

LOSSIEMOUTH
COMMUNITY DEVELOPMENT TRUST

MEMORANDUM OF ASSOCIATION

THE COMPANIES ACT 2006

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

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of

**THE LOSSIEMOUTH COMMUNITY
DEVELOPMENT TRUST**

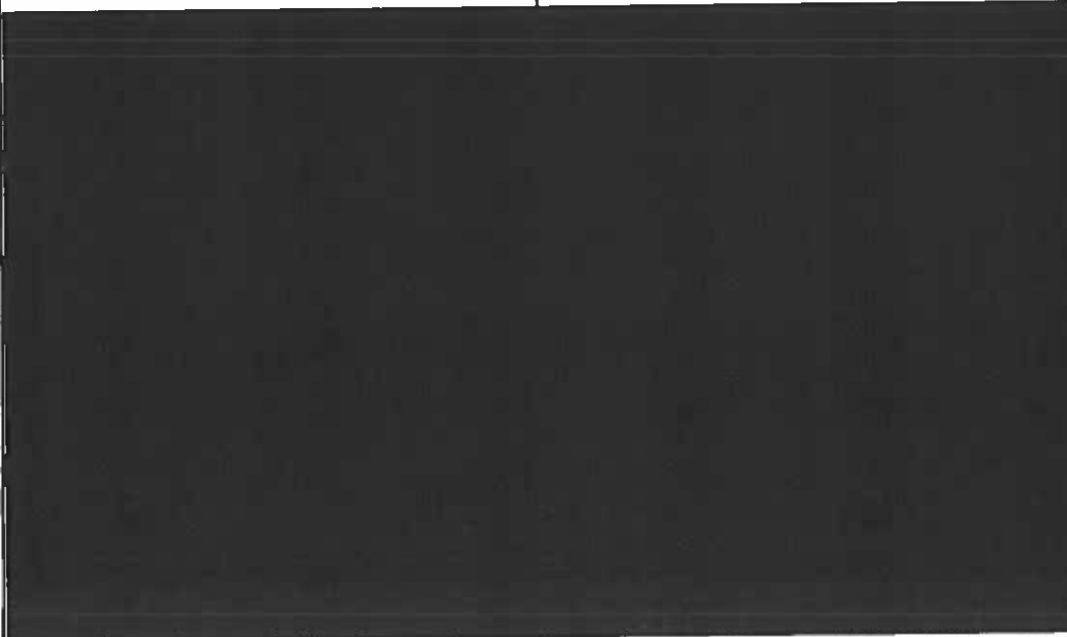
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THE LOSSIEMOUTH COMMUNITY DEVELOPMENT TRUST

Each subscriber to this memorandum of association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

Name of each subscriber	Signature of each subscriber
	

Dated: 20TH November 2014

TRUST COMMITTEE MEMBERS	Categories, maximum/minimum number, eligibility, election/retiral/re-election (Trust Members), appointment/re-appointment (Co-opted Members), termination of office, register, office bearers, powers, personal interests	articles 62-87
TRUST MEETINGS	procedure, conduct of officers	articles 88-100
ADMINISTRATION	committees, operation of bank accounts, secretary, minutes, accounting records and annual accounts, notices	articles 101-116
MISCELLANEOUS	winding-up, indemnity	articles 117-121

Constitution of the Trust

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

Defined terms

- 2 In these articles of association, unless the context requires otherwise:-
- (a) "Act" means the Companies Act 2006;
 - (b) "charity" means a body which is either a Scottish Charity, 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;
 - (c) "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;
 - (d) "community body" means a community body within the meaning of section 34 of the Land Reform (Scotland) Act 2003;
 - (e) "crofting community body" means a crofting community body within the meaning of section 71 of the Land Reform (Scotland) Act 2003;
 - (f) "electronic form" and "electronic means" have the meanings given in section 1168 of the Act;

