



**THE COMPANIES ACT 2006**

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

**ARTICLES OF ASSOCIATION**

**of**

**FIFE SPORTS & LEISURE TRUST LIMITED**

**Company number: SC336004**

**(as adopted by written special resolution dated 26 April 2021)**

  
Director/Company Secretary

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<b>CONTENTS</b>		
<b>GENERAL</b>	constitution of the company, defined terms, objects, powers, restrictions on use of assets, limit on liability	articles 1-10
<b>MEMBERS</b>	general, qualifications, application, withdrawal, register	articles 11-19
<b>GENERAL MEETINGS (meetings of members)</b>	general, notice, procedure, voting, technical objections to remote participation in general meetings, resolutions	articles 20-62
<b>DIRECTORS</b>	categories, maximum number, eligibility, appointment/removal/retirement, termination of office, office bearers, personal interests, conduct, remuneration and expenses, powers	articles 63-99
<b>DIRECTORS' MEETINGS</b>	procedure	articles 100-128
<b>ADMINISTRATION</b>	committees, alternates, secretary, minutes, accounts, notices	articles 129-151
<b>MISCELLANEOUS</b>	winding-up, indemnity, interpretation	articles 152-156

## **Constitution of company**

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

## **Defined terms**

- 2 In these articles of association, unless the context requires otherwise:-
  - 2.1 “Act” means the Companies Act 2006;
  - 2.2 “charity” means a body which is either a “Scottish charity” within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a “charity” within the meaning of section 1 of the Charities Act 2006, providing (in either case) that its objects are limited to charitable purposes;
  - 2.3 “charitable purpose” means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;
  - 2.4 “conflict of interest” includes a conflict of interest and duty, and a conflict of duty;
  - 2.5 “Conflict Situation” means any situation or matter (other than one which cannot reasonably be regarded as likely to give rise to a conflict of interest) in which any director has or could have a direct or indirect interest that conflicts, or possibly might conflict, with the interests of the company including (without limitation) any such situation or matter which relates to the exploitation of any property, information or opportunity (irrespective of whether the company could take advantage of the property, information or opportunity);
  - 2.6 “electronic form” has the meaning given in section 1168 of the Act;
  - 2.7 “OSCR” means the Office of the Scottish Charity Regulator;
  - 2.8 “property” means any property, heritable or moveable, real or personal, wherever situated; and
  - 2.9 “subsidiary” has the meaning given in section 1159 of the Act.
- 3 Any reference to a provision of any legislation (including any statutory instrument) shall include any statutory modification or re-enactment of that provision in force from time to time.

## **Objects**

- 4 The company’s objects are:-

- 4.1 To advance public participation in sport, primarily within the local authority area of Fife Council (“the Operating Area”);
- 4.2 To provide recreational facilities, and organise recreational activities, primarily within the Operating Area, with such facilities/activities being made available to members of the public at large with the object of improving their conditions of life;
- 4.3 To advance education, primarily within the Operating Area, in particular in relation to sports, active recreation and physical activity;
- 4.4 To advance health, primarily within the Operating Area, and in particular through sports, active recreation and physical activity;
- 4.5 To advance citizenship and/or community development, in particular, within the Operating Area;
- 4.6 To relieve those in need by reason of age, ill health, disability, financial hardship or other disadvantage;
- 4.7 To promote, establish, operate and/or support other similar schemes and projects which further charitable purposes;

through the provision of services (including those entrusted to it by The Fife Council), which contribute to advancing well-being (primarily the wellbeing of residents of the Operating Area) including (i) the operation, management and development of sports facilities (including arrangements to facilitate access to such facilities by those on lower incomes or having special needs and to encourage wider participation in health and exercise); (ii) the development and delivery of sports activities and events directed towards wider participation in sport; (iii) the delivery of services focused on social renewal and the needs of young people; (iv) working with other agencies, businesses, companies, clubs, community bodies and/or other organisations to provide sports, active recreation and physical activity opportunities, primarily within the Operating Area.

- 5 The company’s objects are restricted to those set out in article 4 (but subject to article 6).
- 6 The company may (subject to first obtaining the consent of OSCR) add to, remove or alter the statement of the company’s objects in article 4; on any occasion when it does so, it must give notice to the registrar of companies and the amendment will not be effective until that notice is registered on the register of companies.

## **Powers**

- 7 In pursuance of those objects (but not otherwise) the company shall have the following powers:-
  - 7.1 To promote, establish, operate and/or manage a centre(s) providing facilities for education, recreation, sports and other leisure time activity;

- 7.2 To prepare, organise, support (financially and/or otherwise) participate in, and/or conduct, conferences, seminars and workshops, and educational and training events, courses, programmes and events of all kinds;
- 7.3 To commission and/or conduct research, and to publish and promote the results of such research;
- 7.4 To design, prepare, publish and/or distribute information packs, leaflets, books, newsletters, magazines, posters and other publications, audio and video recordings, multimedia products and display materials, and to create and maintain a website or websites;
- 7.5 To provide information, advisory, support and/or consultancy services which further any of the objects of the company;
- 7.6 To liaise with European, UK, Scottish and local government authorities and agencies, local development companies, voluntary sector bodies and others, all with a view to maximising the effectiveness of the company in pursuing its objectives;
- 7.7 To initiate, promote, conduct, participate in (whether via a wholly-owned subsidiary, a joint venture company or a limited liability partnership or otherwise), co-ordinate, monitor and/or assist (whether financially or otherwise), projects, initiatives and schemes of all kinds which further any of the objects of the company;
- 7.8 To carry on any other activity which may be appropriately carried on in connection with any of the objects of the company;
- 7.9 To promote companies and/or other bodies whose activities may further one or more of the above objects or may generate income to support the activities of the company, acquire and hold shares, stocks, debentures and other interests in such companies, and carry out in relation to any such company which is a subsidiary of the company, all such functions as may be associated with a holding company;
- 7.10 To acquire and take over the whole or any part of the undertaking and liabilities of any person entitled to any property or rights suitable for any of the objects of the company;
- 7.11 To purchase, take on lease, hire, or otherwise acquire, any property or rights which are suitable for the company's activities;
- 7.12 To improve, manage, develop, or otherwise deal with, all or any part of the property and rights of the company;
- 7.13 To sell, let, hire out, license, or otherwise dispose of, all or any part of the property and rights of the company;

