

Company Number: **SC426094**

**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**

**Wheatley Housing Group Limited (the "Company")**

## **INTRODUCTION**

### **Constitution of the Company**

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

### **Objects**

- 2 The objects of the Company are:

- 2.1 to provide for the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage through the provision, construction, improvement and management of land and accommodation and the provision of care; and
- 2.2 any other purpose or object permitted under Section 24 of the Housing (Scotland) Act 2010 which is charitable both for the purposes of Section 7 of the Charities and Trustee Investment (Scotland) Act 2005 and also in relation to the application of the Taxes Acts.
- 3 The Company's permitted activities and powers will include anything which is necessary or expedient to help the Company achieve the objects set out in article 2.
- 4.1 The income and property of the Company shall be applied solely towards the promotion of its objects as set out in article 2 and except as further provided for in this article 4, no portion thereof shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit, to Members.
- 4.2 Nothing in this article 4 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 tenant, lessee, owner occupier or licensee of any such property 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.

## **Powers**

- 5.1 Without prejudice to the generality of the provisions of article 2, and without restricting any powers the Company has, the Company shall have power to provide land, amenities and services, or provide, construct, repair or improve buildings, for the benefit of the Company's residents and others, with the purpose of promoting economic, social and environmental regeneration in the areas of deprivation in which the Company operates.
- 5.2 Subject to any statutory requirements applicable to the Company and without limiting its general powers, the Company shall have power to:
  - 5.2.1 dispose, in such manner as the Board sees fit, of land and of other assets or interests of the Company, present or future, including by way of heritable security, floating charge, security assignment, mortgage or charge;
  - 5.2.2 subject to article 6.1, borrow money or issue loan stock for the purposes of the Company on such terms as the Company thinks fit;
  - 5.2.3 insure the property of the Company against any foreseeable risk and take out other insurance policies to protect the Company as the Board considers prudent;
  - 5.2.4 insure the Board Members against the costs of a successful defence to a criminal prosecution brought against them as Board Members or against personal liability

incurred in respect of any act or omission which is or is alleged to be a breach of trust or breach of duty;

- 5.2.5 form or participate in forming, purchase or otherwise acquire, or to encourage or promote in any way, support or aid the establishment and development of any Subsidiary or any joint venture established by the Company, or by a Subsidiary, with another entity or entities;
- 5.2.6 subscribe to, purchase, or acquire in any other way, any incorporeal property (including but without prejudice to the generality of the foregoing any stock, share, security, debenture or debenture stock in each case whether preferred, deferred or secured or unsecured) of any Subsidiary; and
- 5.2.7 acquire land or any interest in land.

## **Borrowing powers**

- 6.1 The Company can borrow money for as long as the Company's total borrowing at any time is not more than £2,000,000,000 or such larger sum as the Company determines from time to time in general meeting. The Company can enter into any Guarantee in respect of or to secure by heritable security, mortgage, charge, floating charge, lien or other security which the Company is permitted by law to grant, upon the whole or any part of the Company's property or assets, the obligations and liabilities of any Subsidiary; or of any joint venture established by the Company (or by a Subsidiary) with any entity or entities. The foregoing power is valid notwithstanding, and is in no way limited by, any limits on the borrowing or lending powers of the Company (including the foregoing limits) contained in these Articles or otherwise.
- 6.2 In respect of any proposed borrowing for the purposes of article 6.1, 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.
- 6.3 For the purposes of article 6.1 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.
- 6.4 The Company will not pay more than the rate of interest which the Board considers to be the then market rate of interest on any money borrowed, having regard to the terms of the loan on any money borrowed.
- 6.5 The Company shall have the power, subject to such consents as may be required by law, 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 or series of Interest Rate Swap Transactions (each a "**Transaction**") where in relation to any such Transaction the following conditions are satisfied namely that:

- 6.5.1 the relevant instruments relate solely to amounts denominated in Sterling;
- 6.5.2 the relevant Transaction provides (in the case of an Interest Rate Swap Transaction) for the Company to undertake to pay a specified fixed rate on an applicable notional sum, but not otherwise;
- 6.5.3 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 rate cap;
- 6.5.4 the counterparty to the transaction shall fulfil such criteria in relation to its status, credit rating and other matters as the Board shall consider appropriate from time to time; and
- 6.5.5 the Board or a duly authorised sub-committee 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 Transaction previously entered into and remaining in effect and the Calculation Amount of the proposed Transaction(s) shall not exceed the aggregate amount of the Company's Variable Rate Borrowings then drawn down plus the amount of any existing contractually committed loan facilities not yet drawn down in respect of amounts which the Company intends at the Effective Date when drawn will become Variable Rate Borrowings, having regard at the Effective Date to the Company's obligations to repay Variable Rate Borrowings and the amount of Variable Rate Borrowings which will be outstanding at any time on or prior to the proposed Termination Date.

- 6.6 Before exercising its power under article 6.5 the Company shall obtain and consider proper advice on the question whether the Transaction is satisfactory having regard to:
  - 6.6.1 the possible fluctuations in the rate of interest payable by the Company on its Variable Rate Borrowings during the term of the relevant Transaction;
  - 6.6.2 the Company's ability to meet its payment obligations under such Borrowings during the term of the relevant Transaction(s) if such Transaction(s) was or were not entered into;
  - 6.6.3 the payment obligation under the relevant Transaction(s);
  - 6.6.4 the terms and conditions of the relevant Transaction(s); and
  - 6.6.5 the Company's actual and projected annual income and expenditure position.
- 6.7 The Board shall also have regard, before exercising the Company's power under article 6.5, to the Regulatory Framework and Regulatory Guidance issued by The Scottish Housing Regulator from time to time.
- 6.8 For the purposes of article 6.6 "proper advice" shall mean the advice of a person who is reasonably believed by the Board to be qualified by his/her ability and practical experience

of financial matters and the relevant Transaction, such advice may be given by a person notwithstanding that he/she gives it in the course of his/her employment as an officer.

- 6.9 A person entering into a relevant Transaction with the Company who has received a written certificate signed by the Secretary confirming the Company's compliance with articles 6.5 and 6.6 shall not be concerned to enquire further whether or not the Company has complied with the provisions of articles 6.5 and 6.6 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 6.5 and 6.6 have been complied with.
- 6.10 For the purposes of this article 6:
- 6.10.1 "**Calculation Amount**", "**Effective Date**", "**Term**" and "**Termination Date**" have the respective meanings given in the 2000 International Swaps and Derivatives Association (ISDA) Definitions as amended from time to time;
- 6.10.2 "**Variable Rate Borrowings**" mean any borrowing by the Company pursuant to article 6.1 in respect of which the rate of interest has not been fixed for a term in excess of 12 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
- 6.10.3 "**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 2000 ISDA Definitions as amended from time to time.
- 6.11 The Company will not accept money on deposit from any party. For the avoidance of doubt this article 6.11 will not prevent the Company accepting a deposit in any transaction other than a banking transaction.
- 6.12 The Company can lend money to any person or organisation including, without limitation, any Subsidiary; any joint venture established by the Company or by any Subsidiary, with another entity or entities on terms which the Board deems appropriate at the time of entering into the transaction. Where the Company is using a loan facility to on lend it must comply with the Regulatory Framework and Regulatory Guidance issued by The Scottish Housing Regulator from time to time.
- 6.13 The Company may borrow money from such lawful sources as is permitted by its treasury management policy subject always to the requirement that the Company will comply with the Regulatory Framework and Regulatory Guidance issued by The Scottish Housing Regulator from time to time.
- 6.14 Subject to the foregoing provisions of this article 6, the Board can determine and change conditions under which the Company can borrow or lend money.
- 6.15 The Company shall not lend money to Members.