Powers

7 In pursuance of the objects listed in article 4 (but not otherwise), the trust shall have the following powers:-

- (a) To manage community land and associated assets for the benefit of the Community and the public in general as an important part of the protection and sustainable development of Scotland's natural environment.
- (b) To establish, maintain, develop and/or operate a centre or centres providing facilities for childcare, community learning, health living initiatives, educational and cultural activities, training activities, leisure pursuits and accommodation for community groups, and for public sector agencies which provide services of benefit to the community, and which may include refreshment facilities.
- (c) To advise in relation to, prepare, organise, conduct and/or support training courses, educational and training events and activities of all kinds.
- (d) To design, prepare, publish and/or distribute information packs, leaflets, books, newsletters, magazines, posters and other publications, audio visual recordings, multimedia products and display materials, and to create and maintain a website or websites.
- (e) To promote, operate, co-ordinate, monitor, and/or support other projects and programmes (which may include workspace projects) which further the objects of the company.
- (f) To provide information, advisory, support and/or consultancy services which further the objects of the company.
- (g) To liaise with local authorities, central government authorities and agencies, charities/community benefit bodies and others, all with a view to furthering the objects of the company.
- ~~(h) To register any interest in land and to exercise the right to buy under the provisions of Part 2 of the Land Reform (Scotland) Act 2003.~~
- (i) To carry on any other activities which further any of the above objects.
- (j) 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.
- (k) 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.

8 The income and property of the trust shall be applied solely towards promoting the trust's objects (as set out in article 4) and in particular (but without limiting the generality of that provision) any surplus funds or assets of the trust must be applied for the benefit of the Community.

9 No part of the income or property of the trust shall be paid or transferred (directly or indirectly) to the members of the trust, whether by way of dividend, bonus or otherwise.

10 No trustee of the trust shall be appointed as a paid employee of the trust; no director shall hold any office under the trust for which a salary or fee is payable.

11 No benefit (whether in money or in kind) shall be given by the trust to any trustee except

- (a) repayment of out-of-pocket expenses; or
- (b) reasonable payment in return for particular services (not being of a management nature) actually rendered to the trust.

Liability of members

12 Each member undertakes that if the trust is wound up while he/she is a member (or within one year after he/she ceases to be a member), he/she will contribute - up to a maximum of £1 - to the assets of the trust, to be applied towards:

- (a) payment of the trust's debts and liabilities contracted before he/she ceases 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.

General structure

13 The structure of the trust consists of:-

- (a) The MEMBERS - comprising Ordinary Members (who have the ~~right to attend the annual general meeting (and any other general meeting)~~ and have important powers under the articles of association and the Companies Act; in particular, the Ordinary Members elect people to serve as trustees and take decisions in relation to changes to the articles themselves), the Associate Members and the Junior Members; and
- (b) the TRUSTEES - who hold regular meetings during the period between annual general meetings, and generally control and supervise the activities of the company; in particular, the trustees are responsible for monitoring the financial position of the trust.

Categories of Members

23 The trustees shall consider each application for membership at the first trusts' meeting which is held after receipt of the application; the trustees shall, within a reasonable time after the meeting, notify the applicant of their decision on the application.

Minimum number of members

24 The minimum number of members is 20; in the event that the number of members falls below 20, the trustees may not conduct any business other than to ensure the admission of sufficient members to achieve the minimum number.

25 For the avoidance of doubt, the majority of members will, at all times, be those persons ordinarily resident in the community who are eligible for membership under article 15.

Membership subscription

26 Members shall require to pay an annual membership subscription; unless and until otherwise determined by ordinary resolution, the amount of the annual membership subscription shall be £10.00 (junior members excluded).

27 The annual membership subscriptions shall be payable on or before 1st April in each year.

28 The members may vary the amount of the annual membership subscription and/or the date on which it falls due in each year, by way of an ordinary resolution to that effect passed at an annual general meeting.

29 If the membership subscription payable by any member remains outstanding more than four weeks after the date on which it fell due (and providing he/she has been given at least one written reminder) the directors may, by resolution to that effect, expel him/her from membership; for the avoidance of doubt, it will be open to an individual expelled from membership under this article to reapply for membership if he/she so wishes.

