



THE COMPANIES ACT 2006  
COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL  
Articles of Association of the Caithness Broch Project  
Registered Charity SC046307

## CAITHNESS BROCH PROJECT

<b>CONTENTS</b>			
<b>#</b>	<b>Title</b>	<b>Subtitle</b>	<b>Articles</b>
1	<b>General</b>	constitution of the company, defined terms, objects, powers, restrictions on use of assets, liability of members, general structure	1-14
2	<b>Members</b>	qualifications, application, subscription, life membership, register, withdrawal, expulsion, termination/transfer, directors' powers	15-34
3	<b>General Meetings</b>	convening, notice, adjournment, members' resolutions, special/ordinary resolutions, agenda, quorum, chairing, voting	36-78
4	<b>Directors' Powers and Responsibilities</b>	powers, conduct, members' reserve power, office bearers, personal interests	79-96
5	<b>Directors' Decision Making</b>	calling meetings, participation, chairing, quorum, collective decision making, unanimous decisions, casting vote, records of decisions, conflicts of interest, minor decision-making, directors' discretion to make further rules	97-125
6	<b>Appointment of Directors</b>	methods, number, election/retiral/re-election, termination of office, register	126-136
7	<b>Co-Opting of Members</b>	methods, termination, voting	137-140
8	<b>Committees</b>	organisation	141-142
9	<b>Management Committee Pay and Expenses</b>	remuneration, expenses	143-146
10	<b>Administration</b>	delegation to committees, minutes, accounting records and annual accounts, notices	147-159
11	<b>Miscellaneous</b>	winding-up, provision for employees, indemnity	160-165

# CAITHNESS BROCH PROJECT

## PART 1

### GENERAL

#### 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:
  - “the Act” means the Companies Act 2006 (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;
  - “the articles” means the company’s articles of association;
  - “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 2011, providing (in either case) that its objects are limited to charitable purposes;
  - “the charity” means the company intended to be regulated by the articles;
  - “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;
  - “clear days” in relation to the period of a notice means a period excluding:
    - (a) the day when the notice is given or deemed to be given; and
    - (b) the day for which it is given or on which it is to take effect;
  - “committee meeting” means a meeting of the management committee or a sub-committee thereof;
  - “director” means the directors of the charity. The directors are charity trustees as defined by section 177 of the Charities Act 2011;
  - “directors’ meeting” means a meeting of the directors of the company, with sufficient present to be quorate;
  - “document” includes, unless otherwise specified, any document sent or supplied in electronic form;
  - “electronic form” has the meaning given in section 1168 of the Act;
  - “general meeting” means a meeting of the directors and members of the company;
  - “management committee members” are defined as both directors and ordinary members who have been co-opted onto the management committee;
  - “member” has the meaning given in section 112 of the Companies Act 2006;

## CAITHNESS BROCH PROJECT

“OSCR” means the Office of the Scottish Charity Regulator;

“ordinary resolution” has the meaning given in section 282 of the Companies Act 2006;

“participate”, in relation to a directors’ meeting, has the meaning given in article 10;

“property” means any property, heritable or moveable, real or personal, wherever situated;

“proxy notice” has the meaning given in article 31;

“special resolution” has the meaning given in section 283 of the Companies Act 2006;

“subsidiary” has the meaning given in section 1159 of the Act.

“writing” means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

- 3 Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.
- 4 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.
- 5 Words importing one gender shall include all genders, and the singular includes the plural and vice versa.

### Objects

- 6 The company’s objects are:

To benefit the Caithness public by advancing education, community development, heritage, and culture, and the relief of poverty, and by encouraging people to learn about, record, and become involved in the heritage of Caithness through:

- (a) providing opportunities for all ages and abilities to learn about the rich archaeological heritage of their communities;
- (b) developing an understanding of the archaeological heritage through recreating a broch(s) or other structures;
- (c) creating archaeological records from the company's activities (e.g. recording, surveying, excavation), for public access now and in the future (e.g. website, public archives);
- (d) offering a range of activities to suit all interests and to allow progression including courses, above ground surveys, excavation, post-excavation activities and archival research;
- (e) providing tools and knowledge to enable people to make contributions to, and manage their local heritage;

## CAITHNESS BROCH PROJECT

- (f) working with other individuals, organisations, government bodies, quasi-autonomous organisations, museums, schools and projects to further the above aims of the Caithness Broch Project;
- 7 The company's objects are restricted to those set out in article 6 (but subject to article 8).
- 8 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 6; 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

