



# THE CABRACH TRUST

*A Company Limited by Guarantee*

Company No. SC409596

Incorporated 18 October 2011

Scottish Charity No. SC043771

## ARTICLES OF ASSOCIATION

As adopted 18 November 2020



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The Companies Act 2006  
*Articles of Association of*

**THE CABRACH TRUST**

A COMPANY LIMITED BY GUARANTEE  
*and not having a share capital*

**1. GENERAL**

- (a) Words and expressions used in these Articles shall have the meanings attributed to them in Article 16. References to “the Trust” mean the company THE CABRACH TRUST.
- (b) These Articles supersede any model Articles contained within the Companies Act or associated regulations, and any previous Articles of the Trust.

**2. CHARITABLE PURPOSES & POWERS**

**2.1 Purposes**

The Charitable Purposes of the Trust (“the Charitable Purposes”) are wholly charitable and are to facilitate rural regeneration, for public benefit, within and around the Cabrach Area, including the advancement of education and the arts, heritage and culture through the following activities—

- (a) The development and operation of an educational visitor centre explaining the history and heritage of whisky distilling in the local area, all with the intention of attracting and educating people visiting the Cabrach Area or who live locally.
- (b) Providing training and education (particularly for those living in the Cabrach Area) in a wide range of vocational skills with, among other things, the aim to create, preserve and maintain traditional skills and techniques that have historically been used in rural Scotland.
- (c) Promoting the operation and/or support of other charitable projects and programmes for the benefit of the community, and particularly projects and programmes that will be valuable to those living in the local area.

**2.2 Powers**

In furtherance of the above objects, but not otherwise, the Trust has the following powers—

- (a) To promote companies whose activities may further one or more of the above objects, or may generate income to support the activities of the Trust, acquire and hold shares in such companies and carry out, in relation to any such company which is a subsidiary of the Trust, all such functions as may be associated with a holding company.
- (b) To acquire and take over the whole or any part of the undertaking and liabilities of any body holding property or rights which are suitable for the Trust’s activities.
- (c) To purchase, take on lease, hire, or otherwise acquire, any property or rights which are suitable for the Trust’s activities.
- (d) To improve, manage, develop, or otherwise deal with, all or any part of the property and rights of the Trust.
- (e) To sell, let, hire out, license, or otherwise dispose of, all or any part of the property and rights of the Trust.

- (f) To lend money and give credit (with or without security) and to grant guarantees and issue indemnities.
- (g) To borrow money, and to give security in support of any such borrowings by the Trust, in support of any obligations undertaken by the Trust or in support of any guarantee issued by the Trust.
- (h) To employ such staff as are considered appropriate for the proper conduct of the Trust'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.
- (i) To engage such consultants and advisers as are considered appropriate from time to time.
- (j) To effect insurance of all kinds (which may include officers' liability insurance).
- (k) To invest any funds which are not immediately required for the Trust's activities in such investments as may be considered appropriate (and to dispose of, and vary, such investments).
- (l) 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 the Trust's objects.
- (m) To establish and/or support any other charity, and to make donations for any charitable purpose falling within the Trust's objects.
- (n) To take such steps as may be deemed appropriate for the purpose of raising funds for the Trust's activities.
- (o) To accept grants, donations and legacies of all kinds (and to accept any reasonable conditions attaching to them).
- (p) To oppose, or object to, any application or proceedings which may prejudice the Trust's interests.
- (q) To enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of the Trust, and to enter into any arrangement for co-operation or mutual assistance with any charity.
- (r) To do anything which may be incidental or conducive to the furtherance of any of the Trust's objects.

### **3. CONSTRAINTS ON PAYMENTS/BENEFITS TO TRUSTEES**

#### **3.1 General principles**

- (a) The income and property of the Trust shall be applied solely towards the promotion of the Charitable Purposes and none of such income or property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any Trustee or member of the Trust.
- (b) No Trustee shall be appointed as a paid employee of the Trust.