- 7.14 To borrow money, and to give security in support of any such borrowings by the company, in support of any obligations undertaken by the company or in support of any guarantee issued by the company;
- 7.15 To employ such staff as are considered appropriate for the proper conduct of the company's activities;
- 7.16 To engage such consultants and advisers as are considered appropriate from time to time;
- 7.17 To effect insurance of all kinds (which may include officers' liability insurance);
- 7.18 To invest any funds which are not immediately required for the company's activities in such investments as may be considered appropriate (and to dispose of, and vary, such investments);
- 7.19 To establish and/or support any other charity, and to make donations for any charitable purpose falling within the company's objects;
- 7.20 To take such steps as may be deemed appropriate for the purpose of raising funds for the company's activities;
- 7.21 To accept grants, donations and legacies of all kinds (and to accept any reasonable conditions attaching to them);
- 7.22 To oppose, or object to, any application or proceedings which may prejudice the company's interests;
- 7.23 To enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of the company, and to enter into any arrangement for co-operation or mutual assistance with any charity;
- 7.24 To do anything which may be incidental or conducive to the furtherance of any of the company's objects.

#### **Restriction on use of the company's assets**

8 Subject to article 9:-

- 8.1 the income and property of the company shall be applied solely towards the promotion of its objects (as set out in article 4);
- 8.2 no part of the income or property of the company shall be paid or transferred (directly or indirectly) to the members of the company by way of dividend, bonus or otherwise;

- 8.3 no director of the company shall be appointed to any office under the company in respect of which a salary or fee is payable;
- 8.4 no benefit (in money or money's worth) shall be given by the company to any director except repayment of out-of-pocket expenses.
- 9 The company shall, notwithstanding the provisions of article 8, be entitled:-
- 9.1 to pay a rent not exceeding the market rent for premises let to the company by any member of the company;
- 9.2 to make any transfer or payment to a member where such transfer or payment is made in direct furtherance of the charitable purposes of the company.

### **Liability of members**

- 10 Each member undertakes that if the company is wound up while it is a member (or within one year after it ceases to be a member), it will contribute - up to a maximum of £1 - to the assets of the company, to be applied towards:
- 10.1 payments of the company's debts and liabilities contracted before it ceases to be a member;
- 10.2 payment of the costs, charges and expenses of winding up; and adjustment of the rights of the contributories among themselves.

### **Membership**

- 11 The membership of the company shall (subject to article 12) consist of such bodies as are admitted to membership under the articles of association of the company in force from time to time.
- 12 Membership shall cease on the dissolution, winding-up, striking-off or receivership of the body which constituted the member or on receipt of a notice of retiral of the relevant body from membership under article 18.
- 13 A member may not transfer its membership to any other individual or body.

### **Qualifications for membership**

- 14 Subject to article 11, membership shall be open only to The Fife Council.

### **Application for membership**

- 15 Any incorporated body eligible for membership under article 14 (as amended from time to time) which wishes to become a member shall (subject to article 17) lodge with the company a written

application for membership (in such form as the directors require); the application for membership shall be signed on the relevant body's behalf by an authorised officer of that body.

- 16 A body eligible for membership under article 14 shall automatically constitute a member of the company immediately upon receipt by the company of the application for membership, duly signed in accordance with article 15.
- 17 For the avoidance of doubt, a member which is a body eligible for membership under article 14 as at the time when these articles of association are adopted, shall remain as a member without any requirement to lodge an application for membership under article 15.

### **Withdrawal from membership**

- 18 Any body which wishes to withdraw from membership shall lodge with the company a written notice of retiral (in such form as the directors require), signed on its behalf by an authorised officer of that body; on receipt of the notice by the company, it shall cease to be a member.

### **Register of members**

- 19 The directors shall procure that a register of members is maintained in accordance with the provisions of the Act and shall ensure that the appropriate entries in the register of members are made immediately after any change in the membership of the company occurs.

### **General meetings**

- 20 The directors shall convene an annual general meeting in each year (but excluding the year in which the company is formed); the first annual general meeting shall be held not later than 24 months after the date of incorporation of the company.
- 21 Not more than 15 months shall elapse between one annual general meeting and the next.
- 22 The directors must convene a general meeting if there is a valid requisition by members (under section 303 of the Act) or a requisition by a resigning auditor (under section 518 of the Act).
- 23 Subject to the provision of articles 20, 21 and 22, the directors may convene general meetings whenever they think fit.

### **Notice of general meetings**

- 24 At least 14 clear days' notice of each general meeting must be given to all the members and directors and (if auditors are in office at the time) to the auditors.
- 25 The reference to "clear days" in article 24 shall be taken to mean that, in calculating the period of notice, the day after the notice is posted (or, in the case of notice sent by electronic means, the day after it was sent), and also the day of the meeting, should be excluded.