- 9 In pursuance of the objects listed in article 6 (but not otherwise), the company shall have the following powers:
- (a) to acquire and develop sites, erect buildings and other structures, co-ordinate activities, provide relevant information, and promote community involvement all either directly or in partnership with any other organisation or consortium of such with similar aims;
  - (b) to organise and deliver such other services in furtherance of the above objects as the company shall from time to time determine;
  - (c) to prepare, print, publish, issue and/or circulate (gratuitously or otherwise) reports, periodicals, books, pamphlets, leaflets, posters or other printed matter, video, data and other material;
  - (d) to advise in relation to, organize and/or conduct seminars, training courses, exhibitions, meetings and lectures;
  - (e) to promote, support and/or undertake community consultation, research and experimental work and disseminate the results of such research and experimental work;
  - (f) to provide evidence for central or local government or other enquiries;
  - (g) to carry on any other activities which further any of the above objects;
  - (h) to promote companies 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 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;
  - (i) to acquire and take over the whole or any part of the undertaking and liabilities of any body holding property or rights which are suitable for the company's activities;
  - (j) to purchase, take on lease, hire, or otherwise acquire, any property or rights which are suitable for the company's activities;
  - (k) to improve, manage, develop, or otherwise deal with, all or any part of the property and rights of the company;

## CAITHNESS BROCH PROJECT

- (l) to sell, let, hire out, license, or otherwise dispose of, all or any part of the property and rights of the company;
- (m) to lend money and give credit (with or without security) and to grant guarantees and issue indemnities;
- (n) 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;
- (o) to employ such staff as are considered appropriate for the proper conduct of the company's activities, and to make reasonable provision for the payment of pension and/or other benefits for members of staff, ex-members of staff and their dependants;
- (p) to engage such consultants and advisers as are considered appropriate from time to time;
- (q) to effect insurance of all kinds (which may include officers' liability insurance);
- (r) 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);
- (s) to liaise with other voluntary sector bodies, local authorities, UK or Scottish government departments and agencies, and other bodies, all with a view to furthering the company's objects;
- (t) to establish and/or support any other charity, and to make donations for any charitable purpose falling within the company's objects;
- (u) to take such steps as may be deemed appropriate for the purpose of raising funds for the company's activities; In doing so, the charity must not undertake any taxable permanent trading activity and must comply with any relevant statutory regulations;
- (v) to accept grants, donations and legacies of all kinds (and to accept any reasonable conditions attaching to them);
- (w) to oppose, or object to, any application or proceedings which may prejudice the company's interests;
- (x) 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;
- (y) to do anything which may be incidental or conducive to the furtherance of any of the company's objects.

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

- 10 The income and property of the company shall be applied solely towards promoting the company's objects.

## CAITHNESS BROCH PROJECT

- 11 Subject to article 12:
- (a) the income and property of the company shall be applied solely towards the promotion of its objects as set out in article 6;
  - (b) no part of the income or property of the company shall be paid or transferred (directly or indirectly) to the members of the company, whether by way of dividend, bonus or otherwise;
  - (c) no director of the company shall be appointed as a paid employee of the company; no director shall hold any office under the company for which a salary or fee is payable (see also article 94);
  - (d) no benefit (whether in money or in kind) shall be given by the company to any director except:
    - (i) repayment of out-of-pocket expenses; or
    - (ii) reasonable payment in return for particular services (not being of a management nature) actually rendered to the company.
- 12 The company shall, notwithstanding the provisions of article 11, be entitled:
- (a) to pay reasonable and proper remuneration to any director or member of the company in return for particular services (not being of a governance nature) actually rendered for the company save that a majority of directors may not receive such remuneration;
  - (b) to provide benefit including financial benefit to members and directors of the company in the capacity of a beneficiary of the company as a charity save that a majority of directors may not receive such benefit;
  - (c) to pay interest at a rate not exceeding the commercial rate on money lent to the company by any director or member of the company;
  - (d) to pay rent at a rate not exceeding the open market rent for premises let to the company by any director or member of the company; and
  - (e) to purchase assets from, or sell assets to, any director or member of the company providing such purchase or sale is a market value.

