

REPORT TO: POLICY AND RESOURCES COMMITTEE – 10 December 2001

REPORT ON: SUSTAIN DUNDEE (DUNDEE ENVIRONMENT TRUST)

REPORT BY: CHIEF EXECUTIVE

REPORT No.: 758-2001

1. PURPOSE OF REPORT

- 1.1 To gain committee approval for the creation of Sustain Dundee (an independent environmental trust) in order to attract landfill tax credits and other sources of funding for sustainable development projects in Dundee.

2. RECOMMENDATIONS

- 2.1 It is recommended that this committee:
- a) approves the creation of Sustain Dundee, a charitable company limited by guarantee and the draft memorandum and articles appended to this report.
 - b) remits the Director of Support Services to secure charitable status for Sustain Dundee and register Sustain Dundee with Companies House.
 - c) remits the Director of Environmental and Consumer Protection to register Sustain Dundee with Entrust.
 - d) appoints 3 elected members to join the Board of Directors of Sustain Dundee.

3. FINANCIAL IMPLICATIONS

- 3.1 There will be financial implications for the creation of Sustain Dundee. This will be in the order of approximately £500. This will be met from the Agenda 21 Revenue budget.

4. LOCAL AGENDA 21 IMPLICATIONS

- 4.1 The creation of Sustain Dundee will enable Dundee to access resources not currently available, for instance, landfill tax credits. These resources will help to implement Local Agenda 21. The major key themes impacted upon will be:

Resources are used efficiently and waste is minimised.

Local needs are met locally

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 The contents of this report are consistent with our Equal Opportunities Policy.

6. BACKGROUND

- 6.1 Reference is made to committee report 218-2001 where it was agreed in principle to establish a Dundee Landfill Tax Trust/Charitable Company at the April 2001 meeting of the Environmental and Consumer Protection Committee.
- 6.2 It is proposed that the above-mentioned Trust/Company be called Sustain Dundee. Under the Landfill Tax Regulations (1996) Sustain Dundee must become an enrolled body with ENTRUST, which oversees the application of the Regulations.
- 6.3 In Scotland there are already a number of enrolled bodies which attract various sums from landfill operators. The Quality of Life Trust operates in Perth and Kinross and Angus Environmental Trust operates in Angus. Both of these Trusts have been successful in attracting funding for many sustainable development and environmental projects.
- 6.4 Sustain Dundee will be established as a charitable company limited by guarantee adopting a model which has been supported by Dundee City Council in the establishment of Dundee Ice Arena. Under the Landfill Tax Regulations, local authorities must not have a controlling interest in an enrolled body. Consequently, the Board of Directors will be made up of nine individuals with three representing Dundee City Council as set out in the memorandum and articles attached in Appendix One.
- 6.5 Other founding members of Sustain Dundee will include Scottish Enterprise Tayside, the Community and Voluntary Alliance for Dundee, and originally Forward Scotland which has experience of participating in the development of environment trusts across the country.
- 6.6 Given the support of Landfill Operators it is estimated that Sustain Dundee may be able to raise a minimum of approximately £20,000 on an annual basis. There are also a number of national schemes run on behalf of Landfill Operators to which Sustain Dundee will also apply, such as Biffaward. Sustain Dundee will be in a position to attract funding from other sources not currently available to sustainable development projects.
- 6.7 Sustain Dundee will play a key part in resourcing the implementation of the priorities in Dundee's Local Agenda 21 Strategy and will support the work of the Dundee Sustainability Forum which is currently being reestablished.

7 CONSULTATION

- 7.1 The Director of Finance, Director of Support Services, Director of Environmental and Consumer Protection and Director of Corporate Planning have been consulted on the above report. Other relevant officers from the Local Agenda 21 Officer Group have also been consulted.

