

The Ayrshire Community Trust

# The Ayrshire Community Trust Memorandum And Articles of Association

2011

The Companies Act 1985

MEMORANDUM OF ASSOCIATION  
of  
THE AYRSHIRE COMMUNITY TRUST

A Company Limited by Guarantee and not having a Share Capital

- 1) The name of the Company is the "The Ayrshire Community Trust"(hereinafter called "TACT").
- 2) The registered office of The Ayrshire Community Trust will be situated in Scotland.
- 3) The objects for which TACT is established are:
  - a) To promote any charitable purpose for the benefit of the inhabitants of Ayrshire, its environs and in particular the advancement of education, the furtherance of health, the relief of poverty and unemployment.
  - b) To promote and organise cooperation in the achievement of the above purposes and, to that end, bring together in council representatives of voluntary organisations and statutory authorities engaged in the furtherance of the above purposes within Ayrshire and environs.
  - c) To do all other things as will properly attain the above purpose without discrimination.

In pursuance of those aims but not otherwise TACT shall seek to:

- I. To promote, support and develop the value of volunteering.
- II. Support and develop the community and voluntary sector
- III. TACT will encourage the development of a social enterprise culture.
- IV. Encourage organisations to work together
- V. Develop new ways of meeting need together with statutory bodies
- VI. Champion best practice within the third sector.

In furtherance of the said objects but not further or otherwise TACT shall have the power to:

- a) To purchase, take on lease or in exchange, hire or otherwise acquire real or personal property and rights or privileges necessary for the promotion of its objects and to construct, maintain and alter buildings and erections necessary for the work of TACT.
- b) Subject to such consents as may be required by law, to sell, let, mortgage, dispose of or turn to account all or any of the property or assets of TACT as may be thought expedient with a view to the promotion of its objects.
- c) To undertake and execute any charitable trusts which may lawfully be undertaken by TACT and may be conducive to its objects.
- d) Subject to such consents as may be required by law, to borrow or raise money for the purpose of TACT on such terms and on such security as may be thought fit.
- e) To invest the monies of TACT not immediately required for its purpose in or upon such investments, securities or properties as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided.
- f) To establish and support or aid in the establishment and support of any Charity, Association or Institution and to subscribe or guarantee any money for charitable purposes in any way connected with the purposes of TACT or calculated to further its objects.
- g) To take any gift of property whether or not subject to any special Trust for any one or more of the objects of TACT.
- h) To establish or acquire shares in trading companies which shall covenant their profits to TACT, to transfer to and vest therein respectively the TACT'S publications, conferences and employment agency activities and subject to charging proper rates of interest, to advance and lend money with or without security to any such company.

- i) To do all such other things as shall further the attainment of the said objects or any of them. Provided always, and it is hereby declared that TACT is established for charitable purposes only in the legal meaning of that phrase, that its property and income shall be held and applied for those purposes only, and that all the objects and powers of TACT set forth in this Memorandum shall be construed as limited by the foregoing terms of this provision which shall be treated as overriding in effect and as governing all the provisions of this Memorandum notwithstanding anything expressed or implied therein to the contrary provided that:
    - I. In case TACT shall take or hold any property which may be subject to any trusts, TACT shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts.
    - II. TACT's objects shall not extend to the regulation of relations between workers and employers or organisations of workers and organisations of employers.
    - III. TACT shall take or hold any property subject to the jurisdiction of the Charity Commissioners for Scotland; TACT shall not sell, mortgage or lease the same without such authority, approval or consent as maybe required by law; and as regards any such property the Board of Directors of TACT shall be chargeable for any such property that may come into their hands and shall be answerable and accountable for their own acts, receipts, neglects and defaults and for the due administration of such property in the same manner and to the same extent as they would have been if no incorporation had been effected, and the incorporation of TACT shall not diminish or impair any control or authority exercisable by the Office of Scottish Charities Regulator over such Board of Directors, but they shall as regards any such property be subject jointly and separately to such control or authority as if TACT were not incorporated.
  - j) To make payments towards insurance for any director, Officer or Auditor against any liability as is referred to in Section 310(1) of the Companies Act.
4. To apply solely towards the promotion of the objects of TACT as set forth in this Memorandum of Association, the income and property of TACT whencesoever derived, and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the members of TACT. Provided that nothing herein shall prevent the payment, in good faith, of reasonable and proper remuneration to any officer or servant (not being members of the Board of Directors) of TACT or to any member of TACT, nor prevent the payment of interest on money lent by any member of TACT or its Board of Directors at a rate not exceeding 2% less than the base rate of Lloyds Bank plc or 3% whichever is the greater or reasonable and proper rent for premises demised or let by any member to TACT, but so that no member of the Board of TACT shall be appointed to any salaried office of TACT or any office of TACT paid by fees, and that no remuneration or other benefit in money or monies' worth shall be given by TACT to any member of the Board, except repayment of out-of pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to TACT; provided that the provision last aforesaid shall not apply to any payment to any railway, gas, electric lighting, water, cable or telephone company of which a member of The Board may be a member, or any other company in which such member shall not hold more than one hundredth part of the capital, and such member shall not be bound to account for any share of profit he may receive in respect of any such payment.
5. The liability of the members is limited.
6. Every member of TACT undertakes to contribute to the assets of TACT, in the event of the same being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of TACT contracted before he ceases to be a member, and of the 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.

