



Company Number: SC188968

**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**

**West Lothian Housing Partnership 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 £100,000,000 or such larger sum as the Company, with the prior written consent of The Scottish Housing Regulator and the Parent, 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 will not accept money on deposit from any party.

- 6.6 Subject to the provisions of article 6.9, the Company can, with the prior written approval of the Parent, lend money to any person or organisation including, without limitation, the Parent; any Subsidiary; any joint venture established by the Company or by the Parent 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.
- 6.7 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.
- 6.8 Subject to the foregoing provisions, the Board can, with the prior written approval of the Parent, determine and change conditions under which the Company can borrow or lend money.
- 6.9 With the exception of the Parent, the Company shall not lend money to Members.

## **MEMBERSHIP**

- 7 The Members of the Company shall be: (a) those persons or organisations whose names are entered in the Register of Members; and (b) the Parent.

### **Applying for membership**

- 8.1 The Board shall set, review and publish its membership policy for admitting new Members. Other than the Parent and subject to the provisions of article 7.2, the following shall be eligible to become Members:
- 8.1.1 tenants of the Company;
  - 8.1.2 service users of the Company;
  - 8.1.3 other persons who support the objects of the Company; and
  - 8.1.4 organisations sympathetic to the objects of the Company.
- 8.2 A person applying for membership must send a completed and signed application form and the sum of one pound (which will be returned if the application is not approved) to the Company's registered office. Whilst it is the Company's intention to encourage membership, the Board has absolute discretion in deciding on applications for membership and the following shall constitute grounds for refusal of an application for membership:
- 8.2.1 where membership would be contrary to the Company's Articles or policies;
  - 8.2.2 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; and/or

- 8.2.3 where the Board considers that accepting the application would not be in the best interests of the Company.
- 8.3 An application for membership shall be considered by the Board as soon as reasonably practicable after its receipt by the Company. An application for membership will not be considered by the Board within the period of 14 days before the date of a general meeting. The Board has the power in its absolute discretion to accept or reject the application.
- 8.4 If the Board approves an application for membership, that person will immediately become a Member and his/her name and other necessary particulars will be included in the Register of Members within seven working days.
- 8.5 The Parent shall apply for membership in terms of these Articles and shall make payment of the sum of one pound to the Company's registered office. The Parent shall then become a Member of the Company and its name and other necessary particulars will be included in the Register of Members within seven working days.
- 8.6 The Parent and 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.
- 8.7 Notwithstanding the other provisions of this article 8, the Parent may in its absolute discretion admit or remove any person as a Member.
- 8.8 A person can apply for membership of the Company from the age of 16.
- 9 A member representing an unincorporated body shall for all purposes be treated as an individual member but shall have entered against his/her name in the Register of Members the name of the unincorporated body which he/she represents.
- 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. This requirement does not apply to (a) the Parent; or (b) if you are a tenant of the Company and have moved home by transferring your tenancy to another property owned and managed by the Company.

## **ENDING MEMBERSHIP**

- 11.1 Membership of the Company will end and the Board will record the ending of a person's membership in the Register of Members if:
- 11.1.1 that person resigns his/her membership giving seven days' notice in writing to the Secretary at the Company's registered office;
- 11.1.2 except in the case of the Parent, the Board reasonably believes that a Member has failed to tell the Company of a change of address as required by article 10;

- 11.1.3 for five annual general meetings in a row that person has not attended, submitted apologies, exercised a postal vote or appointed a representative to attend and vote on his/her behalf by proxy;
- 11.1.4 except in the case of the Parent, the Company receives a complaint about a Member's behaviour and two-thirds of the Members voting at a special general meeting agree to end that person's membership. The following conditions apply to this procedure:
  - 11.4.1.1 the complaint must be in writing and must relate to behaviour which could harm the interests of the Company;
  - 11.4.1.2 the Secretary must notify the Member of the complaint in writing not less than one calendar month before the meeting takes place;
  - 11.4.1.3 the notice for the special general meeting will give details of the business for which the meeting is being called;
  - 11.4.1.4 the Member complained of will be called to answer the complaint at the meeting. The Members present will consider the evidence supporting the complaint and any evidence the Member complained of decides to introduce;
  - 11.4.1.5 the Members can vote in person or through a representative by proxy; and
  - 11.4.1.6 if the Member complained of receives proper notice but does not go to the meeting without providing a good reason, the meeting will go ahead without that Member and the Members will be entitled to vote to end the membership of the Member complained of.
- 11.2 If a person's membership is ended in accordance with article 11.1.4, that person will immediately cease to be a Member from the date that the resolution to end that person's membership was passed and any further application for membership by that person will need to be approved by two-thirds of the Members voting at a general meeting.