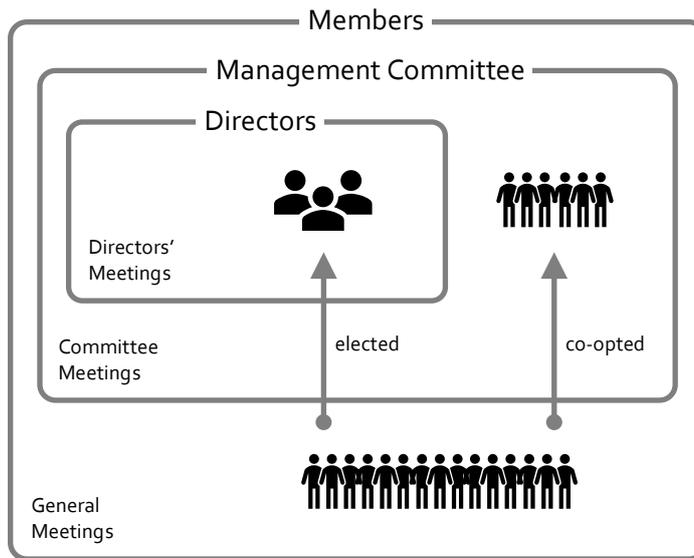
### Liability of members

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

# CAITHNESS BROCH PROJECT

## General structure

- 14 The structure of the company consists of:
- (a) the MEMBERS who have the right to attend the annual general meeting (and any other general or extraordinary meeting to which Members are invited) and have important powers under the articles of association and the Act; in particular, the members elect people to serve as directors and take decisions in relation to changes to the articles themselves;
  - (b) the DIRECTORS who hold regular meetings during the period between annual general meetings, and generally control and supervise the activities of the company; in particular, the directors are responsible for monitoring the financial position of the company;
  - (c) the MANAGEMENT COMMITTEE which consists of directors and co-opted members, who manage the affairs of the company; members may be appointed to roles on the management committee when there are insufficient directors to fill these roles, either lacking the necessary time or skills, knowledge and experience to carry out these roles.



# CAITHNESS BROCH PROJECT

## PART 2

### MEMBERS

#### Qualifications for membership

- 15 The members of the company shall consist of the subscribers to the memorandum of association and such other persons as are admitted to membership under articles 19 to 22.
- 16 Membership shall be open to:
- (a) persons with a permanent residence in Caithness at the time of application;
  - (b) aged 16 or over; or
  - (c) any body whether incorporated or unincorporated
- 17 In article 16, the definition of "with a permanent residence" will be decided by the directors on a case by case basis so as not to exclude membership when the member has a second residence elsewhere or other similar circumstances.
- 18 Members of the charity as at the date of the adoption of these articles shall remain Members of the charity notwithstanding the provisions of these articles (apart from the residence criterion). For the avoidance of doubt:
- (a) if a Member moves their residence from Caithness, the Membership remains valid;
  - (b) if a Member has been accepted under superseded Articles of Association, the Membership remains valid.

#### Application for membership

- 19 Any person who wishes to become a member must lodge with the company a written application for membership.
- 20 Applications for membership of the Charity shall be in the form specified by the Trustees from time to time.
- 21 The directors may, at their discretion, refuse to admit any person to membership.
- 22 The directors shall consider each application for membership at the first directors' meeting which is held after receipt of the application; the directors shall, within a reasonable time after the meeting, notify the applicant of their decision on the application.

#### Membership subscription

- 23 A membership subscription shall be payable, which will be:
- (a) an amount set by the directors
  - (b) at a period set by the directors
- 24 Increases in subscription shall be notified to members before payment is due.

## CAITHNESS BROCH PROJECT

25 If the subscription is not paid when due, membership shall be withdrawn.

### **Life membership**

26 Life membership shall be subject to election by the Trustees, and to completion of a membership application form, and is open to:

- (a) any person of 16 years or over who has paid a life membership subscription fee; or
- (b) any person of 16 years or over who, in by decision of the directors, is deserving of life membership of the charity (i.e. an honorary member).

27 Life members have the same voting rights as normal members.

### **Register of members**

28 The directors shall maintain a register of members, setting out the full name and address of each member, the date on which they were admitted to membership, and the date on which any person ceased to be a member.

29 An entry for a former member shall be removed from the register of members after 10 years following the date on which they ceased to be a member.

### **Withdrawal from membership**

30 Subject to article 25, any person who wishes to withdraw from membership shall lodge with the company a written notice to that effect; on receipt of the notice by the company, they shall cease to be a member.

### **Expulsion from membership**

31 Any person may be expelled from membership by 75% or more of the votes cast by the directors, on the basis that in the directors' reasonable opinion the member's continued membership is harmful to the charity, providing the following procedures have been observed:

- (a) at least 21 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed expulsion
- (b) the member concerned shall be entitled to submit written representation to be considered at the meeting at which the resolution is proposed.

32 In the case of life members, reimbursement of any or part of any life membership fee paid is at the discretion of the directors.

