a person acting as a Board Member shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Board Member or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Board Member and had been entitled to vote.

#### **WRITTEN RESOLUTION**

56. A resolution in writing signed by all the Board Members entitled to receive notice of a meeting of the Board or of a committee of the Board shall be as valid and effectual as if it

had been passed at a meeting of the Board or (as the case may be) a committee of the Board duly convened and held.

### **SECRETARY**

57. Subject to the provisions of the Act, the Secretary and any deputy or alternate Secretary and any other Office Bearers shall be appointed by the Board for such term, at such remuneration and upon such conditions as they may think fit and any Secretary so appointed may be removed by them. If the Secretary cannot carry out his duties, the Board, or in any emergency the Chairperson, can ask another Office Bearer or employee to carry out the Secretary's duties.

### **MINUTES**

58. (1) The Board shall cause minutes to be made in books kept for the purpose:-
- (a) of all appointments of officers made by the Board Members; and
  - (b) of all proceedings at meetings of the Company and of the Board, and of committees of the Board and of any class or type of Member, including the names of the Board Members present at each such meeting.
- (2) Minutes must be presented at the next appropriate meeting and signed by the Chairperson of the meeting at which they are presented. All minutes signed by the Chairperson of the meeting shall be conclusive evidence of the proceedings of the meeting.

### **RECORDS ACCOUNTS AND RETURNS**

59. (1) The Board shall cause accounting records to be kept by the Company in accordance with Part 15 of the Act.
- (2) Auditors of the Company shall be appointed and their duties regulated in accordance with the Act.
- (3) The Board shall take such steps as the Board considers necessary to ensure the continuing independence of the Company's auditor, including the periodic review of the need for audit rotation.
- (3) The Board shall submit the Company's accounts and balance sheet for audit to the Company's auditor and the Company's auditor shall make a report to the Company on the accounts examined by him and on the revenue account or accounts and the balance sheet for the year of account in respect of which he is appointed.

- (4) The Company shall furnish to the Scottish Housing Regulator, to OSCR and to such other organisations as the Board deems appropriate, a copy of its accounts and auditor's report within 6 months of the end of the period to which they relate.
- (5) Every year within the time allowed by law, the Secretary shall send to the Registrar of Companies the annual return in the form prescribed by the Registrar, together with all such documentation as is required under the Act.
- (6) A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Company in General Meeting, together with a copy of the auditor's report and a copy of the report of the Board, shall, not less than 21 clear days before the date of the meeting, be sent to all persons entitled to receive notice of General Meetings of the Company, provided that this Article 59 shall not require a copy of those documents to be sent to any person of whose address the Company is not aware. The accidental omission to send a copy of these documents to, or the non-receipt of the documents by, any person entitled to receive them shall not invalidate the proceedings at that General Meeting.

#### **THE SEAL**

- 60. (1) If the Company has a seal it shall only be used with the specific or general authority of the Board or of a committee of the Board. The Board may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Board Member and by the Secretary or a second Board Member.
- (2) The Company may exercise the powers conferred by Section 49 of the Act with regard to having an official seal for use abroad, and such powers shall be vested in the Board Members.

#### **NOTICES**

- 61. Any notice to be given to or by any person pursuant to the Articles shall be in writing except that a notice calling a meeting of the Board or of a committee of the Board need not be in writing.
- 62. The Company may give any notice to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at his registered address or by leaving it at that address. A Member whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notices

may be given to him shall be entitled to have notices given to him at that address, but otherwise no such Member shall be entitled to receive any notice from the Company.

63. A Member present, either in person or by proxy, at any meeting of the Company or any class or type of Member shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
64. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted.

## **DISPUTES**

65. Every dispute between the Company or the Board and:
  - (1) a Member;
  - (2) a person aggrieved who has ceased to be a Member within the previous six months; or
  - (3) a person claiming under these Articles,

shall be dealt with in accordance with these Articles and any procedures determined by the Board from time to time but without prejudice to all rights which any person may have to raise an action on the matter in any court with competent jurisdiction, including without prejudice the Sheriff Court in the Sheriffdom in which the Company's registered office is located.

## **DISSOLUTION**

66. The Company may be dissolved by the Company making an application to the Registrar of Companies pursuant to Part 31 of the Act to have the Company's name struck off the register of companies maintained by the Registrar of Companies under the Act.
67. If on the dissolution of the Company any property remains after satisfaction of all the Company's debts and liabilities, such property shall not be paid to or distributed among the Members but shall:
  - (1) if the Company is at the time of dissolution a Registered Social Landlord, be transferred to such other charitable Registered Social Landlord as The Scottish Housing Regulator may direct; or
  - (2) if the Company is not at the time of dissolution a Registered Social Landlord, be transferred to some other charitable body or bodies (whether incorporated or

unincorporated) whose objects are similar (wholly or in part) to the objects of the Company.