- 26 A notice calling a meeting shall specify the time, date and (subject to article 30) place of the meeting; it shall (a) indicate the general nature of the business to be dealt with at the meeting; (b) if a special resolution (see article 56) or a resolution requiring special notice under the Act is to be proposed, state that fact, giving the exact terms of the resolution; and (c) contain a statement informing members of their right to appoint a proxy.
- 27 A notice convening an annual general meeting shall specify that the meeting is to be an annual general meeting.
- 28 Notice of every general meeting shall be given: -
- 28.1 in hard copy form;
- 28.2 (where the body to which notice is given has notified the company of an address to be used for the purpose of electronic communication) in electronic form; or
- 28.3 subject to the company notifying members of the presence of the notice on the website, and complying with the other requirements of section 309 of the Act, by means of a website.
- 29 If members and directors are to be permitted to participate in a general meeting by way of audio and/or audio-visual link(s) (see article 33), the notice (or notes accompanying the notice) must:
- 29.1 set out details of how to connect and participate via that link or links; and
- 29.2 (particularly for the benefit of those members who may have difficulties in using a computer or laptop for this purpose) draw members' attention to the following options:
- 29.2.1 participating in the meeting via an audio link accessed by phone, using dial-in details (if that forms part of the arrangements);
- 29.2.2 appointing the chairperson of the meeting as proxy, and directing the chairperson on how they should use that proxy vote in relation to each resolution to be proposed at the meeting;
- 29.2.3 (where attendance in person is to be permitted, either on an open basis or with a restriction on the total number who will be permitted to attend) attending and voting in person at the meeting;
- 29.2.4 (where article 31 applies) submitting questions and/or comments in advance of the meeting.
- 30 If participation in the meeting is to be by way of audio and/or audio-visual links – with no intention for the meeting to involve attendance in person by two or more members in any particular location – the place of the meeting shall, for the purposes of the notice calling the meeting, be taken to be the place where the anticipated chairperson of the meeting is expected

to be, as at the time fixed for the commencement of the meeting; and, if it transpires that the chairperson of the meeting is at some other place as at the commencement of the meeting, the meeting shall be taken to have been validly adjourned to that other place.

- 31 Where a general meeting is to involve participation solely via audio and/or audio-visual links, the notice (or notes accompanying the notice) must include a statement inviting members to submit questions and/or comments in advance of the meeting, which (subject to article 32) the chairperson of the meeting will be expected to read out, and address, in the course of the meeting.
- 32 Where article 31 applies, the chairperson of a general meeting will not require to read out or address any questions or comments submitted by members in advance of the meeting if and to the extent that the questions or comments are of an unreasonable length (individually or taken together), or contain material which is defamatory, racist or otherwise offensive.

### **Proceedings at general meetings**

- 33 The directors may if they consider appropriate (and must, if that is required under article 34) make arrangements for members and directors to participate in general meetings by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting, providing:
- 33.1 the means by which members and directors can participate via those link(s) are not subject to technical complexities, significant costs or other factors which are likely to represent – for all or a significant proportion of the membership – a barrier to participation;
- 33.2 the notice calling the meeting (or notes accompanying the notice) contains the information required under article 29; and
- 33.3 the manner in which the meeting is conducted ensures, so far as reasonably possible, that those members and directors who participate via an audio or audio-visual link are not disadvantaged with regard to their ability to contribute to discussions at the meeting, as compared with those members and directors (if any) who are attending in person (and vice versa).
- 34 If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed general meeting would not be possible or advisable for all or a significant proportion of the membership, the directors must make arrangements for members and directors to participate in that general meeting by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting; and on the basis that the requirements set out in paragraphs 33.1 to 33.3 of article 33 will apply.

- 35 A general meeting may involve two or more members or directors participating via attendance in person while other members and/or directors participate via audio and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.
- 36 Reference in articles 29 to 35 to members should be taken to include proxies for members and authorised representatives of members which are corporate bodies.
- 37 No business shall be transacted at any meeting unless a quorum is present; one person present and entitled to vote (being a proxy for a member or a duly authorised representative of a member which is a corporate body) shall be a quorum.
- 38 An individual participating in a general meeting via an audio or audio-visual link which allows them to hear and contribute to discussions at the meeting will be deemed to be present in person (or, if they are not a member or the authorised representative of a member which is a corporate body, will be deemed to be in attendance) at the meeting.
- 39 If the quorum required under article 33 is not present within half an hour after the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to such time and (subject to article 44) place as may be fixed by the chairperson of the meeting.
- 40 The Chairperson of the board of directors shall (if present and willing to act) preside as chairperson of the meeting; if the Chairperson is not present and willing to act as chairperson of the meeting within 15 minutes after the time appointed for holding the meeting, the Vice Chairperson shall act as chairperson of the meeting.
- 41 If neither the Chairperson nor the Vice Chairperson is present and willing to act as chairperson of the meeting within 15 minutes after the time appointed for holding the meeting, the directors present shall elect one of their number to act as chairperson of the meeting or, if there is only one director present and willing to act, he/she shall be chairperson of the meeting.
- 42 Each of the directors shall, notwithstanding that he/she is not a member, be entitled to attend and speak at any general meeting.
- 43 The chairperson of the meeting may, with the consent of the meeting at which a quorum is present (and must, if the meeting requests him/her to do so), adjourn the meeting but not for a period in excess of thirty days; no notice need be given of an adjourned meeting.
- 44 Article 30 shall apply in relation to the requirement under article 39 for the chairperson to specify the place of an adjourned meeting.

#### **Votes of members**

- 45 Every member shall have one vote, which may be given either via its duly authorised representative present at the meeting or by proxy.