## MEMBERSHIP

- 7 The Members of the Company shall be those persons whose names are entered in the Register of Members.

### Applying for membership

- 8.1 Only the Board Members who have been appointed in terms of these Articles are Members. Any Co-opted Board Members and the Other Board Member shall not be Members.
- 8.2 Subject to article 37.4, the Board shall be deemed to have admitted a person as a Member from the date on which he/she was as a Board member under these Articles and his/her name and other necessary particulars will be included in the Register of Members within seven working days.
- 8.3 The Company, together with all other organisations in the Group, will document, formally and in terms that are transparent and understandable, their constitutional and financial relationships through the Group Agreement or similar document. The role of the Company and its relationship with other organisations in the Group must be undertaken in a manner consistent with the Charities and Trustee Investment (Scotland) Act 2005.
- 9 A person can apply for membership of the Company from the age of 18.
- 10 If a Member changes his/her address, he/she must let the Company know by writing to the Secretary at the Company's registered office within three months.

## ENDING MEMBERSHIP

- 11 Membership of the Company will end and the Board will record the ending of a person's membership in the Register of Members if:
- 11.1 that person resigns his/her membership giving seven days' notice in writing to the Secretary at the Company's registered office;
- 11.2 the Board:
- 11.2.1 reasonably believes that a Member has failed to tell the Company of a change of address as required by article 10; or
- 11.2.2 removes a Subsidiary Chair Board Member pursuant to article 39.9;
- 11.3 that person retires pursuant to article 39.2;
- 11.4 that person ceases to be a Board Member pursuant to article 44; or
- 11.5 that person is the Chairperson and ceases to be the Chairperson pursuant to article 59.

- 12 If a person's membership is ended in accordance with article 11.2 or article 11.4 (insofar as it involves a decision of the Board), that person will immediately cease to be a Member from the date that the Board resolves to end that person's membership.

## **LIABILITY OF MEMBERS**

- 13 The liability of the Members is limited.
- 14.1 The liability of each Member is limited to one pound, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he/she is a Member or within one year after he/she ceases to be a Member, for:
- 14.1 payment of the Company's debts and liabilities contracted before he/she ceases to be a Member;
  - 14.2 payment of the costs, charges and expenses of winding up; and
  - 14.3 adjustment of the rights of the contributories among themselves.

## **Transferring membership**

- 15 A Member shall not be entitled to any property of the Company in their capacity as Member and their membership is not transferable.
- 16 If a Member dies or ends their membership or has their membership ended, the Board will cancel their membership.

## **GENERAL MEETINGS**

### **Annual General Meeting**

- 17 The Company will hold a general meeting known as the annual general meeting within six months of the end of each financial year of the Company. The functions of the annual general meeting are to:
- 17.1 present the Chairperson's report on the Company's activities for the previous year;
  - 17.2 present the accounts, balance sheet and auditor's report; and
  - 17.3 consider any other general business included in the notice calling the meeting.

### **Special General Meeting**

- 18 All general meetings other than annual general meetings shall be called special general meetings.

- 19.1 The Board may call special general meetings and, on the requisition of the Members pursuant to section 303 of the Act, the Secretary shall, within 10 days of having received the requisition, give all Members notice calling the meeting. The meeting must take place within 28 days after receipt by the Secretary of the requisition. The Secretary should decide on a time, date and place for the meeting in consultation with the Board or the Chairperson but if such consultation is not practicable, the Secretary can at his/her own discretion decide the time, date and place for the meeting.
- 19.2 Whoever asks for the meeting must give the Secretary details of the business to be discussed at the meeting.
- 20 If the Secretary fails to call the meeting within 10 days of having received the requisition, the Board or the Members who have signed the requisition may themselves give notice and convene the meeting pursuant to the terms of section 304 of the Act.
- 21 A special general meeting must not discuss any business other than the business mentioned in the notice calling the meeting.

## **Notice for meetings**

- 22.1 The Secretary will call all general meetings by written notice posted or sent by Electronic Communication to every Member at the address or email address given in the Register of Members at least 14 clear days' before the date of the meeting but a general meeting may be called by shorter notice if it is so agreed:
- 22.1.1 in the case of an annual general meeting, by all the Members entitled to attend and vote thereat; and
- 22.1.2 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 not less than 95 per cent of the total voting rights at the general meeting of all Members.
- 22.2 The notice shall specify:
- 22.2.1 the time, date and place of the meeting;
- 22.2.2 whether the meeting is an annual or special general meeting;
- 22.2.2 the business for which the meeting is being called; and
- 22.2.3 if a special resolution, or a resolution requiring special notice under the Act, is to be proposed, the notice shall also specify the intention to propose such a resolution and include the exact text of the resolution.
- 22.3 The Board may ask the Secretary to include with the letter or send separately to Members any relevant papers or accounts. If a Member does not receive notice of a meeting or papers relating to the meeting, this will not stop the meeting going ahead as planned.



- 23 The proceedings of a meeting shall not be invalidated by the accidental failure of the Company to send a notice calling the meeting to any Member.

## **Procedure at General Meetings**

- 24.1 No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business. The quorum for a general meeting shall be at least four Members.
- 24.2 If a quorum is not present within half an hour of the time the meeting was scheduled to start, the meeting shall stand adjourned to the same day the following week at the same time and at such place as may be fixed by the chairperson of the meeting and announced at the meeting. There is no need to give notice to Members of the adjourned meeting. If at the adjourned meeting a quorum is not present at the scheduled starting time then notwithstanding article 24.1, the Members present shall constitute a quorum.
- 25 If a majority of Members present agree, the chairperson of a meeting can adjourn the meeting. No business can be discussed at the adjourned meeting other than the business not reached or left unfinished at the original meeting. There is no need to give notice to Members of the adjourned meeting.
- 26.1 The Chairperson will be the chairperson at all meetings of the Company. If there is no Chairperson or he/she is not present or willing to act, the Vice Chairperson will act as the chairperson of the meeting. If the Vice Chairperson is not present or willing to act, the Members present must elect a Board Member to be chairperson of the meeting.
- 26.2 If the Chairperson arrives later, after the meeting has commenced, he/she will take over as chairperson of the meeting as soon as the current agenda item is concluded.
- 26.3 The Board shall determine the manner in which general meetings of the Company are held.

## **Proxies/Representatives**

- 27.1 To appoint a representative to vote on a Member's behalf by proxy, the Member must let the Company have a properly completed document in the form shown in Appendix 1<sub>u</sub> which may be submitted by Electronic Communication. The Member's proxy does not need to be a Member.
- 27.2 The 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:
- 27.2.1 be deposited at the Company's registered office-, submitted to the Company by Electronic Communication or delivered to 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 document proposes to vote;

- 27.2.2 in the case of a poll taken more than 48 hours after it is demanded, be deposited, submitted or delivered as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll;
- 27.2.3 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
- 27.2.4 an instrument of proxy which is not deposited, submitted or delivered in a manner so permitted shall be invalid.
- 27.3 If there is any doubt about whether a Member's proxy has authority to vote, the Chairperson will decide and his/her decision will be final.
- 27.4 The maximum number of proxy votes that may be cast by any one person is three.
- 27.5 To reverse a Member's appointment of a proxy, the Member must let the Company have a properly completed document in the form shown in Appendix 2, which may be submitted by Electronic Communication. The document must be presented to the Company before the meeting, at which the Member no longer wants to be represented by proxy, convenes.
- 27.6 A vote given or poll demanded by proxy 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 Company's registered office or otherwise at which the instrument of proxy was duly deposited, submitted or delivered 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.
- 27.7 The Chairperson will report to the meeting the details of any documents seeking to appoint a proxy received but which are not valid.

