

Lands End Peninsula CLT Limited

Articles of Association - Charitable Company, Community Land Trust Model

Revised 17th December 2014

Articles of Association for a Charitable Company – Community Land Trust Model

Registered number: 07129906

Company limited by guarantee and not having a share capital

Articles of association of Lands End Peninsula CLT Limited (the Charity)

1 Objects

1.1 The Objects of the Charity are within the area of benefit (as defined in Article 25):

- 1.1.1 the provision of houses or hostels and any associated amenities for persons in necessitous circumstances upon terms appropriate to their means;
- 1.1.2 the provision for the aged, disabled, handicapped (whether mentally or physically) or chronically sick persons in need thereof, of houses or hostels and any associated amenities specially designed or adapted to meet the disabilities and requirements of such persons;
- 1.1.3 the provision of services, advice or assistance upon terms appropriate to their means to aged, disabled, handicapped (whether mentally or physically) or chronically sick persons in need thereof;
- 1.1.4 the provision of facilities for recreation or other leisure time occupation in the interest of social welfare with the object of improving the conditions of life for the residents of the area of benefit;
- 1.1.5 the relief of poverty in such ways as may be thought fit amongst the residents of the area of benefit;
- 1.1.6 the advancement of education and vocational training amongst the residents of the area of benefit and the creation of training and employment opportunities by the provision of workspace, buildings and/or land for use on favourable terms;
- 1.1.7 the protection or conservation of the environment including the conservation, restoration and re-establishment of trees in particular broad leafed trees plants and all forms of wildlife and thereby to secure the enjoyment by the residents of the area of benefit of the natural environment;
- 1.1.8 the provision of public health facilities;

Houses and **hostels** shall have the meanings given by Section 106 of the Housing Associations Act 1985 and shall include blocks of flats within the meaning of Section 4 of the Housing Associations Act 1985.

2 Powers

2.1 The Charity has the following powers, which may be exercised only in promoting the Objects:

- 2.1.1 to promote or carry out research;
- 2.1.2 to provide advice;
- 2.1.3 to publish or distribute information;
- 2.1.4 to co-operate with other bodies;
- 2.1.5 to support, administer or set up other charities;
- 2.1.6 to raise funds (but not by means of taxable trading);
- 2.1.7 to borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Act 1993);
- 2.1.8 to acquire or hire property of any kind;
- 2.1.9 to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act 1993);
- 2.1.10 to make grants or loans of money and to give guarantees;
- 2.1.11 to set aside funds for special purposes or as reserves against future expenditure;
- 2.1.12 to deposit or invest funds in any manner (but to invest only after obtaining advice from a financial expert and having regard to the suitability of investments and the need for diversification);
- 2.1.13 to delegate the management of investments to a financial expert, but only on terms that:
 - (a) the investment policy is set down in writing for the financial expert by the Trustees;
 - (b) every transaction is reported promptly to the Trustees;
 - (c) the performance of the investments is reviewed regularly with the Trustees;
 - (d) the Trustees are entitled to cancel the delegation arrangement at any time;
 - (e) the investment policy and the delegation arrangement are reviewed at least once a year;

- (f) all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt;
 - (g) the financial expert must not do anything outside the powers of the Trustees;
- 2.1.14 to arrange for investments or other property of the Charity to be held in the name of a nominee (being a corporate body registered or having an established place of business in England and Wales) under the control of the Trustees or of a financial expert acting under their instructions and to pay any reasonable fee required;
 - 2.1.15 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required;
 - 2.1.16 to insure the Trustees against the costs of a successful defence to a criminal prosecution brought against them as charity trustees or against personal liability incurred in respect of any act or omission which is or is alleged to be a breach of trust or breach of duty, unless the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;
 - 2.1.17 subject to Article 3, to employ paid or unpaid agents, staff or advisers;
 - 2.1.18 To enter into contracts to provide services to or on behalf of other bodies;
 - 2.1.19 To establish subsidiary companies to assist or act as agents for the Charity;
 - 2.1.20 To pay the costs of forming the Charity;
 - 2.1.21 To do anything else within the law which promotes or helps to promote the Objects.

