

Companies Act 2006

Private Company limited by Guarantee

ARTICLES OF ASSOCIATION
WEST LOTHIAN LEISURE LIMITED

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Companies Act 2006
Private Company Limited by Guarantee
ARTICLES OF ASSOCIATION
WEST LOTHIAN LEISURE LIMITED (the “Company”)

Part 1

INTERPRETATION AND LIMITATION OF LIABILITY

Defined terms

1. In the articles, unless the context requires otherwise:

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| “articles” | means the company’s articles of association |
| “bankruptcy” | includes individual sequestration, the signing of a voluntary trust deed for creditors and any analogous insolvency step in any jurisdiction other than Scotland. |
| “Charitable purpose” | means a charitable purpose under section 7 of the Charities Act, which is also regarded as a charitable purpose in relation to the Taxes Act. |
| “Charities Act | means the Charities and Trustee Investment (Scotland) Act 2005 |
| “Companies Act” | means the Companies Acts (as defined in section 2 of the Companies Act 2006) in so far as they apply to the company |
| “Council Directors” | has the meaning given in article 7.3(i) |
| “director” | means a director of the company, and includes any person occupying the position of director, by whatever name called |
| “document” | includes, unless otherwise specified, any document sent or supplied in electronic form |

| | |
|--------------------------------|--|
| “electronic form” | has the meaning given in section 1168 of the Companies Act 2006 |
| “Employee Director” | has the meaning given in Article 7.3 (iv) |
| “Trade Union Director” | has the meaning given in article 7.3(iii) |
| “Independent Directors” | has the meaning given in article 7.3(ii) |
| “Member” | has the meaning given in section 112 of the Companies Act 2006 |
| “Model Articles” | means the model articles for private companies limited by guarantee contained in Schedule 2 of the Companies (Model Articles) regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these articles |
| “Nominations Committee” | has the meaning given in article 7.7 |
| “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 19 |
| “person” | means any natural or legal person |
| “West Lothian area” | means the area of responsibility of West Lothian Council |
| “West Lothian Council” | means West Lothian Council and any successor organization having responsibility for the provision of public services in the West Lothian area from time to time |
| “special resolution” | has the meaning given in section 283 of the Companies Act 2006 |
| “subsidiary” | has the meaning given in section 1159 of the Companies Act 2006 |
| “Taxes Acts” | has the meaning provided in section 118 (1) of the Taxes Management Act 1970 |
| “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 |

1.1 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 became binding on the company.

1.2 The Model Articles shall not apply to the company, but the following shall be the Articles of Association of the company.

2. Liability of Member

The liability of the member is limited to £1, being the amount the member undertakes to contribute to the assets of the company in the event of its being wound up while West Lothian Council is the member or within one year after West Lothian Council ceases to be the member for:

2.1 payment of the company's debts and liabilities contracted before it ceases to be a member,

2.2 payment of the costs, charges and expenses of winding up, and

2.3 adjustment of the rights of the contributories among themselves.

3. Objects of the company

The objects of the company shall be:

3.1 To advance the arts, heritage, culture and science;

3.2 To advance public participation in sport;

3.3 To provide recreational facilities, and organise recreational activities, with such facilities/activities being made available to members of the public at large, with the object of improving their conditions of life;

3.4 To advance education;

3.5 To advance citizenship and/or community development (which may include the promotion of civic responsibility, volunteering, the voluntary sector and/or the effectiveness or efficiency of charities);

3.6 To relieve those in need by reason of age, ill health, disability, financial hardship or other disadvantage;

3.7 To advance such similar charitable purposes as the directors may consider appropriate from time to time;

through the provision of services (including those entrusted to it by West Lothian Council), which contribute to advancing wellbeing (primarily the wellbeing of residents of the area served by West Lothian Council) including the operation, management, development and (where appropriate) delivery of the following facilities and services:

(a) services which meet the needs of young people;

(b) adult learning services;

- (c) arts and cultural activities and events, artistic programmes, research programmes and educational projects;
- (d) outdoor educational facilities;
- (e) art galleries, archives, museums and other facilities which provide public access to collections of works of art, antiquities and objects of scientific interest;
- (f) libraries and library and archive services;
- (g) indoor and outdoor sports facilities (including arrangements to facilitate access to such facilities by those on lower incomes or having special needs and to encourage wider participation in healthy exercise);
- (h) sports activities and events directed towards wider participation in sport; and
- (i) services which promote health and well-being.