- 46 A member which wishes to appoint a proxy to vote on its behalf at any meeting:-
- 46.1 shall lodge with the company, at the company's registered office, a written instrument of proxy (in such form as the directors require), signed by an appropriate officer of the member; or
- 46.2 shall send by electronic means to the company at such electronic address as may have been notified to the members by the company for that purpose, an instrument of proxy (in such form as the directors require)
- providing (in either case) the instrument of proxy is received by the company at the relevant address not less than 48 hours before the time for holding the meeting (or, as the case may be, adjourned meeting); for the avoidance of doubt, in calculating the 48-hour period referred to in the preceding provisions of this article 46, no account shall be taken of any part of a day that is not a working day.
- 47 An instrument of proxy which does not conform with the provisions of article 46, or which is not lodged or sent in accordance with such provisions, shall be invalid.
- 48 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 49 A proxy appointed to attend and vote at any meeting instead of a member shall have the same right as the member which appointed him/her to speak at the meeting and need not be a member of the company.
- 50 A member which is an incorporated body may authorise an individual to act as its representative at any general meeting of the company, providing particulars of the individual so authorised and of the body which he/she is to represent are received by the company prior to the commencement of the general meeting; the individual so authorised shall be entitled to exercise the same powers on behalf of the member which he/she represents as that incorporated body could exercise if it were an individual member.
- 51 The chairperson of a meeting shall not be entitled to a casting vote if an equality of votes arises in relation to any resolution.
- 52 A vote given by proxy or by the duly authorised representative of a member which is an incorporated body shall be valid notwithstanding that the authority of the person voting had terminated prior to the giving of such vote unless notice of such termination was received by the company at the company's registered office (or, where contained in an electronic communication, was received by the company at the address notified by the company to the members for the purpose of electronic communication) before the commencement of the meeting or adjourned meeting at which the vote was given.
- 53 Where members are participating in a meeting via an audio or audio-visual link, they may cast their vote on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, or by way of a message sent electronically – and providing the directors

have no reasonable grounds for suspicion as regards authenticity, any such action shall be deemed to be a vote cast personally via a show of hands.

- 54 The principle set out in article 53 shall also apply in relation to the casting of votes by an individual in their capacity as proxy for a member or as the authorised representative of a member which is a corporate body.

#### **Technical objections to remote participation in general meetings**

- 55 These articles impose certain requirements regarding the use of audio and/or audio-visual links as a means of participation and voting at general meetings; providing the arrangements made by the directors in relation to a given general meeting (and the manner in which the general meeting is conducted) are consistent with those requirements:
- 55.1 a member cannot insist on participating in the general meeting, or voting at the general meeting, by any particular means;
  - 55.2 the general meeting need not be held in any particular place;
  - 55.3 the general meeting may be held without any particular number of those participating in the meeting being present in person at the same place (but notwithstanding that, the quorum requirements – taking account of those participating via audio and/or audio-visual links – must still be met);
  - 55.4 the general meeting may be held by any means which permits those participating in the meeting to hear and contribute to discussions at the meeting;
  - 55.5 a member will be able to exercise the right to vote at the general meeting (including where a secret ballot is to be held) by such means as is determined by the chairperson of the meeting (consistent with the arrangements made by the directors) and which permits that member's vote to be taken into account in determining whether or not a resolution is passed.

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

- 56 For the purposes of these articles, a “special resolution” means a resolution of the members, which is either (a) passed by 75% or more of the votes cast on the resolution at a general meeting, providing proper notice of the meeting and of the intention to propose the resolution has been given in accordance with articles 24 to 28 (for the avoidance of doubt, the reference to a 75% majority relates only to the number of votes cast in favour of the resolution as compared with the number of votes cast against the resolution and accordingly no account shall be taken of abstentions or members absent from the meeting); or (b) passed by members representing not less than 75% of the total voting rights of eligible members when passed by way of a written resolution, in accordance with articles 59 to 62.
- 57 In addition to the matters expressly referred to elsewhere in these articles, the provisions of the Companies Act allow the company, by special resolution:-

57.1 to alter its name;

57.2 to alter its objects; and

57.3 to alter any provision of these articles or adopt new articles of association.

58 For the purposes of these articles, an “ordinary resolution” means a resolution of the members, which is either (a) passed by majority vote (taking account only of those votes cast in favour as compared with those votes cast against), at a general meeting, providing proper notice of the meeting has been given in accordance with articles 24 to 28; or (b) passed by members representing a simple majority of the total voting rights of eligible members, when passed by way of a written resolution in accordance with articles 59 to 62.

### **Written resolutions**

59 A written resolution can be passed by the members of the company (having been proposed by either the members or the directors in accordance with the procedures detailed in Chapter 2 of Part 13 of the Act) and will have effect as if passed by the members of the company in general meeting; a written resolution is passed when the required majority of eligible members have signified their agreement to it by sending to the company (in hard copy or electronic form) an authenticated document which identifies the resolution to which it relates and which indicates the member’s agreement to it.

60 For the purposes of the preceding article: -

60.1 the reference to “eligible members” is to those members who would have been entitled to vote on the resolution on the circulation date of the resolution (which is either (a) the date on which copies of the written resolution are sent or submitted to the members in accordance with the procedures detailed in Chapter 2 of Part 13 of the Act; or (b) if copies are sent or submitted to members on different days, the first of those dates);

60.2 the reference to “required majority” is to the majority required to pass an ordinary or a special resolution under the Act, as follows: -

60.2.1 in order to pass an ordinary resolution by way of written resolution, it must be passed (in accordance with article 59) by members representing a simple majority of the total voting rights of eligible members;

60.2.2 in order to pass a special resolution by way of written resolution, it must be passed (in accordance with article 59) by members representing not less than 75% of the total voting rights of eligible members and the resolution must specifically state that it was proposed as a special resolution.

61 For the avoidance of doubt, a resolution to remove a director (under section 168 of the Act) or a resolution to remove an auditor (under section 510 of the Act) cannot be proposed as a written resolution under article 59.

- 62 For the purposes of article 59, a proposed written resolution will lapse if it is not passed before the end of a period of 28 days beginning with the circulation date (as defined in article 60) and the agreement of any member to a written resolution will be ineffective if signified after the expiry of that period.