7. Any Director for the time being here of being a solicitor or other person engaged in any profession shall be entitled to charge and be paid all usual professional or other charges for work done by him or his firm in connection with the execution of the trusts thereof.
8. No addition, alteration or amendments shall be made which would cause TACT at any time to cease being a charity in law.
9. If upon the winding-up or dissolution of TACT there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among members of TACT, but shall be given or transferred to some other Institution or Institutions established for Charitable purposes only and having objects similar to the objects of TACT and which shall prohibit the distribution of its or their income and property among its members to an extent at least as great as is imposed on TACT under or by the virtue of Clause 4 hereof, such Institution or Institutions to be determined by the members of TACT at or before the time of dissolution and, if and so far as effect cannot be given to such provision, then to some charitable object.
10. True accounts shall be kept of the sums of money received and expended by TACT and the matters in respect of which such receipt and expenditure take place, and of the property, credits and liability of TACT and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulations of TACT for the time being in force shall be open to the inspections of the members. Once at least in every year the Accounts of TACT shall be examined and the correctness of the balance sheet ascertained by one or more properly qualified auditor or auditors.

TACT Memorandum and Articles

The Companies Acts 1985 to 1989

ARTICLES OF ASSOCIATION  
of  
THE AYRSHIRE COMMUNITY TRUST

A Company Limited by Guarantee and not having a Share Capital  
(As adopted by a Special Resolution passed on 23<sup>rd</sup> September 2009)

1. GENERAL

In these Articles the words standing in the first column of the following Table shall bear the meaning set opposite to them respectively in the second column of the Table, if not inconsistent with the context:-

TABLE

WORDS	MEANINGS
The Act	The Companies Act 1985 and any statutory re-enactment or modification to it
These Articles	The Articles of Association for the time being in force
Clear Days	The period excluding the day when notice is given or deemed to be given and the day for which it is given or on which it is to take place.
Board	The Board of Directors for The Ayrshire Community Trust
TACT	The Ayrshire Community Trust
Member	Means a member of TACT for the time being admitted to membership subject to Articles 3 to 10
Month	Calendar month
Office	The registered office of TACT
Register	The Register of Members
United Kingdom	Great Britain and Northern Ireland

Words importing the singular include the plural, and vice versa. Words importing the masculine include the feminine. Words importing persons include corporations.

Subject as aforesaid, any words or expressions defined in the Act shall, if not inconsistent with the context, bear the same meanings in these Articles.

## 2. PURPOSE

The Ayrshire Community Trust is established for the purposes expressed in the Memorandum of Association.

## 3. GENERAL MEMBERS

- a) The number of members with which TACT proposes to be registered is unlimited.
- b) Membership of TACT shall be open to organisations upon receipt of an appropriately completed registration form. All fees charged for registration shall be determined annually by the Board of TACT.
- c) The Board may, at its discretion, refuse to grant membership.
- d) TACT shall keep a register and index of its members as required by Section 352, 353 and 354 of the Act and each member of TACT shall either sign a written form of consent or the Register upon becoming a Member.
- e) No member unless authorised by TACT shall take any public action or make any public announcement in the name of TACT or otherwise do anything directly or indirectly to represent that any proposal, action or statement of facts has the approval of TACT.
- f) Every member shall continue as such until one of the following events shall happen:
  - (i) They shall resign by notice in writing.
  - (ii) They shall be removed by a two third majority of those present and voting at a duly convened meeting of the Board for conduct prejudicial to TACT, its Board or staff provided that any member whose expulsion is proposed shall have the right to make representations to the meeting at which the decision is made.