## **Voting**

- 28.1 If a decision of a meeting is put to the vote, the outcome will be determined by the majority of those Members voting. Voting will be by a show of hands except where a poll is requested or required. Votes cannot be taken on resolutions which conflict with any provisions of these Articles or the law.
- 28.2 Where a vote is by a show of hands every Member present in person has one vote. Where a vote is by a poll, every Member present in person or who has appointed a proxy representative has one vote. Where an appointed proxy is present and he/she advises the Chairperson, the Chairperson shall direct that the vote is by a poll.
- 29 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.

- 30.1 A poll can be required before or immediately after a vote by a show of hands, if at least one-tenth of the Members present at the meeting (in person or by proxy through a representative in accordance with articles 27.1 and 27.2) request this.
- 30.2 A poll must take place as soon as the Chairperson has agreed to it, in line with the Chairperson's instructions. The result of the poll will stand as the decision of the meeting.
- 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/she 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.

## **Proceedings at General Meetings**

- 32 All speakers must direct their words to the Chairperson. All Members must remain quiet and orderly while this is happening.
- 33.1 A Member will not be allowed to speak more than once on any individual matter unless it is to explain something or ask for an explanation until every other Member has had the chance to speak. That Member will then have the opportunity to speak a second time on a matter but only if the Chairperson agrees. Where the Chairperson raised the matter for discussion initially, he/she shall be permitted to make a final reply on the matter.
- 33.2 Any Board Member shall, notwithstanding that he/she is not a Member, be entitled to attend and speak at any general meeting.
- 33.3 The Chairperson will decide how long each speaker is allowed to speak, allowing equal time to each speaker.
- 34 If any point arises which is not covered in these Articles, the Chairperson will give his/her ruling.
- 35 Meetings must not last longer than two hours unless at least two-thirds of the Members present agree after the end of that time to continue the meeting.
- 36.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- 36.2 A person is able to exercise the right to vote at a general meeting when:
- 36.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
  - 36.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

- 36.3 The Board Members may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 36.4 In determining attendance at a general meeting, it is immaterial whether any two or more Members attending it are in the same place as each other.
- 36.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

## **THE BOARD OF MANAGEMENT**

### **Composition of the Board**

- 37.1 The Company shall have a Board comprised as follows:
- 37.1.1 From the end of the 2019 AGM until the end of the 2021 AGM, the Company shall have a Board of up to 17 Board Members comprising:
    - 37.1.1.1 up to eight Non Executive Board Members;
    - 37.1.1.2 up to six Subsidiary Chair Board Members;
    - 37.1.1.3 up to two Co-opted Board Members; and
    - 37.1.1.4 one Other Board Member; and
  - 37.1.2 From the end of the 2021 AGM, the Company shall have a Board of up to 16 Board Members comprising:
    - 37.1.2.1 up to seven Non Executive Board Members;
    - 37.1.2.2 up to six Subsidiary Chair Board Members;
    - 37.1.2.3 up to two Co-opted Board Members; and
    - 37.1.2.4 one Other Board Member.

The Company shall keep up to date a register of the names of the Board Members which shall be made available to any person at no cost. The names of the Board Members will also be published by the Company on its website, and in its annual reports and other similar documentation.

- 37.2 The Board can appoint to the Board an employee the Board considers is suitable to the role of the Other Board Member subject to the provisions of article 37.1. The Other Board Member shall serve until removed by the Board and shall not be subject to retirement in terms of articles 39.1 or 39.2. The Other Board Member can also serve on any sub-committees.
- 37.3 A person must be aged 18 or over to become a Board Member (including any person appointed as a Co-opted Board Member).

- 37.4 The Other Board Member can take part in discussions at the Board or any sub-committees and vote at Board Meetings and sub-committee meetings on all matters except those which directly affect the membership of the Company or the election of the Company's Office Bearers. The Other Board Member may not stand for election, nor be elected as one of the Office Bearers of the Board. The presence of the Other Board Member at Board Meetings will not be counted when establishing whether the minimum number of Board Members are present to allow the meeting to take place as required by article 48 and the presence of the Other Board Member will not count towards the quorum for sub-committee meetings. A Close Relative of an employee may not be a Board Member.
- 37.5 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 Company's code of conduct for Board Members. Any Board Member who has, without good cause, failed to sign such a statement within four weeks of appointment to the Board shall immediately cease to be a Board Member.
- 37.6 The Board can require that a Board Member who is being investigated for a potential breach of the Company's code of conduct for Board Members take leave of absence and not attend any meeting in his/her capacity as Board Member until the Board has completed its consideration of the potential breach. When on such leave of absence, the Board Member will not be entitled to receive minutes and/or documents in his/her capacity as a Board Member relating to the business of the Company.

## **Interests**

- 38.1 The Board shall set and periodically review its policy on payments and benefits. If a person is a Member, employee of the Company or serves on the Board or any sub-committee he/she must not receive any payment or benefit unless it is permitted by the policy. In making any payment or conferring any benefit the Company shall act at all times with transparency, honesty and propriety.
- 38.2 If a person serves on the Board or any sub-committee he/she must declare any personal or other external interests on an annual basis in accordance with the Company's code of conduct for Board Members. If while serving on the Board that person has any conflict of interest in any contract or other matter about to be discussed at a meeting, he/she must tell the Board. He/she 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 unless permitted to do so in terms of these Articles or the Company's code of conduct for Board Members. If that person is inadvertently allowed to stay in the meeting and vote on the matter, his/her vote will not be counted. If no quorum exists for the purpose of voting on a matter only because of the operation of this article 38.2, provided that there are at least three remaining Board Members who are entitled to remain in terms of this article 38.2, such remaining Board Members are deemed to constitute a quorum for the purposes of voting and may proceed to make a decision as a quorate Board.
- 38.3 Provided that he/she has disclosed to the Board the nature and extent of any interest and subject to the provisions of the Act, a Board Member may be a director or other officer of,

or employed by, any body corporate which is a holding company of the Company or a Subsidiary.