### **Termination and transfer**

33 A person's membership terminates when that person dies or ceases to exist.

34 A member may not transfer their membership to any other person.

## CAITHNESS BROCH PROJECT

### Director's powers

- 35 In clarification of articles 15 to 34, the directors have the power to control admission and classification of members, and the rights and privileges of such members, and the conditions of membership including the conditions of and terms on which their membership is terminated and the fees, subscriptions or other payments by members.

## PART 3

### GENERAL MEETINGS

#### Convening general meetings

- 36 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 18 months after the date of incorporation of the company.
- 37 Not more than 15 months shall elapse between one annual general meeting and the next.
- 38 Subject to articles 36, 37 and 39, the directors may convene a general meeting at any time and at such place as the directors decide.
- 39 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).
- 40 All general meetings other than annual general meetings shall be called extraordinary general meetings.

#### Notice

- 41 At least 14 clear days' notice must be given of a general meeting.
- 42 A notice calling a meeting shall specify the time and place of the meeting; it shall (a) indicate the general nature of the business to be dealt with at the meeting and (b) if a special resolution (see article 54) (or a resolution requiring special notice under the Act) is to be proposed, shall also state that fact, giving the exact terms of the resolution.
- 43 A notice convening an annual general meeting shall specify that the meeting is to be an annual general meeting.
- 44 Notice of every general meeting shall be given:
- (a) in hard copy form; or
  - (b) in writing or (where the individual to whom notice is given has notified the company of an address to be used for the purpose of electronic communication) in electronic form; or

## CAITHNESS BROCH PROJECT

- (c) (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.

45 The fact that one or more members has not or have not received such notice does not invalidate the vote on any resolution or the proceedings of the meeting.

### Adjournment

46 The chairman of the meeting may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn a general meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place.

47 Whenever a general meeting is adjourned for more than thirty days, notice of the adjourned meeting shall be given in the same manner as for an original meeting. Save as aforesaid the members shall not be entitled to any notice of an adjournment or of the business to be transacted at an adjourned meeting.

### Members' resolutions

48 A members' resolution may be considered at a general meeting if it:

- (a) is submitted to the directors prior to the meeting;
- (b) sets out the resolution;
- (c) at the meeting the resolution is formally proposed by one of the proposers and seconded by another proposer.

49 The members proposing a members' resolution may submit a supporting statement.

50 The directors may refuse to accept a members' resolution if:

- (a) in the opinion of the directors the resolution contains material
  - (i) which is, or might be, defamatory; or
  - (ii) which it would, or might, be otherwise unlawful to publish;
- (b) in the opinion of the directors the resolution or the matter to which it relates has been the subject of a resolution proposed at any general meeting held during the three years preceding the submission of the resolution;
- (c) in the opinion of the directors the subject matter of the resolution is substantially the same as the subject matter of another resolution proposed for the same general meeting and previously received; or
- (d) in the opinion of at least three-quarters of the members of the directors the subject matter of the resolution is not relevant to any material extent to the objects of the charity.

51 The members' resolution will be voted on as a special resolution.

52 If the vote is successful then the resolution is carried. If the vote is not successful then the resolution is not carried.

## CAITHNESS BROCH PROJECT

- 53 The directors are free to take a position for or against a members' resolution and may not necessarily determine an outcome that aligns with the voting results.

### Special resolutions and ordinary resolutions

- 54 For the purposes of these articles, a "special resolution" means a resolution 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 41 to 44; 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 total number of votes cast in relation to the resolution, and accordingly no account shall be taken of abstentions or members absent from the meeting.
- 55 In addition to the matters expressly referred to elsewhere in these articles, the provisions of the Act allow the company, by special resolution,
- (a) to alter its name
  - (b) to alter any provision of these articles or adopt new articles of association.
- 56 For the purposes of these articles, an "ordinary resolution" means a resolution passed by majority vote (taking account only of those votes cast in favour as compared with those votes against), at a general meeting, providing proper notice of the meeting has been given in accordance with articles 41 to 44.

### Agenda

- 57 The business of each annual general meeting shall include:
- (a) a report by the chair on the activities of the company;
  - (b) consideration of the annual accounts of the company;
  - (c) the election/re-election of directors, as referred to in articles 131 to 133.

### Quorum for general meetings

- 58 No business shall be dealt with at any general meeting unless a quorum is present; the quorum for a general meeting shall be 6 individuals entitled to vote (each being a member or a proxy for a member).
- 59 If a quorum is not present within 15 minutes after the time at which a general meeting was due to commence – or if, during a meeting, a quorum ceases to be present – the meeting shall stand adjourned to such time and place as may be fixed by the chairman of the meeting.