## 4. GENERAL MEETINGS

- a. TACT shall hold a General Meeting in every calendar year as its Annual General Meeting at such time and place as may be determined by the Board and shall specify the meeting as such in the notice calling it, provided that every Annual General Meeting except the first shall be held not less than nine and not more than fifteen Months after the holding of the previous Annual General Meeting.
- b. All General Meetings, other than Annual General Meetings, shall be called Extraordinary General Meetings.
- c. The Board may whenever it thinks fit convene an Extraordinary General Meeting, and an Extraordinary General Meeting shall also be convened on such requisition of Ordinary Members, or in default may be convened by such requisitionists, as provided by section 368 of the Act.
- d. The notice of any Extraordinary General Meeting shall specify the place, day and time of the Extraordinary General Meeting and the general nature of the business to be transacted at such Extraordinary General Meeting and shall be given in the manner hereinafter mentioned to such persons (including the auditors) as are under these Articles or under the Act entitled to receive such notice.
- e. The period of notice to convene an Annual General or an Extraordinary General Meeting shall be not less than 21 Clear Days provided that with the consent of all the Members having the right to attend and vote at it, or of such requisite majority of them as is prescribed by the Act, an

Extraordinary General Meeting may be convened by such shorter period of notice as such Members may agree.

- f. The accidental omission to give notice of an Extraordinary General Meeting to, or the non-receipt of such notice by, any person entitled to receive notice of it shall not invalidate any resolution passed, or proceedings had, at any Extraordinary General Meeting.
- g. All business shall be deemed special that is transacted at an Extraordinary General Meeting, and all business that is transacted at an Annual General Meeting shall also be deemed special with the exception of the consideration of the income and expenditure accounts, the balance sheet, the reports of the Board and of the auditors, the election of members of the Board, and the appointment of, and the fixing of remuneration of, the auditors.

## 5. PROCEEDINGS AT EXTRAORDINARYGENERAL MEETINGS

- a. No business shall be transacted at any Extraordinary General Meeting unless a quorum is present when the meeting proceeds to business. Save as herein otherwise provided, 10 Ordinary Members personally present shall be a quorum.
- b. If within half-an-hour from the time appointed for the holding of a Extraordinary General Meeting a quorum is not present, the meeting, if convened on the requisition of Ordinary Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place, or such other place as the members may determine, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Ordinary Members present shall be a quorum.
- c. The Chairperson or Vice Chairperson or a member of the Board nominated by the Chairperson of the Board in that order shall preside as Chairperson of every Extraordinary General Meeting, but if there be no Chairperson or if at any Extraordinary General Meeting none of them shall be present within fifteen minutes after the time appointed for holding the Extraordinary General Meeting, or shall be willing to preside, the Ordinary Members present shall choose some member of the Board, or if no member of the Board is present or if all the members of the Board present decline to take the Chair, they shall choose some ordinary Member of TACT who shall be present to preside.
- d. The Chairperson may, with the consent of any Extraordinary General Meeting at which a quorum is present (and shall if so directed by the Extraordinary General Meeting), adjourn the Extraordinary General Meeting from time to time, and from place to place, but no business shall be transacted at any adjourned Extraordinary General Meeting other than business which might have been transacted at the Extraordinary General Meeting from which the adjournment took place. Whenever a Extraordinary General Meeting is adjourned for thirty days or more, notice of the adjourned Extraordinary General Meeting shall be given in the same manner as of an original Extraordinary General Meeting. Save as aforesaid, ordinary Members shall not be entitled to any notice of an adjournment, or of the business to be transacted at an adjourned Extraordinary General Meeting.