8 BACKGROUND PAPERS

- 8.1 Report No: 218-2001 Establishing a Dundee Landfill Tax Trust/Charitable Company.
Environmental and Consumer Protection Committee

9 **SIGNATURE**

.....
Chief Executive

.....
Date

THE COMPANIES ACT 1985

A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION

of

SUSTAIN DUNDEE

1. The name of the Company (hereinafter called "the Company") is Sustain Dundee.
2. The Company's registered office will be situated in Scotland.
3. This clause shall be interpreted as if it incorporated an over-riding qualification to the effect that in any case where an activity permitted under this clause is in its nature capable of being carried on for purposes which are not charitable or only partially so as well as for purposes which are wholly charitable [the word "charity" shall have the meaning ascribed to it for the purposes of Sections 505 and 506 of the Income and Corporation Taxes Act 1988, including any statutory amendment or re-enactment for the time being in force and the word "charitable" wherever it appears in this Memorandum of Association shall be construed accordingly] the powers of the Company under this clause in respect of the carrying on of such activity shall be deemed to be limited to the carrying on of such activity in such a manner as will not prejudice the charitable status of the Company under the statutory provisions referred to above. Subject to that over-riding qualification, the Company's objectives are:-
 - (a) to advance and promote community involvement in environmental protection, conservation of resources, and in social well being;
 - (b) to undertake the reclamation, remediation, restoration or any other operation that facilitates the social or environmental use of land all for the benefit of the public;
 - (c) to carry out any operation intended to prevent or reduce any potential for pollution for the benefit of the public;
 - (d) to carry out or promote research into and to develop waste management practices with the aim of encouraging the use of more sustainable waste management practices all for the benefit of the public;
 - (e) to encourage suitable waste management energy recovery and recycling through research and development and education;
 - (f) to collect and disseminate information about waste management practices with the aim of encouraging the use of more sustainable waste management practices for the benefit of the public;
 - (g) to provide, maintain and improve public parks or any other public amenity within Dundee for the benefit of the public;
 - (h) to maintain, repair or restore buildings or other structures of historic or architectural interest in order to preserve the same for the benefit of the public;

and in furtherance thereof but not otherwise:-

- (i) to purchase, take on feu, lease, hire, take in exchange or otherwise acquire any heritable or moveable, real or personal property and any rights or privileges necessary or convenient for the promotion of the objects of the Company and to construct, maintain, alter and demolish any buildings;
 - (j) to sell, feu, lease, transfer, exchange, develop, turn to account or otherwise deal with all or any part of the property and rights of the Company;
 - (k) to borrow or raise money and to secure the payment thereof by standard security, mortgage, charge or lien or by the issue of debentures or debenture stock, perpetual or otherwise or in any other way and to receive and take money on deposit at interest or otherwise and to make appeals for money, to receive and accept by way of gifts, donations, legacies, bequests, grants, subscriptions or otherwise money and property, heritable and moveable, for the purpose of furthering the objects of the Company and to undertake any organic schemes for the raising of money or support or assistance;
 - (l) to remunerate any person, firm or company rendering services to the Company;
 - (m) to invest any monies of the Company not required for the immediate purposes of its activities in such investments or securities as may be thought expedient;
 - (n) subject to the provisions of this memorandum to enter into any partnership arrangement in the nature of a partnership, co-operation or union of interests or other arrangement of a like nature with any persons engaged or interested or about to become engaged or interested in the carrying on or conduct of any activities which the Company is authorised to carry on or conduct or from which the Company would or might derive any benefit, whether direct or indirect, and to give or accept by way of consideration for any of the acts or things aforesaid or property acquired, any shares, debentures or securities that may be agreed upon and to hold or retain or sell, mortgage and deal with shares, stock, debentures or securities so received;
 - (o) to apply for, promote and obtain any Act of Parliament, charters, privileges, concessions, licences or authorisations of any government, state or municipality, provisional order or licence of any authority for enabling the Company to carry any of its objects into effect or for extending any of the Company's powers or for effecting any modification of the Company's Constitution or for any other purpose which may seem expedient and to oppose any actions, steps, proceedings or applications which may seem calculated, directly or indirectly, to prejudice the interest of the Company or of its members;
 - (p) to establish or aid in the establishment and support of any charitable associations or institutions and to subscribe or guarantee money for charitable purposes in any way connected with the objects of the Company or calculated to further its objects; and
 - (q) to carry on any other activity which can, in the opinion of the directors, be advantageously carried on in connection with or ancillary to the objects of the Company.
4. The income and property of the Company whencesoever derived shall be applied solely towards the promotion of its objects as set forth in this Memorandum of Association and no portion thereof shall be paid or transferred directly or indirectly by way of profit, bonus or otherwise to members of the Company. Provided that nothing herein shall prevent (a) the payment in good faith of reasonable and proper remuneration to any member, officer, agent or servant of the Company for any service rendered to the Company or outlays properly incurred on its behalf, or (b) the payment to any members of its board of directors of out-of-pocket expenses incurred by him in or about the performance of his duties.
5. The liability of the members is limited.