The company shall have all powers necessary, incidental or conducive to the furtherance of any of the company's objects, subject to article 6. .

4. Prohibition on Distributions

4.1 The income and property of the company, shall be applied solely towards the fulfilment of the objects of the company as set out in article 3, and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to the members (but without prejudice to article 4.6); in addition, the application of profits shall be restricted in accordance with articles 4.2 to 4.7.

4.2 Any profits made by the company from (i) grant of a right to enter a competition in sport or physical recreation (where the sums raised from those paying for that right are to be allocated wholly towards the provision of a prize or prizes in that competition) or (ii) the supply to an individual of services closely linked with an essential to sport or physical education in which that individual is taking part must be applied only for one or more of the following purposes:

- (a) the continuance or improvement of any facilities made available in or in connection with the grant of rights or supply of services of the kind mentioned in (i) and (ii);
- (b) the purposes of a non-profit making body.

4.3 Any profits made by the company from the supply of a right to admission to (i) a museum, gallery, art exhibition or zoo or (ii) a theatrical, musical or choreographic performance of a cultural nature must be applied only for the continuance or improvement of the facilities made available by means of the supplies of that nature.

4.4 Any profits made by the company from the provision of education, research (where supplied to an eligible body under Group 6 in Schedule 9 to the Value Added Tax Act 1994) or vocational training or any other supplies falling within Group 6 in Schedule 9 to the Value Added Tax Act 1994 must be applied only for the continuance or improvement of such supplies.

4.5 Provided that nothing herein shall prevent any payment in good faith by the company of reasonable and proper remuneration for any services (not being of a management nature) actually rendered to the company by any director of the company.

4.6 Following cessation of the business of the company or any of its subsidiaries, and following settlement of the company or subsidiaries' liabilities, any remaining assets will be transferred to West Lothian Council (or its successor) to be held for similar Charitable objects as those of the company.

4.7 To the extent that effect cannot be given to the provisions of article 4.6 the relevant property shall be applied to some other Charitable purpose or Charitable purposes.

5. Borrowing

5.1 The company shall have power to borrow money including the issue of loan stock.

5.2 The company shall have the power to mortgage or charge any of its property, including the assets and undertaking of the company, present and future, to issue debentures and other securities for money borrowed or for the performance of any contracts of the company.

5.3 The company may receive from any persons, donations or loans free of interest towards its work. The company shall not accept deposits.

6. Charitable Purposes

6.1 The company is established for Charitable purposes only.

PART 2
DIRECTORS
APPOINTMENT OF DIRECTORS

7. Appointment of directors

7.1 The maximum number of directors shall (unless otherwise determined by special resolution) be 11 and the minimum number of directors shall be 9, provided always that at no time shall Council Directors form a majority of the directors in office.

7.2 If at any time Council Directors form a majority of the directors in office then the board of directors shall notify the Nominations Committee and West Lothian Council of such circumstances arising and the Nominations Committee and West Lothian Council shall take steps as soon as reasonably practicable to fill any vacancies in the positions of Independent Directors, Employee Director and Trade Union Director.

7.3 The board of directors for the company shall comprise the following:-

- (i)** a maximum of 5 directors who are officers or elected representatives of West Lothian Council (the “Council Directors”);
- (ii)** a maximum of 4 directors appointed from the West Lothian area representative of (but not limited to), sport, culture facility users / customers, academia and the business community (the “Independent Directors”);
- (iii)** a maximum of 1 director appointed on the basis that he/she has been nominated by a trade union with which the company has a recognition agreement at the time (the “Trade Union Director”);
- (iv)** a maximum of 1 director from the employees of the company, pursuant to an election process to be implemented by the board of directors (the “Employee Director”). The selection of Employee Director shall be made by holding a ballot open to all employees of the company. The employee with the most votes shall be appointed to the Board.

7.4 If a vacancy arises in the office of Trade Union Director at any time, the company shall notify each of the trade union with which the company has a recognition agreement at the time, inviting each of them to nominate an individual for appointment as the Trade Union Director to fill the vacancy.

7.5 West Lothian Council shall use reasonable endeavours to ensure that the individuals which it appoints as Council Directors have appropriate skills or experience to act as directors of the company.

7.6 Subject to articles 7.1 to 7.5, West Lothian Council, so long as it remains a member of the company, may by notice in writing, signed on its behalf by an appropriate officer and given to the company:

7.6.1 appoint any individual who is willing so to act to be a director; or

7.6.2 remove any individual from office as a director.

