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Our Ref: EMA/TA1/1

Date: 19 June 2013

Dear Sir/Madam

You are invited to the following:

**Shetland Charitable Trust  
Room 12, Islesburgh Community Centre, Lerwick  
Thursday 27 June 2013 at 10.00am**

Apologies for absence should be notified to Lynne Geddes on 01595 744592.

Yours faithfully

(signed) Dr Ann Black  
Chief Executive

## **AGENDA**

- (a) Hold circular calling the meeting as read.
- (b) Apologies for absence, if any.
- (c) Declarations of interest.
- (d) Confirm minutes of meeting held on 23 May 2013 and special meeting held on 12 June 2013 (enclosed).

## ***For Decision***

- 1. Christmas Grants to Pensioners/Disabled Persons. Report enclosed

2. Subsidiary Company Administration – Articles for Shetland Heat Energy & Power Limited (SHEAP). Report enclosed.

***For Information***

3. Office of the Scottish Charity Regulator (OSCR). Verbal Update.
4. Fund Manager Transactions. Report enclosed.
5. Recommended Disbursements – Social Care. Report enclosed.
6. Capital Works Bridging Loan Scheme. Report enclosed.
7. Payment to Trustees in the Year to 31 March 2013. Report enclosed.

*The following items contain **CONFIDENTIAL** information*

***For Decision***

8. Subsidiary Company – Repayment of Loan and Reduction of Capital. Report enclosed.

***For Information***

9. Loans to Local Industry – Sums Due But Unpaid Over One Month Old as at 31 May 2013. Report enclosed.

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## REPORT

To: Shetland Charitable Trust

Date 27 June 2013

From: Chief Executive

Report: CT130633

### **Christmas Grants to Pensioners/Disabled Persons**

#### **1. Introduction**

- 1.1 This report concerns the Christmas Grant Scheme (the Scheme), and asks for direction on its future operation.

#### **2. Background**

- 2.1 Since the original Trust was granted in 1976, the Trust has made payments to the pensioners of Shetland, usually near Christmas but sometimes at other times. After a few years, grants were also paid to disabled people. Most years until 2009 grants were paid to households rather than individuals.
- 2.2 In 1986, the then Inland Revenue decreed that a certain proportion of the grant was not charitable, and therefore liable to tax. From 1986 to 2007, it was deemed that 22½% of the grant was non-charitable, and therefore was liable to tax.
- 2.3 Changes in both tax and charity law meant that the tax authorities, now renamed HM Revenue and Customs (HMRC), reviewed the tax arrangements relating to the Christmas grant. As a result, the Trust was required to pay some £478,000 in income tax for the three years to 2008.
- 2.4 At that point, Trustees agreed to revise the Scheme, and the grants to pensioners were targeted at those who were in receipt of Pension Credit, Council Tax Benefit or Housing Benefit. HMRC were satisfied that this was sufficient evidence of "need" and therefore did not require any tax. Trustees agreed that disabled applicants would tick a box to say that they were in receipt of means tested benefits. The Trust pays tax in respect of the grants which are awarded to those who do not indicate that they are in receipt of means tested benefits. HMRC have accepted that this "self certification" is sufficient evidence of "need".

### **3. Present Position**

- 3.1 There are now three reasons why the Scheme needs to be looked at again.
- 3.2 The main reason for looking at the Scheme is that it is not necessarily targeting the correct client group. Recent studies confirm that the worst deprivation in Shetland is not necessarily exclusively among pensioners or the disabled.
- 3.4 Secondly, the criteria for disabled applicants are heavily reliant on the Department of Work and Pensions (DWP) benefits system to define their level of disability, and this is in the process of being completely reformed. The local DWP office no longer process claims for disability benefits, and does not have staff available to discuss any issues either with the claimants or with Trust staff. Further, data protection laws mean that the DWP is not able to share information on specific cases.
- 3.6 Finally, the administration of the scheme is very cumbersome, using a great deal of officer time in receiving, checking and recording applications and payments. The cost in Trust officer time for the 2012 grant is estimated at £13,000. This is likely to increase, as Trust staff do not have expertise in the benefit system, which is changing rapidly. Shetland Islands Council's benefit staff, who have previously been helpful, have indicated that they do not have the capacity to provide the level of support which they have given in previous years.

### **4. Proposal**

- 4.1 Given the above, it is proposed to examine the Scheme with a view to presenting options for the future, which would include considering ways in which the Trust's resources could be better targeted towards areas of need in which the Trust can legally assist.
- 4.2 There is an expectation that the Christmas grant will be paid this year. Given the difficulties described in paragraph 3.2-3.6 above, it is proposed that a grant is paid to all who qualified last year. If Trustees agree, all the grantees would be asked to certify that their circumstances had not changed from the previous year. It is further proposed that the scheme is closed to new applicants meantime.
- 4.3 Trustees would then have time to examine options, either to reform the scheme or to find some other way to target resources to the areas of most need in Shetland.

### **5. Financial Implications**

- 5.1 A budget of £432,000 has been set aside to pay this year's Christmas Grant, and there is no suggestion to reduce that budget at this time, only to examine ways of spending the money differently. This includes an allowance of some £15,000 for tax which is payable

on grants deemed to be non-charitable, and a further £3,000 for stationery and postage.

**6. Recommendation**

Trustees are recommended:-

- 6.1 to look at possible options for reforming the Scheme which could better target the Trust's resources to those most in need in Shetland; and
- 6.2 to pay the 2013 Christmas grant to all last year's applicants who certify that their circumstances have not changed, but not to accept new applications.

Reference: AB/EMI/DA9  
Date: 7 June 2013

Report Number CT1306033



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## REPORT

To: Shetland Charitable Trust

27 June 2013

From: Chief Executive

Report: CT1306035

### **Subsidiary Company Administration Articles for Shetland Heat Energy & Power Limited (SHEAP)**

#### **1. Introduction**


- 1.1 This report asks that the Trust, acting as sole shareholder of Shetland Heat Energy and Power Limited, SHEAP, approves new Articles of Association for the company.
- 1.2 The Articles control the internal workings of a limited company, such as SHEAP.

#### **2. Background**

- 2.1 Trustees agreed to various changes designed to separate the activities of SHEAP (an investment) from those of the Trust (the investor) at their meeting on 13 September 2012 (Min Ref CT/34/12). The key change was the recruitment of a smaller, more commercially orientated Board.
- 2.2 Trustees agreed that, in line with recommendations from the Institute of Directors, the new SHEAP Non-Executive Directors should be paid £150 per day.

#### **3. Present Position**

- 3.1 Since Trustees have already agreed to amend the Articles of Shetland Leasing and Property Limited (SLAP Ltd), it is proposed that SHEAP's Articles are also amended, to bring them up to date with legislation and also to introduce flexibility about how business is done, giving the Board the opportunity to benefit from modern communications.
- 3.2 The Institute of Directors had also recommended that the sole shareholder should have the explicit power to remove a Director and



reserve the right to direct the company. These shareholder rights are already there through the Companies Act, but the opportunity has been taken to make them explicit through the draft Articles.