30 A person who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.

Register of members

31 The trustees shall maintain a register of members, setting out the full name and address of each member, the date on which he/she was admitted to membership, and the date on which any person ceased to be a member.

Withdrawal from membership

32 Any person who wishes to withdraw from membership shall sign, and lodge with the trust, a written notice to that effect; on receipt of the notice by the trust, he/she shall cease to be a member.

Expulsion from membership

- (a) indicate the general nature of the business to be dealt with at the meeting; and
 - (b) if a special resolution (see article 46) (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.
- 44 A notice convening an annual general meeting shall specify that the meeting is to be an annual general meeting.
- 45 Notice of every general meeting shall be given
- (a) in hard copy form
 - (b) in writing or (where the individual to whom notice is given has notified the trust of an address to be used for the purpose of electronic communication) in electronic form; or
 - (c) (subject to the trust 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.

Special resolutions and ordinary resolutions

46 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 45; 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.

47 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.

48 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 45.

Procedure at general meetings

49 No business shall be dealt with at any general meeting unless a quorum is present, and members ordinarily resident in the community eligible under article 16 are in the majority; the quorum for a general meeting shall be 7 (seven) individuals entitled to vote (each being a member or proxy for another member).

59 If there are an equal number of votes for and against any resolution proposed at a general meeting, the chairperson of the meeting shall not be entitled to a casting vote.

60 A resolution put to the vote at a general meeting shall be decided on a show of hands unless a secret ballot is demanded by the chairperson (or by at least two persons present in person at the meeting and entitled to vote (whether as members or proxies for members)); a secret ballot may be demanded either before the show of hands takes place, or immediately after the result of the show of hands is declared.

61 If a secret ballot is demanded, it shall be taken at the meeting and shall be conducted in such manner as the chairperson may direct; the result of the ballot shall be declared at the meeting at which the ballot was demanded.

Categories of trustee

62 For the purposes of these articles

"Member Trustee" means a trustee (drawn from the membership of the trust) appointed under articles 67 to 72;

"Co-opted Trustee" means a (non-member) trustee appointed or re-appointed by the directors under articles 73 and 74.

Maximum/minimum number of trustees

63 The maximum number of trustees shall be 12 (twelve) out of that number, no more than 8 (eight) shall be Member Trustees and no more than 4 (four) shall be Co-opted Trustees. Trustees who are also members ordinarily resident in the Community eligible under article 16 must be in the majority.

64 The minimum number of trustees shall be 6 (six), of whom a majority must be Member Trustees.

Eligibility

65 A person shall not be eligible for election/appointment as a Member Trustee unless he/she is a member of the company; a person appointed as a Co-opted Trustee need not, however, be a member of the company.

66 A person shall not be eligible for election/appointment as a trustee if he/she is an employee of the company.

Election, retiral, re-election: Member Trustees

67 At each annual general meeting, the members may (subject to article 63) elect any member (providing he/she is willing to act) to be a trustee (a "Member Trustee")

- (d) (in the case of a Member Trustees) he/she ceases to be a member of the trust;
- (e) he/she becomes an employee of the trust;
- (f) he/she resigns office by notice to the trust;
- (g) he/she is absent (without permission of the trustees) from more than three consecutive meetings of the trustees, and the trustees resolve to remove him/her from office; or
- (h) he/she is removed from office by ordinary resolution (special notice having been given) in pursuance of section 168 of the Act.

Register of trustees

76 The trustees shall maintain a register of trustees, setting out full details of each trustee, including the date on which he/she became a trustee, and also specifying the date on which any person ceased to hold office as a trustee.

Office bearers

77 The trustees shall elect from among themselves a chairperson, a vice-chair, a secretary and a treasurer, and such other office bearers (if any) as they consider appropriate.

78 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.

79 A person elected to any office shall cease to hold that office if he/she ceases to be a trustee, or if he/she resigns from that office by written notice to that effect.