## **REPRESENTING AN ORGANISATION**

- 12.1 An organisation which is a Member is free to nominate any person it considers suitable as its representative to the Company. That person will represent all of the organisation's rights and powers at general meetings.
- 12.2 To confirm the identity of a representative, the organisation must send the Company a copy of the authorisation or appointment of an individual as a representative. This should be signed by a Director, Secretary or Authorised Signatory of the organisation which signature must be witnessed, or in the case of a local authority, by the Chief Executive, or properly authorised officer of the local authority.

- 12.3 An organisation can change the identity of the person entitled to represent that organisation at any time by confirming the identity of the new representative in terms of article 12.2 and withdrawing the authority of the original representative.
- 12.4 If a person is a representative in terms of article 12.2, of an organisation which is a Member, that person cannot be a Member as an individual. If that person is already a Member as an individual when he/she starts to represent an organisation which is a Member, the Company will suspend his/her membership as an individual, until such time as he/she is no longer a representative of an organisation which is a Member.

## **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 save in the circumstances set out in articles 16 to 19 (inclusive).
- 16 A Member can transfer their membership if the Board agrees, other than in respect of the Parent's membership which may not be transferred but may be cancelled on the written request of the Parent.
- 17 If a Member dies or ends their membership or has their membership ended, or a person is a representative of an organisation which no longer exists, the Board will cancel their membership (except in those circumstances outlined in articles 18 and 19).
- 18 A Member can nominate the person to whom the Company must transfer their membership in the Company when they die, as long as the person that is nominated is eligible for membership under these Articles and in terms of the Company's membership policies. On being notified of a Member's death, the Board shall transfer that Member's membership to the person they have identified.
- 19 If a Member dies or becomes bankrupt and their personal representative or trustee in bankruptcy seeks to claim their membership, the Board (to the extent that the Members' personal representative or trustee in bankruptcy has right) will transfer the membership in terms of the Member's representative's or trustee's instructions.

## **GENERAL MEETINGS**

### **Annual General Meeting**

- 20 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:
- 20.1 present the Chairperson's report on the Company's activities for the previous year;
  - 20.2 present the accounts, balance sheet and auditor's report;
  - 20.3 elect Board Members; and
  - 20.4 consider any other general business included in the notice calling the meeting.

### **Special General Meeting**

- 21.1 All general meetings other than annual general meetings shall be called special general meetings.
- 21.2 The Board may call special general meetings and, on the requisition of the Parent or 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.
- 21.3 Whoever asks for the meeting must give the Secretary details of the business to be discussed at the meeting.
- 21.4 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.
- 21.5 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 fax or email to every Member (which must include the Parent) at the address, fax number 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, other than the Parent, does not receive notice of a meeting or papers relating to the meeting, this will not stop the meeting going ahead as planned. If the Parent does not receive notice of a meeting or papers relating to the meeting, the meeting cannot go 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, other than the Parent. Subject to the provisions of the Act, failure of the Company to send a notice calling the meeting to the Parent will invalidate the proceedings of that meeting.

## **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 the Parent and at least seven Members. If there are more than 70 Members, the quorum for a general meeting shall be at least one-tenth of the Members, including the Parent.
- 24.2 If the Parent is not present in person or by representative and/or a quorum is not present within half an hour of the time to 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, with the exception of the Parent, who must receive such notice if it was not present in person or represented at the meeting to be rescheduled. 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.
- 24.3 The Parent shall be deemed to be present in person at any general meeting if it is represented in person by an individual (who need not be a Member) who is appointed to act as such in writing signed by or on behalf of the Parent.
- 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 of the Board 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 Members present must elect a Board Member to be chairperson of the meeting. If no Board Members are present, the Members present must elect a 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.

