



**THE COMPANIES ACT 2006**

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

**ARTICLES OF ASSOCIATION**

**of**

**SCOTTISH YOUTH HOSTELS ASSOCIATION**

**(Also known and trading as SYHA and Hostelling Scotland)**

**Scottish Charity SC013138 and Company SC310841**

**Proposed for Adoption at the Annual General Meeting on 4<sup>th</sup> 16<sup>th</sup>  
June~~September~~ 2018~~21~~**

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## DEFINITIONS

1. In these Articles:

<b>“Act”</b>	means the Companies Act 2006 and any reference in these Articles to a provision of the Act shall be taken to include any statutory modification or re-enactment of that provision which is in force at the time
<b>“Articles”</b>	means these Articles and any reference to “Article” shall be a reference to a specific article therein
<b>“Board”</b>	means the Board of Trustees for the time being of SYHA
<b>“Charitable purposes”</b>	means a purpose which constitutes a charitable purpose under Section 7 of the Charities and Trustee Investment (Scotland) Act 2005 and which is also regarded as a charitable purpose in relation to the application of the Taxes Acts
<b>“Electronic communication”</b>	has the same meaning as is assigned to that expression in the Electronic Communications Act 2000
<b>“Members”</b>	means the persons admitted to Membership of SYHA in terms of Article 8
<b>“SYHA”</b>	<del>means the Charity and Company</del> <u>means Scottish Youth Hostels Association, a private company limited by guarantee incorporated in Scotland with company number SC310841 and Scottish Charity number SC013138</u>
<b>“Trustees”</b>	means the Directors of SYHA
<b>“Person”</b>	means any individual, organisation or body including any authorised representative of any organisation or body.

## INTERPRETATION

2. Unless the context requires otherwise, words or expressions used in these Articles bear the same meaning as in the Act (as said Act is in force at the date of adoption of these Articles). For the avoidance of doubt:
- (a) headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles;
  - (b) 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:
    - i. any subordinate legislation from time to time made under it; and
    - ii. any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts;
  - (c) reference in these Articles to the singular shall be deemed to include the plural; and
  - (d) 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.

## OBJECTS AND ACTIVITIES

### Objects of SYHA

3. The objects for which SYHA is established are the advancement of education, for the public benefit, by helping all, but especially young people, to experience and appreciate the Scottish countryside, environment, natural heritage and places of historic and cultural interest in Scotland, and through the promotion of their health, recreation and education, particularly by providing low cost accommodation for them on their travels.

### Activities of SYHA

4. SYHA will pursue its charitable objects for the public benefit of all, but especially young people and families, by conducting activities such as:
  - (a) enabling guests of all nationalities, to inspire them on their journeys of self-discovery, adventure and learning, through the provision of:
    - i. affordable, comfortable, safe and secure quality-assured accommodation;
    - ii. related services and experiences;
    - iii. a warm and hospitable welcome;
  - (b) encouraging the promotion of:
    - i. knowledge, health, recreation, social responsibility and fellowship;
    - ii. access to and stewardship of Scotland's natural heritage, landscapes and places of historic and cultural interest;
    - iii. active participation in outdoor education, recreational activities and sport;
    - iv. information on local attractions, activities and travel;
    - v. membership of SYHA and registered youth organisations;
    - vi. participation in diverse volunteering activities to benefit society;
  - (c) operating in a:
    - i. socially, environmentally and economically sustainable way;
    - ii. non-political, secular, ethical and inclusive manner with integrity;
    - iii. progressive, equitable, non-discriminatory and just manner;
    - iv. proactive, inspiring and innovative style;
  - (d) collaborating in partnership with:
    - i. local communities, authorities and agencies to assist in the promotion of their area as a visitor destination;
    - ii. other likeminded organisations to promote the active development of education, recreation, life and social skills, health and wellbeing of individuals and within society more widely;
    - iii. other national and international organisations to assist in the promotion of responsible citizenship, greater human understanding, tolerance and social inclusion through the bringing together of individuals and groups, and to encourage an appreciation and respect for differing cultures, ethnic and social diversity.