## 6. DELEGATED POWERS

- a. Every Member of TACT has the option to be elected to a directorship of the Company for the purpose of the Companies Act.
- b. The members shall appoint a Board of Directors to act as an Executive Committee and any such sub-committees as it shall think fit to deal with the general operation and management of the business of the Company and such other tasks as may arise from time to time.
- c. The Board and Sub-Committee shall only be entitled to exercise such powers and carry out such tasks as are specifically delegated by the membership and shall provide regular reports to the members as to its activities at the Annual General Meeting or if required at an Extra-ordinary Meeting.
- d. The members shall determine all rules and regulations in relation to the operation of the Board and any such sub-committees.

- e. The Quorum for Board meetings shall be three.

## 7. BOARD MEMBERSHIP

The Board of TACT, which has a minimum of three and a maximum of fifteen directors, shall consist of:

- (i) Members elected from amongst the membership of TACT.
  - (ii) Volunteers from the local communities in Ayrshire whose application is approved by the Board and are subsequently interviewed and vetted by Chair of the Board and Senior Staff member.
  - (iii) Up to three additional co-opted members whose expertise and knowledge is deemed necessary for the Board to operate.
- a) At each AGM all of the board members elected / appointed under point 7 (i) (ii) and (iii) shall retire from office – but shall then be eligible for re-election.
  - b) Co-opted members will serve until the next AGM at which elections are held, but will be eligible for further co-option, to a maximum of two additional co-opted terms. Elections to the Board shall be open and transparent.
  - c) Any Board member failing to attend, or formally notify apology in advance of, Board Meetings for a period of one year shall be deemed to have resigned from the Board, unless the Board at its absolute discretion shall decide otherwise.

## 8. INDEMNITY

- a) Subject to the provisions of the Act, every member of the Board shall be indemnified out of the assets of TACT against any liability incurred by him in that capacity in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the Court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of TACT.
- b) TACT shall be empowered to provide indemnity insurance to cover the liability of the members of the Board (or any of them) which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to TACT, PROVIDED THAT any such insurance shall not extend to any claim arising from any act or omission which the members of the Board (or any of them) knew to be a breach of trust or breach of duty or which was committed by the members of the Board (or any of them) in reckless disregard of whether it was a breach of trust or breach of duty or not.

## 9. MINUTES

The Board shall cause proper minutes to be made of all proceedings of all meetings of the Board and of any sub-committees, and all business transacted at such meetings, and any such minutes of any such meeting, if purporting to be signed by the Chairperson of such meeting, or by the Chairperson of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts stated in them.

## 10. ACCOUNTS

The Board shall cause proper books of account to be kept with respect to:

- a) All sums of money received and expended by TACT and the matters in respect of which such receipts and expenditure take place;
- b) All sales and purchases of goods by TACT; and the assets and liabilities of TACT.
- c) Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the affairs of TACT and to explain its transactions.
- d) The books of account shall be kept at the Office or, subject to section 222 of the Act, at such other place or places as the Board shall think fit, and shall always be open to the inspection of the members of TACT.



- e) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of TACT shall be open to the inspection of Members not being members of the Board, and no person who is not a member of TACT shall have any right of inspecting any account or book or document of TACT except as conferred by statute, or authorised by the Board, or by the General Membership.
- f) Subject to clause 10g, the signatures of two out of four signatories appointed by the board will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the organisation; and for amounts greater than that stipulated by the Board at least one out of the two signatures must be the signature of a Board Member.
- g) Where the organisation uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account must be consistent with the approach reflected in clause 10f.

#### 11. SECRETARY

Subject to Section 286 of the Act a Secretary shall be appointed by the Company for such term at such remuneration (if any) and upon such conditions as the Company may think fit.

#### 12. DISSOLUTION

If the organisation is to be dissolved, the winding-up process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005. For the avoidance of doubt, no part of the income or property of the organisation may be paid or transferred (directly or indirectly) to the members - either in the course of the organisation's existence or on dissolution - except where this is done in direct furtherance of the organisation's charitable aims.

#### 13. ALTERATIONS TO THE MEMORANDUM AND ARTICLES

- a. These memorandums may (subject to clause 13b) be altered
  - i. by a resolution passed by not less than two thirds of those voting at a members' meeting - but only if proper notice was given in accordance with clauses 4, 5,& 12
  - or
  - ii. by a resolution agreed to in writing or by email passed unanimously by the members
- b. The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (e.g. change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).
- c. References in this document to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include
  - i. any statutory provision which adds to, modifies or replaces that Act;
  - ii. and any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under (a) above.