### **Categories of director**

- 63 For the purposes of these articles:-

**“Partner Director”** means a director appointed or re-appointed under articles 66 to 68;

**“Independent Director”** means a director appointed or re-appointed under articles 69 to 74.

### **Number of directors**

- 64 The maximum number of directors (excluding for this purpose alternate directors) shall be 13; out of that number

64.1 a maximum of 6 directors shall be Partner Directors;

64.2 a maximum of 7 directors shall be Independent Directors.

### **Eligibility**

- 65 An individual shall not be eligible for appointment as a director if he/she is an employee of the company.

### **Appointment, removal, retirement: Partner Directors**

- 66 Subject to articles 64, 65 and 68, The Fife Council, so long as it remains a member of the company, may by notice in writing, signed on its behalf by an appropriate officer and given to the company:-

66.1 appoint any elected member, officer or employee of The Fife Council who is willing so to act to be a director (a “Partner Director”); or

66.2 remove any Partner Director from office as a director.

- 67 Any appointment or removal of a director under article 66 shall have effect from the date on which the relevant notice is given to the company.

- 68 The powers conferred by article 66 shall be deemed to be limited such that no more than 6 individuals appointed by The Fife Council may hold office as Partner Directors at any given time.

### **Appointment, removal: Independent Directors**

- 69 Subject to articles 64, 65 and 71, The Fife Council, so long as it remains a member of the company, may by notice in writing, signed on its behalf by an appropriate officer and given to the company:-
- 69.1 appoint any person (other than an elected representative, officer or employee of The Fife Council) who is willing so to act to be a director (an “Independent Director”); or
- 69.2 remove any Independent Director from office as a director.
- 70 Any appointment or removal of a director under article 69 shall have effect from the date on which the relevant notice is given to the company.
- 71 The powers conferred by article 69 shall be deemed to be limited such that:
- 71.1 no more than 7 individuals appointed by The Fife Council may hold office as Independent Directors at any given time;
- 71.2 the Independent Directors shall be appointed on the basis of their having skills and experience which, in the opinion of The Fife Council, would be of assistance to the board of directors or on the basis of their having been nominated by an organisation with which the company has close contact in the course of its activities.

### **Retirement: Independent Directors**

- 72 Each of the Independent Directors shall (subject to article 74) hold office until the conclusion of the third annual general meeting which follows the date on which he/she was appointed or (as the case may be) was last re-appointed; but shall then be eligible for re-appointment under article 69; if re-appointed, he/she shall hold office until the conclusion of the third annual general meeting which follows, but will then be eligible for further re-appointment under article 69.
- 73 For avoidance of doubt, there shall be no limit on the number of occasions on which a given Independent Director can be re-appointed under article 69.
- 74 The following provisions shall apply in relation to those Independent Directors who were named in the form 10 submitted with the incorporation documents as prospective directors or who were appointed during the period of 6 months after the date of incorporation of the company (“the Initial Independent Directors”): -
- 74.1 at the conclusion of the second annual general meeting, three of the Initial Independent Directors shall vacate office, but shall then be eligible for re-appointment under article 69;



- 74.2 the Initial Independent Directors to vacate office under the provisions of paragraph 74.1 of this article 74 shall be agreed among the Initial Independent Directors at least three months prior to the second annual general meeting; or (failing agreement by that time) shall be determined by reference to the alphabetical order of their respective surnames;
- 74.3 at the conclusion of the third annual general meeting, those of the Initial Independent Directors who did not vacate office at the second annual general meeting in pursuance of paragraph 74.1 of this article 74 shall vacate office but that shall then be eligible for reappointment under article 69.

### **Disqualification and removal of directors**

75 A director shall vacate office if:-

- 75.1 he/she ceases to be a director by virtue of any provision of the Act or becomes prohibited by law from being a director or a charity trustee (within the meaning of the Charities and Trustee Investment (Scotland) Act 2005);
- 75.2 he/she is sequestered;
- 75.3 he/she becomes incapable for medical reasons of fulfilling the duties of his/her office and such incapacity has continued, or is expected to continue, for a period of more than six months;
- 75.4 in the case of a Partner Director, the body which appointed him/her ceases to be a member of the company;
- 75.5 he/she resigns office by notice to the company;
- 75.6 he/she is absent (without permission of the directors) from more than three consecutive meetings of directors and the directors resolve to remove him/her from office;
- 75.7 he/she is removed from office by resolution of the directors on the grounds that he/she is considered to have committed a material breach of the code of conduct for directors in force from time to time (as referred to in article 93);
- 75.8 he/she is removed from office by resolution of the directors on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
- 75.9 he/she is removed from office by ordinary resolution (special notice having been given) in pursuance of section 168 of the Act.

76 A resolution under paragraph 75.7 or 75.8 shall be valid only if:-

- 76.1 the director who is the subject of the resolution is given reasonable prior written notice by the directors of the grounds upon which the resolution for his/her removal is to be proposed;
- 76.2 the director concerned is given the opportunity to address the meeting of directors at which the resolution is proposed, prior to the resolution being put to the vote; and
- 76.3 at least two thirds (to the nearest round number) of the directors then in office vote in favour of the resolution.