3.3 The draft Articles have been adopted by SHEAP (i.e. the new Board) and SHEAP recommends that the Trust, as sole shareholder approves them. Maclay, Murray & Spens commercial law solicitors have drafted the Articles.

3.4 Should Trustees agree that the Trust as sole shareholder should approve the new Articles for SHEAP, this can be done by:

- i) agreeing that the draft minute extract, Appendix A, be accepted and included in the minutes of this meeting;
- ii) agreeing that the Written Resolution of Shetland Heat Energy and Power Limited, Appendix B, be signed on behalf of the Trust.

3.5 The draft new Articles are included as Appendix C.

#### **4. Conclusion and Financial Implications**

4.1 Revised Articles are required by SHEAP to put into effect decisions of Trustees and to modernise the operation of the company. The draft Articles, Appendix C, have been adopted by the company, and the SHEAP Board recommends that Shetland Charitable Trust, as sole shareholder, approves them by Written Resolution.

4.2 There are no financial implications here for the Trust beyond a small amount of officer time.

#### **5. Recommendation**

5.1 I recommend that Trustees agree that Shetland Charitable Trust, as sole shareholder of SHEAP, approves the new Articles for SHEAP, Appendix C, by following the steps in 3.4 i) and ii) above.

Reference: AB/emi  
Date: 17 June 2013

Report Number CT1306035



**EXTRACT TEXT FOR INSERTION**  
**INTO THE MINUTES OF A MEETING OF**  
**SHETLAND CHARITABLE TRUST (THE "TRUST")**  
**TO BE HELD ON 27 JUNE 2013**

1. **WRITTEN RESOLUTION OF SHETLAND HEAT ENERGY AND POWER LIMITED (THE "COMPANY") TO ADOPT NEW ARTICLES OF ASSOCIATION OF THE COMPANY AND A STANDING ORDER IN RELATION TO THE APPOINTMENT OF ADDITIONAL DIRECTORS OF THE COMPANY**
- 1.1 The chairman explained that the board of directors of the Company had held a board meeting on 19 June 2013 to consider the proposed adoption of new articles of association of the Company (the "**New Articles**") to the exclusion of the Company's existing articles of association.
- 1.2 The board meeting had been held following discussions regarding the New Articles among the directors and the Company's solicitors, Maclay Murray & Spens LLP.
- 1.3 The chairman further explained that the directors of the Company had resolved at such meeting to circulate a written resolution (the "**Written Resolution**") to the Trust, as sole shareholder of the Company, for its consideration.
- 1.4 The chairman tabled to the meeting the Written Resolution which was being proposed by the directors of the Company pursuant to Chapter 2 of Part 13 of the Companies Act 2006 and noted that the following resolutions were being proposed:

**Resolution 1 (Special)**

**"THAT the articles of association attached hereto and marked "A" for the purposes of identification be adopted as the new articles of association of the Company to the exclusion of the Company's existing articles of association."**



**PRIVATE COMPANY LIMITED BY SHARES**  
**WRITTEN RESOLUTION OF**  
**SHETLAND HEAT ENERGY AND POWER LIMITED**  
**(REGISTERED NO. SC181964)**

**CIRCULATION DATE: 27 JUNE 2013**

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of Shetland Leasing and Developments Limited (the “Company”) propose the following resolutions as a special resolution:

**“THAT the articles of association attached hereto and marked “Appendix C” for the purposes of identification be adopted as the new articles of association of the Company to the exclusion of the Company’s existing articles of association.”**

Shetland Charitable Trust, being the sole member of the Company entitled to vote on the above resolution on the Circulation Date, hereby irrevocably agrees to this written resolution.

For and on behalf of Shetland Charitable Trust and acting under Power of Attorney dated 21 February, 1 March and 18 March 2013 and registered in the Books of Council and Session on 21 March 2013:

\_\_\_\_\_  
**Trustee of Shetland Charitable Trust** 2013

\_\_\_\_\_  
**Trustee of Shetland Charitable Trust** 2013

\_\_\_\_\_  
**Trustee of Shetland Charitable Trust** 2013



**ARTICLES OF ASSOCIATION**

**of**

**SHETLAND HEAT ENERGY AND POWER LIMITED**

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**re: Adopted by special resolution passed on 27 June 2013**

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**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**of**

**SHETLAND HEAT ENERGY AND POWER LIMITED**

**(Registered No: SC181964)**

(Adopted by Special Resolution passed on ● 2013)

**PART 1**

**INTERPRETATION AND LIMITATION OF LIABILITY**

**1. DEFINED TERMS**

1.1 In these articles, unless the context requires otherwise:

- “Act”** means the Companies Act 2006;
- “alternate” or “alternate director”** has the meaning given in article 23;
- “articles”** means these articles of association;
- “bankruptcy”** includes individual insolvency proceedings in a jurisdiction other than Scotland which have an effect similar to that of bankruptcy or sequestration;
- “Chairman”** has the meaning given in article 16;
- “chairman of the directors’ meeting”** has the meaning given in article 16;
- “chairman of the general meeting”** has the meaning given in article 47.3;
- “Companies Acts”** means the Companies Acts (as defined in section 2 of the Act ), in so far as they apply to the company;

<b>“company”</b>	means Shetland Leasing and Property Developments Limited (registered number SC071854);
<b>“company’s lien”</b>	has the meaning given in article 32;
<b>“director”</b>	means a director of the company, and includes any person occupying the position of director, by whatever name called;
<b>“distribution recipient”</b>	has the meaning given in article 39;
<b>“document”</b>	includes, unless otherwise specified, any document sent or supplied in electronic form;
<b>“electronic form”</b>	has the meaning given in section 1168 of the Act;
<b>“fully paid”</b>	in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;
<b>“hard copy form”</b>	has the meaning given in section 1168 of the Act;
<b>“holder”</b>	in relation to shares means the person whose name is entered in the register of members as the holder of the shares;
<b>“instrument”</b>	means a document in hard copy form;
<b>“lien enforcement notice”</b>	has the meaning given in article 33;
<b>“ordinary resolution”</b>	has the meaning given in section 282 of the Act;
<b>“paid”</b>	means paid or credited as paid;
<b>“parent”</b>	means any company or partnership or trust or body corporate of which the company is for the time being a wholly owned subsidiary or which is the registered holder of all the shares issued in the capital of the company from time to time;
<b>“participate”</b>	in relation to a directors’ meeting, has the meaning given in article 14;
<b>“proxy notice”</b>	has the meaning given in article 56;

<b>“shareholder”</b>	means a person who is the holder of a share;
<b>“shares”</b>	means shares in the company;
<b>“special resolution”</b>	has the meaning given in section 283 of the Act;
<b>“subscriber share”</b>	means a share taken on the formation of the company by a subscriber of the company’s memorandum;
<b>“subsidiary”</b>	has the meaning given in section 1159 of the Act;
<b>“transmittee”</b>	means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and
<b>“writing”</b>	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.