## POWERS OF SYHA

### Powers of SYHA

5. SYHA in carrying out the above objects shall have and may exercise all or any of the following powers:
- (a) to undertake any activities that support the objects of SYHA and in particular to develop, manage or deliver services in furtherance of these objects;
  - (b) to promote companies or organisations whose activities may further the above objects, or may generate income to support the activities of SYHA, acquire and hold shares in such companies and carry out, in relation to any such company which is a subsidiary of SYHA, all such functions as may be associated with a holding company;
  - (c) to acquire and take over the whole or any part of the undertaking and liabilities of anybody holding property or rights which are suitable for SYHA's activities;
  - (d) to purchase, take on lease, hire, or otherwise acquire, any property or rights which are suitable for SYHA's activities;
  - (e) to improve, manage, develop, or otherwise deal with, all or any part of the property and rights of SYHA;
  - (f) to sell, let, hire out, license, or otherwise dispose of, all or any part of the property and rights of SYHA;
  - (g) to lend money and give credit (with or without security) and to grant guarantees and issue indemnities;
  - (h) to borrow money, and to give security in support of any such borrowings by SYHA, in support of any obligations undertaken by SYHA or in support of any guarantee issued by SYHA;
  - (i) to employ such staff as are considered appropriate for the proper conduct of SYHA's activities, and to make reasonable provision for the payment of pension and/or other benefits for members of staff, ex-members of staff and their dependants;
  - (j) to engage such consultants and advisers as are considered appropriate from time to time;
  - (k) to effect insurance of all kinds including officers' liability insurance;
  - (l) to invest any funds which are not immediately required for SYHA's activities in such investments as may be considered appropriate (and to dispose of, and vary, such investments);
  - (m) to liaise with other voluntary sector bodies, local authorities, UK or Scottish government departments and agencies, and other bodies, all with a view to furthering SYHA's objects;
  - (n) to establish and/or support any other charitable body, and to make donations for any charitable purpose falling within SYHA's objects;
  - (o) to take such steps as may be deemed appropriate for the purpose of raising funds for SYHA's activities;
  - (p) to accept grants, donations and legacies of all kinds (and to accept any

reasonable conditions attaching to them);

- (q) to oppose, or object to, any application or proceedings which may prejudice SYHA's interests;
- (r) to enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of SYHA, and to enter into any arrangement for co-operation or mutual assistance with any charitable body; and
- (s) to do anything which may be incidental or conducive to the furtherance of any of SYHA's objects.

## **APPLICATION OF INCOME AND PROPERTY**

6. The income and property of SYHA shall be applied solely towards the promotion of the objects of SYHA as set out in Article 3 above and subject to the following paragraphs 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 of SYHA. Nothing in these Articles shall prevent any payment in good faith by SYHA:
- (a) of out-of-pocket expenses incurred in carrying out duties by any Member, director, officer or employee of SYHA;
  - (b) reasonable payment in return for services rendered to SYHA;
  - (c) director/trustee indemnity insurance; and
  - (d) payment of benefits permitted in terms of the Charities and Trustee Investment (Scotland) Act 2005.

## **GENERAL**

### **Structure of the Company**

7. The structure of SYHA consists of:
- (a) Members – some of whom (see Article 8 below) have the right to attend and vote at the annual general meeting (and any other general meetings), and who also have important powers under the Articles of Association and the Companies Acts, including taking decisions in relation to changes to the Articles themselves, the election of Trustees in advance of the annual general meeting (see Article [1820](#)) and any proposals brought forward by the Trustees for the appointment of a Patron, Honorary Presidents and Vice Presidents or Honorary Life Member.
  - (b) Trustees – who are elected by the Membership (see Article [1820](#)) and/or co-opted by the Board (see Article [324](#)) are to hold regular meetings during the period between annual general meetings; in particular, the Trustees are responsible for governance, strategy and monitoring the operational activities and financial sustainability of SYHA; the Trustees are also Company Directors.

## **MEMBERSHIP**

### **Categories of Membership**

8. The following categories of membership shall be recognised by SYHA:

(a) Hostelling Members

Hostelling Membership shall be open to all and is confirmed by acceptance of the terms and conditions for Hostelling Membership applying from time to time. Hostelling Members shall be entitled to attend and vote at general meetings (on the basis of one vote per Hostelling Membership) and are entitled to put themselves forward to be nominated for election to the Board of Trustees.

(b) Temporary Members

Temporary Membership shall be open to all and is confirmed by acceptance of the terms and conditions for Temporary Membership applying from time to time. Temporary Members have no right to attend or vote at any general meetings and are not entitled to put themselves forward to be nominated for election to the Board of Trustees.

(c) Honorary Members

Honorary Membership means a Patron, Honorary President or Honorary Life Member who has been proposed as such by the Trustees and whose appointment is confirmed at the annual general meeting. Honorary Members shall be entitled to attend and vote at general meetings but are not entitled to put themselves forward to be nominated for election to the Board of Trustees.

(d) Associate Members

Associate Membership means those organisations that have been approved by the Trustees and are in sympathy with and wishing to support and collaborate with the objectives of SYHA, subject to acceptance of the terms and conditions for Associate Membership applying from time to time. Associate Members shall be entitled to attend and vote at general meetings (on the basis of one vote per Associate Membership) and are entitled to put themselves forward to be nominated for election to the Board of Trustees.