### **Appointments to offices**

- 77 The directors shall (subject to article 78) appoint from among themselves a Chairperson, a Vice Chairperson and such other office bearers (if any) as they consider appropriate.
- 78 For the avoidance of doubt, only Independent Directors (and not Partner Directors) shall be eligible for appointment as Chairperson of the board of directors.
- 79 The appointments under article 77 shall be made at meetings of directors.
- 80 Each office shall be held (subject to article 83) until the conclusion of the third annual general meeting which next follows; a director whose period of office expires under this article may (subject to article 81) be re-appointed to that office under article 77 (providing he/she is willing to act).
- 81 A director who has held office as Chairperson for a period of more than six consecutive years shall not be eligible for re-appointment to the office of Chairperson until a further period of one year has elapsed.
- 82 For the purposes of article 81:-
- 82.1 the period between the date of appointment of a director to the office of Chairperson and the annual general meeting which next follows shall be deemed to be a period of one year, unless it is of less than six months' duration (in which case it shall be disregarded);
- 82.2 the period between one annual general meeting and the next shall be deemed to be a period of one year;
- 82.3 if a director ceases to hold office as Chairperson but is re-appointed to that office within a period of six months, he/she shall be deemed to have held that office continuously.
- 83 The appointment of any director as Chairperson, Vice Chairperson or as holder of an office under article 77, shall terminate if he/she ceases to be a director or if he/she resigns from that office by notice to the company.

- 84 If the appointment of a director to any office under article 77 terminates, the directors shall appoint another director to hold the office in his/her place.

### **Directors' interests**

- 85 Subject to the provisions of the Act and of article 8 and provided that he/she has disclosed to the directors the nature and extent of any personal interest which he/she has (unless immaterial) and has complied with the code of conduct (as referred to in article 93), a director (notwithstanding his/her office):-

- 85.1 may be a party to, or have some other personal interest in, any transaction or arrangement with the company or any associated company;
- 85.2 may be a party to, or have some other personal interest in, any transaction or arrangement in which the company or any associated company has an interest;
- 85.3 may be a director or secretary of, or employed by, or have some other personal interest in, any associated company; and
- 85.4 shall not, because of his/her office, be accountable to the company for any benefit which he/she derives from any such office or employment or from any such transaction or arrangement or from any interest in any such company;

and no such transaction or arrangement shall be liable to be treated as void on the ground of any such interest or benefit.

- 86 For the purposes of the preceding article, an interest of which a director has no knowledge and of which it is unreasonable to expect him/her to have knowledge shall not be treated as an interest of his/hers; the references to "associated company" shall be interpreted as references to any subsidiary of the company or any other company in which the company has a direct or indirect interest.
- 87 Without prejudice to article 88, a director may be an officer, elected representative or employee of The Fife Council; the duty of directors under section 175 of the Act to avoid situations under which they have, or could have, a direct or indirect interest that conflicts, or possibly might conflict, with the interests of the company shall not extend to any such relationship with The Fife Council.
- 88 In addition to the authorisation given by article 87, the directors shall be entitled, for the purposes of section 175 of the Act, to authorise (by way of resolution to that effect) any Conflict Situation that may arise (such that the duty of the director concerned, under that section, to avoid conflicts of interest is not infringed) and to amend or vary any such authorisation; the directors may give such authorisation subject to such terms and conditions as they may consider appropriate and reasonable in the circumstances.

- 89 For the avoidance of doubt, articles 87 and 88 shall not apply to a conflict of interest arising in relation to a transaction or arrangement with the company; any conflict of interest of that nature shall be governed by the provisions of articles 85, 86 and 122 to 127 and the code of conduct referred to in article 93.
- 90 The directors shall procure that a register of directors' interests is maintained in accordance with the provisions in this regard contained in the code of conduct for directors referred to in article 93.

### **Conduct of directors**

- 91 It is the duty of each director of the company to take decisions (and exercise his/her other powers and responsibilities as a director) in such a way as he/she considers, in good faith, will be most likely to promote the success of the company in achieving its objects (as outlined in article 4) and will be in the interests of the company, and irrespective of any office, post, engagement or other connection which he/she may have with any other body which may have an interest in the matter in question.
- 92 Without prejudice to the principle set out in article 91, each of the directors shall have a duty, in exercising functions as a charity trustee, to act in the interests of the company; and, in particular, must:-
- 92.1 seek, in good faith, to ensure that the company acts in a manner which is in accordance with its purposes;
  - 92.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
  - 92.3 in circumstances giving rise to the possibility of a conflict of interest between the company and any party responsible for the appointment of that director
    - 92.3.1 put the interests of the company before that of the other party;
    - 92.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the company and refrain from participating in any deliberation or decision of the other directors with regard to the matter in question;
  - 92.4 ensure that the company complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 93 Each of the directors shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board of directors from time to time; for the avoidance of doubt, the code of conduct shall be supplemental to the provisions relating to the conduct of directors contained in these articles of association, and the relevant provisions of these articles

shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

### **Directors' remuneration and expenses**

- 94 No director may serve as an employee of the company, and no director may be given any remuneration by the company for carrying out his/her duties as a director or as Chairperson or as the holder of any other office under article 77.
- 95 The directors may be paid all travelling and other expenses properly incurred by them in connection with their attendance at meetings of directors, general meetings, meetings of committees of directors or otherwise in connection with the carrying-out of their duties.

### **Powers of directors**

- 96 Subject to the provisions of the Act, these articles and to any directions given by special resolution, the business of the company shall be managed by the directors who may exercise all the powers of the company.
- 97 No alteration of these articles and no direction given by special resolution shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given.
- 98 The powers conferred by article 96 shall not be limited by any special power conferred on the directors by these articles.
- 99 A meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.