Any appointment or removal of a director under this article 7.6 shall have effect from the date on which the relevant notice is given to the company or (if later) from such other date as may be stated in the notice.

7.7 The directors of the company shall establish a committee (the “Nominations Committee”) to guide West Lothian Council in relation to the selection of appropriate individuals for appointment as Independent Directors.

7.8 The members of the Nominations Committee shall comprise:

7.8.1 one Council Director

7.8.2 one Independent Director, and

7.8.3 two further individuals (not being directors of the company) with expertise in relation to recruitment matters (one of whom shall be a senior officer of the Council nominated by the Council and the other being a senior employee or executive of the company nominated by the company).

The Nominations Committee will be chaired by one of the directors

7.9 In carrying out its functions, the Nominations Committee shall give effect to the following principles:-

7.9.1 the Nominations Committee should set an appropriate skills matrix to guide it in selecting and evaluating appropriate candidates with the relevant skills and experience to assist the company in carrying out its objects, and should review and adjust that skills matrix from time to time.

7.9.2 nominations for directors falling within the remit of the Nominations Committee should be sought from a range of appropriate sources;

7.9.3 all reasonable expressions of interest should be considered by the Nominations Committee;

7.9.4 subject to the provisions of article 7.3(ii) and the other provisions of this article 7.9, appointment to the board of directors should be open to all and

there will be no discrimination against prospective candidates on grounds of age (subject to a minimum age of 18), disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation, political or other opinion; and

- 7.9.5 the Nominations Committee should maintain a register of suitable candidates for future reference.
- 7.10 Subject to articles 7.8 and 7.9, the composition and proceedings of the Nominations Committee shall be governed by such standing orders as may be issued by the directors from time to time.
- 7.11 Independent Directors shall (subject to article 8) serve for a term of 5 years and shall then retire ; but an Independent Director retiring from office will be eligible for reappointment for a further term of five years on each and every occasion when the Director retires.
- 7.12 Council Directors shall (subject to article 8) serve for the term of the administration of West Lothian Council; and a Council Director may be reappointed by the Council for a subsequent term or terms
- 7.13 An Employee Director and Trade Union Directors shall (subject to article 8) serve for a term of 3 years; but an Employee Director or a Trade Union Director retiring from office will be eligible for re-appointment for a further 3-year term if he/she is re-elected in the relevant employee ballot or re-nominated by the relevant trade union.
- 7.14 The directors may by resolution of the board appoint any person to be an advisor of the company in relation to a specific project or matter or with skills to assist the company in its carrying out its objects. Any adviser so appointed may be invited to attend and speak at directors' meetings and may be retained by the company until the specific project concludes or such other time as the board may determine.

8. Termination of director's appointment

- 8.1 A person ceases to be a director as soon as:
- 8.1.1 that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law or is disqualified under the Charities Act from serving as a charity trustee;
 - 8.1.2 a bankruptcy order is made against that person;
 - 8.1.3 a composition is made with that person's creditors generally in satisfaction of that person's debts;
 - 8.1.4 a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or

mentally incapable of acting as a director and may remain so for more than six months;

8.1.5 by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from exercising any powers or rights which that person would otherwise have;

8.1.6 notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms;

8.1.7 that person becomes an employee of the company (excluding for this purpose the Trade Union Director and the Employee Director);

8.1.8 In the case of an Employee Director if that person ceases to be an employee of the Company and in the case of a Trade Union Director, if the relevant trade union withdraws his/her nomination by notice to the company to that effect;

8.1.9 that person is absent (without the permission of the directors) from more than three successive meetings of the directors and the directors resolve to remove that person from office;

8.1.10 that person is removed from office by resolution of the directors on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under sub-section 66(1) or (2) of the Charities Act, or

8.1.11 that person is removed from office by resolution of the directors on the grounds that he/she is considered to have been or to be in material breach of any code of directors conduct that may have been agreed by the Board from time to time; or

8.1.12 that person is removed from office by West Lothian Council under article 7.6.

8.2 A resolution under paragraph 8.1.10 or 8.1.11 shall be valid only if:

8.2.1 the director who is the subject of the resolution is given reasonable prior written notice by the directors of the grounds upon which the resolution for his/her removal is to be proposed;

8.2.1 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;

8.2.3 at least two thirds (to the nearest round number) of the directors then in office vote in favour of the resolution.