#### **3.2 Benefits and payments to Trustees**

- (a) No benefit (whether in money or in kind) shall be given by the Trust to any Trustees except the possibility of—
  - i) repayment of out-of-pocket expenses to Trustees (subject to prior agreement by the Board);

- ii) reasonable remuneration to a Trustee in return for specific services actually rendered to the Trust (not being of a management nature normally carried out by a director of a company);
  - iii) payment of interest at a rate not exceeding the commercial rate on money lent to the Trust by a Trustee;
  - iv) payment of rent at a rate not exceeding the open market rent for property let to the Trust by a Trustee;
  - v) the purchase of property from a Trustee provided that such purchase is at or below market value, or the sale of property to any Trustee provided that such sale is at or above market value;
  - vi) payment to one or more Trustees by way of indemnity where appropriate.
- (b) A Trustee may receive a benefit from the Trust in the capacity of a beneficiary of the Trust and on the same terms as other beneficiaries.

#### **4. GENERAL STRUCTURE OF THE CHARITY**

The structure of the Trust consists of—

- (a) the MEMBERS, who have the right to attend General Meetings and have important powers under the Articles of Association and the Companies Act; in particular, the members elect Trustees and take any decisions about changes to these Articles; and
- (b) the TRUSTEES, who meet regularly during the period between General Meetings, and generally control and supervise the activities of the Trust; in particular, the Trustees are responsible for monitoring the financial position of the Trust. For the avoidance of doubt, the Trustees are ‘trustees’ for the purposes of charity law and ‘directors’ for the purposes of company law.

#### **5. MEMBERS’ LIMITED LIABILITY**

- (a) The liability of the members is limited.
- (b) Every member of the Trust undertakes to contribute such amount as may be required (not exceeding £1.00) to the property of the Trust if it should be wound up while he or she is a member or within one year after they cease to be a member (for whatever reason), for payment of its debts and liabilities contracted before they cease to be a member, and of the costs, charges and expenses of winding up.

#### **6. MEMBERS**

##### **6.1 Admission of members**

- (a) Membership of the Trust shall be open to—
  - i) Community Members, being individuals aged 16 years or over who are ordinarily resident in the Cabrach Area, who support the Charitable Purposes, and who have paid any current annual subscription due; and
  - ii) Associate Members, being individuals aged 16 years or over who are not ordinarily resident in the Cabrach Area, and organisations, provided they support the Charitable Purposes and have paid any current annual subscription due. Associate Members shall not hold voting rights nor stand for election to the Board of Trustees.

- (b) An employee of the Trust may be an Associate Member but may not be a Community Member or a Trustee. Any Community Member who becomes an employee after admission shall cease to be a Community Member and, where applicable, a Trustee.
- (c) Applications for membership shall be made in such form as the Trustees may require, and shall be approved or rejected on the basis of such criteria as the Trustees may from time to time establish.
- (d) Members may be required to pay an annual subscription as determined by the Trustees.
- (e) Membership is personal and cannot be transferred to anyone else.
- (f) Every member shall be entitled to a copy of the Trust's Articles of Association at no charge, and of any amendments subsequently made.

## **6.2 Cessation of membership**

A member shall cease to be a member if he or she—

- (a) resigns in writing by giving at least seven days' notice in writing to the Trust; or
- (b) fails to pay any annual subscription within three months of its becoming due; or
- (c) is expelled by the Trustees for conduct prejudicial to the Trust, provided that any member whose expulsion is proposed shall have the right to make representation to the meeting at which the decision is to be made.

## **6.3 Register of Members**

- (a) The Trust shall keep an up-to-date Register of Members containing the name and address of every member, the date on which they became a member, and the date on which they ceased to be a member.
- (b) The Register of Members is open to members of the Trust, and shall also be open to non-members provided that the applicant provides the following—
  - i) the applicant's name and address;
  - ii) the purposes for which the information is to be used; and
  - iii) whether the information will be disclosed to any other person and, if so, the name and address of that other person and the purpose for which the information is to be used by that other person.
- (c) Where a Trust receives an application that meets the above requirements, the Trustees must within five days either supply the information (subject to the data protection rights of the members) or apply to the Court for an order that the application is not for a proper purpose and indicate this to the applicant. Where the information is provided to the applicant, the Trust may charge a reasonable fee for providing the information.

## **6.4 Associate members**

The Trustees may at their discretion confer such rights, roles and privileges on Associate Members as they see fit, provided that Associate Members shall not hold voting rights or be counted for the purpose of calculating a quorum or be treated as members for any other purpose of the Articles or of statute.