Powers of trustees

80 Subject to the provisions of the Act and these articles, and subject to any directions given by special resolution, the trust and its assets and ~~undertaking shall be managed by the trustees,~~ who may exercise all the powers of the trust.

81 A meeting of the trust at which a quorum is present may exercise all powers exercisable by the trustees.

Personal interests

82 A trustee 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 trustees; he/she will be debarred (in terms of article 96) from voting on the question of whether or not the trust should enter into that arrangement.

92 A quorum shall not be deemed to be constituted at any meeting of trustees unless the Member Trustees who are also community members form a majority of the total number of trustees present at the meeting.

93 If at any time the number of trustees in office falls below the number fixed as the quorum or ceases to comply with the provisions of article 64, the remaining trustee(s) may act only for the purpose of filling vacancies or of calling a general meeting.

94 Unless he/she is unwilling to do so, the chair of the trust shall preside as chairperson at every trustees' meeting at which he/she is present; if the chair is unwilling to act as chairperson or is not present within 15 minutes after the time when the meeting was due to commence, the trustees present shall elect from among themselves the person who will act as chairperson of the meeting.

95 The trustees may, at their discretion, allow any person who they reasonably consider appropriate, to attend and speak at any meeting of the trustees; for the avoidance of doubt, any such person who is invited to attend a trustees' meeting shall not be entitled to vote.

96 A trustee shall not vote at a trustees' meeting (or at a meeting of a sub-committee) on any resolution concerning a matter in which he/she has a personal interest which conflicts (or may conflict) with the interests of the trust; he/she must withdraw from the meeting while an item of that nature is being dealt with.

97 For the purposes of article 96, a person shall be deemed to have a personal interest in a particular matter if any partner or other close relative of his/hers or any firm of which he/she is a partner or any limited company of which he/she is a substantial shareholder or trustee, has a personal interest in that matter.

98 A trustee shall not be counted in the quorum present at a meeting in relation to a resolution on which he/she is not entitled to vote.

99 The trust may, by ordinary resolution, suspend or relax to any extent - either generally or in relation to any particular matter - the provisions of articles 96 to 98.

Conduct of trustees

100 Each of the trustees shall, in exercising his/her functions as a trustee of the trust, act in the interests of the company; and, in particular, must

- (a) seek, in good faith, to ensure that the trust acts in a manner which is in accordance with its objects (as set out article 4)
- (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

Accounting records and annual accounts

108 The trustees shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements.

109 The accounting records shall be maintained by the treasurer and overseen by the chair; such records shall be kept at such place or places as the trustees think fit and shall always be available for inspection by the trustees.

110 The trustees shall prepare annual accounts, complying with all relevant statutory requirements.

111 Subject to article 112, the trustees shall ensure that an audit of the annual accounts is carried out by an auditor.

112 Notwithstanding the provisions of article 111, an audit (within the meaning of the Act) by a company auditor (as defined in the Act) shall not be required, in a case where the trust is exempt (under the Act) from the requirement to have an audit, if and to the extent that proper arrangements for the auditing of the trust's accounts are made in a manner which satisfies the requirements of the Act and paragraph (f) of subsection 34(1) of the Land Reform (Scotland) Act 2003.

113 No member shall (unless he/she is a director) have any right of inspecting any accounting or other records, or any document of the trust, except as conferred by statute or authorised by ordinary resolution of the trust.

Notices

114 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 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 electronic means.

~~115 Any notice, if sent by post, shall be deemed to have been given at the expiry of 24 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.~~

116 Any notice sent by electronic means shall be deemed to have been given at the expiry of 24 hours after it is sent; for the purpose of proving that any notice sent by electronic means was indeed sent, it shall be sufficient to provide any of the evidence referred to in the relevant guidance issued from time to time by the Chartered Institute of Secretaries and Administrators.

Winding-up

117 If on the winding-up of the trust any property (including any land acquired by the company in terms of the Land Reform (Scotland) Act