- 38.4 Provided that any interest has been properly disclosed by a Board Member pursuant to article 38.2, that Board Member shall, unless they are otherwise prohibited from doing so in terms of these Articles, be allowed to stay in the Board Meeting during the discussion and speak and vote on the matter under discussion.
- 38.5 The Board Members may, in accordance with the requirements set out in this article 38.5, authorise any matter or situation proposed to them by any Board Member which would, if not authorised, involve a Board Member (an "**Interested Board Member**") breaching his/her duty under section 175 of the Act to avoid conflicts of interest ("**Conflict**"). Any authorisation under this article 38.5 will be effective only if:
- 38.5.1 to the extent permitted by the Act, the matter in question shall have been proposed by any Board Member for consideration in the same way that any other matter may be proposed to the Board Members under the provisions of these Articles or in such other manner as the Board Members may determine;
  - 38.5.2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Board Member;
  - 38.5.3 the matter was agreed to without the Interested Board Member voting or would have been agreed to if the Interested Board Member's vote had not been counted.
- 38.6 Any authorisation of a Conflict under article 38.5 may (whether at the time of giving the authorisation or subsequently):
- 38.6.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
  - 38.6.2 provide that the Interested Board Member be excluded from the receipt of documents and information and the participation in discussions (whether at Board Meetings or otherwise) related to the Conflict;
  - 38.6.3 provide that the Interested Board Member shall or shall not be an eligible Board Member in respect of any future decision of the Board Members vote in relation to any resolution related to the Conflict;
  - 38.6.4 impose upon the Interested Board Member such other terms for the purposes of dealing with the Conflict as the Board Members think fit;
  - 38.6.5 provide that, where the Interested Board Member obtains, or has obtained (through his/her involvement in the Conflict and otherwise than through his/her position as a Board Member) information that is confidential to a third party, he/she will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and

- 38.6.6 permit the Interested Board Member to absent himself/herself from the discussion of matters relating to the Conflict at any Board Meeting and be excused from reviewing papers prepared by, or for, the Board Members to the extent they relate to such matters.
- 38.7 Where the Board Members authorise a Conflict in terms of these Articles, the Interested Board Member will be obliged to conduct himself/herself in accordance with any terms and conditions imposed by the Board Members in relation to the Conflict.

## **APPOINTING BOARD MEMBERS**

- 39.1 Each Non Executive Board Member appointed under these Articles shall be appointed for a fixed term of office expiring at the conclusion of three years (a "fixed term"), unless the Board has set a lower number of years for the relevant Non Executive Board Member on their appointment. No fixed term shall be set which would cause the relevant Non Executive Board Member to serve for more than a period of nine years (whether continuous or in aggregate), unless otherwise approved by the Board in accordance with article 39.5.
- 39.2 Each Non Executive Board Member who has served their fixed term shall retire from office at the Board Meeting held immediately after expiry of their fixed term. Any Non Executive Board Member who retires from office-under this article 39.2 shall be re-appointment subject to the following:
- 39.2.1 where any Non Executive Board Member is retiring under this article 39.2 after serving a fixed term, that Non Executive Board Member can be re-appointed by the Board, provided that where the Non Executive Board Member has served two fixed terms, he/she shall only be eligible to be re-appointed for one further fixed term, unless otherwise approved by the Board under article 39.5; and
- 39.2.2 where any Non Executive Board Member has nine years' service on the Board, that Non Executive Board Member shall automatically retire at the Board Meeting which occurs at the expiry of their ninth year-and shall not be eligible for re-appointment, unless otherwise approved by the Board in accordance with article 39.5.
- 39.3 Board Members must also retire if they are a Co-opted Board Member.
- 39.4 If a Non Executive Board Member leaves the Board for any reason other than by virtue of article 39.2, that Non Executive Board Member will not be eligible -for re-appointment or to be co-opted onto the Board until the expiry of five years following the date on which they left the Board, unless otherwise approved by the Board.
- 39.5 No Non Executive Board Member or Subsidiary Chair Board Member shall serve more than nine years' service in total on the Board, whether continuously or in aggregate, and shall automatically retire at the annual general meeting which occurs at the expiry of their nine years' service-, unless the Board agrees otherwise. The Board shall be entitled to approve a longer fixed term for any Non Executive Board Member or Subsidiary Chair Board Member following expiry of nine years' service where the Board is satisfied that a Non Executive

Board Member or Subsidiary Chair Board Member is able to demonstrate his/her continued effectiveness as a Board Member. Where the Board approves the re-appointment of a Board Member in terms of this article 39.5, the Board shall review that Board Member's appointment on an annual basis.

- 39.6 If a Non Executive Board Member retires from the Board in terms of these Articles and is re-appointed, subject to article 39.4, any time previously served on the Board shall count towards their period of service for the purposes of article 39.5.
- 39.7 The Non Executive 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 Non Executive Board Members must have shall be as determined by the Board from time to time.
- 39.8 The Board shall be entitled from time to time and at any time to appoint up to six persons as Subsidiary Chair Board Members and to remove from office any such Subsidiary Chair Board Member. The persons appointed as Subsidiary Board Members in terms of this article 39.9 must each be the chair of a Subsidiary at the time of their appointment.
- 39.9 A Subsidiary Chair Board Member shall remain in office until such time as he/she is removed by the Board in terms of article 39.8 or has nine years' continuous service on the Board, unless otherwise approved by the Board in accordance with article 39.5, or is no longer the chair of a Subsidiary.
- 39.10 Notwithstanding anything contained in these Articles, the following interim arrangements shall apply in relation to the 2021 AGM:
- 39.10.1 if the number of serving Non Executive Board Members at that time exceeds seven, then such number as is necessary to reduce the number of Non Executive Board Members to seven shall retire from office; and
- 39.10.2 the Non Executive Board Members to retire in terms of article 39.11.1 shall be those who have served the longest on the board since the date of their last appointment. If there are two or more Non Executive Board Members who have the same length of service since the date of their last appointment and cannot agree who should retire, they must draw lots.
- 40.1 The Board shall determine the appointment process for Board Members from time to time.
- 40.2 An application for appointment to the Board can be rejected by a decision by not fewer than three quarters of the Board Members on one or more of the following grounds:
- 40.2.1 where appointment to the Board would be contrary to these Articles or policies;
- 40.2.2 where a conflict of interest may exist which, even allowing for the disclosure of such an interest may adversely affect the work of the Company; or
- 40.2.3 where there is clear evidence of relevant circumstances from which it is concluded that appointment to the Board would not be in the best interests of the Company.



- 41 The rejection of an application for appointment to the Board shall be notified to the person concerned in writing following the relevant Board Meeting.

## **Co-opted Board Members**

- 42.1 The Board can co-opt to the Board or to a sub-committee anyone it considers is suitable to become a Board Member or a member of a sub-committee ("**Co-opted Board Member**"). Co-opted Board Members do not need to be Members, but they can only serve as Co-opted Board Members on the Board or sub-committee a period of up to one year or until removed by the Board. A Co-opted Board Member can also serve on any sub-committees.
- 42.2 A person appointed as a Co-opted Board Member shall undertake the role of Board Member or member of a sub-committee and accordingly will be subject to the duties and responsibilities of a Board Member. Co-opted Board Members can take part in discussions at the Board or any sub-committees and vote at Board and sub-committee 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. Co-opted Board Members may not stand for election, nor be elected as one of the Office Bearers of the Board.
- 42.3 Co-opted Board Members in this way must not make up more than one-third of the total number of the Board or sub-committee members at any one time. The presence of Co-opted Board Members at Board Meetings will not be counted when establishing whether a quorum is present to allow the meeting to take place as required by article 48 and the presence of Co-opted Board Members will not count towards the quorum for sub-committee meetings.