(e) Corporate Members

Corporate Membership means those organisations that have been approved by the Trustees and are in sympathy with and wishing to support and collaborate with the objectives of SYHA, subject to acceptance of the terms and conditions for Corporate Membership applying from time to time. Corporate Members may attend but are not entitled to vote at general meetings and are not entitled to put themselves forward to be nominated for election to the Board of Trustees.

9. The Trustees shall maintain a register of members, setting out the full name and address of each member, their category of membership, the date on which they were admitted to membership, and the date on which they ceased to be a member.

10. Membership is not transferable.

### **Termination of Membership**

11. Membership is terminated if:

- (a) the Member dies or, if an organisation, ceases to exist;
- (b) the Member resigns by written notice to SYHA;
- (c) any sum due by the Member to SYHA is not paid in full within six months of it falling due;
- (d) the Member has failed to renew and pay in full the membership subscription

due by the renewal date and in accordance with the then terms and conditions of membership;

- (e) the Member is removed from membership by a resolution of the Trustees that it is in the best interests of SYHA that his or her or its membership is terminated. A resolution to remove a Member from membership may only be passed if:
  - i. the Member has been given at least 21 days' notice in writing of the meeting of the Trustees at which the resolution will be proposed and the reasons why it is to be proposed;
  - ii. the Member or, at the option of the Member, the Member's representative (who need not be a member of SYHA) has been allowed to make written representations to the Trustees prior to the meeting.

## **GENERAL MEETINGS OF MEMBERS**

### **General Meetings**

- 12. The Trustees:
  - (a) shall convene an annual general meeting in each year;
  - (b) shall ensure that not more than 15 months elapse between one annual general meeting and the next;
  - (c) may convene a general meeting at any time;
  - (d) must convene a general meeting if there is a valid requisition by no less than five per cent of the Members from time to time; and
  - (e) may propose any appointment of a Patron, Honorary Presidents and Vice Presidents or Honorary Life Member.
- 13. The business of each annual general meeting shall include:
  - (a) a report by the Board on the activities of SYHA;
  - (b) consideration of the annual accounts of SYHA;
  - (c) confirmation of the election/re-election of Trustees by the Membership, as referred to in Articles 335 and 346;
  - (d) the appointment of Auditors;
  - (e) such other business as may be proposed by the Trustees or as may require to be discussed in terms of a requisition duly made in accordance with Article 12(d).

### **Notice of General Meetings**

- 14. At least ~~21~~14 clear days' notice must be given of an annual general meeting or general meeting and where:
  - (a) the term "clear days" in this Article shall be taken to mean that, in calculating the period of notice, the day after the notice is posted, (or, in the case of a notice contained in an electronic communication, the day after the time when it was sent) and also the day of the meeting, should be excluded;
  - ~~(b) any notice calling a meeting shall:~~
    - ~~(b) — specify the time and place of the meeting; and it shall:~~
      - i. specify the time and place of the meeting;
      - ii. specify the electronic means by which a member may participate in the meeting pursuant to Article 15;



- ~~i.iii.~~ indicate the general nature of the business to be dealt with at the meeting;  
~~and~~
  - ~~ii.iv.~~ if a special resolution (see Article 279) or a resolution requiring special notice under the Act is to be proposed, it shall also state that fact, giving the exact terms of the resolution;
- (c) a notice convening an annual general meeting shall specify that the meeting is to be an annual general meeting; any other general meeting shall be called a general meeting; and
- (d) notice of every general meeting shall be given either in writing or (where the party to whom notice is given has notified SYHA of an address to be used for the purpose of electronic communications) by way of an electronic communication to all the Members and Trustees, and to the auditors/independent examiners.

### Procedure at General Meetings

15. A Member may participate in a general meeting (including, for the avoidance of doubt, an annual general meeting) by means of electronic communication, provided that throughout the meeting all persons participating in the meeting are able to communicate interactively with all other parties participating in the meeting. Participation in this manner is deemed to constitute presence in person at the meeting.

~~15-16.~~ No business shall be dealt with at any general meeting unless a quorum is present and where:

- ~~(a)~~ the quorum for a general meeting shall be 20 Members entitled to vote and who are present:
  - ~~i.~~ -in person;
  - ~~ii.~~ ~~-or~~ by proxy;
  - ~~i.iii.~~ by electronic means pursuant to Article 15. and entitled to vote; and

- (b) if a quorum is not present as set out in Article 16 (a), within 30 minutes after the time at which a general meeting was due to commence - or if, during a meeting, a quorum ceases to be present - the meeting shall stand adjourned to such time and place as may be fixed by the Chair of the meeting.