9 Directors remuneration

9.1 Except to the extent permitted by article 4.2 and save as provided for in this article 9, no director shall take or hold any interest in property belonging to the company or receive remuneration or be interested otherwise than as a director in any other contract to which the company is a party.

9.2 A Trade Union Director who is an employee of the company and an Employee Director may receive and retain any reasonable remuneration paid to him or her in respect of his or her employment by the company notwithstanding that he or she is a director provided that such director withdraws from any meeting whilst his or her appointment or remuneration (or any terms of employment that are not common to him/her and a significant group of other employees) is being discussed.

9.3 Where a director is entitled to remuneration for any service they undertake in a role other than as director, the remuneration payable must be reasonable and in accordance with section 67 of the Charities Act.

9.4 An observer appointed under article 19.4 shall not be entitled to remuneration.

10 Directors expenses

10.1 The company may pay any reasonable travelling and other expenses which the directors properly incur in connection with their attendance out with the West Lothian area at:

10.1.1 meetings of directors or committees of directors

10.1.2 separate meetings of the holders of debentures of the company

10.1.3 or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company, provided always that such payments are consistent with Section 67 of the Charities Act.

11 Appointments to executive office

11.1 Directors may be appointed to hold the offices of Chairperson, Secretary and Treasurer and such other executive offices as the directors may consider appropriate, each such office shall be held, subject to article 11.3, for a period of 5 years. The Chairperson however shall not be a Council Director.

11.2 The appointments to executive office shall, subject to the remaining provisions of this article, be made at a directors' meeting held as soon as reasonably practicable after the incorporation of the company and thereafter on a five yearly basis at a meeting of the directors. A director whose period of executive office expires under article 11.1 may be re-appointed to such office (providing s/he is willing to act).

11.3 The appointment of any director to executive office shall terminate if s/he ceases to be a director or if s/he resigns from such executive office by notice to the company.

11.4 If the appointment of any director to executive office terminates under article 11.3, the board shall, at a directors' meeting held after such termination, appoint another director to hold such office.

DIRECTORS POWERS AND RESPONSIBILITIES

12. Directors general authority

Subject to the articles and any direction given by the Members by special resolution under article 13, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company and may regulate their proceedings as they see fit.

13. Member reserve power

13.1 The Member may, by special resolution, direct the directors to take, or refrain from taking, specified action.

13.2 No such special resolution invalidates anything which the directors have done before the passing of the resolution.

14. Directors may delegate

14.1 Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles.

14.1.1 to such person or committee;

14.1.2 by such means (including by power of attorney);

14.1.3 to such an extent;

14.1.4 in relation to such matters or territories; and

14.1.5 on such terms and conditions;

As they think fit.

14.2 If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

14.3 The directors may revoke any delegation in whole or part, or alter the terms and conditions.

15. Committees

15.1 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.

15.2 The directors may make rules of procedures for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

16. Directors to take decisions collectively

16.1 The general rule about decision-making by directors is that any decision of the directors must be either a majority decision of those directors present at a meeting or a decision taken in accordance with article 17.

16.2 All acts done by a directors' meeting or a committee of directors or by a person acting as a director shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of any director or that any of them was disqualified from holding office or had vacated office or was not entitled to vote, be as valid as if every such every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.

17. Unanimous decisions

17.1 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.

17.2 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 director has otherwise indicated agreement in writing.

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

17.4 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.

17.5 The provisions of this article 17 shall also apply to a decision to be taken by a committee of directors save that references to eligible directors shall be to those directors eligible to receive notice of a meeting and vote on the matter had it been proposed as a resolution at a meeting of such committee.

18. Calling a directors' meeting

18.1 Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

18.2 Notice of any directors' meeting must indicate:

18.2.1 its proposed date and time

18.2.2 where it is to take place; and

- 18.2.3** 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.
- 18.3** Notice of a directors' meeting must be given to each director who is not absent from the United Kingdom on the date of such notice, but need not be in writing.
- 18.4** 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.
- 19.** Participation in directors' meetings
- 19.1** Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when;
- 19.1.1** the meeting has been called and takes place in accordance with the articles, and
- 19.1.2** they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 19.2** In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.
- 19.3** if all of 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.
- 19.4** West Lothian Council may by simple majority appoint no more than 2 observers with the right to participate and speak at a directors' meeting and at any committee thereof. An observer shall not have any voting right or count towards the quorum at any such meeting. An observer shall be given access to the same materials as are given to the directors or any committee thereof.
- 20** Quorum for directors' meeting
- 20.1** At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 20.2** Subject only to article 20.3, the quorum for directors' meetings may be fixed from time to time by a unanimous decision of the directors and, unless otherwise fixed at any other number, shall be 6, provided always that at least one director appointed under article 7.3(i) is present at any such directors' meeting.
- 20.3** Notwithstanding article 20.2, the quorum for a directors' meeting at which the authorization of a director's conflict is to be considered shall be 4.