## **7. BOARD OF TRUSTEES**

### **7.1 Powers of the Board of Trustees**

The strategy and affairs of the Trust shall be directed and managed by a Board of Trustees. The Trustees may exercise all the powers of the Trust unless they are subject to any restrictions imposed by the Companies Act or the Articles. Any meeting of Trustees at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Trustees.

### **7.2 Limitation**

The Community Members may, by Special Resolution, direct the Trustees to take or to refrain from taking specific actions, but no such Special Resolution shall invalidate anything which the Trustees may have done prior to the passing of the Special Resolution, nor shall it require them to act or refrain from acting in a manner which would be incompatible with their duties under the Companies Act or the Charities Act.

### **7.3 Conduct of Trustees**

Each Trustee is obliged—

- (a) to act in accordance with the duties listed in section 66 of the Charities Act, and the duties listed in sections 171-177 of the Companies Act, so as to make decisions in such a way as is considered, in good faith, most likely to be in the interest of the Trust, and to promote its success in achieving its Charitable Purposes; and
- (b) to exercise, in the performance of those duties, such care and skill as is reasonable in the circumstances.

### **7.4 Delegation**

The Trustees may delegate any of their powers or functions to any committee or person, provided that the terms of any delegation must be recorded in the minute book. The Trustees may subsequently revoke or alter a delegation. The Trustees may impose conditions when delegating, and will always include the conditions that—

- (a) a committee may consist of two or more persons, but at least one member of each committee must be a Trustee;
- (b) the relevant powers are to be exercised exclusively by the committee or person to whom they delegate, unless the delegation expressly authorised further delegation;
- (c) no expenditure may be incurred on behalf of the Trust except in accordance with a budget previously agreed with the Trustees, and no decision of any such committee or person shall bind the Trustees unless this was expressly part of the delegation;
- (d) the committee or person shall report regularly to the Trustees.

## **8. NUMBER & APPOINTMENT OF TRUSTEES**

### **8.1 Number of Trustees**

- (a) There must always be a minimum of three Trustees in post and, unless otherwise decided by a Special Resolution of the Community Members, a maximum of twelve.
- (b) The Trustees may act regardless of any vacancy in their body but, if and so long as their number is less than the minimum required by these Articles, the remaining Trustees may act for the purposes of increasing the number of Trustees or winding up the Trust, but for no other purpose.



## **8.2 Composition of the Board**

- (a) The Board of Trustees shall comprise—
  - i) up to six persons elected by and from the Community Members in accordance with Article 8.3 (“Elected Trustees”); and
  - ii) not more than one person appointed in accordance with Article 8.5 (“Appointed Trustee”); and
  - iii) up to five persons co-opted in accordance with Article 8.6 (“Co-opted Trustees”).
- (b) For the avoidance of doubt, Trustees are “directors” for company law purposes, and “charity trustees” for charity law purposes.

## **8.3 Elected Trustees**

New Trustees shall be elected annually by and from the Community Members. The Trustees shall from time to time determine procedures for the nomination and election of Trustees, which may include elections held at the Annual General Meeting (“AGM”), or a postal ballot of the Community Members, or any other method considered to be effective and democratic.

## **8.4 Retirement cycle**

- (a) At every AGM one-third of the Elected Trustees shall retire from office. In the event that the number is not divisible by three, then the proportion to retire shall be that which is nearest to one-third.
- (b) The Trustees to retire shall be those longest in office since they were last elected. Where there are Trustees who have been in office for the same length of time then, in the absence of agreement, those to retire shall be selected by lot.
- (c) A retiring Trustee is eligible for re-election provided that no-one may serve for more than nine consecutive years without at least one year out of office before being eligible to be nominated again for election. “Year” in this context means the period between one AGM and the next.

## **8.5 Appointed Trustee**

- (a) Grant Edward Gordon shall, as founder of the Trust, have the right to appoint himself, or any other individual aged 18 or over of his choosing, to be the Appointed Trustee.
- (b) If at any time the said Grant Edward Gordon is unable to exercise the right of appointment, such right shall pass to his nominated successor and so on for the duration of the Trust.
- (c) The Appointed Trustee shall remain in office unless or until written notice to effect any change thereof has been served on the Trust.