3 Benefits to Members and Trustees

- 3.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to the members of the Charity but:
 - 3.1.1 members who are not Trustees may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied;
 - 3.1.2 members (including Trustees) may be paid interest at a reasonable rate on money lent to the Charity;
 - 3.1.3 members (including Trustees) may be paid a reasonable rent or hiring fee for property let or hired to the Charity;
 - 3.1.4 individual members [who are not Trustees] but who are beneficiaries may receive charitable benefits in that capacity;
- 3.2 a trustee must not receive any payment of money or other material benefit (whether directly or indirectly) from the Charity except:

- 3.2.1 as mentioned in Articles 2.1.16, 3.1.2, 3.1.3 or 3.3;
 - 3.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity;
 - 3.2.3 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
 - 3.2.4 payment to any company in which a Trustee has no more than a 1 per cent shareholding;
 - 3.2.5 in exceptional cases, other payments or benefits (but only with the written approval of the Commission in advance);
- 3.3 any Trustee (or any firm or company of which a Trustee is a member or employee) may enter into a contract with the Charity to supply goods or services in return for a payment or other material benefit but only if:
- 3.3.1 the goods or services are actually required by the Charity;
 - 3.3.2 the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services;
 - 3.3.3 no more than one half of Trustees are subject to such a contract in any financial year.

4 **Limited liability**

The liability of members is limited.

5 **Guarantee**

Every member promises, if the Charity is dissolved while he, she or it remains a member or within 12 months afterwards, to pay up to £1 towards the costs of dissolution and the liabilities incurred by the Charity while the contributor was a member.

6 **Dissolution**

- 6.1 If the Charity is dissolved the assets (if any) remaining after provision has been made for all its liabilities must be applied in one or more of the following ways:
- 6.1.1 by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects;
 - 6.1.2 directly for the Objects or charitable purposes within or similar to the Objects;
 - 6.1.3 in such other manner consistent with charitable status as the Commission approve in writing in advance;
 - 6.1.4 a final report and statement of account must be sent to the Commission.

7 **Membership**

7.1 The number of members with which the Charity proposes to be registered is unlimited.

7.2 The Charity must maintain a register of members.

7.3 Membership of the Charity is open to any individual or organisation interested in promoting the Objects who:

7.3.1 applies to the Charity in the form required by the Trustees;

7.3.2 is approved by the Trustees; and

7.3.3 signs the register of members or consents in writing to become a member either personally or (in the case of a member organisation) through an authorised representative.

7.4 Subject to Articles 7.3.3 and 7.5 the Constitutional Custodian shall be a member.

7.5 The number of members who are local authorities (as defined by Section 67 of the Local Government and Housing Act 1989) and local authority persons shall not exceed one third of the total number of members. The Trustees shall use all reasonable endeavours to ensure that there are sufficient other members to avoid breach of this rule.

7.6 The Trustees may establish different classes of membership and prescribe their respective privileges and duties and set the amounts of any subscriptions.

7.7 Save in respect of the Constitutional Custodian, whose membership may not be terminated, Membership is terminated if the member concerned:

7.7.1 gives written notice of resignation to the Charity;

7.7.2 dies or (in the case of an organisation) ceases to exist;

7.7.3 is six months in arrears in paying the relevant subscription (if any) (but in such a case the member may be reinstated on payment of the amount due); or

7.7.4 is removed from membership by resolution of the Trustees on the ground that in their reasonable opinion the member's continued membership is harmful to the Charity (but only after notifying the member in writing and considering the matter in the light of any written representations which the member concerned puts forward within 14 clear days after receiving notice).

7.8 Membership of the Charity is not transferable.

8 **General meetings**

8.1 Members are entitled to attend general meetings either personally, by proxy or (in the case of a member organisation) by an authorised representative. Proxy forms must be delivered to the Secretary at least 24 hours before the meeting. General meetings are called on at least 14 clear days written notice specifying the business to be discussed.