### Chairing

- 60 The chairman of the company shall (if present and willing to act as chairman) preside as chairman of each general meeting; if the chairman of the company is not present and willing to act as chairman of the meeting within 10 minutes after the time at which the meeting was due to commence, the directors present at the meeting shall elect from among themselves the person who will act as chairman of that meeting.

## CAITHNESS BROCH PROJECT

- 61 The chairman of a general meeting may, with the consent of the meeting, adjourn the meeting to such time and place as the chairman may determine.
- 62 The chairman of the meeting may permit other persons who are not members of the company to attend and speak at a general meeting.
- 63 Except where these articles provide otherwise, any direction or decision by the chairman of a general meeting as to the conduct of the meeting, or on any question of procedure or point of order, shall be final.

### Voting

- 64 All matters (except where otherwise stated in the articles) which fall to be decided at the meeting shall be decided by a majority of the votes of the members present in person, and voting by show of hands unless a poll is demanded in accordance with article 65.
- 65 A poll may be demanded in respect of any proposed resolution by:
- (a) the chairman of the meeting, if he or she considers that the show of hands does not accurately reflect the views of those members who are not present in person but have appointed proxies; or
  - (b) not less than three members present in person at the meeting.
- 66 If a poll is demanded in accordance with article 65 the matter for decision shall be decided by a majority of the votes of the members present in person or by proxy and voting.
- 67 No poll shall be demanded on the election of a chairman of a meeting or any question of adjournment.
- 68 Every member shall have one vote, which may be given either personally or by proxy.
- 69 If there are an equal number of votes for and against any resolution, the chairman of the meeting shall be entitled to a second or casting vote.
- 70 Members may vote:
- (a) in person at the meeting; or
  - (b) in writing; or
  - (c) by proxy using such proxy form as the directors shall have provided for use at that meeting; or
  - (d) by electronic means as determined by the directors for use at that meeting.
- 71 The directors shall provide for each general meeting a written proxy form for use at that meeting. The directors may in addition provide members with the alternative of using an electronic proxy form.
- 72 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 73 A proxy appointed to attend and vote at any meeting instead of a member shall have the same right as the member who appointed them to speak at the meeting and need not be a member of the company.

## CAITHNESS BROCH PROJECT

- 74 A member may direct the proxy how to vote or leave the proxy to vote as the proxy sees fit.
- 75 The fact that one or more members by accidental omission has not or have not received a proxy form does not invalidate the vote on any resolution or the proceedings of the meeting.
- 76 A resolution may be put to a postal ballot if required at the relevant general meeting:
- (a) by the directors; or
  - (b) by the chairman of the meeting; or
  - (c) by the majority of the members present.
- 77 The Members entitled to vote shall have posted to them ballot papers on which shall be stated the proposed resolution, a time within which votes must be cast and an address to which the ballot papers must be returned.
- 78 Alternatively, an electronic voting system may be used such as may be determined from time to time by the directors.

### PART 4

#### DIRECTORS' POWERS AND RESPONSIBILITIES

##### **Powers of directors**

- 79 Subject to the provisions of the Act, and these articles, and subject to any directions given by special resolution, the company and its assets and undertaking shall be managed by the directors, who may exercise all the powers of the company.
- 80 A meeting of the directors at which a quorum is present may exercise all powers exercisable by the directors.

##### **Conduct of directors**

- 81 Each of the directors shall, in exercising their functions as a director of the company, act in the interests of the company; and, in particular, must:
- (a) seek, in good faith, to ensure that the company acts in a manner which is in accordance with its objects;
  - (b) act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
  - (c) in circumstances giving rise to the possibility of a conflict of interest of interest between the company and any other party:
    - (i) put the interests of the company before that of the other party, in taking decisions as a director; or
    - (ii) where any other duty prevents them from doing so, disclose the conflicting interest to the company and refrain from participating in

## CAITHNESS BROCH PROJECT

any discussions or decisions involving the other directors with regard to the matter in question

- (d) ensure that the company complies with any direction, requirement, notice or duty imposed on it by the Charities and Trustee Investment (Scotland) Act 2005.

- 82 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.
- 83 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.

### **Members' reserve power**

- 84 The members may, by special resolution, direct the directors to take, or refrain from taking, specified action.
- 85 No such special resolution invalidates anything which the directors have done before the passing of the resolution.

### **Office-bearers**

- 86 The directors shall elect from the management committee a chair and a treasurer, and such other office bearers (if any) as they consider appropriate.
- 87 All of the office bearers shall cease to hold office at the conclusion of each annual general meeting, but shall then be eligible for re-election.
- 88 A person elected to any office shall cease to hold that office if they cease to be a director, or if they resign from that office by written notice to that effect.