~~16-17.~~ The Chair of SYHA shall (if present and willing to act as Chair) preside as Chair of each general meeting; but:

- (a) if the Chair is not present and willing to act as Chair within 30 minutes after the time at which the meeting was due to commence, the Members present at the meeting shall elect from among themselves the person who will act as Chair of that meeting; and
- (b) may, with the consent of the meeting, adjourn the meeting to such time and place as the Chair may determine.

18. Every Member shall have one vote, which (whether on a show of hands or on a secret ballot) must be given:

- ~~a)~~ -personally;
- ~~b)~~ by such electronic means as directed either:
  - ~~i.~~ in the notice of the general meeting; or
  - ~~ii.~~ by the Chair during that meeting; or
- ~~c)~~ ~~-or~~ by proxy.

~~17-19.~~ Any votes cast by proxy shall only be valid where the terms of Articles 224 to 268 below are complied with in full.

~~18-20.~~ The appointment of the Trustees at the annual general meeting shall be determined by a ballot of the Members to be conducted in advance of the meeting. Other resolutions may also be decided by a ballot of the Members if so decided by the Board.

If there are an equal number of votes for and against any resolution, the Chair of the meeting shall be entitled to a casting vote.

~~21.~~ A resolution put to the vote at a general meeting shall be decided on a show of hands unless one or more members are participating by electronic means, in which case the vote shall be conducted by such means as the Chair may direct, providing such means allow for all participating Members to exercise their vote.

~~19-22.~~ Notwithstanding the provisions of Article 21, a secret ballot ~~may be is-~~demanded by the Chair (or by at least two Members present in person at the meeting); in such case: a secret ballot may be demanded either before ~~the show of hands takes place,~~ or immediately after the result of the vote taken pursuant to Article 21 ~~show of hands~~ is declared.

~~20-23.~~ If a secret ballot is demanded, it shall be taken at the meeting and shall be conducted in such a manner as the Chair may direct; (provided any Member participating by electronic means shall be able to exercise their vote); the result of the ballot shall be declared at the meeting at which the ballot was demanded.

## Proxies

~~21-24.~~ A proxy appointed to attend, whether in person or by electronic means, -and vote at any meeting in place of a Member shall have the same right as the Member who appointed him/her to speak at the meeting. No person shall be entitled to act as a proxy who is not himself/herself a Member and entitled to be present in person or by electronic means and vote in his/her own right.

~~22-25.~~ An instrument appointing a proxy shall be in writing and shall be signed by the appointer or his/her attorney where applicable. The Trustees may, but shall not be required to, require evidence of the authority of any such attorney. The instrument appointing a proxy does not require to be witnessed.

~~23-26.~~ An instrument appointing a proxy must be left at SYHA's registered office or such other place (if any) specified for that purpose in the notice convening the meeting not less than forty-eight hours before the start time of the meeting or adjourned meeting (or in the case of a poll, before the time appointed for taking the poll) at which it is to be used, and in default it shall not be treated as valid.

~~24-27.~~ An instrument appointing a proxy shall be deemed to confer authority to demand, or join in demanding, a poll. The instrument appointing a proxy is also valid for any adjournment of the meeting to which it relates.

~~25-28.~~ A vote given by a proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the instrument of proxy was executed, provided that no intimation in writing of such death, insanity or revocation shall have been received by SYHA at the registered office before the commencement of the meeting or the adjourned meeting or poll at which the vote is given.

## Special Resolutions and Ordinary Resolutions

~~26-29.~~ For the purposes of these Articles, a "special resolution" means a resolution passed by 75% or more of the votes cast on the resolution at an annual general meeting or general meeting, providing proper notice of the meeting and of the intention to propose the resolution has been given in accordance with Article 14. For the avoidance of doubt, the reference to a 75% majority relates only to the number of votes cast in favour of the resolution as compared with the number of votes cast against the resolution, and accordingly no account shall be taken of abstentions or Members absent from the meeting.

27-30. In addition to the matters expressly referred to elsewhere in these Articles, the provisions of the Act allow SYHA, by special resolution:

- (a) to alter its name;
- (b) to alter its Objects or Activities; and
- (c) to alter any provision of these Articles or adopt new Articles of Association.

28-31. For the purposes of these Articles, an “ordinary resolution” means a resolution passed by majority vote (taking account only of those votes cast in favour as compared with those votes against and (as applicable) the Chair’s casting vote), at an annual general meeting or general meeting, providing proper notice of the meeting has been given in accordance with Article 14.

## **BOARD OF TRUSTEES**

### **Number of Trustees**

29-32. The maximum permitted number of Trustees serving on the Board at any time shall be twelve.