- 1.2 Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Act as in force on the date when these articles become binding on the company.
- 1.3 Headings in these articles are used for convenience only and shall not affect the construction or interpretation of these articles.
- 1.4 A reference in these articles to an **“article”** is a reference to the relevant article of these articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of any subordinate legislation from time to time made under it and any amendment or re-enactment, and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Any phrase introduced by the terms **“including”**, **“include”**, **“in particular”** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

## 2. **LIABILITY OF SHAREHOLDERS**

The liability of the shareholders is limited to the amount, if any, unpaid on the shares held by them.

3. **EXCLUSION OF PRESCRIBED ARTICLES**

No regulations or articles prescribed by regulations under any statute concerning companies shall form part of the articles of the company and all such regulations and articles are hereby excluded.

4. **NAME OF COMPANY**

For the purposes of section 77 of the Act, the directors may change the name of the company by a decision taken in accordance with article 11.

**PART 2**

**DIRECTORS**

**DIRECTORS' POWERS AND RESPONSIBILITIES**

5. **DIRECTORS' GENERAL AUTHORITY**

Subject to these articles, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company. The specific powers referred to in articles 6 and 7 below are without prejudice to the generality of this article.

6. **BORROWING POWERS**

The directors may exercise all the powers of the company to:

- 6.1 borrow or raise money without limit as to amount and upon such terms and in such manner as they think fit;
- 6.2 mortgage or charge the whole or any part of the company's undertaking, property and uncalled capital; and
- 6.3 issue debentures, debenture stock and other securities, whether outright or as collateral security for any debt, liability or obligation of the company or of any third party.

7. **EMPLOYEE BENEFITS**

- 7.1 The directors may establish or concur or join with any relevant undertakings in establishing and making contributions out of the company's moneys to any relevant scheme.
- 7.2 The directors may pay, enter into agreements to pay or make grants (revocable or irrevocable and either subject or not subject to any terms and conditions) of pensions or other benefits to employees and ex-employees and their dependents, or to any of such persons, including pensions or benefits additional to those, if any, to which such employees or ex-employees or their

dependents are or may become entitled under any relevant scheme. Any such pension or benefit may, as the directors consider desirable, be granted to an employee either before and in anticipation of, or upon or at any time after, his actual retirement.

7.3 In this article:

7.3.1 “**employees**” includes any director who may hold or have held any executive office or other office or place of profit, or have been appointed to exercise special powers or authorities;

7.3.2 “**relevant scheme**” means any scheme or fund for providing pensions, sickness or compassionate allowances, life assurance or other benefits for employees and ex-employees of the company (and any other participating undertaking) and their dependents, or any class or classes of such persons; and

7.3.3 “**relevant undertaking**” means the parent undertaking of the company or subsidiary undertakings of such parent undertaking or undertakings with which the company is associated in business.

## 8. **PARENT’S RESERVE POWER**

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

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

8.3 Without prejudice to the other provisions of this article 8, the parent may from time to time specify in writing standing orders or bye-laws regarding matters including the conduct of the company's business and the appointment of directors, which in each case the company and the directors shall be required to adhere to following receipt.

8.4 Without prejudice to the provisions of the Act or any other rule of law, no person dealing with the company shall be concerned to see or enquire as to whether the powers of the directors have been in any way restricted hereunder or as to whether any requisite consent of the parent has been obtained and no obligation incurred or security given or transaction effected by the company to or with any third party shall be invalid or ineffectual unless the third party had at the time express notice that the incurring of such obligations or the giving of such security or the effecting of such transaction was in excess of the powers of the directors.

9. **DIRECTORS MAY DELEGATE**

9.1 Subject to these articles, the directors may delegate any of the powers which are conferred on them under these articles:

9.1.1 to such person or committee;

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

9.1.3 to such an extent;

9.1.4 in relation to such matters or territories; and

9.1.5 on such terms and conditions;

as they think fit.

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

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

10. **COMMITTEES**

10.1 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 these articles which govern the taking of decisions by directors.

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

**DECISION-MAKING BY DIRECTORS**

11. **DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

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 a written resolution in accordance with article 12.

12. **WRITTEN RESOLUTIONS BY DIRECTORS**

12.1 A decision of the directors may take the form of a resolution in writing, to which each eligible director has indicated agreement in writing, whether by signing a copy of the resolution or otherwise.

12.2 References in this article to eligible directors are to directors who would have been entitled to vote on the matter, and whose vote would be counted under these articles, had it been proposed as a resolution at a directors' meeting.

12.3 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.

### 13. **CALLING A DIRECTORS' MEETING**

13.1 Any director or the parent 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.

13.2 Notice of any directors' meeting must indicate:

13.2.1 its proposed date and time;

13.2.2 where it is to take place; and

13.2.3 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.

13.3 Notice of a directors' meeting must be given to each director, but need not be in writing.

13.4 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. 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.

### 14. **PARTICIPATION IN DIRECTORS' MEETINGS**

14.1 Subject to these articles, directors "**participate**" in a directors' meeting, or part of a directors' meeting, when:

14.1.1 the meeting has been called and takes place in accordance with these articles; and

14.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

14.2 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

14.3 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.

## 15. QUORUM FOR DIRECTORS' MEETINGS

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

15.2 Subject to article 15.3, the quorum for directors' meetings may be fixed from time to time by ordinary resolution of the shareholders, but otherwise the quorum shall be the greater of (a) two directors; and (b) one-half of the then-current number of serving directors (rounded up to the nearest whole number). As at the date on which these articles were adopted the quorum was two directors.

15.3 For the purposes of any meeting (or part of a meeting) held to consider or decide on any matter in which one or more directors have an interest, if there is only one director in office who would, if present, be counted in the quorum at that meeting (or part of a meeting), the quorum is one.

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

15.4.1 to appoint further directors, subject to the parent's written approval of such directors;  
or

15.4.2 to call a general meeting so as to enable the shareholders to appoint further directors.

## 16. CHAIRING OF DIRECTORS' MEETINGS

16.1 The Chairman shall chair meetings of the directors.

16.2 If there is no Chairman, or if the Chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, or is otherwise unwilling to chair the meeting, the participating directors must appoint one of themselves to chair it.

16.3 The person chairing a meeting in accordance with this article is referred to as the "**chairman of the directors' meeting**".

16.4 The Chairman shall be appointed and removed by the directors. The directors shall be permitted to determine the intended duration of the Chairman's term of office, which subject to the other provisions of this article 16.4 is expected to be no longer than two years.



17. **CASTING VOTE**

- 17.1 If the numbers of votes for and against a proposal are equal, the chairman of the directors' meeting has a casting vote.
- 17.2 But this does not apply if, in accordance with these articles, the chairman of the directors' meeting is not to be counted as participating in the decision-making process for quorum or voting purposes.