## **Eligibility for the Board**

- 43.1 A person will not be eligible to be a Board Member and cannot be appointed as such if:
- 43.1.1 he/she is an undischarged bankrupt, has granted a trust deed has not been discharged or is in a current Debt Payment Plan under the Debt Arrangement Scheme;
  - 43.1.2 he/she 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 Charities and Trustee Investment (Scotland) Act 2005;
  - 43.1.3 he/she is a party to any legal proceedings in any Court of Law by or against the Company;
  - 43.1.4 he/she is or will be unable to attend Board Meetings for a period of 12 months;
  - 43.1.5 he/she has been removed from the board of another registered social landlord within the previous five years;
  - 43.1.6 he/she resigned from the Board in the previous five years in circumstances where his/her resignation was submitted after the date of his/her receipt of notice of a

special Board Meeting convened to consider a resolution for his/her removal from the Board in terms of article 44.5;

- 43.1.7 he/she has been removed from the Board in terms of articles 44.4 or 44.5 within the previous five years;
  - 43.1.8 he/she has been removed, disqualified or suspended from a position of management or control of a charity under the provisions of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 or the Charities and Trustee Investment (Scotland) Act 2005;
  - 43.1.9 he/she has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners for England and Wales or by Her Majesty's High Court of Justice in England on the grounds of any misconduct in the administration of the charity for which he/she were responsible or to which he/she were privy, or which his/her conduct contributed to or facilitated;
  - 43.1.10 a disqualification order or disqualification undertaking has been made against that person under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (which relate to the power of a Court to prevent someone from being a director, liquidator or administrator of a company or a receiver or manager of company property or being involved in the promotion, formation or management of a company);
  - 43.1.11 his/her application for appointment to the Board has been rejected in accordance with article 40.2;
  - 43.1.12 he/she has been removed from the governing body of any other member of the Group; or
  - 43.1.13 he/she has left the Board and a period of five years has not expired since his/her departure for the purposes of article 39.4 and the Board has not approved his/her return within that period.
- 43.2 A person cannot be re-appointed as a Board Member if the Board is not satisfied of the individual's continued effectiveness as a Board Member. In these circumstances the Board must not allow the individual to be re-appointed.
- 44.1 A Board Member shall cease to be a Board Member if:
- 44.1.1 he/she resigns his/her position as a Board Member in writing;
  - 44.1.2 he/she ceases to be a Member unless he/she is a Co-opted Board Member in terms of article 42.1, an Other Board Member or an appointee of The Scottish Housing Regulator;
  - 44.1.3 he/she misses four Board Meetings in a row without special leave of absence previously granted by the Board either at his/her request or by exercise of the Board's discretion;

- 44.1.4 the majority of the Members voting at a general meeting decide this.
  - 44.1.5 the majority of those remaining Board Members present and voting at a special meeting of the Board convened for the purpose decide to remove him/her as a Board Member in terms of article 44.2;
  - 44.1.6 he/she becomes ineligible as a Board Member in terms of article 43;
  - 44.1.7 he/she is a Co-opted Board Member whose period of office is ended in accordance with articles 39.3 or 42.1;
  - 44.1.8 he/she is a Board Member retiring in accordance with article 39.2;
  - 44.1.9 he/she is a Subsidiary Chair Board Member whose period of office is ended in accordance with article 39.9;
  - 44.1.10 he/she is an Other Board Member whose period of office is ended in accordance with article 37.2; or
  - 44.1.11 he/she has failed to sign and deliver to the Board a statement confirming that the Board Member will meet his/her obligations to the Board and to the Company as set out in the Company's code of conduct for Board Members.
- 44.2 If, at a special Board Meeting convened for the purpose, a majority of the Board Members present and voting determine that a Board Member has:
- 44.2.1 failed to perform to the published standards laid down by The Scottish Housing Regulator adopted and operated by the Company;
  - 44.2.2 failed to sign or failed to comply with the Company's code of conduct for Board Members;
  - 44.2.3 committed a breach of the Company's Articles, standing orders or other policy requirements;
  - 44.2.4 failed to disclose a financial interest personally or as a member of a firm or as a director or other officer of a business trading for profit or in any other way whatsoever in a contract or other transaction with the Company as described in article 38.2; and/or
  - 44.2.5 failed to comply with the terms of any suspension or direction previously issued by the Board pursuant to this article 44.2,

the Board may by a majority vote of those Board Members present and voting (excluding abstentions) at such special meeting of the Board: (a) remove that Board Member from office; (b) suspend that Board Member from office on such terms and for such period as they may determine; (c) censure that Board Member in such manner as they may determine; or (d) make a direction requiring that Board Member to act or refrain from acting in a particular manner.

- 45 Any Board Member suspended in accordance with article 44.2 shall not, for the period of suspension, be entitled to attend or vote at any Board Meeting nor to receive notice of any such meeting during the period of such suspension.

## **POWERS OF THE BOARD**

- 46.1 Subject to the provisions of the Act and these Articles, the Board is responsible for directing the affairs of the Company and its business and may do anything lawful which is necessary or expedient to achieve the objects of the Company. The Board is not permitted to exercise any powers which are reserved to the Company in general meetings either by these Articles or by statute. The Board is responsible for the leadership, strategic direction and control of the Company with the aim of achieving good outcomes for its tenants and other service users in accordance with the Regulatory Standards and Regulatory Guidance issued by The Scottish Housing Regulator from time to time. The Board is responsible for ensuring that the Company can demonstrate its governance and financial arrangements are such as to allow The Scottish Housing Regulator to regulate effectively and exercise its full regulatory powers.
- 46.2 Subject to the provisions of the Act, the Board acts in the name of the Company in everything it does. A third party acting in good faith and without prior notice does not need to check if the powers of the Board have been restricted, unless they are already aware that such a restriction may exist.
- 47.1 Without prejudice to its general powers conferred by these Articles, the Board may exercise the following powers:
- 47.1.1 buy, sell, build upon, lease or exchange any land and accept responsibility for any related contracts and expenses;
  - 47.1.2 agree the terms of engagement and remuneration of anyone employed in connection with the business of the Company and act as employer for anyone employed by the Company;
  - 47.1.3 grant heritable securities over land owned by the Company and floating charges over all or any part of property and assets both present and in future owned by the Company. This includes accepting responsibility for any related expenses;
  - 47.1.4 decide, monitor and vary the terms and conditions under which property owned by the Company is to be let, managed, used or disposed of;
  - 47.1.5 appoint and remove solicitors, surveyors, consultants, managing agents and employees, as required by the Company's business;
  - 47.1.6 refund any necessary expenses as are wholly necessary incurred by Board Members and sub-committee members in connection with their duties;
  - 47.1.7 compromise, settle, conduct, enforce or resist either in a Court of Law or by arbitration any suit, debt, liability or claim by or against the Company; and

47.1.8 accept donations in support of the activities of the Company.

47.2 No alteration of these 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 article 47 shall not be limited by any special power given to the Board by these Articles and a meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.

## **BOARD PROCEDURE**

48 It is up to the Board to decide when and where to hold its ordinary meetings, but it must meet at least six times per calendar year. The quorum for the transaction of the business of the Board at the time when the meeting proceeds to business shall be four Board Members.

49 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.

50 Board Members must be sent written notice of Board Meetings posted, or delivered, by hand or sent by Electronic Communication to the last such address for such communications given to the Secretary at least seven days before the date of the meeting, unless the Chairperson determines, in relation to a specific proposed Board Meeting, that a shorter period is required. The accidental failure to give notice to a Board Member or the failure of the Board Member to receive such notice shall not invalidate the proceedings of the relevant meeting.