### **Eligibility and Maximum Period in Office**

30-33. The Trustees shall comprise such persons as may be elected as Trustees in terms of these Articles from time to time in the following manner:

- (a) 9 Trustees who shall be elected by the Members; and
- (b) 3 Trustees who shall be co-opted to the Board in terms of Article 324;

from which a Chair and up to two Vice Chairs will be elected in accordance with Article 546.

31-34. In addition to the Trustees elected by the Members in terms of Article 313(a), the Board may co-opt up to 3 further Trustees of SYHA for such periods as agreed but so that no co-opted Trustee may serve for a period in excess of nine years.

32-35. In the event that there are at any time less than nine Trustees who shall have been elected to the Board by the Members, the Trustees shall be entitled to co-opt additional Trustees up to the maximum permitted number of Trustees; subject to the proviso that the majority of Trustees serving at any time shall always consist of Trustees who have been elected by the Members.

33-36. At each Annual General Meeting one-third of the Trustees from time to time, or, if their number is not a multiple of three, then the number nearest one-third, shall retire from office. The Trustees to retire each year shall be those who have been longest in office since their last election or co-option, but as between persons who became Trustees on the same day, those to retire shall (unless the Trustees agree amongst themselves) be determined by lot.

34-37. Retiring Trustees shall be eligible for re-appointment in terms of these Articles to the Board for periods not exceeding in aggregate nine years from the date of their original appointment but thereafter they shall stand down for a period of at least one year following which they shall be eligible for re-election for a further and final period of three years. Notwithstanding the maximum periods of office for Trustees referred to in Article 324 and this Article 357, the Trustees shall be entitled, where they agree the circumstances to be appropriate, to extend the period of office applying to an individual co-opted Trustee for a further year, if satisfied that that would be in the best interests of the organisation.

35-38. Any casual vacancy on the Board may be filled by the Board and any person appointed to fill such a casual vacancy shall hold office until the conclusion of the next annual general meeting of SYHA and shall be eligible for election or co-option at that meeting.

36-39. Employees of SYHA (or anyone who has been an employee within the past five years) shall not be eligible to serve as a Trustee; a person who becomes an employee of SYHA shall automatically cease to be a Trustee.

### **Remuneration of Trustees**

37-40. SYHA may remunerate any Trustee in respect of work carried out by him/her on behalf of SYHA, provided always that SYHA complies with the conditions for remuneration set out in Section 67 of the Charities and Trustee Investment (Scotland) Act 2005.

### **Termination of Office**

38-41. A Trustee shall automatically vacate office if:

- (a) he/she ceases to be a Trustee through the operation of any provision of the Act or becomes prohibited by law from being a Trustee;
- (b) he/she is sequestrated;
- (c) he/she becomes debarred under any statutory provision from being involved in the management or control of a charity;
- (d) he/she becomes incapable for medical reasons of fulfilling the duties of his/her office and such incapacity is expected to continue for a period of more than six months;
- (e) he/she resigns office by notice to SYHA;
- (f) he/she is absent (without agreement of their fellow Trustees) from more than three consecutive meetings of the Trustees, and the Trustees resolve to remove him/her from office; or
- (g) he/she is removed from office by a resolution of the Trustees, in which case such resolution shall only be valid if:
  - (i) the Trustee who is the subject of the resolution is given reasonable prior written notice by the Trustees of the grounds upon which the resolution for his/her removal is to be proposed;
  - (ii) the Trustee concerned is given the opportunity to address the meeting of Trustees at which the resolution is proposed, prior to the resolution being put to the vote; and
  - (iii) at least two thirds (to the nearest round number) of the Trustees then in office (excluding the Trustee subject to the vote) vote in favour of the resolution.

### **Register of Trustees and Trustee Interests**

39-42. The Trustees shall maintain a register of Trustees, setting out full details of each Trustee, including the date on which he/she became a Trustee, the date on which any person ceased to hold office as a Trustee and details of all interests declared by Trustees.

### **Powers of Trustees**

40-43. Subject to the provisions of the Act and these Articles, and subject to any directions given by special resolution, SYHA and its assets and undertaking shall be managed by the Trustees, who may exercise all the powers of SYHA.

41-44. A meeting of the Trustees at which a quorum is present may exercise all the powers exercisable by the Trustees.

### **Declarations of Interest**

42-45. The Trustees may, in accordance with the requirements set out in Articles 4951 to 535, authorise any matter proposed to them by any Trustee which would, if not

authorised, involve or constitute a Trustee (an “Interested Trustee”) breaching or infringing his/her duty under section 175 of the Act to avoid conflicts of interest (the “Conflict”).