18. **DIRECTORS' DUTIES**

- 18.1 If the company has for the time being a parent, a director may act in accordance with any directions given by the parent and (without prejudice to his other duties) shall not be in breach of any duty to the company to exercise independent judgment by so doing.
- 18.2 A director may be a director or other officer of, or employed by, or otherwise interested in, any parent of the company or any subsidiary undertaking of such parent, provided that he has disclosed the matter to the other directors (to the extent that they are not already aware of the matter) and in such case:
- 18.2.1 he shall not be accountable to the company for any profit, remuneration or benefit realised by or accruing to him in consequence of any such office, employment or interest, and no transaction or arrangement shall be liable to be avoided, by reason of his office as a director of the company or of the fiduciary relationship thereby established; and
- 18.2.2 if he has obtained any information, otherwise than as a director of the company, in respect of which he owes a duty of confidentiality to the parent or subsidiary undertaking (as the case may be), the director is under no obligation to disclose such information to the company or to use or apply such information in performing his duties as a director of the company where to do so would be a breach of that duty of confidentiality.
- 18.3 Without prejudice to article 18.2, provided that the matter has been authorised by the directors in accordance with section 175 of the Act or by resolution of the shareholders, a director may be in any situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company and which he would otherwise be under a duty to avoid pursuant to section 175 of the Act ("**authorised conflict situation**"). For this purpose, a conflict of interest includes a conflict of interest and duty and a conflict of duties.

- 18.4 A director shall not be accountable to the company for any profit, remuneration or benefit realised by or accruing to him in consequence of any authorised conflict situation, and no transaction or arrangement shall be liable to be avoided, by reason of his office or of the fiduciary relationship thereby established.
- 18.5 Any authorisation pursuant to article 18.3 shall be for such duration and subject to such terms and conditions as the directors or shareholders (as the case may be) shall determine and may be varied or terminated at any time. In particular, but without limitation, any such authorisation may (but need not) provide that:
- 18.5.1 if the director has obtained any information in relation to the matter which has been authorised, otherwise than as a director of the company, in respect of which he owes a duty of confidentiality to another person, the director is under no obligation to disclose such information to the company or to use or apply such information in performing his duties as a director of the company where to do so would be a breach of that duty of confidentiality; and/or
- 18.5.2 the director shall not be given any information relating to the matter which has been authorised; and/or
- 18.5.3 if a proposed decision of the directors is concerned with the matter which has been authorised, the director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- 18.6 A director is not to be counted as participating in the decision-making process for quorum or voting purposes:
- 18.6.1 in respect of any decision of the directors to authorise a matter in accordance with section 175 of the Act pursuant to article 18.3; or
- 18.6.2 in respect of any decision relating to an authorised conflict situation where the terms of the authorisation do not permit this; or
- 18.6.3 in respect of any decision, other than a decision of the directors to authorise a matter in accordance with section 175 of the Act or which relates to an authorised conflict situation, in which he has an interest unless:
- (a) his interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

- (b) he has disclosed the nature and extent of his interest to the other directors (to the extent that they are not already aware of it).

- 18.7 For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- 18.8 Subject to article 18.9, if a question arises in relation to a proposed decision of the directors or of a committee of directors as to the right of a director to participate in the decision-making process for voting or quorum purposes, the question may be referred to the chairman of the directors' meeting whose ruling in relation to any director other than himself is to be final and conclusive.
- 18.9 If a question arises in relation to a proposed decision of the directors or of a committee of directors as to the right of the chairman of the directors' meeting to participate in the decision-making process for voting or quorum purposes, the question is to be decided by a decision of the directors excluding the chairman of the directors' meeting.

19. **RECORDS OF DECISIONS TO BE KEPT**

The directors must ensure that the company keeps a record, in accordance with section 1135 of the Act, for at least ten years from the date of the decision recorded, of every decision taken by the directors, whether at a meeting or otherwise.

20. **DIRECTORS' DISCRETION TO MAKE FURTHER RULES**

Subject to these 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.

**APPOINTMENT OF DIRECTORS**

21. **METHODS OF APPOINTING DIRECTORS**

- 21.1 Unless and until otherwise determined by ordinary resolution of the Company, the number of directors shall not be less than three and the maximum number of directors shall be seven.
- 21.2 Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director, subject to the prior written consent of the parent in accordance with article 21.3.
- 21.3 If the company has for the time being a parent, the power to appoint or remove directors resides exclusively in the parent. Any such appointment or removal shall be effected by notice in writing and shall be effective forthwith upon the receipt of such notice by the company.
- 21.4 If the company does not for the time being have a parent:

- 21.4.1 a director may be appointed by ordinary resolution, or by a decision of the directors;
- 21.4.2 in any case where the company has no directors, then any shareholder may call a general meeting (or instruct the company secretary, if any, to do so) for the purpose of appointing one or more directors; and
- 21.4.3 in any case where, as a result of death or bankruptcy, the company has no shareholders and no directors, the transmittee(s) of the last shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a person who is willing to act and is permitted by law to do so to be a director.

## 22. **TERMINATION OF DIRECTOR'S APPOINTMENT**

A person ceases to be a director as soon as:

- 22.1 that person ceases to be a director by virtue of any provision of the Act or is prohibited from being a director by law;
- 22.2 that person retires in accordance with article 23 and is not re-appointed to office in accordance with article 23;
- 22.3 a bankruptcy order is made against that person;
- 22.4 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 22.5 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 three months;
- 22.6 by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- 22.7 if the company has for the time being a parent, notification is received by the company from the parent removing that person as a director; or
- 22.8 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.

23. **RETIREMENT AND TERM OF OFFICE OF DIRECTORS**

23.1 Each director's term of office as a director shall be regulated in accordance with the letter of appointment or service agreement which applies to such director's appointment as an employee and/or director of the company.

23.2 Without prejudice to the provisions of articles 21.2 and/or 21.3, if the company has for the time being a parent the entry into by the company of a letter of appointment or service agreement relating to a director's appointment as an employee and/or director of the company shall be subject to the prior written consent of the parent.

24. **DIRECTORS' REMUNERATION**

24.1 Directors may undertake any services for the company that the directors decide.

24.2 Directors are entitled to such remuneration as the directors determine:

24.2.1 for their services to the company as directors; and

24.2.2 for any other service which they undertake for the company,

provided in each case that the parent has approved the same in writing.

24.3 Subject to these articles, a director's remuneration may:

24.3.1 take any form; and

24.3.2 include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.

24.4 Unless the directors decide otherwise, directors' remuneration accrues from day to day.

25. **DIRECTORS' EXPENSES**

The company may pay any reasonable expenses which the directors, and the company secretary (if any), properly incur in connection with their attendance at:

25.1 meetings of directors or committees of directors;

25.2 general meetings; or

25.3 separate meetings of the holders of any class of shares or 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 3****SHARES AND DISTRIBUTIONS****SHARES****26. SHARES CAN BE PARTLY OR FULLY PAID UP**

The company may issue shares which are partly or fully paid as may be determined by the directors.

**27. POWERS TO ISSUE DIFFERENT CLASSES OF SHARE**

27.1 Without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by the directors.

27.2 In particular, the company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

**28. ALLOTMENT OF SHARES**

28.1 Subject to the Companies Acts, and provided that if the company has for the time being a parent the prior consent in writing of the parent has been obtained, the directors may allot, grant options over or otherwise dispose of shares to such persons at such times and generally on such terms and conditions as they think fit.