### **Proceedings of directors**

- 100 Subject to the provisions of these articles, the directors may regulate their proceedings as they think fit.
- 101 Any director may call a meeting of the directors or request the secretary to call a meeting of the directors.
- 102 If directors are to be permitted to participate in a directors' meeting by way of audio and/or audio-visual link(s), the directors must, in advance of the meeting, be provided with details of how to connect and participate via that link or links; and (particularly for the benefit of those directors who may have difficulties in using a computer or laptop for this purpose) the directors' attention should be drawn to the following options:
- 102.1 participating in the meeting via an audio link accessed by phone, using dial-in details (if that forms part of the arrangements);

- 102.2 (where attendance in person is to be permitted, either on an open basis or subject to a restriction on the total number who will be permitted to attend) the ability to attend the meeting in person.
- 103 Questions arising at any meeting of directors shall be decided by a majority of votes; the chairperson of a meeting of directors shall be entitled to a casting vote.
- 104 The directors may, if they consider appropriate (and must, if this is required under article 105) allow directors to participate in directors' meetings by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting, providing:
- 104.1 the means by which directors can participate in this manner are not subject to technical complexities, significant costs or other factors which are likely to represent - for all, or a significant proportion, of the directors - a barrier to participation; and
- 104.2 the manner in which the meeting is conducted ensures, so far as reasonably possible, that those directors who participate via an audio or audio-visual link are not disadvantaged with regard to their ability to contribute to discussions at the meeting, as compared with those directors (if any) who are attending in person (and vice versa).
- 105 If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed directors' meeting would not be possible or advisable for one or more of the directors, the directors must make arrangements for directors to participate in that directors' meeting by way of audio and/or audio-visual link(s); and on the basis that:
- 105.1 the requirements set out in paragraphs 104.1 and 104.2 of article 104 will apply; and
- 105.2 the directors must use all reasonable endeavours to ensure that all directors have access to one or more means by which they may hear and contribute to discussions at the meeting.
- 106 A directors' meeting may involve two or more directors participating via attendance in person while other directors participate via audio and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.
- 107 For the avoidance of doubt, an individual participating in a directors' meeting via an audio or audio-visual link will be deemed to be present in person (or, if they are not a director, will be deemed to be in attendance) at the meeting.
- 108 Where a director or directors are participating in a directors' meeting via an audio or audio-visual link, they may cast their vote on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, or by way of a message sent electronically.
- 109 The quorum for the transaction of the business of the directors shall (subject to article 110) be four.

- 110 The director who is also an alternate director shall be entitled in the absence of his/her appointer to a separate vote on behalf of the Partner Director who appointed him/her in addition to her own vote.
- 111 For the purpose of the provisions of the preceding article, a Partner Director shall be deemed to be present at the meeting if an alternate director appointed by him/her was present at the meeting.
- 112 If the quorum required under article 109 is not present within half an hour after the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to such time and place as may be fixed by the chairperson of the meeting.
- 113 The continuing directors or a sole continuing director may act notwithstanding vacancies, but if the number of remaining directors is less than the number fixed as the quorum they may act only for the purpose of filling vacancies or of calling a general meeting.
- 114 Unless he/she is unwilling to do so, the Chairperson of the board of directors shall preside as chairperson at every meeting of directors at which he/she is present; if the Chairperson is unwilling to act as chairperson of a meeting of directors or is not present within 15 minutes after the time appointed for the meeting, the Vice Chairperson shall act as chairperson of the meeting.
- 115 If neither the Chairperson nor the Vice Chairperson is present and willing to act as chairperson of the meeting within 15 minutes after the time appointed for holding the meeting, the directors present shall elect one of their number to act as chairperson of the meeting or, if there is only one director present and willing to act, he/she shall be chairperson of the meeting.
- 116 The directors shall be entitled to allow any person to attend (whether in person or by way of an audio or audio-visual link) and speak (but not vote) at any meeting of the directors; a person invited to attend a meeting of the directors under the preceding provisions of this article shall not be entitled to exercise any of the powers of a director, and shall not be deemed to constitute a director for the purposes of the Act or any provision of these articles.
- 117 All acts done by a meeting of directors or by a meeting of a committee of directors or by a person acting as a director shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of any director or that any of them was disqualified from holding office or had vacated office or was 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 director and had been entitled to vote.
- 118 A resolution agreed to in writing (or by e-mail) by a majority of the directors then in office shall (subject to articles 119 and 120) be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held; it may consist of several documents in the same form, each signed by one or more directors.

- 119 A resolution under article 118 shall not be valid unless a copy of the resolution was circulated to all of the directors, along with a cut-off time (which must be reasonable in the circumstances) for notifications under article 120.
- 120 If a resolution is circulated to the directors under article 119, any one or more directors may, following receipt of a copy of the resolution, notify the secretary that they consider that a directors' meeting should be held to discuss the matter which is the subject of the resolution; and if any such notification is received by the secretary prior to the cut-off time:
- 120.1 the secretary must convene a directors' meeting accordingly, and on the basis that it will take place as soon as reasonably possible;
- 120.2 the resolution cannot be treated as valid under article 118 unless and until that directors' meeting has taken place;
- 120.3 the directors may (if they consider appropriate, on the basis of the discussions at the meeting) resolve at that directors' meeting that the resolution should be treated as invalid, notwithstanding that it had previously been agreed to in writing (or by e-mail) by a majority of the directors then in office.
- 121 A resolution agreed to by an alternate director need not also be agreed by his/her appointer; a resolution agreed by a director who has appointed an alternate director need not be agreed by the alternate director in that capacity.
- 122 Subject to article 124, a director shall not vote at a meeting of directors or at a meeting of a committee of directors on any resolution concerning a matter in which he/she has, directly or indirectly, a personal interest or duty (unless immaterial) which conflicts or may conflict with the interests of the company.
- 123 For the purposes of the preceding article:-
- 123.1 an interest of a person who is taken to be connected with a director for any purpose of the Act, shall be treated as a personal interest of the director;
- 123.2 a director shall (subject to article 124) be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter; and
- 123.3 An interest of the appointer of an alternate director shall be treated as a personal interest of the alternate director.
- 124 A Partner Director shall, notwithstanding the provisions of article 122 and paragraph 123.2, be entitled to vote in relation to a particular matter notwithstanding that The Fife Council has an interest in that matter; but on the basis that in exercising their voting rights in respect of any such matter, the Partner Directors shall comply with the provisions of articles 91, 92 and 93.