## **8.6 Co-opted Trustees**

The Trustees may add to their number by co-opting persons (who may but need not be members of the Trust or resident in the Cabrach Area), provided that—

- (a) the maximum prescribed number of Co-opted Trustees is not exceeded;
- (b) subject to clause (d), below, a Co-opted Trustee shall serve until the next AGM following his or her co-option;
- (c) a Co-opted Trustee may be further co-opted immediately after the AGM;

- (d) a Co-opted Trustee may be removed from office at any time by a simple majority vote of the Trustees;
- (e) for the avoidance of doubt, a Co-opted Trustee may participate fully in and vote at all meetings of the Board of Trustees.

#### **8.7 Casual vacancies**

The Trustees may from time to time fill any casual vacancy arising as a result of retiral (or deemed retiral for any reason) of any Elected Trustee from or after the date of such retiral until the next AGM.

#### **8.8 Retiral and deemed retiral of Trustees**

The office of a Trustee shall be immediately vacated if he or she—

- (a) being an Elected Trustee, ceases to be a Community Member of the Trust;
- (b) being or becoming an employee of the Trust, is prohibited from being a Trustee;
- (c) is absent without good reason from three consecutive Trustees' meetings, and the other Trustees decide that he or she shall vacate office by reason of such absence;
- (d) is disqualified from serving as a charity trustee in accordance with section 69(2) of the Charities Act;
- (e) becomes bankrupt or makes any arrangement with his or her creditors generally or is otherwise disqualified from serving as a company director in accordance with the Companies Act;
- (f) is considered by the Trustees, in terms of section 66(5) of the Charities Act, to have been in serious or persistent breach of either or both of the duties listed in sections 66(1) and 66(2) of that Act, such Trustee being entitled to be heard by the Trustees prior to a decision being made;
- (g) resigns his or her office in writing to the Trust.

### **9. OFFICERS**

- (a) A Chairperson and, optionally, a Vice-Chairperson shall be appointed by and from amongst the Trustees as soon as practicable after the AGM.
- (b) The Trustees may at their discretion appoint other officers, with such duties and privileges as the Trustees may determine, and may remove or replace these officers at any time. Such officers may be awarded an honorarium, salary or fee commensurate with their duties, but not if the officer is also a Trustee.

### **10. PROCEEDINGS OF THE BOARD OF TRUSTEES**

#### **10.1 Trustees' meetings**

- (a) The Trustees may meet together for the despatch of business and may adjourn and otherwise regulate their meetings as they think fit.
- (b) A meeting shall be summoned on the request of a Trustee by giving reasonable notice to all the Trustees.
- (c) A Trustee may not appoint an alternate director or anyone to act on his or her behalf at meetings of the Trustees.
- (d) A meeting may be held by suitable electronic means agreed by the Trustees in which each participant may communicate with all the other participants.

- (e) At every meeting of the Trustees the Chairperson shall preside, but if he or she is not present 15 minutes after the time set for the meeting the Vice-Chairperson (if any) shall preside, and in the event of his or her absence the Trustees present shall choose one of their number to chair that meeting, whose function shall be to conduct the business of the meeting in an orderly manner.

#### **10.2 Quorum**

- (a) No decision may be made by a meeting of the Trustees unless a quorum is present at the time the decision is made. "Present" includes being present by suitable electronic means agreed by the Trustees.
- (b) The quorum necessary for the transaction of the business of the Trustees shall be not less than 50% of the Trustees.
- (c) A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which that Trustee is not entitled to vote.

#### **10.3 Observers**

The Trustees may invite or allow any person to attend and speak at their meetings, but not to vote.

#### **10.4 Voting at Trustees' meetings**

- (a) Questions arising at any meetings shall be decided by a majority of votes, each Trustee having one vote on each question to be decided. In the case of an equality of votes, the person chairing the meeting shall not have a second or casting vote and resolution shall be lost.
- (b) A resolution in writing or in electronic form agreed by all the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and held.

#### **10.5 Declarations of interest**

A Trustee must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Trust or in any transaction or arrangement entered into by the Trust which has not previously been declared. A Trustee must absent himself or herself from any discussions of the Trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the Trust and any personal interest (including but not limited to any personal financial interest).