6. Every member of the Company undertakes to contribute such amount as may be required (but not exceeding £1) to the Company's assets if it should be wound up while he is a member or within one year after he ceases to be a member for payment of the Company's debts and liabilities 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.
7. If, upon the winding up or dissolution of the Company there remains after the satisfaction of all its debts and liabilities any property whatsoever the same shall not be paid or distributed among the members of the Company but shall be given or transferred together with any rights to, in or over any land which may be vested in the Company to some charitable organisation with objects similar to those of the Company.

We, the subscribers to this Memorandum of Association wish to be formed into a Company pursuant to this Memorandum.

NAMES AND ADDRESS OF SUBSCRIBERS

Dated on the day of , Two Thousand and One.

Witness to the above signatures:-

THE COMPANIES ACT 1985

A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

of

SUSTAIN DUNDEE

1. In these Articles:-

"the Company" means Sustain Dundee;

"the Council" means Dundee City Council constituted in terms of the Local Government etc (Scotland) Act 1994 and having their principal office at City Chambers, 21 City Square, Dundee;

"Scottish Enterprise Tayside" means Scottish Enterprise Tayside Limited having their principal place of business at 45 North Lindsay Street, Dundee DD1 1HT;

"CAVA" means Community and Voluntary Alliance, Number 10, 10 Constitution Road, Dundee DD1 1LL

"Forward Scotland" means Forward Scotland having their principal place of business at 6th Floor, Portcullis House, 21 India Street, Glasgow, G2 4PZ.

"University of Dundee" means University of Dundee having their principal place of business at Nethergate, Dundee. DD1 4HN;

"NCR" means NCR RSG Ltd having their principal place of business at Kingsway West, Dundee. DD2 3XX;

"TFCR" means Tayside Foundation for the Conservation of Resources having their principal place of business at Unit 2, South Dudhope Mill, Douglas Street, Dundee. DD1 5AJ.

"the Act" means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force;

"the articles" means the articles of the Company;

"clear days" in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

"executed" includes any mode of execution;

"office" means the registered office of the Company;

"the seal" means the common seal of the Company;

"secretary" means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

"the United Kingdom" means Great Britain and Northern Ireland.

Unless the context otherwise requires words or expressions contained in these articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these articles become binding on the Company.

OBJECTS

2. The Company is established for the objects set out in the Memorandum of Association.

MEMBERS

3. The Council, Scottish Enterprise Tayside, CAVA, Forward Scotland, University of Dundee, NCR and TFCR and such other persons as are admitted to membership shall be members of the Company. Every person who wishes to become a member shall deliver to the Company an application for membership in such form as the directors require and thereafter the directors will determine whether the person should be admitted as a member.
4. Any incorporated body which is a member of the Company may, by resolution of its governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company and the person so authorised shall be entitled to exercise the same powers on behalf of the incorporated body which he represents as that corporation could exercise if it were an individual member of the Company.
5. Any incorporated body which is a member of the Company may withdraw as a member after each completed year of membership by giving at least three months notice to the Company. An individual who is a member may terminate his membership of the Company by giving at least seven clear days' notice to the Company. Membership shall not be transferable and in the case of an individual shall cease on death.