~~43-46.~~ Any such authorisation will be effective only if:

- (a) the matter in question, to the extent permitted by the Act, shall have been proposed by any Trustee for consideration at a meeting of the Board of Trustees in the same way that any other matter may be proposed to the Trustees under the provisions of these Articles or in such other manner as the Trustees may determine;
- (b) any requirement as to the quorum at the meeting of the Trustees at which the matter is considered is met without counting the Interested Trustee; and
- (c) the matter was agreed to without the Interested Trustee voting or would have been agreed to if the Interested Trustee had not been counted in the vote.

~~44-47.~~ Any authorisation of a matter under Articles ~~435~~ to ~~479~~ may (whether at the time of giving the authority or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
- (b) be subject to such terms and for such duration, or impose such limits or conditions as the Trustees may determine on the Interested Trustee; or
- (c) be terminated or varied by the Trustees at any time.

This will not affect anything done by the Trustee prior to such termination or variation in accordance with the terms of the authorisation.

~~45-48.~~ Where the Trustees authorise a Conflict they may provide, without limitation (whether at the time of giving the authority or subsequently) that the Trustee:

- (a) is excluded from discussions (whether at meetings of the Board of Trustees or otherwise) related to the Conflict;
- (b) is not given any documents or other information relating to the Conflict; or
- (c) may or may not vote (or may or may not be counted in the quorum) at any future meeting of Trustees in relation to any resolution relating to the Conflict.

Notwithstanding the fact that the Trustees have made provisions (or otherwise) under this Article, the Interested Trustee whose Conflict has been authorised shall not be in breach of his/her duties to SYHA where the Interested Trustee, of his/her own accord, does not attend any discussions, refuses to receive any documents or information relating to the Conflict or refuses to vote on any resolution relating to the Conflict (or refuses to do or does any similar action).

~~46-49.~~ Where the Trustees authorise a Conflict:

- (a) the Interested Trustee will be obliged to conduct himself/herself in accordance with any terms imposed by the Trustees in relation to the Conflict;
- (b) the Interested Trustee will not breach or infringe any duty he/she owes to SYHA by virtue of sections 171 to 177 of the Act provided he/she acts in accordance with such terms, limits and conditions (if any) as the Trustees may impose in respect of its authorisation;
- (c) the Trustees may decide (whether at the time of giving the authority or subsequently) that, if a Trustee has obtained any information through his/her involvement in the Conflict otherwise than as a Trustee of SYHA and in respect of which he/she owes a duty of confidentiality to another person, the Trustee is under no obligation to:

- i. disclose such information to the Trustees or to any Trustee or other officer or employee of SYHA;
- ii. use or apply any such information in performing his/her duties as a Trustee;

where to do so would amount to a breach of that confidence and, accordingly, by not disclosing, using or applying such information, the Trustee shall not be in breach or infringe his/her duties to SYHA in terms of Sections 171 to 177 of the Act.

47-50. A Trustee is not required, by reason of being a Trustee (or because of the fiduciary relationship established by reason of being a Trustee) to account to SYHA for any remuneration, profit or other benefit which he/she derives from or in connection with a relationship involving a Conflict which has been authorised by the Trustees or by SYHA (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract, agreement or arrangement relating to a Conflict that has been authorised by the Board of Trustees shall be liable to be avoided on such grounds.

### **Personal Interests**

48-51. A Trustee who is in any way, whether directly or indirectly, interested in a proposed transaction or arrangement with SYHA shall declare the nature and extent of his/her interest to the other Trustees before SYHA enters into the transaction or arrangement in accordance with the Act. For the purposes of this Article, a Trustee shall be deemed to have a personal interest in an arrangement if any partner or other close relative of his/hers or any firm of which he/she is a partner or any limited company of which he/she is a substantial shareholder or Trustee (or any other party who/which is deemed to be connected with him/her for the purposes of the Act), has a personal interest in that arrangement.

49-52. A Trustee who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by SYHA shall declare the nature and extent of his/her interest to the other Trustees as soon as is reasonably practicable in accordance with the Act, unless the interest has already been declared under Article 4951.

50-53. Subject, where applicable, to the disclosures required in terms of these Articles, and to any terms and conditions imposed by the Trustees in accordance with these Articles, a Trustee shall be entitled to vote in respect of any proposed or existing transaction or arrangement with SYHA in which he/she is interested and if he/she shall do so his vote shall be counted and he/she shall be taken into account in ascertaining whether a quorum is present.

51-54. A Trustee need not declare an interest under Articles 4951 and 502 as the case may be:

- (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- (b) of which the Trustee is not aware, although for this purpose a Trustee is treated as being aware of matters of which he/she ought reasonably to be aware;
- (c) if, or to the extent that, the other Trustees are already aware of it, and for this purpose the other Trustees are treated as aware of anything of which they ought reasonably to be aware; or
- (d) if, or to the extent that, it concerns the terms of his/her service contract that have been, or are to be, considered at a meeting of the Board of Trustees.