#### **10.6 Conflicts of interest and conflicts of loyalties**

- (a) If a conflict of interests arises for a Trustee because of a duty of loyalty owed to another organisation or person, the unconflicted Trustees may authorise such a conflict of interests where the following conditions apply—
  - i) the conflicted Trustee is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;
  - ii) the conflicted Trustee does not vote on any such matter and is not to be counted when considering whether a quorum of Trustees is present at the meeting;
  - iii) the unconflicted Trustees consider it to be in the interests of the Trust to authorise the conflict of interest in the circumstances applying.

- (b) In this Article, a conflict of interests arising because of a duty of loyalty owed to another organisation or person only refers to such a conflict which does not involve any direct or indirect benefit to a Trustee.

#### **10.7 Saving provisions**

- (a) In the event that a decision is made by the Trustees (or a committee of Trustees), and it transpires that a Trustee participated in that decision who should not have done so because he or she—
  - i) was disqualified from holding office;
  - ii) had previously retired or been obliged to vacate office;
  - iii) was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise;that decision shall be valid if, had that Trustee not participated, the decision would have been made anyway by a majority of the Trustees at a quorate meeting.
- (b) This Article does not permit a Trustee to keep any benefit that may be conferred upon him or her by a decision of the Trustees (or of a committee of Trustees) if the Trustee has not complied with Article 10.6.

#### **10.8 Ancillary regulations**

The Trustees may from time to time make, adopt and amend such ancillary regulations in the form of bye-laws, standing orders, secondary rules or otherwise as they may think fit—

- (a) for the management, conduct and regulation of the affairs of the Trust and the proceedings and powers of the Trustees and committees;
- (b) to provide additional explanation, guidance and governance to themselves, members, employees, stakeholders and others;

provided that such regulations are not inconsistent with the Articles, and do not amount to an addition or alteration such as could only legally be made by an alteration to the Articles.

### **11. GENERAL MEETINGS**

#### **11.1 Annual General Meeting**

- (a) The Trust shall in each calendar year hold a General Meeting as its Annual General Meeting (“AGM”). Every AGM shall be held not more than fifteen months after the holding of the previous AGM.
- (b) The business of an AGM shall comprise—
  - i) the consideration of the Report and Accounts presented by the Trustees, including the report of the Trust’s auditor or independent financial examiner;
  - ii) the election of Elected Trustees, or the announcement of the results of the election if conducted by ballot;
  - iii) the appointment or re-appointment of the Trust’s auditor or independent financial examiner;
  - iv) such other business as may have been specified in the notices calling the meeting.

### **11.2 Other General Meetings**

- (a) The Trustees may call a General Meeting at any time, and shall call one if requested so to do in writing by at least 5% of the Community Members, stating the purpose of the meeting.
- (b) A General Meeting, including the AGM, does not need to be held exclusively in one place, provided that where two or more members are not in the same place as each other, they are all able to communicate together and cast their votes.

### **11.3 Proceedings at General Meetings**

- (a) No business shall be transacted at a General Meeting unless a quorum is present in person or by proxy. Unless otherwise decided by the Trust, a quorum shall be 10% of the members or 10 members, whichever is the greater number.
- (b) If—
  - i) a quorum is not present 15 minutes after the time appointed for the meeting; or
  - ii) during a meeting a quorum ceases to be present;the meeting shall be adjourned to such time and place as the Trustees shall direct.
- (c) The Trustees must reconvene the meeting and must give at least seven clear days' notice of the reconvened meeting stating the date, time and place of the meeting.
- (d) If no quorum is present at the reconvened meeting 15 minutes after the time specified for the start of the meeting, those present and voting shall constitute the quorum for that meeting.
- (e) At every general meeting the Chairperson shall preside but, if he or she is not present 15 minutes after the time appointed for the commencement of the meeting, the Trustees present shall choose one of their number to chair that meeting, whose function shall be to conduct the business of the meeting in an orderly manner.