20.4 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 to notify West Lothian Council of the situation.

21. Chairing of directors' meetings

21.1 Unless s/he is unwilling to do so, the Chairperson shall preside as chairperson at every directors' meeting at which s/he is present.

21.2 If the Chairperson is unwilling to act as chairperson or is not present within fifteen minutes of the time appointed for the meeting, the directors present may appoint one of their number to be chairperson of the meeting.

22. Casting Vote

22.1 If the numbers of votes for and against a proposal at a directors' meeting are equal, the chairperson shall not have a casting vote.

23. Conduct of directors and conflicts of interest

23.1 It is the duty of each director of the company, in exercising functions as a director, to act in such a way which they in good faith believe to be in the best interests of the company and in a way which is most likely to promote the success of the company in achieving its objects (as set out in article 3) irrespective of any duties they owe to any office, post, engagement or other connection they hold or may have with any other body.

23.2 Notwithstanding the provisions of article 23.1, in acting as a charity trustee each of the directors, must:

23.2.1 seek, in good faith, to ensure that the company acts in a manner which is in accordance with its purposes;

23.2.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;

23.2.3 ensure that the company complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities Act.

23.3 Subject to the provisions of the Companies Act 2006 and of article 4 and provided that he/she has disclosed to the directors the nature and extent of any personal interest which he/she has (unless immaterial), a director (notwithstanding his/her office):

23.3.1 may be a party to, or have some other personal interest in, any transaction or arrangement with the company or any associated company:

23.3.2 may be a party to, or have some other personal interest in, any transaction or arrangement in which the company or any associated company has an interest;

23.3.3 may be a director or secretary of, or employed by, or have some other personal interest in, any associated company;

23.3.4 shall not, because of his/her office, be accountable to the company for any benefit which he/she derives from any such office or employment or from any such transaction or arrangement or from any interest in any such company;

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

23.4 For the purposes of the preceding article, an interest of which a director has no knowledge and of which it is unreasonable to expect him/her to have knowledge shall not be treated as an interest of his/hers; the references to "associated company" shall be interpreted as references to any subsidiary of the company or any other company in which the company has a direct or indirect interest.

23.5 Without prejudice to article 23.6, the duty of directors under section 175 of the Companies Act 2006 to avoid situations under which they have, or could have, a direct or indirect interest that conflicts, or possibly might conflict, with the interests of the company shall not extend to any Council Director's appointments by or relationship with West Lothian Council.

23.6 In addition to the authorization given by article 23.5, the directors shall be entitled, for the purposes of section 175 of the Act, to authorize (by way of resolution to that effect) any conflict situation that may arise (such that the duty of the director concerned, under that section, to avoid conflicts of interest is not infringed) and to amend or vary any such authorization; the directors may give such authorisation on such terms and conditions as they may consider appropriate and reasonable in the circumstances.

23.7 For the avoidance of doubt, articles 23.5 and 23.6 shall not apply to a conflict of interest arising in relation to a transaction or arrangement with the company, any conflict of interest of that nature shall be governed by the provisions of articles 23.3, 23.4 and 23.9 to 23.13.

23.8 In circumstances where there is a possibility of a conflict of interest between the duties under articles 23.1 and 23.2 and the duties owed to, or interest in any other office, post, engagement or other connection which they hold or may have with any other body, the directors must put the interests of the company before that of the other party. Where the conflict prevents the directors from effecting their duty under article 23.1 they must disclose the conflicting interest and refrain from participating in, or attending, any deliberation or decision of the other directors with regard to the matter which gives rise to the conflict.

23.9 Subject to article 23.10, a director shall not vote at a directors' meeting or at a meeting of a committee of directors on any resolution concerning a matter in

which he/she has, directly or indirectly, a personal interest of duty (unless immaterial) which conflict with the interests of the company.