28.2 Section 561 of the Act, or any statutory modification or re-enactment thereof for the time being in force, shall not apply to an allotment of any equity security by the company.

**29. TRUSTS MAY BE RECOGNISED**

29.1 The company shall be entitled to recognise in such manner and to such extent as it may think fit any trust in respect of any shares. However, the company shall not be bound to recognise any such trust, even if it has express notice of it, except as required by the Companies Acts.

29.2 Notwithstanding any such recognition, the company shall not be bound to see to the execution, administration or observance of any trust, whether expressed, implied or constructive, in respect of any shares, and shall be entitled to recognise and give effect to the acts and deeds of the holder of such shares as if they were the absolute owners thereof.

29.3 For the purposes of this article, “**trust**” includes any right or interest (whether equitable, contingent, future, partial or otherwise) in respect of any share, or any fractional part of a share, other than an absolute right of the holder to the entirety of the same.

30. **SHARE CERTIFICATES**

30.1 The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.

30.2 Every certificate must specify:

30.2.1 in respect of how many shares, of what class, it is issued;

30.2.2 the nominal value of those shares;

30.2.3 that the shares are fully paid (or, in the case of the subscriber shares, the amount paid up on them); and

30.2.4 any distinguishing numbers assigned to them.

30.3 No certificate may be issued in respect of shares of more than one class.

30.4 If more than one person holds a share, only one certificate may be issued in respect of it.

30.5 Certificates must be executed in accordance with the Companies Acts.

31. **REPLACEMENT SHARE CERTIFICATES**

31.1 If a certificate issued in respect of a shareholder’s shares is:

31.1.1 damaged or defaced; or

31.1.2 said to be lost, stolen or destroyed;

that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

31.2 A shareholder exercising the right to be issued with such a replacement certificate:

31.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;

31.2.2 must return the certificate which is to be replaced to the company if it is damaged or defaced; and

31.2.3 must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

## 32. COMPANY'S LIEN OVER SHARES

32.1 The company has a lien (the "**company's lien**") over every share, whether or not fully paid, which is registered in the name of any person indebted or under any liability to the company, whether he is the sole registered holder or one of several joint holders, for all monies payable by him (either alone or jointly with any other person) to the company, whether payable immediately or at some time in the future.

32.2 The company's lien over a share:

32.2.1 takes priority over any third party's interest in that share; and

32.2.2 extends to any dividend or other money payable by the company in respect of that share and (if the lien is enforced and the share is sold by the company) the proceeds of sale of that share.

32.3 The directors may at any time decide that a share which is or would otherwise be subject to the company's lien shall not be subject to it, either wholly or in part.

## 33. ENFORCEMENT OF THE COMPANY'S LIEN

33.1 Subject to the provisions of this article, if:

33.1.1 a lien enforcement notice has been given in respect of a share; and

33.1.2 the person to whom the notice was given has failed to comply with it;

the company may sell that share in such manner as the directors decide.

33.2 A "**lien enforcement notice**":

33.2.1 may only be given in respect of a share which is subject to the company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;

33.2.2 must specify the share concerned;

33.2.3 must require payment of the sum payable within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);



- 33.2.4 must be addressed either to the holder of the share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise; and
- 33.2.5 must state the company's intention to sell the share if the notice is not complied with.
- 33.3 Where shares are sold under this article:
- 33.3.1 the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
- 33.3.2 the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.
- 33.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:
- 33.4.1 first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice;
- 33.4.2 second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the company for cancellation or an indemnity in a form reasonably satisfactory to the directors has been given for any lost certificates, and subject to a lien equivalent to the company's lien over the shares before the sale for any monies payable by him (either alone or jointly with any other person) to the company after the date of the lien enforcement notice.
- 33.5 A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been sold to satisfy the company's lien on a specified date:
- 33.5.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and
- 33.5.2 subject to compliance with any other formalities of transfer required by these articles or by law, constitutes a good title to the share.
34. **SHARE TRANSFERS**
- 34.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.

- 34.2 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- 34.3 The company may retain any instrument of transfer which is registered.
- 34.4 The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- 34.5 The directors shall register any transfer of a share, which is presented for registration duly stamped.

35. **TRANSMISSION OF SHARES**

- 35.1 If title to a share passes to a transferee, the company may only recognise the transferee as having any title to that share.
- 35.2 A transferee who produces such evidence of entitlement to shares as the directors may properly require:
- 35.2.1 may, subject to these articles, choose either to become the holder of those shares or to have them transferred to another person; and
- 35.2.2 subject to these articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- 35.3 But transferees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

36. **EXERCISE OF TRANSFERREES' RIGHTS**

- 36.1 Transferees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.
- 36.2 If the transferee wishes to have a share transferred to another person, the transferee must execute an instrument of transfer in respect of it.
- 36.3 Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transferee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

**37. TRANSMITTEES BOUND BY PRIOR NOTICES**

If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name, or the name of any person to whom the transmittee transfers those shares, has been entered in the register of members.

**DIVIDENDS AND OTHER DISTRIBUTIONS****38. PROCEDURE FOR DECLARING DIVIDENDS**

38.1 The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.

38.2 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.

38.3 No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.

38.4 Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.

38.5 If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.

38.6 The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

38.7 If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

**39. PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS**

39.1 Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means:

39.1.1 transfer to a bank or building society account specified by the distribution recipient in writing;

- 39.1.2 sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient in writing;
- 39.1.3 sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified in writing; or
- 39.1.4 any other means of payment as the directors agree with the distribution recipient in writing.
- 39.2 In these articles, the “**distribution recipient**” means, in respect of a share in respect of which a dividend or other sum is payable:
- 39.2.1 the holder of the share; or
- 39.2.2 if the share has two or more joint holders, whichever of them is named first in the register of members; or
- 39.2.3 if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.
40. **NO INTEREST ON DISTRIBUTIONS**
- The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by:
- 40.1 the terms on which the share was issued; or
- 40.2 the provisions of another agreement between the holder of that share and the company.
41. **UNCLAIMED DISTRIBUTIONS**
- 41.1 All dividends or other sums which are:
- 41.1.1 payable in respect of shares; and
- 41.1.2 unclaimed after having been declared or become payable;
- may be invested or otherwise made use of by the directors for the benefit of the company until claimed.
- 41.2 The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.

41.3 If:

41.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment; and

41.3.2 the distribution recipient has not claimed it;

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

## 42. **NON-CASH DISTRIBUTIONS**

42.1 Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

42.2 For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:

42.2.1 fixing the value of any assets;

42.2.2 paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and

42.2.3 vesting any assets in trustees.

## 43. **WAIVER OF DISTRIBUTIONS**

Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if:

43.1 the share has more than one holder; or

43.2 more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

## **CAPITALISATION OF PROFITS**

#### 44. **AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS**

44.1 Subject to these articles, the directors may, if they are so authorised by an ordinary resolution:

44.1.1 decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and

44.1.2 appropriate any sum which they so decide to capitalise (a "**capitalised sum**") to the persons who would have been entitled to it if it were distributed by way of dividend (the "**persons entitled**") and in the same proportions.