### **11.4 Voting at General Meetings**

- (a) The Chairperson of the meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions shall be decided by being put to a vote.
- (b) Where a proposal is to be decided by a vote—
  - i) Decisions involving an alteration to the Articles of Association of the Trust, or to wind up the Trust, and other decisions so required from time to time by statute shall be made by a Special Resolution. A Special Resolution is one passed by a majority of not less than three-quarters of the votes that are cast.
  - ii) All other decisions shall be made by Ordinary Resolution requiring a simple majority vote of the votes that are cast.
- (c) One vote may be cast by or on behalf of each Community Member on any question to be decided at a General Meeting.
- (d) A Community Member may appoint any other person to act as proxy for him or her by sending the Trust a notice in writing (a "proxy notice") which—
  - i) states the name and address of the member appointing the proxy;
  - ii) identifies the person appointed to be that member's proxy and the General Meeting in relation to which that person is appointed;
  - iii) is signed by or on behalf of the member appointing the proxy; and

- iv) is delivered to the Trust in accordance with any instructions contained in the notice of the General Meeting to which they relate.
- (e) The proxy notice may—
  - i) specify that the proxy must vote this way or that on any particular resolution; or
  - ii) authorise the proxy to vote in accordance his or her own judgement.
- (f) At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a written ballot is, before or on the declaration of the result of the show of hands, demanded by the Chairperson of the meeting or by at least two Community Members present in person or by proxy.
- (g) On a show of hands someone acting as a proxy shall have one vote. On a written ballot a proxy is entitled to cast all the votes he or she holds.
- (h) The declaration by the Chairperson of the result of a vote shall be conclusive unless a ballot is demanded. The result of the vote must be recorded in the minutes of the Trust but the number or proportion of votes cast need not be recorded.
- (i) If a ballot is demanded, it shall be taken at the meeting at which it has been demanded and shall be conducted in such a manner as the Chairperson may direct. The result of the ballot shall be declared at the meeting at which the ballot was demanded.
- (j) In the case of an equality of votes, whether on a show hands or on a ballot, the Chairperson of the meeting shall not have a second or casting vote and the resolution shall be considered as lost.

#### **11.5 Adjournment of General Meetings**

- (a) A General Meeting may by Ordinary Resolution resolve that the meeting shall be adjourned.
- (b) The Chairperson of the meeting must decide the date, time and place at which the meeting is to be reconvened unless those details are specified in the resolution.
- (c) No business shall be conducted at a reconvened meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- (d) If a meeting is adjourned for more than 14 days, at least seven clear days' notice shall be given of the reconvened meeting stating the date, time and place of the meeting.

#### **11.6 Notices of General Meetings**

- (a) Any General Meeting shall be called by at least 14 clear days' notice. However, a General Meeting may be called with shorter notice if it is agreed by at least 90% of those entitled to attend and vote.
- (b) The notice must specify the date time and place of the meeting and the general nature of the business to be transacted. In the case of a General Meeting which is to consider a Special Resolution, such resolution shall be specified in the notice. The notice must also contain a statement setting out the right of members to appoint a proxy.
- (c) The notice must be given to all the members and Trustees and to the auditors or independent examiners (if any), and may be given in any way allowed for in the Companies Act.
- (d) The proceedings at a meeting shall not be invalidated because a person who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the Trust.

## **12. MEMBERS' WRITTEN RESOLUTIONS**

- (a) Any decision that may be made at a General Meeting of the Trust may be made by written resolution, other than a decision to remove a Trustee or auditor before the expiry of their term of office.
- (b) A proposed written resolution shall be circulated to members and to the auditors in the same manner as notices for General Meetings. Members signify their approval of the resolution if they wish to vote for it, and need take no action if they wish to vote against.
- (c) The majorities required to pass a written resolution are as follow—
  - i) for an ordinary resolution, approval is required from a simple majority of the members;
  - ii) for a special resolution, approval is required from not less than 75% of the members.
- (d) The document indicating a member's approval of a written resolution may be sent to the Trust as hard copy or in electronic form. A member's agreement to a written resolution, once signified, may not be revoked.
- (e) A written resolution lapses if the necessary number of approvals has not been received 28 days after the first day on which copies of the resolution were circulated to members.
- (f) A written resolution is passed as soon as the required majority of members have signified their agreement to it.

## **13. HONORARY PATRONS**

The Trustees may appoint one or more Honorary Patrons of the Trust, either for a fixed period (usually five years) or for an unspecified period lasting until such appointment is terminated by them. An Honorary Patron shall be entitled to receive notice of, attend and participate in all General Meetings of the Trust but shall not hold voting rights (unless he or she is also a Community Member).