### **Personal interests**

- 89 A director who has a personal interest in any transaction or other arrangement which the company is proposing to enter into, must declare that interest at a meeting of the directors; they will be debarred (in terms of article 118) from voting on the question of whether or not the company should enter into that arrangement.
- 90 For the purposes of the preceding article, a director shall be deemed to have a personal interest in an arrangement if any partner or other close relative of theirs **or** any firm of which they are a partner **or** any limited company of which they are a substantial shareholder or director **or** any limited liability partnership of which they are a member **or** any Scottish charitable incorporated organisation of which they are a charity trustee **or** any registered society or unincorporated association of which they are a management committee member (or any other party who/which is deemed to be connected with them for the purposes of the Act) , has a personal interest in that arrangement.
- 91 Provided:

## CAITHNESS BROCH PROJECT

- (a) they have declared their interest,
- (b) they have not voted on the question of whether or not the company should enter into the relevant arrangement, and
- (c) the requirements of article 95 are complied with,

a director will not be debarred from entering into an arrangement with the company in which they have a personal interest (or is deemed to have a personal interest under article 90) and may retain any personal benefit which they gain from their participation in that arrangement.

- 92 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 (as defined for the purposes of that section of the Act) 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.
- 93 For the avoidance of doubt, the provisions of section 175 of the Act and article 92 do not apply to a conflict of interest relating to a transaction or arrangement with the company; conflicts of that kind are regulated by the provisions of articles 89 to 91 and articles 118 to 121.
- 94 No director may serve as an employee (full time or part time) of the company, and no director may be given any remuneration by the company for carrying out their duties as a director. See also article 11.
- 95 Where a director provides services to the company or might benefit from any remuneration paid to a connected party for such services, then:
- (a) the maximum amount of the remuneration must be specified in a written agreement and must be reasonable;
  - (b) the directors must be satisfied that it would be in the interests of the company to enter into the arrangement (taking account of that maximum amount); and
  - (c) less than half of the directors must be receiving remuneration from the company (or benefit from remuneration of that nature).
- 96 The directors may be paid all travelling and other expenses reasonably incurred by them in connection with their attendance at meetings of the directors, general meetings, or meetings of committees, or otherwise in connection with the carrying-out of their duties.

**PART 5**

**DIRECTORS' DECISION MAKING**

**Calling a directors' meetings**

- 97 Any director may call a meeting of the directors.
- 98 Notice of any directors' meeting must indicate:
- (a) its proposed date and time;
  - (b) where it is to take place; and
  - (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- 99 Notice of a directors' meeting must be given to each director, but need not be in writing.
- 100 Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

**Participation in directors' meetings**

- 101 Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when:
- (a) the meeting has been called and takes place in accordance with the articles, and
  - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 102 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.
- 103 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.
- 104 The directors may, at their discretion, allow any person who they reasonably consider appropriate, to attend and speak at any meeting of the directors; for the avoidance of doubt, any such person who is invited to attend a directors' meeting shall not be entitled to vote.

**Chairing of directors' meetings**

- 105 Unless they are unwilling to do so, the chair of the company shall preside as chairman at every directors' meeting at which they are present; if the chair is unwilling to act as chairman or is not present within 10 minutes after the time when the meeting was due

## CAITHNESS BROCH PROJECT

to commence, the directors present shall elect from among themselves the person who will act as chairman of the meeting.

106 The person so appointed for the time being is known as the chairman.

107 The directors may terminate the chairman's appointment at any time.

### **Quorum for directors' meetings**

108 At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

109 The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than 3, and unless otherwise fixed it is 3.

110 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision:

- (a) to appoint further directors, or
- (b) to call a general meeting so as to enable the members to appoint further directors.

### **Collective decision-making**

111 The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or, if the company only has one director, the decision is taken by that director.

### **Unanimous decisions**

112 A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

113 Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.

114 References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.

115 A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

### **Casting vote**

116 If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a second or casting vote.

## CAITHNESS BROCH PROJECT

### Records of decisions to be kept

- 117 The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

### Conflicts of interest and voting

- 118 A director shall not vote at a directors' meeting (or at a meeting of a committee) on any resolution concerning a matter in which they have a personal interest which conflicts (or may conflict) with the interests of the company; they must withdraw from the meeting while an item of that nature is being dealt with.
- 119 For the purposes of article 118, a person shall be deemed to have a personal interest in a particular matter if any partner or other close relative of theirs **or** any firm of which they are a partner **or** any limited company of which they are a substantial shareholder or director **or** any limited liability partnership of which they are a member **or** any Scottish charitable incorporated organisation of which they are a charity trustee **or** any registered society or unincorporated association of which they are a management committee member has a personal interest in that matter.
- 120 A director shall not be counted in the quorum present at a meeting in relation to a resolution on which they are not entitled to vote.
- 121 The company may, by ordinary resolution, suspend or relax to any extent – either generally or in relation to any particular matter – the provisions of articles 118 to 120, when the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest.
- 122 Subject to article 123, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.
- 123 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