44.2 Capitalised sums must be applied:

44.2.1 on behalf of the persons entitled; and

44.2.2 in the same proportions as a dividend would have been distributed to them.

44.3 Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.

44.4 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.

44.5 Subject to these articles the directors may:

44.5.1 apply capitalised sums in accordance with articles 44.3 and 44.4 partly in one way and partly in another;

44.5.2 make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and

44.5.3 authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

**PART 4****DECISION-MAKING BY SHAREHOLDERS****ORGANISATION OF GENERAL MEETINGS****45. ATTENDANCE AND SPEAKING AT GENERAL MEETINGS**

45.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

45.2 A person is able to exercise the right to vote at a general meeting when:

45.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and

45.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

45.3 The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.

45.4 In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.

45.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

**46. QUORUM FOR GENERAL MEETINGS**

46.1 The quorum for general meetings is one shareholder present in person or by proxy or by corporate representative (as is the case).

46.2 No business other than the appointment of the chairman of the general meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

**47. CHAIRING GENERAL MEETINGS**

47.1 The Chairman shall chair general meetings.

47.2 If there is no Chairman, or if the Chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:

47.2.1 the directors present; or

47.2.2 (if no directors are present), the meeting;

must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the general meeting must be the first business of the meeting.

47.3 The person chairing a meeting in accordance with this article is referred to as the “**chairman of the general meeting**”.

#### 48. **ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS**

48.1 Directors may attend and speak at general meetings, whether or not they are shareholders.

48.2 The chairman of the general meeting may permit other persons who are not:

48.2.1 shareholders of the company; or

48.2.2 otherwise entitled to exercise the rights of shareholders in relation to general meetings, to attend and speak at a general meeting.

#### 49. **NOTICE PERIOD FOR GENERAL MEETINGS**

In accordance with the Act, not less than fourteen clear days’ notice (that is, excluding the day of the meeting and the day on which the notice is given) must be given of a general meeting.

#### 50. **ADJOURNMENT**

50.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the general meeting must adjourn it.

50.2 The chairman of the general meeting may adjourn a general meeting at which a quorum is present if:

50.2.1 the meeting consents to an adjournment; or

50.2.2 it appears to the chairman of the general meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.



- 50.3 The chairman of the general meeting must adjourn a general meeting if directed to do so by the meeting.
- 50.4 When adjourning a general meeting, the chairman of the general meeting must:
- 50.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors; and
  - 50.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 50.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
- 50.5.1 to the same persons to whom notice of the company's general meetings is required to be given; and
  - 50.5.2 containing the same information which such notice is required to contain.
- 50.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

## 51. ANNUAL GENERAL MEETINGS

The company shall not be required to hold an annual general meeting in any year unless the parent specifies otherwise in writing.

## 52. WRITTEN RESOLUTIONS BY SHAREHOLDERS

Subject to the provisions of the Act, a resolution in writing signed by all the members of the company for the time being entitled to receive notice of and to attend and vote at a general meeting at which such resolution was to be proposed, or by their duly appointed attorneys or representatives shall be as valid and effectual as if it had been passed at a general meeting of the company duly convened and held. Any such resolution may consist of several documents in the title form each signed by one or more of the members or their duly appointed attorneys or representatives. The signature in the case of a corporate body which is a member shall be sufficient if made by a director or the secretary or a partner or trustee thereof or by its duly appointed attorneys or representatives.

## VOTING AT GENERAL MEETINGS

53. **VOTING: GENERAL**

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with these articles.

54. **ERRORS AND DISPUTES**

54.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.

54.2 Any such objection must be referred to the chairman of the general meeting, whose decision is final.

55. **POLL VOTES**

55.1 A poll on a resolution may be demanded:

55.1.1 in advance of the general meeting where it is to be put to the vote; or

55.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.

55.2 A poll may be demanded by any person having the right to vote on the resolution.

55.3 A demand for a poll may be withdrawn if:

55.3.1 the poll has not yet been taken; and

55.3.2 the chairman of the general meeting consents to the withdrawal.

55.4 Polls must be taken immediately and in such manner as the chairman of the general meeting directs.

56. **CONTENT OF PROXY NOTICES**

56.1 Proxies may only validly be appointed by a notice in writing (a “**proxy notice**”) which:

56.1.1 states the name and address of the shareholder appointing the proxy;

56.1.2 identifies the person appointed to be that shareholder’s proxy and the general meeting in relation to which that person is appointed;

56.1.3 is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and

- 56.1.4 is delivered to the company in accordance with these articles and any instructions contained in the notice of the general meeting to which they relate.
- 56.2 The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 56.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 56.4 Unless a proxy notice indicates otherwise, it must be treated as:
- 56.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
- 56.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

**57. DELIVERY OF PROXY NOTICES**

- 57.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- 57.2 A proxy notice shall be invalid unless it is received (together with such evidence as the directors may require in relation to any authority under which it is executed) by the company before the commencement of the meeting or adjourned meeting which the proxy is to attend or the time appointed for taking the poll at which the proxy is to vote.
- 57.3 An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- 57.4 A notice revoking a proxy appointment or the appointment of a duly authorised representative of a corporation only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates or, in the case of a poll, the time appointed for taking the poll.
- 57.5 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

**58. AMENDMENTS TO RESOLUTIONS**

58.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:

58.1.1 notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the general meeting may determine); and

58.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the general meeting, materially alter the scope of the resolution.

58.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:

58.2.1 the chairman of the general meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and

58.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

58.3 If the chairman of the general meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

**PART 5**

**ADMINISTRATIVE ARRANGEMENTS**

**59. COMPANY SECRETARY**

The directors shall be permitted to appoint one or more persons to the office of company secretary or joint company secretary (as is the case), but shall not be required to appoint a company secretary (joint or otherwise) unless the parent specifies otherwise in writing.

**60. MEANS OF COMMUNICATION TO BE USED**

60.1 Subject to these articles, anything sent or supplied by or to the company under these articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.

60.2 This article 60.2 applies to anything sent or supplied by the company to any shareholder or by any shareholder to the company:

- 60.2.1 where it is sent by post (whether in hard copy or electronic form) and the sender or supplier is able to show that it was properly addressed, prepaid and posted, it is deemed to have been received by the proposed recipient 48 hours after it was posted to an address in the United Kingdom or 5 days after posting to an address outside the United Kingdom;
- 60.2.2 where it is sent or supplied by electronic means and the sender or supplier is able to show that it was properly addressed, it is deemed to have been received by the proposed recipient at the time it was sent.
- 60.3 Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the register of members, has been duly given to a person from whom he derives his title.
- 60.4 Subject to these 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 that director has asked to be sent or supplied with such notices or documents for the time being.
- 60.5 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.
61. **COMPANY SEAL**
- The company shall not have a common seal.
62. **RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**
- Every shareholder is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.
63. **PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS**
- 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 or shadow 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.