55. Provided he/she has declared his/her interest a Trustee will not be debarred from entering into an arrangement with SYHA in which he/she has a personal interest and



may retain any personal benefit which he/she gains from his/her participation in that arrangement.

## **BOARD OF TRUSTEE MEETINGS**

### **Procedure at Meetings**

52-56. The Trustees will elect a Chair and up to two Vice-Chairs of the Board of Trustees and may at any time revoke such appointments.

53-57. Unless he/she is unwilling to do so, the Chair shall preside as Chair at every Trustee and Members' meeting at which he/she is present; if the Chair is unwilling to act as Chair or is not present within 5 minutes after the time when the meeting was due to commence, one of the Vice Chairs shall act as Chair of the meeting, failing whom the Trustees present shall elect from among themselves the person who will act as Chair of the meeting.

54-58. Board meetings will be held on a regular basis. Any Trustee may request a meeting of the Trustees or invite the Secretary to request a meeting of the Trustees for any justifiable purpose.

55-59. The Trustees can agree to confirm decisions by telephone, email or written resolution as an alternative to confirming decisions at a meeting.

56-60. A Trustee may participate in a meeting of the Trustees (or of a committee of Trustees) by means of electronic communication provided that throughout the meeting all persons participating in the meeting are able to communicate interactively with all other parties participating in the meeting. Participation in this manner is deemed to constitute presence in person at the meeting.

57-61. Questions arising at a meeting of the Trustees shall be decided by a majority of votes; if an equality of votes arises, the Chair of the meeting shall have a casting vote.

58-62. No business shall be dealt with at a meeting of the Trustees unless a quorum is present; the quorum for meetings of the Trustees shall be five. If at any time the number of Trustees in office falls below the number fixed as the quorum, the remaining Trustee(s) may act only for the purpose of filling vacancies or of calling a general meeting.

59-63. The Trustees may, at their discretion, allow any person who they reasonably consider appropriate, to attend and speak at any meeting of the Trustees; for the avoidance of doubt, any such person who is invited to attend a Trustees' meeting shall not be entitled to vote.

60-64. A Trustee shall not vote at a Trustees' meeting (or at a meeting of a committee) on any resolution concerning a matter in which he/she has a personal interest which conflicts (or may conflict) with the interests of SYHA unless authorised to do so by the other Trustees in accordance with procedures set out in these Articles.

61-65. A Trustee shall not be counted in the quorum present at a meeting in relation to a resolution on which he/she is not entitled to vote.

62-66. The Trustees may be paid all travelling and other expenses reasonably incurred by them in connection with their attendance at meetings of the Trustees, general

meetings, or meetings of committees, or otherwise in connection with the carrying-out of their duties.

~~63-67.~~ SYHA may, by ordinary resolution, suspend or relax to any extent – either generally or in relation to any particular matter – the provisions of Articles ~~5961~~ to ~~635~~.

### **Delegation to Sub-committees**

~~64-68.~~ The Trustees may delegate any of their powers to any sub-committee consisting of two or more Trustees and such other persons (if any) as the Trustees may determine; they may also delegate to the Chair of SYHA (or the holder of any other post) such of their powers as they may consider appropriate. Any delegation of powers under this Article may be made subject to:

- (a) such conditions as the Trustees may impose and may be revoked or altered; and
- (b) such rules of procedure for any sub-committee as prescribed by the Trustees.

## **ADMINISTRATION**

### **Company Secretary**

~~65-69.~~ If it is so desired, the Trustees shall appoint a Secretary for such term, at such remuneration (if any) and upon such conditions as they may think fit, and may be removed by the Trustees at any time.

### **Minutes**

~~66-70.~~ The Trustees shall ensure that minutes are made of all proceedings at general meetings, Trustees' meetings and meetings of committees; a minute of any meeting shall include the names of those present, and (as far as possible) shall be signed by the chair of the meeting.

### **Accounting Records and Audit/Independent Examination**

~~67-71.~~ The Trustees shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements for both companies and charities.

~~68-72.~~ Auditors or Independent Examiners, as appropriate, shall be appointed and their duties regulated in accordance with the provisions of the Act and of the Charities and Trustee Investment (Scotland) Act 2005.

### **Standing Orders**

~~69-73.~~ The operation and remit of the Board and any sub-committees of the Board shall be governed by such Standing Orders as may be promulgated by the Board from time to time which shall also provide for the governance and management of SYHA.