GENERAL MEETINGS

6. The Company shall hold an annual general meeting not more than eighteen months after its incorporation and subsequently once in every year at such time (within a period of not more than fifteen months after the holding of the last preceding annual general meeting) and place as the directors shall decide.
7. All general meetings other than annual general meetings shall be called extraordinary general meetings.
8. The directors may call general meetings whenever they think fit and, on the requisition of members pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after receipt of requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member of the Company may call a general meeting.

NOTICE OF GENERAL MEETINGS

9. An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty one clear days' notice. All other extraordinary general meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed:-
 - (a) in the case of an annual general meeting by all the members entitled to attend and vote thereat; and
 - (b) in the case of any other meeting by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety five per cent of the total voting rights at the meeting of all the members.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such. The notice shall be given to all the members and to the directors and auditors.

10. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

PROCEEDINGS AT GENERAL MEETINGS

11. No business shall be transacted at any meeting except the adjournment of the meeting unless a quorum is present. Two persons entitled to vote upon the business to be transaction, each being a member or a proxy for a member shall be a quorum.
12. If such a quorum is not present within half an hour from the time appointed for the meeting or, if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine.
13. The Chairman, if any, of the board of directors or, in his absence, some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman.
14. If no director is willing to act as chairman or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.
15. A director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting.
16. The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
17. A resolution put to vote of a meeting shall be decided on a show of hands unless before or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:-
 - (a) by the chairman; or
 - (b) by at least two members having the right to vote at the meeting; or
 - (c) by a member or members representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting;and a demand by a person as proxy for a member shall be the same as a demand by the member.
18. Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
19. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
20. A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
21. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall be entitled to a casting vote in addition to any other vote he may have.

22. A poll demanded on the election of the chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
23. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
24. A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held. Any such resolution may consist of several instruments in the like form each executed by or on behalf of one or more members.

24. A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held. Any such resolution may consists of several instruments in the like form each executed by or on behalf of one or more members.

VOTE OF MEMBERS

25. On a show of hands every member present in person shall have one vote. On a poll every member present in person or by proxy shall have one vote.
26. A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorised in that behalf appointed by that court. Any such receiver, curator bonis or other person may, on a poll, vote by proxy. Evidence to the satisfaction of the directors of the authority of the person claiming to exercise the right to vote shall be deposited at the office or at such other place as is specified in accordance with the articles for the deposit of instruments of proxy, not less than forty eight hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.
27. No objection shall be raised to the qualifications of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
28. An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointer and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve):-

27. No objection shall be raised to the qualifications of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.

28. An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointer and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve):-

I/We, _____ of _____, being a member/members of the above named Company, hereby appointed _____ of _____, or failing him, _____ of _____, as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Company to be held on _____, 20_____, and at any adjournment thereof.

Signed on _____, 20____.

29. Where it is desired to afford members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve):-

I/We, _____, being _____ a member/members of the above named Company, hereby appoint _____ of _____, or failing him, _____ of _____, as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Company to be held on _____, 20_____, and at any adjournment thereof.

Resolution No 1 *for *against
Resolution No 2 *for *against

*strike out whichever is not desired.

Unless otherwise instructed the proxy may vote as he thinks fit or abstain from voting.

Signed this day of , 20 ."

30. The instrument appointing a proxy and any other authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the directors may -
- (a) be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than forty eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument propose to vote; or
 - (b) in the case of a poll taken more than forty eight hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than twenty four hours before the time appointed for the taking of the poll; or
 - (c) where the poll is not taken forthwith but is taken not more than forty eight hours after it was demanded be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director;

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

31. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the company at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

DIRECTORS

32. Until otherwise determined by a general meeting the number of directors shall be twelve which number must consist of three councillors and nine other members.
33. While it remains a member of the Company the Council may by notice in writing signed by an authorised officer and left at the registered office of the Company appoint up to three directors of the Company and shall be entitled by like notice to remove any director appointed at any time and appoint any other person to be a director in the place of the director so removed or in place of any director vacating office in any way and originally appointed by the Council.
34. While they remain members of the Company, CAVA, Forward Scotland, and Scottish Enterprise Tayside, University of Dundee, NCR and TFCR may, by notice in writing, signed by an authorised officer and left at the Registered Office of the Company, appoint one director and one alternate director of the Company each and for each Director or alternate director so appointed shall be entitled by like notice to remove any director so appointed at any time and appoint any other person to be a director or alternate director in the place of the director or alternate director so removed or in place of any director or alternate director vacating office in any way and originally appointed by the Council.
35. Notwithstanding the foregoing at no time shall the directors appointed by the Council be a majority of all directors appointed.