## **DIRECTORS' INDEMNITY AND INSURANCE**

## 64. INDEMNITY

64.1 Subject to article 64.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled, each relevant officer of the company shall be indemnified out of the company's assets against all losses or liabilities which he may sustain or incur:

64.1.1 in or about the execution of the duties of his office or otherwise in relation thereto;

64.1.2 in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company;

64.1.3 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 Act ).

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

64.3 In this article:

64.3.1 companies are "**associated**" if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

64.3.2 a "**relevant officer**" means any director or secretary, or former director or secretary, of the company or an associated company.

## 65. INSURANCE

65.1 The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer or employee in respect of any relevant loss.

65.2 In this article:

65.2.1 a "**relevant officer or employee**" means any director, secretary or employee, or former director, secretary or employee, of the company or an associated company;

65.2.2 a "**relevant loss**" means any loss or liability which has been or may be incurred by a relevant officer or employee in connection with that officer's or employee's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company; and

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

## REPORT

To: Shetland Charitable Trust

27 June 2013

From: Financial Controller

Report: CT1306036

### FUND MANAGER TRANSACTIONS

#### 1. Introduction

1.1 Shetland Islands Council provides Treasury support to Shetland Charitable Trust under the terms of a Service Level Agreement (SLA).

#### 2. Investment Decisions

2.1 Appendix A lists the investment decisions made by Insight Investment Management Limited during the period from 1st to 30th April 2013.

2.2 Appendix B lists the investment decisions made by Schroder Investment Management Limited during the period from 1st to 30th April 2013.

2.3 BlackRock made no purchases or sales in April 2013.

2.4 These appendices list purchases in order of transaction size and sales in order of the size of the gain or loss made on the transaction.

2.5 The Fund Managers make investment decisions based on the terms of Investment Management Agreements.

#### 3. Movement on Charitable Trust Funds

3.1 The following table shows the movement on the Charitable Trust funds for the current financial year, 2013/14, up to 14th June 2013:

2013/14	£ million
Mkt Value at 1 Apr 2013	187.6
Market Movement	(0.6)
Injection/(Withdrawal)	0.2
Mkt Value at 14 Jun 2013	<u>187.2</u>

(These are unaudited figures and are for information only.)

#### 4. Recommendation

4.1 The Trustees are asked to note this report.

## INSIGHT INVESTMENT MGMT REPORT - PURCHASES

NAME OF SECURITY	DATE	NUMBER OF SHARES	PURCHASE PRICE (£)
<b>UNITED KINGDOM</b>			
UK(GOVT OF) 1.75% BDS 07/09/22 GBP0.01	11/04/2013	1,522,000.00	1,518,255.88
UK(GOVT OF) 0.625% IDX/LKD 22/03/40 GBP	10/04/2013	325,000.00	480,135.05
ILF GBP LIQUIDITY FD	16/04/2013	395,000.00	395,000.00
UK(GOVT OF) 0.125% IDX LKD GILT DUE 22 MAR 2029 GBP0.01	30/04/2013	213,000.00	249,322.57
UK(GOVT OF) 0.75% IDX-LKD 22/3/34 GBP	17/04/2013	165,000.00	220,943.07
UK(GOVT OF) 1.25% IDX-LKD 22/11/27 GBP	22/04/2013	118,000.00	198,116.28
UK(GOVT OF) 0.625% IDX/LKD 22/03/40 GBP	24/04/2013	119,000.00	172,366.99
ILF GBP LIQUIDITY FD	02/04/2013	1,705.46	1,705.62
TOTAL UNITED KINGDOM			<u>3,235,845.46</u>

## OVERSEAS

BUNDESREPUB. DEUTSCHLAN 2.5% BDS 04/07/2044 EUR	10/04/2013	1,327,064.00	1,218,877.75
BUNDESREPUB. DEUTSCHLAN 2.5% BDS 04/07/2044 EUR	10/04/2013	824,936.00	757,332.62
TOTAL OVERSEAS			<u>1,976,210.37</u>

## INSIGHT INVESTMENT MGMT REPORT - SALES

NAME OF SECURITY	DATE	NUMBER OF SHARES	SELLING PRICE (£)	PROFIT/ (LOSS) (£)
<b>UNITED KINGDOM</b>				
UK(GOVT OF) 0.25% IDX LKD GILT 22/3/52	10/04/2013	382,000.00	479,975.50	99,712.17
UK(GOVT OF) 4.5% STK 07/12/2042 GBP0.01	10/04/2013	956,668.00	1,231,614.38	57,236.20
UK(GOVT OF) 4.5% STK 07/12/2042 GBP0.01	10/04/2013	599,332.00	769,901.89	34,179.13
UK(GOVT OF) 0.25% IDX LKD GILT 22/3/52	24/04/2013	96,000.00	116,199.01	20,635.45
UK(GOVT OF) 0.75% IDX-LKD 22/3/34 GBP	22/04/2013	103,000.00	138,320.70	20,187.66
UK(GOVT OF) 1.25% IDX-LKD 22/11/27 GBP	30/04/2013	173,000.00	290,911.66	12,088.75
ILF GBP LIQUIDITY FD	25/04/2013	55,000.00	55,000.00	0.00
ILF GBP LIQUIDITY FD	23/04/2013	60,000.00	60,000.00	0.00
ILF GBP LIQUIDITY FD	18/04/2013	220,000.00	220,000.00	0.00
ILF GBP LIQUIDITY FD	15/04/2013	385,000.00	385,000.00	0.00
UK(GOVT OF) 2.75% GILT 22/01/15 GBP	11/04/2013	1,447,000.00	1,511,695.37	-2,807.18
TOTAL UNITED KINGDOM			<u>5,258,618.51</u>	<u>241,232.18</u>
<b>OVERSEAS</b>				
NO OVERSEAS INVESTMENTS SOLD				
TOTAL OVERSEAS			<u>0.00</u>	<u>0.00</u>



**SCHRODERS REPORT - PURCHASES**

NAME OF SECURITY	DATE	NUMBER OF SHARES	PURCHASE PRICE (£)
<b>UNITED KINGDOM</b>			
REAL INCOME FD	28/03/2013	1,395.01	1,499,998.45
REAL INCOME FD	28/03/2013	93.00	99,999.18
TOTAL UNITED KINGDOM			<u>1,599,997.63</u>

**OVERSEAS**

NO OVERSEAS INVESTMENTS PURCHASED

TOTAL OVERSEAS			<u>0.00</u>
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**SCHRODERS REPORT - SALES**

NAME OF SECURITY	DATE	NUMBER OF SHARES	SELLING PRICE (£)	PROFIT/ (LOSS) (£)
<b>UNITED KINGDOM</b>				
NO UK INVESTMENTS SOLD				
TOTAL UNITED KINGDOM			<u>0.00</u>	<u>0.00</u>
<b>OVERSEAS</b>				
NO OVERSEAS INVESTMENTS SOLD				
TOTAL OVERSEAS			<u>0.00</u>	<u>0.00</u>



## REPORT

To Shetland Charitable Trust

27 June 2013

From: Chief Executive

Report No. CT1306037

### RECOMMENDED DISBURSEMENTS – SOCIAL CARE

#### 1. Background

- 1.1 This report concerns approvals by the Council's Director of Community Care Services in the period to 5 June 2013, in terms of Report Number CT/030/94, which was approved by the Trustees on 8 April 1994.