23.10 For the purposes of the preceding article:

23.10.1 an interest of a person who is taken to be connected with a director for any purpose of the Companies Act 2006, shall be treated as a personal interest of the director;

and

23.10.2 a director shall (subject to article 23.9) be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

23.11 A Council Director shall, notwithstanding the provisions of articles 23.9 and 23.10.3, be entitled to vote in relation to a particular matter notwithstanding that West Lothian Council has an interest in that matter but on the basis that in exercising their voting rights in respect of any such matter, the Council Directors shall comply with the provisions of article 23.2.

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

23.13 The company may (subject to the Charities Act) by ordinary resolution suspend or relax to any extent, either generally or in relation to any particular matter, the provisions of articles 23.9 to 23.12.

23.14 Subject to article 23.15, if a question arises at a directors' meeting 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 chairperson whose ruling in relation to any director other than the chairperson is to be final and conclusive.

23.15 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairperson, the question is to be decided by a decision of the directors at the meeting, for which purpose the chairperson is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

23.16 Each director shall comply with any code of directors conduct that may have been agreed by the Board from time to time.

24. Minutes

The directors shall ensure that minutes are made (kept for the purpose) of all proceedings at meetings of the directors and meetings of committees of directors,

a minute of a directors' meeting or of a meeting of a committee of directors shall include the names of the directors present.

25. Directors' discretion to make further rules

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 3
MEMBERS
BECOMING AND CEASING TO BE A MEMBER

26. Application for Membership

26.1 Any incorporated body eligible for Membership under article 27 (as amended from time to time) which wishes to become a member shall lodge with the company a written application for Membership (in such form as the directors require) signed on the relevant body's behalf by an authorized officer of that body.

26.2 A body eligible for Membership under article 27 shall automatically constitute a member of the company immediately upon receipt by the company of the application for Membership, duly signed in accordance with article 26.1.

27. Qualifications for membership

27.1 Membership shall be open only to West Lothian Council (or its successor).

28. Cessation of Membership

28.1 membership shall cease on the dissolution, winding up, striking-off or receivership of the body which constituted the member or on receipt of a notice of the relevant body withdrawing from Membership under article 29.

28.2 A member may not transfer its Membership to any other individual or body.

29. Withdrawal from membership

29.1 Any body which wishes to withdraw from Membership shall lodge with the company a written notice of retiral (in such form as the directors require), signed on its behalf by an authorized officer of that body; on receipt of that notice by the company and providing always that another member has been admitted as a continuing member, it shall cease to be a member.

30. Register of Members

30.1 The directors shall procure that a register of Members is maintained in accordance with the provisions of the Companies Act and shall ensure that the appropriate entries in the register of Members are made immediately after any change in the Membership of the company occurs.

31. Sole member decision making

31.1 For so long as the company has only one member, any decision which may be taken by the company in a general meeting may be made by that member and is as valid as if agreed by the company in a general meeting. Unless such decision is

made by way of written resolution, the sole member shall provide the company with a written record of the decision. Failure to do so will not affect the validity of any such decision and a person dealing with the company is not concerned to inquire whether a written record has been provided to the company in accordance with this article.

PART 4
ADMINISTRATIVE ARRANGEMENTS

32. Means of communication to be used

- 32.1** Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorized or required by any provision of that Act to be sent or supplied by or to the company.
- 32.2** Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which the director has asked to be sent or supplied with such notices or documents for the time being.
- 32.3** A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

33. Company seals

- 33.1** Any common seal may only be used by the authority of the directors.
- 33.2** The directors may decide by what means and in what form any common seal is to be used.
- 33.3** Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by a least one authorized person in the presence of a witness who attests the signature.
- 33.4** For the purposes of this article, an authorised person is:
- 33.4.1** any director of the company;
 - 33.4.2** the company secretary (if any); or
 - 33.4.3** any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

34. No right to inspect accounts and other records

Except as provided by law or authorized by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a member.

DIRECTORS' INDEMNITY AND INSURANCE

35. Indemnity

35.1 Subject to article 35.2, a relevant director of the company or an associated company may be indemnified out of the company's assets against:

35.1.1 any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company.

35.1.2 any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act).

35.2 This article does not authorize any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

35.3 In this article:

35.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and

35.3.2 a "relevant director" means any director or former director of the company or an associated company.

36. Insurance

36.1 The directors may (subject to the provisions of section 68A of the Charities and Trustee Investment (Scotland) Act 2005) decide to purchase and maintain insurance at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

36.2 In this article:

36.2.1 a "relevant director" means any director or former director of the company or an associated company.

36.2.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension

fund of the company or associated company or any employees' share scheme of any associated company, and

36.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.