## **14. ADMINISTRATION & GENERAL**

### **14.1 Minutes**

- (a) The Trustees must keep minutes of all—
  - i) proceedings at General Meetings of the Trust;
  - ii) written resolutions passed by the Trust;
  - iii) meetings of the Trustees and committees of Trustees including:
    - the names of the Trustees present at the meeting;
    - the decisions made at the meetings; and
    - where appropriate, the reasons for the decisions.
- (b) Minutes of meetings shall be kept for a minimum of 10 years.

### **14.2 Accounts**

- (a) The Trustees must keep accounting records as required by the Companies Act and other relevant regulations.

- (b) The Trustees must prepare accounts for each financial year as required by the Companies Act. The accounts must be prepared to show a true and fair view and follow accounting standards issued or adopted by the Accounting Standards Board or its successors and adhere to the recommendations of applicable Statements of Recommended Practice.
- (c) The Trustees must send a copy of the annual accounts and reports for each financial year to—
  - i) every member of the Trust, and
  - ii) every person who is entitled to receive notice of General Meetings.
- (d) The Trust's annual accounts and reports shall be sent out to members and others on or before the date on which it delivers its accounts and reports to the Registrar of Companies.

#### **14.3 Annual Reports and Returns**

- (a) The Trustees shall comply with all requirements of company and charity law with regard to the preparation and submission of annual reports, returns and accounts.
- (b) The Trustees must notify OSCR promptly of any changes to the Trust's entry on the Scottish Charity Register.

#### **14.4 Indemnity**

The Trust may indemnify any Trustee, auditor, reporting accountant or other officer of the Trust against any liability incurred by him or her in that capacity to the extent permitted by sections 232 to 234 of the Companies Act.

### **15. DISSOLUTION**

- (a) The winding-up of the Trust may take place only on the decision of not less than 75% of the Community Members who are present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose.
- (b) If, on the winding-up of the Trust, any property remains after satisfaction of all its debts and liabilities, such property shall be given or transferred to any one or more charities having the same or similar object to the Charitable Purposes.
- (c) The charity or charities to which the property is to be transferred in terms of clause (b) shall be determined on the decision of not less than 75% of the Community Members of the Trust who are present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose or, failing that, by a decision of not less than 50% of the Trustees or, failing that, as determined by an arbiter to be chosen amicably by the Trustees or, failing such amicable choice, as determined by the Sheriff of Grampian, Highland and Islands at Aberdeen (or any successor thereto), whose decision shall be final and binding upon the Trust.
- (d) If the Trust is a charity at the time that its winding-up is decided upon in terms of the above Articles, the prior consent of OSCR (or any successor thereto) must be obtained in terms of section 16 of the Charities Act.



## **16. INTERPRETATIONS**

**(a) In these Articles—**

“the Trust” means the company THE CABRACH TRUST.

“the Cabrach Area” means the area known as the Cabrach, comprising the Parish of the Cabrach, Moray, together with its adjoining settlements, as shown on the annexed plan.

“the Companies Act” means the Companies Act 2006.

“the Charities Act” means the Charities and Trustee Investment [Scotland] Act 2005.

“the Board of Trustees” means all those persons appointed to perform the duties of directors of the Trust and “Trustee” means a director.

“OSCR” means the Office of the Scottish Charity Regulator.

“address” means a postal address or, for the purposes of electronic communication, a fax number, an e-mail or postal address or a telephone number for receiving text messages in each case registered with the Trust.

“clear days” in relation to a period of notice means the period excluding the day when the notice is given and the day on which it is to take effect.

“electronic form” has the meaning given in section 1168 of the Companies Act.

“employee” means anyone holding a current contract of employment with the Trust.

“in writing” shall be taken to include references to writing, printing, photocopying and other methods of representing or reproducing words in a visible form, including electronic transmission where appropriate.

**(b) Words importing the singular number shall include the plural and vice versa unless a contrary intention appears. Words importing persons shall include bodies corporate and associations if not inconsistent with the context.**

**(c) Any reference to an Act of Parliament are references to the Act as amended or re-enacted from time to time and to any subordinate legislation made under it.**