### **Proxies/Representatives/Postal votes**

- 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. 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 or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the document proposes to vote;
  - 27.2.2 in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll;
  - 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 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 10.
- 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. The document must be presented to the Company before the meeting, at which the Member who 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 at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

- 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. If a person represents an organisation, their authorisation or appointment as a representative requires to be in accordance with the terms of article 12.2.
- 27.8 If there is to be an election of Board Members at an annual general meeting, Members can vote by post. Not less than 14 days before a meeting is held at which one or more Board Members will be elected, Members will receive a ballot paper for the election. Members can vote in the election by returning the ballot paper to the Secretary at least five days before the day of the meeting, or by bringing a ballot paper along to the meeting.

## Voting

- 28 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.
- 29.1 Where a vote is by a show of hands every Member, including the Parent, present in person has one vote (subject in the case of the Parent to the provisions of article 29.3). Where a vote is by a poll, every Member, including the Parent, 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.
- 29.2 In relation to the election of Board Members, the vote is by a poll using the ballot paper issued to the Members prior to the meeting; votes received by post in advance of the meeting will be counted in the total number of votes at the meeting.
- 29.3 At any meeting called for the passing of a special resolution by the Secretary in accordance with these Articles for the purpose of considering and, if appropriate, approving:
- 29.3.1 any amendments, additions or deletions to any of these Articles;
  - 29.3.2 the winding up or dissolution of the Company; and/or
  - 29.3.3 any change of name of the Company,

the Parent shall be allocated and shall be entitled to cast three quarters of the votes available to be cast on relevant special resolution at the meeting and the other Members of the Company (collectively the "Other Members") shall among them be entitled to cast one quarter of the votes available to be cast on the relevant special resolution at the meeting. Votes exercisable by the Other Members in terms of this article 29.3 shall be counted for and against the relevant resolution(s) in the proportions for and against actually cast by each

of the Other Members who are present and voting at the meeting in person or by proxy respectively. The Secretary shall make arrangements for such Other Members to vote on the special resolution(s) separately and shall count the number of votes in favour and against the special resolution(s) and shall notify the meeting of the totals and accordingly the manner in which the one quarter of votes available to be cast on the relevant special resolution at the meeting and exercisable by the Other Members have been cast. The Secretary shall notify the meeting of the decision of the vote having regard to the votes cast by the Parent.

- 30 Except where a resolution is passed in accordance with the provisions of article 29.3, if there is an equal number of votes for and against a resolution, or in relation to the election of Board Members, the Chairperson will have a second and deciding vote. 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.
- 31.1 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.
- 31.2 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.

## **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 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.
- 34 The Chairperson will decide how long each speaker is allowed to speak, allowing equal time to each speaker.
- 35 If any point arises which is not covered in these Articles, the Chairperson will give his/her ruling. If the Chairperson's ruling is challenged by more than one Member, the Chairperson will step down and those Members present will decide the point raised on a majority vote. If the vote is tied, the Chairperson's original ruling is carried.
- 36 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.

## THE BOARD OF MANAGEMENT

### Composition of the Board

37.1 The Company shall have a Board of which shall have a minimum of seven and a maximum (including co-optees) of 11 persons of whom:

37.1.1 up to six Board Members shall be Independent Board Members;

37.1.2 up to four Board Members shall be Tenant Board Members; and

37.1.3 if appointed, one Board Member shall be the Parent Appointee (as defined in article 37.6).

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 A person must be aged 18 or over and a Member to become a Board Member (including any person appointed to fill a casual vacancy) other than a person appointed as a co-optee, a person appointed by The Scottish Housing Regulator or the Parent Appointee (as defined in article 37.6), each and any of whom must be aged 18 or over but need not be a Member.

37.3 With the exception of the Parent Appointee (as defined in article 37.6), an employee of the Company, or a Close Relative of an employee, may not be a Board Member.