### Minor decision-making

- 124 The above articles are specifically related to significant or strategic decisions taken on behalf of the charity, such as those affecting the charity's beneficiaries, assets or future strategic direction. It is not required that they are followed prescriptively for minor decisions for instance affecting the day to day administration of the charity, tactical decisions, and furtherance of agreed goals.

## CAITHNESS BROCH PROJECT

### Directors' discretion to make further rules

- 125 Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

## PART 6

### APPOINTMENT OF DIRECTORS

#### Methods of appointing directors

- 126 Any member who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:
- (a) by ordinary resolution, or
  - (b) by a decision of the directors.
- 127 A director must also be a member. Any person whom the members elect as a director but is not already a Member, must meet the requirements for membership and will become a member automatically on appointment as a director. A director will cease to be a member automatically when his or her term as a director ends unless they request in the form specified by the directors from time to time that they wish to continue as a member.
- 128 In any case where, as a result of death, the company has no members and no directors, the personal representatives of the last member to have died have the right, by notice in writing, to appoint a person to be a director.
- 129 For the purposes of article 127, where 2 or more members die in circumstances rendering it uncertain who was the last to die, an older member is deemed to have survived a younger member.

#### Number of directors

- 130 The number of directors shall be not less than 3. There is no maximum number of directors.

#### Election, retiral, re-election

- 131 At each annual general meeting, the members may (subject to article 130) elect any member (providing they are willing to act) to be a director.
- 132 The directors may at any time appoint any member (providing they are willing to act) to be a director (subject to article 130).
- 133 At each annual general meeting, all the directors shall retire from office – but shall then be eligible for re-election.

## CAITHNESS BROCH PROJECT

### Termination of office

- 134 A director ceases to be a director as soon as:
- (a) they cease to be a director through the operation of any provision of the Act or becomes prohibited by law from being a director;
  - (b) a bankruptcy order is made against that director;
  - (c) they become debarred under any statutory provision from being a charity trustee;
  - (d) they become incapable for medical reasons of fulfilling the duties of their office and such incapacity is expected to continue for a period of more than six months;
  - (e) they cease to be a member of the company;
  - (f) they become an employee of the company;
  - (g) they resign office by notice to the company;
  - (h) they absent (without permission of the directors) from more than three consecutive meetings of the directors, and the directors resolve to remove them from office;
  - (i) they are removed from office by resolution of the directors on the grounds that they are 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 82);
  - (j) they are removed from office by resolution of the directors on the grounds that they are considered to have been in serious or persistent breach of their duties under sub-sections 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
  - (k) they are removed from office by ordinary resolution (special notice having been given) in pursuance of section 168 of the Act.
- 135 A resolution under paragraph (i) or (j) of article 134 shall be valid only if:
- (a) 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 their removal is to be proposed;
  - (b) 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
  - (c) at least two thirds (to the nearest round number) of the directors then in office vote in favour of the resolution.

### Register of directors

- 136 The directors shall maintain a register of directors, setting out full details of each director, including the date on which they became a director, and also specifying the date on which any person ceased to hold office as a director.

# CAITHNESS BROCH PROJECT

## PART 7

### CO - OPTING OF MEMBERS

#### Methods of co-opting of members

- 137 Any member who is willing to act as a management committee member may be co-opted onto the management committee by a decision of the directors.

#### Termination of office

- 138 A co-opted member ceases to be on the management committee as soon as:
- (a) they become incapable for medical reasons of fulfilling the duties of their office and such incapacity is expected to continue for a period of more than six months;
  - (b) they cease to be a member of the company;
  - (c) they resign from the committee by notice to the directors;
  - (d) they are removed from office by a decision of the directors.

#### Voting

- 139 Management committee members have the same voting rights at general meetings as normal members.
- 140 Management committee members may individually or collectively be asked by the directors to participate in and vote at directors' meetings from time to time, if a majority of directors agree.

## PART 8

### COMMITTEES

#### Organisation

- 141 The directors may delegate their powers to committees or sub-committees. Every such committee shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors. All acts and proceedings of such committees shall be reported as soon as possible to the directors.
- 142 A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present and entitled to vote, and in the case of an equality of votes the chairman shall have a second or casting vote.