68. To the extent that effect cannot be given to the provisions of Article 67, the relevant property shall be applied to some other charitable object or objects as determined by the Members at or before the time of dissolution or, failing such determination, by such court as may have jurisdiction at the time.

### **INDEMNITY**

69. (1) Every Board Member or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto (including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under Section 1157 of the Act in which relief is granted to him), and no Board Member or other officer shall be liable for any loss, damage or misfortune which may happen to, or be incurred by, the Company in the execution of the duties of his office, or in relation thereto PROVIDED THAT this Article 69 shall only have effect in so far as its provisions are not avoided by Sections 532 and 533 of the Act.
- (2) The Board shall have the power to purchase and maintain for Board Members or officers or employees of the Company insurance against any such liability as is referred to in Section 532 of the Act.

### **AMENDMENT OF ARTICLES**

70. These Articles may be amended provided that:
- (1) three quarters of the votes at a special general meeting are in favour of the amendment(s); and
- (2) The Scottish Housing Regulator has approved the amendment(s).
71. Where an amendment of these Articles affects the charitable purposes of the Company the prior approval of the Office of the Scottish Charity Regulator (“OSCR”) is required. Any other amendment of these Articles requires to be notified to OSCR within 3 months of the amendment having been made.
72. The name of the Company may be changed if:



- (1) three quarters of the votes at a special general meeting are in favour of the change; and
- (2) The Scottish Housing Regulator and OSCR have given their approval

## **CONDUCT OF BOARD MEMBERS**

73. Each of the Board Members shall, in exercising his/her functions as a director of the Company, act in the interests of the Company and, in particular, must:

- (1) seek, in good faith, to ensure that the Company acts in a manner which is in accordance with its charitable objects (as set out in these Articles);
- (2) act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
- (3) in circumstances giving rise to the possibility of a conflict of interest between the Company and any other party:
  - (a) put the interests of the Company before that of the other party, in taking decisions as a Board Member; and
  - (b) where any other duty prevents him/her from doing so, disclose the conflicting interest to the Company and, subject to the terms of Articles 48 and 52, refrain from participating in any discussions or decisions involving the other Board Members with regard to the matter in question;
- (4) ensure that the Company complies with any direction, requirement, notice or duty imposed on it by the 2005 Act; and
- (5) take such steps as are reasonably practicable for the purposes of ensuring:
  - (a) that any breach of a duty under Articles 73(1) to 73(4) inclusive is corrected by the Board Member concerned and not repeated; and
  - (b) that any Board Member who has been in serious or persistent breach of any such duties is removed as a Board Member in terms of Article 41.

## **EQUAL OPPORTUNITIES**

74. The Company shall at all times take into consideration the principles of equality of opportunity irrespective of age, gender, race, nationality, ethnic origin, religion, sexual orientation or disability.

## **COMMUNICATIONS**

75. Subject to the Articles, anything sent or supplied by or to the Company 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 Company, including, without limitation, by sending or supplying documents or information by making them available on a website.
76. Subject to the Articles, any notice or document to be sent or supplied to a Board Member in connection with the taking of decisions by Board Member may also be sent or supplied by the means by which that Board Member has asked to be sent or supplied with such notices or documents for the time being.
77. A Board Member may agree with the Company that notices or documents sent to that Board Member 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.
78. For the purposes of these Articles, a person shall be deemed to be “present” or “present in person” at a meeting if such person is participating in the meeting by virtue of some form of electronic communication, including, without limitation, by way of: telephone; video link; internet video facility; or any other similar communications system by means of which all persons participating in the meeting are able to communicate with each other.

## APPENDIX A

### **“Dumfries and Galloway Housing Partnership Limited**

**I/We**, being a Member/Members of the above-named company, hereby appoint

, or failing him,

of , as my/our proxy to vote  
in [my/our name[s] and on [my/our] behalf at the annual/extraordinary general meeting of the  
Company to be held on [ ] , and at any adjournment thereof.

Signed on this day of 2001.”

## APPENDIX B

### **“Dumfries and Galloway Housing Partnership Limited**

**I/We,**

being a Member/Members of the above-named company, hereby appoint

of \_\_\_\_\_, or failing him, of \_\_\_\_\_, as  
my/our proxy to vote in [my/our name[s]] and on [my/our] behalf at the annual/extraordinary  
general meeting of the Company to be held on \_\_\_\_\_ [ \_\_\_\_\_ 2000] , and at any  
adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 \*for \*against

Resolution No. 2 \*for \*against

\*Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from  
voting.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2001,”

**ARTICLES OF ASSOCIATION**

**OF**

**DUMFRIES AND GALLOWAY HOUSING PARTNERSHIP LIMITED**

**Registration Number: SC220297**

**TABLE OF CONTENTS**

**Page**