37.4 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 and their appointment has been ratified by the Parent. Any Board Member who has, without good cause, failed to sign such a statement within four weeks of appointment / election to the Board shall immediately cease to be a Board Member.

37.5 Notwithstanding article 37.1, if at any time there are fewer candidates standing for election pursuant to article 39 to become Tenant Board Members than the number of available vacancies, then it shall become competent for a candidate who satisfies the criteria for election as an Independent Board Member to be eligible for election to fill the relevant place or places.

37.6 The Parent may from time to time and at any time by written notice to the registered office of the Company appoint up to one person as a Board Member (the "Parent Appointee") and by like notice remove or replace the Parent Appointee and in each case, such appointment or removal shall take effect upon the date of lodgement of such written notice at the Company's registered office or such later date as may be specified in the notice.

37.7 Notwithstanding any other provision of these Articles:

- 37.7.1 the Parent is the parent body of the Company and shall be entitled to appoint any number of Board Members and remove from office any and all Board Members as it may in its sole discretion determine;
  - 37.7.2 any appointments and removals from office in terms of article 37.7.1 may be made from time to time and at any time in writing signed on behalf of the Parent and served on the Company and, in each case, shall take effect upon the date of lodgement of written notice at the Company's registered office or such later date as may be specified in the notice; and
  - 37.7.3 all candidates for election, re-election, appointment, or re-appointment as Board Members in terms of these Articles shall first be approved in writing by the Parent and any such elections, re-election, appointment or re-appointment of a Board Member shall not take effect unless and until such approval has been given.
- 37.8 Each of the Board Members shall, in exercising his/her role as a Board Member, act in the best interests of the Company, its tenants and service users and will not place any personal or other interests ahead of his/her primary duty to the Company; and, in particular, must:
- 37.8.1 seek, in good faith, to ensure that the Company acts in a manner which is in accordance with its objects;
  - 37.8.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
  - 37.8.3 in circumstances giving rise to the possibility of a conflict of interest between the Company and any other party:
    - 37.8.3.1 put the interests of the Company before that of the other party, in taking decisions as a Board Member; and
    - 37.8.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the Company and refrain from participating in any discussions or decisions involving the other Board Members with regard to the matter in question; and
  - 37.8.4 ensure that the Company complies with any direction, requirement, notice or duty imposed on it by the Charities and Trustee Investment (Scotland) Act 2005.

## 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. 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 If a person serves on the Board or any sub-committee he/she must not receive any payment or benefit unless it is permitted by the Charities and Trustee Investment (Scotland) Act 2005 and as set out in the Company's policy referred to in article 38.1. He/she shall also comply with the requirements of the Charities and Trustee Investment (Scotland) Act 2005 in respect of any conflict of interest that might arise.

## **ELECTING BOARD MEMBERS**

- 39.1 Each Board Member elected under these Articles shall be elected for a fixed term of office expiring at the conclusion of an annual general meeting (a "fixed term"). The fixed term shall be for a term of three annual general meetings, unless the Board has set a lower number of annual general meetings for the relevant Board Member on their election or nomination. No fixed term shall be set which would cause the relevant Board Member to serve beyond their ninth consecutive annual general meeting.
- 39.2 At every annual general meeting each Board Member who has served their fixed term shall retire from office. Any Board Member who retires from office at an annual general meeting under this article 39.2 shall be eligible for re-election subject to the following:
- 39.2.1 where any Board Member retiring under this article 39.2 has only served one fixed term, that Board Member can stand for re-election without being nominated;
- 39.2.2 where any Board Member retiring under this article 39.2 has served two fixed terms, that Board Member shall be eligible for re-election for one further fixed term, but only with the prior approval of the Parent; and
- 39.2.3 where any Board Member has nine years' service on the Board, that Board Member shall automatically retire at the end of their ninth year, regardless of whether this date is the date of an annual general meeting, and shall not be eligible for re-election.
- 39.3 Board Members must also retire if they have been co-opted onto the Board under article 42.1 or have filled casual vacancies under article 41.
- 39.4 If a Board Member leaves the Board for any reason other than by virtue of article 39.2, that Board Member will not be eligible to stand for re-election or to be co-opted onto the Board until the expiry of five years following the date on which they left the Board.