36. The directors may from time to time and at any time appoint additional directors either to fill a casual vacancy or by way of addition to the board of directors which additional directors will be persons representing local community groups or other interests (including business, financial, charitable or sporting interest) whom the directors consider have experience or knowledge which will assist the Company in fulfilling its objects.
37. The directors shall not be required to retire by rotation and Regulations 73 to 80 inclusive of Table A shall not apply to the Company. The first directors of the Company shall be the persons named in the statement delivered to the Register of Companies under Section 10 of the Act.
38. Save as otherwise provided in these articles an alternate director shall be deemed for all purposes to be a director and shall alone be responsible for his own acts and defaults and shall not be deemed to be the agent of any of the directors whom he is appointed to replace.

POWERS OF DIRECTORS

39. Subject to the provisions of the Act, the memorandum and the articles and to any directions given by special resolution, the business of the Company shall be managed by the directors who may exercise all the powers of the Company. No alteration of the memorandum or articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this article shall not be limited by any special power given to the directors by the articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.
40. The directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.
41. The directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking and property, or any part thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the Company or of any third party.
42. The business of the Company shall be managed by the directors who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not by the Act or by these articles required to be exercised by the Company in general meeting, subject nevertheless to the provisions of the Act or these articles and to such regulations being not inconsistent with the aforesaid provisions as may be prescribed by the Company in general meeting; but no regulations made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.
43. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for monies bid to the Company shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors shall from time to time by resolution determine.

DELEGATION OF DIRECTORS' POWERS

44. The Directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors may impose and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

DISQUALIFICATION AND REMOVAL OF DIRECTORS

45. The office of a director shall be vacated if -

- (a) he ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director; or
- (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (c) he is, or may be, suffering from mental disorder and either -
 - (i) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1984, or
 - (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
- (d) he resigns his office by notice to the Company; or
- (e) he is removed from the position of director by virtue of the exercise of the powers contained elsewhere in these articles.

DIRECTORS' REMUNERATION AND EXPENSES

46. The directors will not, except as aftermentioned, be entitled to any remuneration from the Company by the directors may be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings of the Company or otherwise in connection with the discharge of their duties. Notwithstanding the foregoing terms of this article the company secretary and the company treasurer will be entitled to receive remuneration in respect of any work carried out by them for the Company in their capacities of company secretary and company treasurer.

DIRECTORS' APPOINTMENTS AND INTERESTS

47. Subject to the provisions of the Act, and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office -
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
 - (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interest in, any body corporate promoted by the Company or in which the Company is otherwise interested; and
 - (c) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
48. For the purposes of the preceding article -
- (a) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified; and
 - (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