51 Board Meetings can take place in any manner which permits those attending to hear and comment on the proceedings. A Board Member may participate in a Board Meeting by means of conference telephone, video conferencing facility or similar communications equipment whereby all the Board Members participating in the Board Meeting can communicate with each other. A Board Member participating in a Board Meeting in this manner shall be deemed to be present in person at the Board Meeting.

52.1 All speakers must direct their words to the Chairperson. All Board Members must remain quiet and maintain order while this is happening. The Chairperson will decide who can speak and for how long.

52.3 If any point arises which is not covered in these Articles, the Chairperson will give his/her ruling which will be final.

53 All acts done in good faith as a result of a Board Meeting or sub-committee meeting will be valid even if it is discovered afterwards that a Board Member was not entitled to be on the Board.

- 54 A written resolution agreed in writing or by Electronic Communication by not fewer than three quarters of the Board Members or three quarters of the members of a sub-committee will be as valid as if it had been passed at a Board Meeting or sub-committee meeting duly called and constituted.
- 55 Subject to these Articles, the Board may agree any arrangements which it thinks fit about how it takes decisions, and about how such arrangements are to be recorded or communicated to Board Members.

### **Special Board Meetings**

- 56.1 The Chairperson or two Board Members can request a special meeting of the Board by writing to the Secretary with details of the business to be discussed. The Secretary will send a copy of the request to all Board Members within three working days of receiving it. The meeting will take place at a place mutually convenient for the majority of Board Members, normally the usual place where Board Meetings are held, between 10 and 14 days after the Secretary receives the request.
- 56.2 No other business may be discussed at the meeting other than the business for which the meeting has been called.
- 56.3 If the Secretary does not call the special meeting as set out above, the Chairperson or the Board Members who requested the meeting can call the meeting. In this case, they must write to all Board Members at least seven days before the date of the meeting.
- 57 If a Board Member does not receive notice of the special meeting, this will not prevent the meeting going ahead.

### **Sub-committees**

- 58.1 The Board may delegate its powers to sub-committees or to staff or to Office Bearers. The Board will establish the terms of reference for such delegation, which will be set down in writing and communicated to the recipient of the delegated powers. Such delegation will be set out down in writing in standing orders, schemes of delegated authority or other appropriate documentation. In the case of a sub-committee such delegation shall include the purposes of the sub-committee, its composition and quorum for meetings. A minimum number of members for a sub-committee shall be three. There must be at least three of the members of a sub-committee present for the meeting to take place. The Board shall be responsible for the on-going monitoring and evaluation of the use of delegated powers.
- 58.2 The meetings and procedures of sub-committees or otherwise must comply with the relevant terms of reference.
- 58.3 Any decision made by a sub-committee must be reported to the next Board Meeting.
- 58.4 The Board can establish and delegate powers to sub-committees, designated as Area Committees, to take decisions relating to the management and maintenance of properties within a particular geographical area. The Board will determine the membership and delegated responsibility of an Area Committee in its terms of reference. An Area

Committee shall exercise such delegated powers, notwithstanding the provisions of articles 42.1 and 42.3 which provisions do not apply to Area Committees.

#### **THE SECRETARY AND OFFICE BEARERS**

- 59.1 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 and upon such conditions as it may think fit and any Secretary so appointed may be removed by the Board. The Office Bearers, except for the Secretary, must be Board Members but cannot be Co-opted Board Members. An employee of the Company or any other member of the Group may hold the office of Secretary although shall not be a Board Member. If the Secretary cannot carry out his/her duties, the Board, or in an emergency the Chairperson, can ask another Office Bearer or employee to carry out the Secretary's duties until the Secretary returns.
- 59.2 The Secretary and the Office Bearers will be controlled, supervised and instructed by the Board in respect of performance of their respective duties (which duties, in the case of the Secretary, are those set out in article 59.3).
- 59.3 The Secretary's duties include the following (these duties can be delegated to an appropriate employee with the Secretary assuming responsibility for ensuring that they are carried out in an effective manner):
- 59.3.1 calling and going to all meetings of the Company and all the Board Meetings;
  - 59.3.2 keeping the minutes for all meetings of the Company and Board;
  - 59.3.3 sending out letters, notices calling meetings and relevant documents to Members before a meeting;
  - 59.3.4 preparing and sending all the necessary reports to the Registrar of Companies and The Scottish Housing Regulator;
  - 59.3.5 ensuring compliance with these Articles;
  - 59.3.6 keeping the Register of Members and other registers required under these Articles and the Act; and
  - 59.3.7 supervision of the Company's seal.
- 59.4 The Secretary must produce or give up all the Company's books, registers, documents and property whenever requested by a resolution of the Board, or of a general meeting.
- 59.5 The Chairperson will be appointed in accordance with article 59.7 for a period which shall commence on the date of the Chairperson's appointment and shall expire immediately prior to the next scheduled Board Meeting held after the expiry of three years from the date of the appointment (the "office term"), subject always to the provisions of article 39.

## Role of the Chair

- 59.6 The Chairperson is responsible for the leadership of the Board and ensuring its effectiveness in all aspects of the Board's role and to ensure that the Board properly discharges its responsibilities as required by law, these Articles and the standing orders of the Company. The Chairperson will be delegated such powers as is required to allow the Chairperson to properly discharge the responsibilities of the office. Among the responsibilities of the Chairperson are that:
- 59.6.1 the Board works effectively with the senior staff;
  - 59.6.2 an overview of business of the Company is maintained;
  - 59.6.3 the Agenda for each meeting is set;
  - 59.6.4 meetings are conducted effectively;
  - 59.6.5 minutes are approved and decisions and actions arising from meetings are implemented;
  - 59.6.6 the standing orders, code of conduct for Board Members and other relevant policies and procedures affecting the governance of the Company are complied with;
  - 59.6.7 where necessary, decisions are made under delegated authority for the effective operation of the Company between meetings;
  - 59.6.8 the Board monitors the use of delegated powers;
  - 59.6.9 the Board receives professional advice when it is needed;
  - 59.6.10 the Company is represented at external events appropriately;
  - 59.6.11 appraisal of the performance of Board Members is undertaken, and that the senior staff officer's appraisal is carried out in accordance with the agreed policies and procedures of the Company; and
  - 59.6.12 the training requirements of Board Members, and the recruitment and induction of new Board Members is undertaken.
- 59.7 The Chairperson must be elected from the Board Members (excluding Co-opted Board Members). The Chairperson must be prepared to act as Chairperson until the end of their office term (unless he/she resigns the post). The Chairperson can only be required to resign if a majority of the remaining Board Members present at a Board Meeting agree to this.
- 59.8 If the Chairperson is not present at a Board Meeting or is not willing to act, the Vice Chairperson will act as the chairperson of the Board Meeting. If the Vice Chairperson is not present or willing to act, the Board Members present will elect another Board Member to be chairperson for the Board Meeting. If the Chairperson arrives at the meeting late,



he/she will take over as chairperson of the Board Meeting as soon as the current agenda item is concluded.