- 39.5 Other than the Parent Appointee (if appointed) no Board Member shall serve more than nine years' service in total on the Board, whether continuously or in aggregate.
- 39.6 If a Board Member retires from the Board in terms of these Articles and stands for re-election, 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 other terms of this article 39 shall not apply to the Parent Appointee (if appointed) who shall not be required to retire at any annual general meeting.
- 40.1 If, at the annual general meeting the number of Members standing for election is less than or equal to the number of vacant places, the Chairperson will declare them elected without a vote. If there are more Members standing for election than there are vacant places, those present at the general meeting or those exercising a postal vote in accordance with article 27.8 will elect Members onto the Board, in accordance with article 29.2. Each Member present or who has appointed a proxy representative will have one vote for each place to be filled on the Board. A Member must not give more than one vote to any one candidate.
- 40.2 The Company will post or send by fax or email intimation of the intended date of the annual general meeting and information on the nomination procedure to each Member at the address, fax number or email address given in the Register of Members of the Company not less than 28 days before the date of the meeting. Nominations for election to the Board must be in writing and in the form specified by the Company and must give the full name, address and occupation of the Member being nominated. A Member cannot nominate himself/herself for election to the Board. Nominations must be signed by and include a signed statement from the Member being nominated to show that they are eligible to join the Board in accordance with article 37.3 and 43, and that they are willing to be elected. Nomination forms can be obtained from the Company and must be completed fully and returned by hand or by post to the Company's registered office at least 21 days before the general meeting.
- 41 If an elected Board Member leaves the Board between the annual general meetings, this creates a casual vacancy and the Board can appoint a Member to take their place on the Board until the next annual general meeting.

## **Co-optees**

- 42.1 Subject to approval by the Parent, the Board can co-opt to the Board or to a sub-committee anyone it considers is suitable to become a Board Member or member of a sub-committee. Co-optees do not need to be Members, but they can only serve as co-optees on the Board or sub-committee until the next annual general meeting or until removed by the Board. A person co-opted to the Board can also serve on any sub-committees.
- 42.2 A person appointed as a co-optee 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-optees 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 the Articles, the membership of the Company or the election of the Company's Office

Bearers. Co-optees may not stand for election, nor be elected as one of the Office Bearers of the Board.

- 42.3 Board Members co-opted 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-optees 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-optees 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 or elected as such if:
- 43.1.1 he/she has been adjudged bankrupt, has granted a trust deed for or entered into an arrangement with creditors or his/her estate has been sequestrated and has not been discharged;
  - 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 he/she has been removed from the governing body of any other member of the Group; or
  - 43.1.12 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.
- 43.2 A person cannot be re-elected 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 stand for re-election.
- 44 A Board Member shall cease to be a Board Member if:
- 44.1 he/she resigns his/her position as a Board Member in writing;
  - 44.2 he/she ceases to be a Member unless he/she is a co-optee in terms of article 42.1 or an appointee of The Scottish Housing Regulator;
  - 44.3 he/she missed 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;
  - 44.4 except in the case of the Parent Appointee, the majority of the Members voting at a general meeting decide this. The Members will then appoint another to take his/her place. If a replacement is not appointed at the general meeting, the Board may appoint a Board Member in terms of article 41;
  - 44.5 except in the case of the Parent Appointee, 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. The resolution to remove him/her as a Board Member must relate to one of the following issues:
    - 44.5.1 failure to perform to the published standards laid down by the Scottish Federation of Housing Associations and/or The Scottish Housing Regulator adopted and operated by the Company;
    - 44.5.2 failure to sign or failure to comply with the Company's code of conduct for Board Members; or
    - 44.5.3 a breach of the Company's Articles, standing orders or other policy requirements;
  - 44.6 he/she becomes ineligible as a Board Member in terms of article 43;
  - 44.7 he/she is a co-optee whose period of office is ended in accordance with articles 39.3 or 42.1;

- 44.8 he/she is a Board Member retiring in accordance with article 39.2;
- 44.9 he/she is the Parent Appointee and the Parent subsequently removes him/her from the Board; or
- 44.10 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.