### **Notices**

~~70.~~ ~~Any notice, document or other information shall be deemed served on or delivered to the intended recipient:~~

- ~~(a) if properly addressed and sent by pre-paid UK first class post to an address (last intimated by him/her/them to SYHA) in the UK 48 hours after it is posted;~~
- ~~(b) a Member whose address is not within the United Kingdom shall be entitled to receive notices at such address and such notices shall be sent to the Member~~



~~by airmail. Notices sent overseas shall be deemed to be given at the expiry of a period of 5 days after the envelope containing it was posted. Sections 1143 to 1148 together with schedules 4 and 5 of the Act shall apply;~~

- ~~(c) if properly addressed and delivered by hand, when it was given or left at the appropriate address;~~
- ~~(d) if properly addressed and sent or supplied by electronic mail (e-mail) (in the case of a Member who has notified the Trust of an address to be used for the purpose of electronic communications) one hour after the e-mail was sent or supplied; and~~
- ~~(e) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is so deemed to have received) notice of the fact that the material is on the website.~~

~~For the purposes of this Article, no account will be taken of any part of a day that is not a business day (where a "business day" means any day (other than a Saturday, Sunday or public holiday in Scotland) on which clearing banks in Edinburgh are generally open for business). In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purposes of the Act.~~

## MISCELLANEOUS

### Winding-up

71.74. If SYHA is dissolved or wound up, the liquidator shall, if there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, then the property shall not be paid to or distributed among the Board or Members of SYHA, but shall be paid, given, transferred or distributed to such body or bodies to be determined by the Board following consultation with the Members of SYHA at the time of the dissolution or winding up:

- (a) being a charitable body or bodies registered in Scotland having objects so far as practicable similar to the Objects of SYHA; and
- (b) which shall prohibit the distribution of its or their assets, income and property among its or their Members to an extent at least as great as is imposed on SYHA;

or failing which such other charitable body or bodies as are willing to take the property of SYHA.

### Indemnity

72.75. Without prejudice to Articles ~~756~~ to ~~778~~, and subject to the provisions of and to the extent permitted by the Act, but without prejudice to any indemnity to which the person concerned may otherwise be entitled, every Trustee or other officer of SYHA (other than any person, whether an officer or not, engaged by SYHA as auditor or independent examiner) shall be indemnified out of the assets of SYHA against any loss or liability incurred by him for negligence, default, breach of duty or breach of trust in relation to the affairs of SYHA and the execution of his/her duties, provided that this Article shall be deemed not to provide for, or entitle any such person to, indemnification to the extent that it would cause this Article, or any element of it, to be treated as void under the Act.

73.76. Subject to the Act and any agreement made between a Trustee and SYHA in accordance with the Act, a Trustee shall be indemnified out of SYHA's assets against any expenses which that Trustee incurs in connection with:

- (a) civil proceedings in relation to SYHA (unless judgment is given against the Trustee and the judgment is final);
- (b) criminal proceedings in relation to SYHA (unless the Trustee is convicted and the

conviction is final); or

- (c) any application for relief from liability for negligence, default, breach of duty or breach of trust in relation to SYHA (unless the court refuses to grant the Trustee relief, and the refusal is final).

74.77. For the purposes of Article ~~756~~ a judgment, conviction or refusal of relief becomes final if:

- (a) the period for bringing an appeal (or any further appeal) has ended; and
- (b) any appeal brought is determined, abandoned or otherwise ceases to have effect.

75.78. The indemnity contained in Article ~~745~~ shall be subject to the provisions of the Act and is without prejudice to any other indemnity to which a Trustee may otherwise be entitled.

### **Insurance**

76.79. Subject to the Act, the Trustees may purchase and maintain insurance, at the expense of SYHA, for the benefit of any relevant officer in respect of any relevant loss.

In this Article:

- (a) a "relevant officer" means any Trustee or former Trustee of SYHA, any other officer or employee or former officer or employee of SYHA or its associate (but not the auditors), or any trustee of a pension fund or employee benefits trust of SYHA;
- (b) a "relevant loss" means any loss or expenditure which has been or may be incurred by a relevant officer in connection with that relevant officer's duties, powers or responsibilities in relation to SYHA or an associate or its pension fund or employee benefits trust; and
- (c) an "associate" means any subsidiary or subsidiary undertaking or holding Company of such Company and any other subsidiary or subsidiary undertaking of any holding Company of such Company ("holding Company" and "subsidiary company" having the meanings set out in section 1159 and Schedule 6 of the Act).

### **Liability of Members**

77.80. The liability of the Members is limited to One pound. Every Member of SYHA undertakes to contribute to the assets of SYHA in the event of the same being wound up while he/she is a Member, or within one year after he/she ceases to be a Member, for payment of the:

- (a) debts and liabilities of SYHA contracted before he/she ceases to be a Member;
- (b) costs, charges and expenses of winding up,

and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding £1.