- 59.9 If the votes of the Board Members are divided equally for and against an issue, the Chairperson will have a second and deciding vote.
- 59.10 The Chairperson can resign his/her office in writing to the Secretary and must resign if he/she leaves the Board or is prevented from being appointed to the Board under article 43. The Board will then elect another Board Member as Chairperson.
- 59.11 The Chairperson can be re-elected upon expiry of their office term for a further maximum of two years and must not hold office continuously for more than five years, unless otherwise approved by the Board, subject always to the provisions of article 39.
- 59.12 Upon expiry of their period of service as Chairperson, the Chairperson must resign as a Board Member and leave the Board, unless otherwise agreed by the Board. If the Chairperson resigns under article 59.7 or 59.10 then they shall also be deemed to have resigned as a Board Member, regardless of the length of their period of service as Chairperson.
- 59.13 The Board may appoint a Vice Chairperson to act in the absence of the Chairperson appointed in accordance with article 59.7 on such terms as the Board shall think fit.

## **NOTICES**

- 60.1 Any notice which requires to be given to a Member under these Articles shall be given either in writing or by way of an Electronic Communication. Such a notice may be given personally to the Member or be sent by post in a pre-paid envelope addressed to the Member at the address last intimated by him/her to the Company or (in the case of a Member who has notified the Company of an address to be used for the purpose of Electronic Communications) may be given to the Member by way of an Electronic Communication.
- 60.2 Any notice, if sent by post, shall be deemed to have been given at the expiry of 48 hours after posting. For the purpose of proving that any notice was given, it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted.
- 60.3 Any notice contained in an Electronic Communication shall be deemed to have been given on the day it is sent. For the purpose of proving that any Electronic Communication was sent, it shall be sufficient to provide any of the evidence referred to in the relevant guidance issued from time to time by the Chartered Institute of Secretaries and Administrators.
- 60.4 A Member present, either in person or by proxy, at any meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

## **INDEMNITY**

- 61.1 Every Board Member or other Office Bearer or auditor of the Company shall be indemnified (to the extent permitted by section 232, 234, 235, 532 and 533 of the Act) out of the assets of the Company against any loss or liability which he/she may sustain or incur in connection with the execution of the duties of his/her office. That may include, without prejudice to that generality (but only to the extent permitted by those sections of the Act), any liability incurred by him/her in defending any proceedings (whether civil or criminal) in which judgement is given in his/her favour or in which he/she is acquitted or any liability in connection with an application in which relief is granted to him/her by the court from liability for negligence, default or breach of trust in relation to the affairs of the Company.
- 61.2 The Company shall be entitled to purchase and maintain for any Board Member insurance against any loss or liability which any Board Member or other Office Bearer of the Company may sustain or incur in connection with the execution of the duties of his/her office, and such insurance may extend to liabilities of the nature referred to in section 232 (2) of the Act.

## **THE BOARD'S MINUTES, SEAL, REGISTERS AND BOOKS**

### **Minutes**

- 62 Subject to the provisions of the Act, minutes of every general meeting, Board Meeting and sub-committee meeting must be kept. Those minutes must be presented at the next appropriate meeting and if accepted as a true record, 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 that the minutes are a true record of the proceedings at the relevant meeting

### **Execution of Documents and Seal**

- 63 The Company shall execute deeds and documents in accordance with the provisions of the Act and the Requirements of Writing (Scotland) Act 1995 and record the execution in the register. The use of a common seal is not required. The Company may have a seal which the Secretary must keep in a secure place unless the Board decides that someone else should look after it. The seal must only be used if the Board decides this. When the seal is used, the deed or document must be signed by a Board Member and the Secretary or a second Board Member and recorded in the register.

### **Registers**

- 64 The Company must keep at its registered office a Register containing:
- 64.1 the names and addresses of the Members and where provided for the purposes of Electronic Communication, fax numbers and email addresses;
- 64.2 the date each person was entered in the Register as a Member and the date at which any person ceased to be a Member of the Company;

- 64.3 a statement of other property in the Company whether in loans or loan stock held by each Member; and
- 64.4 the names and addresses of the Office Bearers of the Company, their positions and the dates they took and left office.
- 65.1 The Company must also keep at its registered office:
- 65.1.1 a second copy of the Register showing the same details as above but not the statements of property. This second register must be used to confirm the information recorded in the original Register;
  - 65.1.2 a register of loans and to whom they are made;
  - 65.1.3 a register showing details of all loans and charges on the Company's land; and
  - 65.1.4 all other registers as may be required under the Act.
- 65.2 The inclusion or omission of the name of any person from the original Register of Members shall, in the absence of evidence to the contrary, be conclusive that the person is or is not a Member of the Company.

## **Registered name**

- 66 The registered name of the Company must be clearly shown on the outside of every office or place where the Company's business is carried out. The name must also be engraved clearly on the Company's seal and printed on all its business letters, notices, adverts, official publications, website and legal and financial documents.

## **Documentation**

- 67 The Company's books of account, registers, securities and other documents must be kept at the Company's registered office or any other place the Board decides is secure.
- 68 At the last Board Meeting before the annual general meeting, the Secretary must confirm in writing or by Electronic Communication to the Board that articles 62 to 67 have been followed or, if they have not been followed, the reasons for this. The Secretary's confirmation or report must be recorded in the minutes of the Board Meeting.

## **ACCOUNTS**

- 69 Accounting records shall be kept in accordance with all applicable statutory requirements and such accounting records shall, in particular, contain day to day entries of all sums of money received and expended by the Company and the matters in respect of which such receipt and expenditure take place and a record of the assets and liabilities of the Company.
- 70 The Board must send the Company's accounts and balance sheet to the Company's auditor. The auditor must then report to the Company on the accounts it has examined. In doing

this, the auditor must follow the conditions set out in the Act and Part 6 of the Housing (Scotland) Act 2010.

- 71 The Company must provide The Scottish Housing Regulator and such other organisations as the Board determines appropriate with a copy of its accounts and the auditor's report within six months of the end of the period to which they relate, or such other period as may be permitted by the applicable regulatory authority from time to time.

## **THE AUDITOR**

- 72 Auditors of the Company shall be appointed and their duties regulated in accordance with the Act.

## **ANNUAL RETURNS AND BALANCE SHEET**

- 73 Every year, within the time allowed by law, the Secretary shall send to the Registrar of Companies the confirmation statement in the prescribed form, together with all such documentation required by the Act.
- 74 If requested, the Company must provide a free copy of the latest confirmation statement and auditor's reports to Members or people with a financial interest in the Company.
- 75 The Company must always keep a copy of the latest balance sheet and auditor's report publicly displayed at its registered office.
- 76 The Company must comply with the requests of The Scottish Housing Regulator for annual returns.

## **DONATIONS**

- 77 The Board shall set and review periodically its policy for the donation of funds to charities. Such donations must further the objects of the Company and the Board shall report to the Members on such donations.

## **INVESTMENTS**

- 78 The Company's funds may be invested by the Board in such manner as is permitted by its investment policy subject always to the requirement that the Company will comply with the Regulatory Framework and Regulatory Guidance issued by The Scottish Housing Regulator from time to time.

## **INSPECTING THE REGISTER**

- 79 Any Member or person having a financial interest in the Company can inspect their own account. They may also inspect the second copy of the Register of Members which shall be made available to them for inspection within seven days of the request of a Member or eligible person. The books must be available for inspection at the place they are kept at all reasonable hours. The Board may set conditions for inspecting the books.

## **DISPUTES**

- 80 Every dispute between the Company or the Board and:
- 80.1 a Member;
- 80.2 a person aggrieved who has cease to be a Member within the previous six months; or
- 80.3 a person claiming under these Articles,

shall be dealt with in accordance with 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.