## **POWERS OF THE BOARD**

- 45 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.
- 46 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 a year. The quorum for the transaction of the business of the Board at the time when the meeting proceeds to business shall be four, including (if appointed) the Parent Appointee (unless the Parent Appointee has presented their apologies in advance of the meeting).

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 fax or email to the last such address for such communications given to the Secretary at least seven days before the date of the meeting. The accidental failure to give notice to a Board Member (other than the Parent Appointee) 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 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.

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

54 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.

55 A written resolution signed 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.

## **Special Board Meetings**

- 56.1 The Chairperson, the Parent 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 and to the Parent 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 request 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 (other than the Parent Appointee) 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 elected Board Members and cannot be

co-optees. An employee of the Company, the Parent 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 any emergency the Chairperson, can ask another Office Bearer or employee to carry out the Secretary's duties until the Secretary returns. The appointment of an Office Bearer in terms of these Articles is subject to the prior written approval of the Parent.

- 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 59.6 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**

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:

- 59.5.1 the Board works effectively with the senior staff;

- 59.5.2 an overview of business of the Company is maintained;
  - 59.5.3 the Agenda for each meeting is set;
  - 59.5.4 meetings are conducted effectively;
  - 59.5.5 minutes are approved and decisions and actions arising from meetings are implemented;
  - 59.5.6 the standing orders, code of conduct for Board Members and other relevant policies and procedures affecting the governance of the Company are complied with;
  - 59.5.7 where necessary, decisions are made under delegated authority for the effective operation of the Company between meetings;
  - 59.5.8 the Board monitors the use of delegated powers;
  - 59.5.9 the Board receives professional advice when it is needed;
  - 59.5.10 the Company is represented at external events appropriately;
  - 59.5.11 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
  - 59.5.12 the training requirements of Board Members, and the recruitment and induction of new Board Members is undertaken.
- 59.6 The Chairperson must be elected from the Board Members (excluding co-optees) which election must then be approved in writing by the Parent. 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.
- 59.7 If the Chairperson is not present at a Board Meeting or is not 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.
- 59.8 If the votes of the Board Members are divided equally for and against an issue, the Chairperson will have a second and deciding vote.
- 59.9 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 standing for or being elected to the Board under article 43. The Board will then elect another Board Member as Chairperson.

- 59.10 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 (except with the approval of the Parent), subject always to the provisions of article 39.
- 59.11 Upon expiry of their period of service as Chairperson, the Chairperson must resign as a Board Member and leave the Board. If the Chairperson resigns under article 59.6 or 59.9 then they shall also be deemed to have resigned as a Board Member, regardless of the length of their period of service as Chairperson.

## **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 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.

## **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 and to the Office of the Scottish Charity Regulator the annual return in the prescribed form, together with all such documentation required by the Act and the Charities and Trustee Investment (Scotland) Act 2005.
- 74 If requested, the Company must provide a free copy of the latest confirmation statement, annual return 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. The Company will also maintain a register of the names of those Members who have given consent for this purpose which shall be made available for inspection within seven days of the request of any person.

## **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 prior written consent of the Parent is required before the Company can be wound up or dissolved.
- 82.2 If any property remains after the Company has paid its debts, this property will be transferred to such other charitable registered social landlord as determined by The Scottish Housing Regulator.

## **AMENDING THESE ARTICLES**

- 83.1 Any changes to these Articles shall require the prior written approval of the Parent and, subject to such approval, these Articles can be changed or deleted and new Articles can be introduced if:
- 83.1.1 three quarters of the votes at a special general meeting are in favour of the amendment(s); and
  - 83.1.2 The Scottish Housing Regulator has approved the amendment(s).
- 83.2 Where an amendment of these Articles affects the objects of the Company the prior approval of the Office of the Scottish Charity Regulator is required. The Company must submit its application for approval to the Office of the Scottish Charity Regulator not less than 42 days before the date on which the Company intends to amend its objects. Any other amendment of these Articles requires to be notified to them within three months of the change having been made.
- 83.3 The Company can change its name if:
- 83.3.1 three quarters of the votes at a special general meeting are in favour of the change;
  - 83.3.2 the Office of the Scottish Charity Regulator has given its prior approval. The Company must submit its application for approval to the Office of the Scottish

Charity Regulator not less than 42 days before the date on which the Company intends to change its name; and

83.3.3 the Parent approves the change in writing.