PROCEEDINGS OF DIRECTORS

49. Subject to the provision of the articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote.
50. The quorum for the transaction of the business of the directors may be fixed by the directors and unless so fixed at any other number shall be five. Notwithstanding the foregoing at no time shall the number of Council directors be a majority at any meeting and any meeting where the number of Council directors is in a majority over the number of non-council directors shall be deemed inquorate
51. The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number but if the number of directors is less than the number fixed as the quorum the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
52. The directors may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office. Unless he is unwilling to do so the director so appointed shall preside at every meeting of directors at which he is present. But if there is no director holding that office or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting the directors present may appoint one of their number to be chairman of the meeting.
53. All acts done by a meeting of directors or of a committee of directors or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office or had vacated office or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.
54. A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each executed by one or more directors.
55. Save as otherwise provided by the articles, a director shall not vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interest of the Company unless his interest or duty arises only because the case falls within one or more of the following paragraphs -
 - (a) the resolution relates to the giving to him or a guarantee, security or indemnity in respect of money lent to, or an obligation incurred by him for the benefit of, the Company or any of its subsidiaries;
 - (b) the resolution relates to the giving to a third party of a guarantee, security or indemnity in respect of an obligation of the Company or any of its subsidiaries for which the director has assume responsibility in whole or part and whether alone or jointly with others under a guarantee or indemnity or by the giving of security;
 - (c) his interest arises by virtue of his subscribing or agreeing to subscribe for any debentures of the Company or any of its subsidiaries or by virtue of his being, or intending to become, a participant in the underwriting or sub-underwriting of an offer of any such debentures by the Company or any of its subsidiaries for subscription, purchase or exchange;
 - (d) the resolution relates in any way to a retirement benefits scheme which has been approved, or is conditional upon approval, by the Board of Inland Revenue for taxation purposes; and
 - (e) his interest arises by virtue of him being a member or employee of the Council, Scottish Enterprise Tayside, CAVA or, Forward Scotland, or NCR, or TFCR.

For the purposes of this article an interest of a person who is, for any purpose of the Act (excluding any statutory modification thereof not in force when this article becomes binding on the Company), connected with a director shall be treated as an interest of the director.

56. A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.
57. The Company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the articles prohibiting a director from voting at a meeting of directors or of a committee of directors.
58. If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

SECRETARY

59. Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration (if any) and upon such conditions as they may think fit and any secretary so appointed may be removed them.

TREASURER

60. A treasurer shall be appointed by the directors for such term, at such remuneration (if any) and upon such conditions as they may think fit and any treasurer so appointed may be removed by them.

MINUTES

61. The directors shall cause minutes to be made in books kept for the purpose -
- (a) of all appointments of officers made by the directors; and
 - (b) of all proceedings at meetings of the Company and of the directors and of committees of directors including the names of the directors present at each such meeting.

THE SEAL

62. The seal shall only be used by the authority of the directors or a committee of directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or by a second director.

ACCOUNTS

63. The directors shall cause proper books of account to be kept with respect to:-
- (a) all sums of money received and expended by the Company and the matters in respect of which the receipt and expenditure takes place;
 - (b) all sales and purchases of goods by the Company; and
 - (c) the assets and liabilities of the Company.

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 Company's affairs and to explain its transactions.

64. The books of account shall be kept at the registered office of the Company or, subject to Section 22 of the Act, at such other place or places as the directors think fit and shall always be open to the inspection of the directors.
65. The directors shall determine from time to time whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company shall be open to inspection of members not being directors and no member (not being a director) shall have any right of inspecting any account or book or document of the Company except as conferred by statute or authorised by the directors or by the Company in general meeting.
66. The directors shall from time to time, in accordance with Sections 226 et seq of the Act, cause to be prepared and to be laid before the Company in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections.
67. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Company in general meeting, together with a copy of the auditor's report, shall be sent to every member of and every holder of debentures of the Company not less than twenty one days before the date of meeting, provided that this article shall not require a copy of those documents to be sent to any person of whose address the Company is not aware or to more than one of the joint holders of any debenture.

AUDITORS

68. Auditors shall be appointed and their duties regulated in accordance with the relevant provisions of the Act.

NOTICES

69. Any notice to be given to or by any person pursuant to the articles shall be in writing except that a notice calling a meeting of the directors need not be in writing.
70. The Company may give any notice to a member either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address. A member whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notices may be given to him shall be entitled to have notices given to him at that address but otherwise no such member shall be entitled to receive any notice from the Company.
71. A member present, either in person or by proxy, at any meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
72. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of forty eight hours after the envelope containing it was posted.

INDEMNITY

73. Subject to the provisions of the Act, but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement 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 of trust in relation to the affairs of the Company.

WINDING UP

74. The provisions of the Memorandum of Association of the Company relating to the winding up of the Company shall have effect as if the same were reflected in these articles.

NAMES AND ADDRESS OF SUBSCRIBERS

Dated on the day of , Two Thousand and One.

Witness to the above signatures:-