- 125 A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he/she is not entitled to vote.
- 126 The company may (subject to the Charities and Trustee Investment (Scotland) Act 2005) by ordinary resolution suspend or relax to any extent, either generally or in relation to any particular matter, the provisions of articles 122 to 125.
- 127 If a question arises at a meeting of directors or at a meeting of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairperson of the meeting; his/her ruling in relation to any director other than himself/herself shall be final and conclusive.
- 128 The principles set out in article 55 (technical objections to remote participation) shall apply in relation to remote participation and voting at directors' meetings, as if each reference in that article to a member were a reference to a director and each reference in that article to a general meeting were a reference to a directors' meeting.

#### **Delegation to committees of directors and holders of offices**

- 129 The directors may delegate any of their powers to any committee consisting of two or more directors; they may also delegate to the Chairperson or a director holding any other office such of their powers as they consider appropriate.
- 130 Any delegation of powers under the preceding article may be made subject to such conditions as the directors may impose and either collaterally with or to the exclusion of their own powers and may be revoked or altered.
- 131 Subject to any condition imposed in pursuance of the preceding article, the proceedings of a committee consisting of two or more directors shall be governed by the articles regulating the proceedings of meetings of directors so far as they are capable of applying.
- 132 In addition to their powers under article 129, the directors may delegate their powers to any committee consisting of one or more directors and such other individuals (who need not be directors or employees of the company) as the directors may consider appropriate; the provisions of articles 130 and 131 shall apply in relation to any such committee, subject to the qualification that the role of any committee formed under the preceding provisions of this article shall be limited (except to the extent that the directors otherwise determine) to the issue of reports and recommendations for consideration by the board of directors.

#### **Alternate Directors**

- 133 Fife Council, for so long as it remains a member of the company, may by notice in writing, signed on its behalf by an appropriate officer and given to the company: -
- 133.1 appoint an alternate director in respect of any Partner Director;

- 133.2 remove any alternate director appointed in respect of any of the Partner Directors.
- 134 For the avoidance of doubt, Independent Directors shall not be entitled to appoint an alternate director.
- 135 A notice appointing an alternate director may specify that the appointment is to relate only to the particular meetings at which the director will not be present; in the absence of a statement to that effect, the appointment will be deemed to relate to carrying out all the functions of the director until such time as the appointment is revoked.
- 136 An alternate director shall not be entitled to receive any remuneration from the company for his/her services as an alternate director.
- 137 An alternate director shall cease to be an alternate director if his/her appointer ceases to be a director.
- 138 An alternate director shall alone be responsible for his/her own acts and defaults; an alternate director shall not be deemed to be the agent of the director appointing him/her.
- 139 References in these articles to directors shall, unless the context otherwise requires, be construed as including alternate directors.

#### **Secretary**

- 140 The directors shall (notwithstanding the provisions of the Act) appoint a company secretary, and on the basis that the term of office, remuneration (if any), and other terms and conditions attaching to the appointment of the company secretary shall be as determined by the directors; the company secretary may be removed by the directors at any time.

#### **Minutes**

- 141 The directors shall ensure that minutes are made (in books kept for the purpose) of all proceedings at general meetings, meetings of the directors and meetings of committees of directors; a minute of a meeting of directors or of a committee of directors shall include the names of the directors present, and the minutes of each meeting shall be signed by the chairperson of that meeting.

#### **Accounts**

- 142 Accounting records shall be kept in accordance with all applicable statutory requirements and such accounting records shall, in particular, contain entries from day to day 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; such accounting records shall be open to inspection at all times by any director of the company.

- 143 The directors shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements.
- 144 The directors shall prepare annual accounts, complying with all relevant statutory requirements.
- 145 No member shall (as such) have any right of inspecting any accounting records or other book or document of the company except as conferred by statute or as authorised by the directors or by ordinary resolution of the company.

### **Notices**

- 146 Any notice to be given in pursuance of these articles shall be in writing.
- 147 The company may give any notice to a member in pursuance of these articles either personally or by sending it by post in a pre-paid envelope addressed to the member at its registered address or by leaving it at that address; alternatively, in the case of a member which has notified the company of an electronic address to be used for this purpose, the company may give any notice to that member by electronic means.
- 148 Any notice, if sent by post, shall be deemed to have been given at the expiry of twenty four 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.
- 149 Any notice sent by electronic means shall be deemed to have been given at the expiry of 24 hours after it is sent; for the purpose of proving that any notice sent by electronic means was indeed 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.
- 150 A member may give any notice to the company either by sending it by post in a pre-paid envelope addressed to the company at its registered office or by leaving it, addressed to the company secretary, at the company's registered office.
- 151 A member present or represented 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.

### **Winding-up**

- 152 If on the winding-up 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 of the company but shall be transferred to some other charity or charities (whether incorporated or unincorporated) whose objects are altogether or in part similar to the objects of the company and whose constitution restricts the distribution of income and assets among members to an extent at least as great as does article 8.

- 153 The charity or charities to which property is transferred under article 152 shall be determined by the members of the company at or before the time of dissolution or, failing such determination, by such court as may have or may acquire jurisdiction.
- 154 To the extent that effect cannot be given to the provisions of articles 152 and 153, the relevant property shall be applied to some other charitable purpose or purposes.

### **Indemnity**

- 155 Every director or other officer or auditor of the company shall be indemnified (to the extent permitted by sections 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 including, 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 in connection with any application in which relief is granted to him/her by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the company.
- 156 For the avoidance of doubt, the company shall be entitled to purchase and maintain insurance against any loss or liability which any director or other officer 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 (negligence etc. of a director).