83.4 If the Company changes its name in terms of article 83.3 it must inform The Scottish Housing Regulator in writing within 14 days.

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 seven working days of the decision having been made;

83.5.2 notify the Registrar of Companies of the change within 14 days of the change having been made;

83.5.3 notify the Office of the Scottish Charity Regulator within three months of the change having been made; and

83.5.4 obtain the prior written approval from the Parent.

## INTERPRETING THESE ARTICLES

84.1 In these Articles, the following definitions and rules of interpretation shall apply:

84.1.1 "**Act**" means the Companies Act 2006 and any statutory modification or re-enactment thereof for the time being in force;

84.1.2 "**Articles**" means these articles of association as originally adopted or as altered from time to time;

84.1.3 "**Board**" means the board of management of the Company from time to time referred to in article 37.1;

84.1.4 "**Board Meeting**" means a meeting of the Board;

84.1.5 "**Board Member**" means any director for the time being of the Company and shall (save where expressly excluded) include co-optees to the Board pursuant to article 42;

84.1.6 "**Chairperson**" means the chairperson of the Company referred to in article 59.1;

84.1.7 "**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;

84.1.8 "**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 means, the day after it was sent) and also the day of the meeting;

- 84.1.9 "**Close Relative**" means any person who is the spouse, cohabitee, civil partner, parent, grandparent, child, stepchild, grandchild, brother, sister, aunt, uncle, nephew or niece of any Board Member or employee of the Company from time to time;
- 84.1.10 "**Electronic Communication**" has the same meaning as is assigned to that expression in the Electronic Communications Act 2000;
- 84.1.11 "**Group**" means the Parent, the Company, and any Subsidiary from time to time;
- 84.1.12 "**Group Agreement**" means the written agreement from time to time between the Company and the Parent in relation to the objectives and operation of the Group;
- 84.1.13 "**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;
- 84.1.14 "**Independent Board Member**" means a Board Member who is neither a Tenant Board Member nor the Parent Appointee;
- 84.1.15 "**Member**" means any person who is admitted to membership of the Company in accordance with the provisions of these Articles;
- 84.1.16 "**Office Bearer**" means the Chairperson, Secretary and any such other office bearer of the Company appointed under article 59.1;
- 84.1.17 "**Office of the Scottish Charity Regulator**" means the body set up under the Charities and Trustee Investment (Scotland) Act 2005 to regulate charities in Scotland;
- 84.1.18 "**Parent**" means Wheatley Housing Group Limited, a company incorporated in Scotland (company number SC426094) and a registered social landlord (registration number 363), having its registered office at Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL;
- 84.1.19 "**Register of Members**" means the register of members referred to in article 64;
- 84.1.20 "The **Scottish Housing Regulator**" means the body corporate established under section 1 of the Housing (Scotland) Act 2010 known as the Scottish Housing Regulator, having its principal office at 3rd Floor, Sutherland House, 149 St Vincent Street, Glasgow, G2 5NW;
- 84.1.21 "**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;

- 84.1.22 "**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;
- 84.1.23 "**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
- 84.1.24 "**Tenant Board Member**" means a Board Member who is elected to the Board pursuant to these Articles and is a residential tenant of the Company from time to time occupying a residential property let by the Company under a Scottish secure tenancy or a short Scottish secure tenancy.
- 84.2 Words in the singular also include the plural. Words in the plural also include the singular.
- 84.3 A reference to law or statute is a reference to that law or statute as re-enacted, amended or replaced.
- 84.4 In the event of Sterling joining the Euro any sums of money referred to in Sterling in these Articles shall be redenominated into Euros at the rate of exchange applying for such redenomination as at the date of joining the Euro.

**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 27.4 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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