#### 2. Social Assistance Grant Scheme - £971.77

- 2.1 The Director of Community Care approved the following;-

	(£)
5 Social Assistance Grants of up to £2,000 (Appendix A)	971.77

- 2.2 The grants would be allocated from the Social Assistance Grant Scheme budget head.

#### 3. Recommendations

- 3.1 Trustees are asked to note the Social Assistance Grants referred to in paragraph 2.1, totalling £971.77

Shetland Charitable Trust  
Date: 17 June 2013  
Ref: EM/DS1

Report No: CT1306037

## Appendix A

### SOCIAL ASSISTANCE GRANT SCHEME at 5 June 2013

Funds available in 2013/2014	£ 5,000.00
Less previously allocated	£ 60.00

Less the following: -

<u>Reference</u>	<u>Amount</u>
13/14 02	£ 61.20
13/14 03	£ 50.60
13/14 04	£389.99
13/14 05	£239.99
13/14 06	£229.99

(2) Approval by Director of Community Care	£ 971.77
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Balance of Funds remaining	£ 3,968.23
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I confirm the above grants have been approved, for the relief of vulnerable persons in need by reason of age, ill health, disability or financial hardship.

Director of Community Care Services  
Agent for the Trustees of Shetland Charitable Trust

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## REPORT

To: Shetland Charitable Trust

27 June 2013

From: Financial Controller

Report: CT1306038

### CAPITAL WORKS BRIDGING LOAN SCHEME

#### 1. Introduction

- 1.1 This report updates Trustees on the Capital Works Bridging Loan Scheme.

#### 2. The Scheme

- 2.1 Trustees agreed, in the spring of 2010, to make up to £1 million available interest free to alleviate cash flow problems experienced by community organisations when waiting for funding from EU/Scottish Government SRDP/LEADER/ERDF and/or lottery grants to come through.
- 2.2 Funding for capital projects is only released once work has been completed and invoices paid. This creates an almost insurmountable cashflow burden for most organisations.

#### 3. Update

- 3.1 Appendix A lists each bridging loan made to date. Fourteen organisations have received a bridging loan, nine have fully repaid their loans and two have made part payments. In total £1,283,592 has been repaid. £222,240 remains due to be repaid by five organisations as they receive their grants.
- 3.2 Feedback on the scheme from organisations has been very positive.

#### 4. Financial Implications

- 4.1 There are no new implications arising from this report. However, it should not be forgotten that the provision of interest free loans does mean that the capital involved is not generating investment return. The lost return to the Trust is potentially about £35,000 pa.



**5. Conclusion**

5.1 Fourteen capital projects undertaken by community groups throughout Shetland might not have happened without the support of the Trust's scheme.

**6. Recommendation**

6.1 I recommend that Trustees note this report.

Reference: JPG/em/DC14  
Date: 17 June 2013

Report Number CT1306038

**Shetland Charitable Trust Capital Works Bridging Loan**

**CT1306038 – Appendix A**

<b>PROJECT</b>	<b>BRIDGING LOAN £</b>	<b>REPAID £</b>	<b>DUE TO SCT £</b>	<b>NOTE</b>
Burraoe Pier	25,650	25,650		
Ollaberry Hall	110,000	110,000		
Bressay Sports Park	114,537	114,537		
Scalloway Museum	345,000	345,000		This bridging loan has been fully repaid.
Fair Isle Hall	62,000	62,000		
Sandsayre Pier	170,000	170,000		
Sandness Hall	100,000	100,000		
Northmavine Club	26,640	20,000	6,640	The final instalment is expected to be repaid shortly.
Hillswick Hall	100,000	50,000	50,000	The final instalment is expected to be repaid shortly.
Fetlar Electric Minibus	35,600		35,600	The electric minibus is about to enter service, and the bridging loan is expected to be repaid shortly.
Mareel	276,505	276,505		
Sumburgh Lighthouse	120,000		120,000	
Aith Public Hall	9,900	9,900		This bridging loan has been fully repaid.
Germatwatt Centre	10,000		10,000	
<b>TOTALS</b>	<b>1,505,832</b>	<b>1,283,592</b>	<b>222,240</b>	





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**REPORT****To:** Shetland Charitable Trust

27 June 2013

**From:** Financial Controller

Report: CT1306039

**Payments to Trustees in the year to 31 March 2013****1. Introduction**

1.1 This report is presented to show the payments which have been made to Trustees in the year to 31 March 2013.

**2. Background**

2.1 Trustees are entitled by law and in terms of their Trust Deed, to "reimburse the Trustees out of the Trust Fund for all expenses reasonably incurred by them in connection with the administration of the Trust".

2.2 At their meeting on 28 May 2009, Trustees requested that the payments made to Trustees are published (Min Ref CT/39/09).

**3. Present Position**

3.1 A spreadsheet is attached as Appendix 1, showing the expenses which have been paid to Trustees in the year to 31 March 2013, totalling £5,070.98.

**4. Financial Implications**

4.1 A budget of £12,500 was set aside for payments to Trustees.

**5. Recommendation**

5.1 This report is for noting.

Reference: EMI/TA21/2

Report Number CT1306039

**Payments to Trustees for the year to 31 March 2013**

	<b>Position</b>	<b>Remuneration</b>	<b>Expenses</b>	<b>Total</b>	<b>Total 11/12</b>
		£	£	£	£
Mr W Manson	Chair to 3 May 2012	415.75	391.50	807.25	7,538.79
Mr J Henry	Vice chair to 3 May 2012	206.70		206.70	2,490.22
Mrs L Baisley	Trustee to 3 May 2012		87.40	87.40	250.20
Mr G Cleaver	Trustee to 11 Nov 2012		101.68	101.68	
Mr A Doull	Trustee to 3 May 2012		90.00	90.00	180.00
Mr A Duncan	Trustee to 3 May 2012		41.40	41.40	62.10
Mrs F Grains	Trustee to 3 May 2012		117.00	117.00	607.50
Mrs I Hawkins	Trustee to 30 Sept. 2011				25.60
Mr R Henderson	Trustee		488.02	488.02	188.20
Mr R Hunter	Chair wef 21 Feb 2013		214.50	214.50	
Mr R Nickerson	Trustee to 3 May 2012		102.60	102.60	197.60
Mr W Ratter	Chair 24 May 2012 – 21 Feb 2013		2,413.03	2,413.03	
Mr F Robertson	Trustee to 21 Feb 2012		151.20	151.20	57.60
Mr G Robinson	Trustee to 21 Feb 2012				
Mr J Simpson	Trustee to 3 May 2012				24.50
Mr J Smith	Trustee wef 21 Feb 2013		88.20	88.20	
Mr M G Smith	Trustee to 9 May 2013		113.40	113.40	
Mr T Smith	Trustee to 21 Feb 2013		48.60	48.60	
		622.45	4,448.53	5,070.98	11,622.31