# CAITHNESS BROCH PROJECT

## PART 9

### MANAGEMENT COMMITTEE PAY AND EXPENSES

#### Remuneration

- 143 Management committee members may undertake any services for the company that the directors decide.
- 144 Management committee members are entitled to such remuneration as the directors determine, subject to the terms of articles 10, 11 and 12, subject to any statutory provisions affecting companies which are charities, and subject to the specific terms of any funding from which remuneration may be paid:
- (a) for their services to the company as management committee members; and
  - (b) for any other service which they undertake for the company.
- 145 Unless the directors decide otherwise, management committee members are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

#### Expenses

- 146 The company may pay any reasonable expenses which the management committee members properly incur in connection with their attendance at:
- (a) directors' meetings;
  - (b) committee meetings;
  - (c) general meetings; or
  - (d) separate meetings of the holders of debentures of the company;
- or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

## PART 10

### ADMINISTRATION

#### Delegation to committees

- 147 The directors may delegate any of their powers to any committee (or sub-committee) consisting of one or more directors and such other persons (if any) as the directors may determine; they may also delegate to the chair of the company (or the holder of any other post) such of their powers as they may consider appropriate.
- 148 Any delegation of powers under article 147 may be made subject to such conditions as the directors may impose and may be revoked or altered.

## CAITHNESS BROCH PROJECT

- 149 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.
- 150 The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

### Minutes

- 151 The directors shall ensure that minutes are made of all proceedings at general meetings, directors' meetings and meetings of committees; a minute of any meeting shall include the names of those present.
- 152 All acts *bona fide* (made without intention to deceive) by any meeting of the directors or of any committee or by any person acting as a director, shall, notwithstanding it to be afterwards discovered that there was some defect in the appointment or continuance in office of any such member or person, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a director.
- 153 A resolution in writing or in electronic form, agreed by the majority of the directors or members of any committee for the time being who are duly entitled to receive notice of the meeting of the directors or of such committee shall be as valid and effectual as if it had been passed at a meeting of the directors or of such committee respectively duly convened and constituted. Any such resolution may consist of several documents or electronic messages in the like form agreed each time by one or more directors or by one or more member of any such committee.

### Accounting records and annual accounts

- 154 The directors shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements.
- 155 The directors shall instruct the preparation annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions or if they otherwise think fit, they shall ensure that an audit of such accounts is carried out by a qualified auditor.
- 156 No member shall (unless they are a director) have any right of inspecting any accounting or other records, or any document of the company, except as conferred by statute or as authorised by the directors or as authorised by ordinary resolution of the company.

### Notices

- 157 Any notice which requires to be given to a member under these articles shall be given either in writing or by electronic means; 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 them 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 electronic means.

## CAITHNESS BROCH PROJECT

- 158 Any notice if served by first class post to any address within the United Kingdom shall be deemed to have been delivered on the day (not being a Sunday or a Bank Holiday) first after the day of posting, or, if sent by second class post, second after the day of posting. In proving such service it shall be sufficient to prove that, in the case of a notice given in writing, the letter containing the notice was properly addressed, stamped and posted whether the same be actually delivered to the addressee or not.
- 159 Any notice if contained in a communication via the Internet shall be deemed to have been delivered on the day of sending.

### PART 11

#### MISCELLANEOUS

##### Winding-up

- 160 If on the winding-up of the company any property remains after satisfaction of all the company's debts and liabilities, such property shall be transferred to such body or bodies (whether incorporated or unincorporated) as may 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 acquire jurisdiction), to be used solely for a charitable purpose or charitable purposes.
- 161 For the avoidance of doubt, a body to which property is transferred under article 160 may be a member of the company.
- 162 To the extent that effect cannot be given to article 160 (as read with article 161), the relevant property shall be applied to some charitable purpose or purposes.

##### Provision for employees on cessation of business

- 163 The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

##### Indemnity

- 164 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 they may sustain or incur in connection with the execution of the duties of their 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 them in defending any proceedings (whether civil or criminal) in which judgement is given in their favour or in which they are acquitted **or** any liability in connection with an application in which relief is granted to them by the court from liability for negligence, default or breach of trust in relation to the affairs of the company.

## CAITHNESS BROCH PROJECT

- 165 The company shall be entitled (subject to the provisions of section 68A of the Charities and Trustee Investment (Scotland) Act 2005) to purchase and maintain for any director 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 their office; and such insurance may (subject to the provisions of section 68A of the Charities and Trustee Investment (Scotland) Act 2005) extend to liabilities of the nature referred to in section 232(2) of the Act (negligence etc. of a director).