## **COPIES OF ARTICLES**

- 81 The Secretary shall, on demand, provide a copy of these Articles free of charge to any Member who has not previously been given a copy and, upon payment of such fee as the Company may require, not exceeding the amount specified by law, to any other person.

## **CLOSING DOWN THE COMPANY**

- 82.1 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.
- 82.2 If any property remains after the Company has paid its debts, this property will be transferred to a charitable registered social landlord as determined by The Scottish Housing Regulator.

## **AMENDING THESE ARTICLES**

- 83.1 These Articles can be changed or deleted and new Articles can be introduced if three quarters of the votes at a special general meeting are in favour of the amendment(s).
- 83.2 The Company must notify The Scottish Housing Regulator within 28 days of the change or amendment to these Articles being made.
- 83.3 The Company can change its name if three quarters of the votes at a special general meeting are in favour of the change.
- 83.4 If the Company changes its name in terms of article 83.3 it must notify The Scottish Housing Regulator in writing within 28 days of the change being made.
- 83.5 The Company can change its registered office but must:

- 83.5.1 notify The Scottish Housing Regulator of the change in registered office within 28 days of the decision having been made; and
- 83.5.2 notify the Registrar of Companies of the change within 14 days of the change having been made.

## **Rules or Bye laws**

- 84.1 The Board may from time to time and subject to the prior approval of The Scottish Housing Regulator make and amend such rules and bye laws as they may from time to time deem necessary or expedient or convenient for the proper conduct and management of the Company and for the purposes of prescribing the conditions of membership, and, in particular, but without prejudice to the generality of the foregoing, they shall by such rules and bye laws regulate:
  - 84.1.1 the admission of the Members, and the rights and privileges of the terms on which Members may resign or have their membership terminated insofar as these are not provided in these Articles;
  - 84.1.2 the conduct of the Members in relation to one another, and to the Company's employees;
  - 84.1.3 the setting aside of the whole or any part of parts of the Company's premises at any particular time or times or for any particular purpose or purposes;
  - 84.1.4 the procedure at general meetings and Board Meetings and sub-committee meetings in so far as such procedure is not regulated by these Articles; and
  - 84.1.5 generally, all such matters as are commonly the subject matter of Company rules.
- 84.2 The Company in general meeting shall subject to the prior approval of The Scottish Housing Regulator have power to alter or repeal the rules and bye laws and to make additions thereto and the Board shall adopt such means as they deem sufficient to bring to the notice of the Members all such rules and bye laws, which so long as they shall be in force, shall be binding on all Members provided nevertheless, that no rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in, the memorandum of association of the Company or these Articles.

## INTERPRETING THESE ARTICLES

- 85.1 In these Articles, the following definitions and rules of interpretation shall apply:
- 85.1.1 "**2021 AGM**" means the annual general meeting of the Company to be held in the calendar year 2021;
  - 85.1.2 "**Act**" means the Companies Act 2006 and any statutory modification or re-enactment thereof for the time being in force;
  - 85.1.3 "**Articles**" means these articles of association as originally adopted or as altered from time to time;
  - 85.1.4 "**Board**" means the board of management (or such other term that is used by the Company to denote the holder of this offices) of the Company from time to time referred to in article 37.1;
  - 85.1.5 "**Board Meeting**" means a meeting of the Board;
  - 85.1.6 "**Board Member**" means any director for the time being of the Company and shall (save where expressly excluded) include Co-opted Board Members;
  - 85.1.7 "**Chairperson**" means the chairperson of the Company (or such other term that is used by the Company to denote the holder of this office) referred to in article 59.1;
  - 85.1.8 "**charitable**" means both charitable under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 and also in relation to the application of the Taxes Acts;
  - 85.1.9 "**clear days**" excludes, in relation to the period of a notice, the day after the notice is posted (or, in the case of a notice sent by Electronic Communication, the day after it was sent) and also the day of the meeting;
  - 89.1.10 "**Close Relative**" means someone who is the spouse or civil partner of a person, or (being either of the same or different sex) who cohabits with that person, or is that person's parent, grandparent, child, stepchild, grandchild, brother or sister.
  - 85.1.11 "**Co-opted Board Member**" means a Board Member co-opted to the Board in terms of article 42.1;
  - 85.1.12 "**Electronic Communication**" has the same meaning as is assigned to that expression in the Electronic Communications Act 2000;
  - 85.1.13 "**Group**" means the Company, and any Subsidiary from time to time;
  - 85.1.14 "**Group Agreement**" means the written agreement from time to time between the Company and the Subsidiaries in relation to the objectives and operation of the Group;

- 85.1.15 "**Guarantee**" means any guarantee and includes any obligation (including as primary obligor), including a contract of indemnity or suretyship, however described, to pay, satisfy, provide funds for the payment or satisfaction of (including, without limitation, by advance of money, purchase of or subscription for securities and purchase of assets or services), indemnify against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of any Subsidiary or any other person;
- 85.1.16 "**Member**" means any person who is admitted to membership of the Company in accordance with the provisions of these Articles;
- 85.1.17 "**Non Executive Board Member**" means a Board Member (excluding the Other Board Member) appointed in terms of these Articles;
- 85.1.18 "**Office Bearer**" means the Chairperson, Secretary and any such other office bearer of the Company appointed under article 59.1;
- 85.1.19 "**Other Board Member**" means an employee of the Company appointed as a Board Member in accordance with article 37.2;
- 85.1.20 "**Register of Members**" means the register of members referred to in article 64;
- 85.1.21 "**The Scottish Housing Regulator**" means the body corporate established under section 1 of the Housing (Scotland) Act 2010
- 85.1.22 "**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;
- 85.1.23 "**Subsidiary**" means any organisation which is from time to time a subsidiary of the Company within the meaning of Section 164 of the Housing (Scotland) Act 2010;
- 85.1.24 "**Subsidiary Chair Board Member**" means a Board Member appointed by the Board in terms of article 39.9;
- 85.1.25 "**Taxes Acts**" means Part 11 of the Corporation Tax Act 2010 as read with Schedule 6 of the Finance Act 2010 and any statute or statutory provision which amends, extends, consolidates or replaces the same; and
- 85.1.26 "**Vice Chairperson**" means the vice chairperson of the Company referred to in Rule 59.13.
- 85.2 Words in the singular also include the plural. Words in the plural also include the singular.
- 85.3 A reference to law or statute is a reference to that law or statute as re-enacted, amended or replaced.



## APPENDIX 1

### PROXY FORM

You must use the wording shown below to appoint a representative to vote at a meeting for you.  
Please see article 27.1 for more details.

I (insert name) am a member of (insert name) \_\_\_\_\_ Limited.

My address is: (please insert).

I hereby appoint (insert name) who lives at (insert address) to be my representative and vote for me  
at the Company's meeting on (insert date) and any other dates that meeting continues on.

Your name

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Your signature

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Date

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## APPENDIX 2

### CANCELLATION OF PROXY

You must use the wording shown below to reverse your application to send a representative to vote at a meeting for you. Please see article 27.5 for more details.

I (insert name) am a member of (insert name) \_\_\_\_\_ Limited.

My address is: (please insert).

I hereby revoke the appointment of (insert name) as my representative to vote for me at the Company's meeting on (insert date) made by me on the (insert date).

I no longer authorise the person referred to above to represent me at the meeting referred to above.

Your name

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Your signature

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