- 8.2 There is a quorum at a general meeting if the number of members or authorised representatives present in person or by proxy is at least three (or ten per cent of the members if greater) **provided that** the quorum for a meeting to pass a special resolution shall require the Constitutional Custodian or its authorised representative to be present in addition to the usual quorum.
- 8.3 The Chairman or (if the Chairman is unable or unwilling to do so) some other member elected by those present presides at a general meeting.
- 8.4 Except where otherwise provided by the Act, every issue is decided by a majority of the votes cast.
- 8.5 Every member present in person or by proxy (or through an authorised representative) has one vote on each issue.
- 8.6 On a resolution to amend Articles 1, 3, 6, 7.4, 7.5, 7.7, 8.6, 9.2, 9.8 and 16.1 which is proposed by any member other than the Constitutional Custodian the members present in person or by proxy (or through an authorised representative) shall be entitled to vote in accordance with the following percentages of the total votes cast: The Constitutional Custodian: 26%, all other members 74% apportioned equally between them. On a resolution to wind up the Charity the Constitutional Custodian shall have 50% of the total votes cast.
- 8.7 The members of the Charity may pass a resolution in writing in accordance with the terms of the Act. A proposed written resolution of the members of the Charity shall lapse if it is not passed before the end of the period of six months beginning with the circulation date of such resolution (as defined in section 290 of the Act).
- 8.8 The Charity must hold an AGM in every year which all members are entitled to attend¹. The first AGM may be held within 18 months after the Charity's incorporation.
- 8.9 At an AGM the members:
- 8.9.1 receive the accounts of the Charity for the previous financial year;
 - 8.9.2 receive the Trustees' report on the Charity's activities since the previous AGM;
 - 8.9.3 accept the retirement of those Trustees who wish to retire or who are retiring by rotation;
 - 8.9.4 elect persons to be Trustees to fill the vacancies arising;
 - 8.9.5 appoint auditors for the Charity;
 - 8.9.6 may confer on any individual (with his or her consent) the honorary title of Patron, President or Vice-President of the Charity; and
 - 8.9.7 discuss and determine any issues of policy or deal with any other business put before them.

8.10 A general meeting may be called at any time by the Trustees and, on the requisition of members pursuant to the Act, the Trustees shall convene a general meeting in accordance with the provisions of the Act.

9 **Trustees**

9.1 The Trustees as charity trustees have control of the Charity and its property and funds.

9.2 The Trustees when complete consist of at least three and not more than twelve individuals, all of whom must be members. The number of local authority persons shall not exceed one third of the total number of Trustees.

9.3 Those individuals notified to Companies House on incorporation are the first Trustees.

9.4 Every Trustee must sign a declaration of willingness to act as a charity trustee of the Charity before he or she is eligible to vote at any meeting of the Trustees.

9.5 One third (or the number nearest one third) of the Trustees must retire at each AGM, those longest in office retiring first and the choice between any Trustees of equal service being made by drawing lots (where not agreed between them).

9.6 A Trustee's term of office automatically terminates if he or she:

9.6.1 is disqualified under the Charities Act 1993 from acting as a charity trustee;

9.6.2 is incapable, whether mentally or physically, of managing his or her own affairs;

9.6.3 is absent from four consecutive meetings of the Trustees;

9.6.4 ceases to be a member (but such a person may be reinstated by resolution passed by all the other Trustees on resuming membership of the Charity before the next AGM);

9.6.5 resigns by written notice to the Trustees (but only if at least two Trustees will remain in office);

9.6.6 is not a nominee of the Constitutional Custodian and is or becomes a local authority person leading to a breach of the limit in Article 9.2;

9.6.7 is removed by resolution passed by at least 75% of the Trustees present and voting at a meeting after the meeting has invited the views of the Trustee concerned and considered the matter in the light of any such views;

9.6.8 is removed by resolution of the members in accordance with the Act.

9.7 The Trustees may at any time co-opt any person duly qualified to be appointed as a Trustee to fill a vacancy in their number or as an additional Trustee, but a co-opted Trustee holds office only until the next AGM.

9.8 The Constitutional Custodian shall have the power from time to time and at any time to appoint one trustee and to remove from office any such trustee. Appointments or removals shall be by written notice signed on behalf of the Constitutional Custodian and

shall take effect on delivery at the registered office of the Charity or on such later date as may be specified in the notice.

9.9 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

10 **Proceedings of Trustees**

10.1 The Trustees must hold at least four meetings each year.

10.2 A quorum at a meeting of the Trustees is three Trustees or such higher number as set out in Rules adopted by the Trustees.

10.3 A meeting of the Trustees or of a committee of the Trustees who are not all in one place may consist of a conference between Trustees through the medium of conference telephone or any form of electronic communication or similar form of communications equipment or combination of such methods provided that each Trustee participating in the meeting is able to hear and speak to each other participating Trustee throughout the meeting. A Trustee so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Subject to the Act, all business transacted in such manner by the Trustees or a committee of the Trustees shall for the purposes of these articles be deemed to be validly and effectively transacted at a meeting of the Trustees or of a committee of the directors notwithstanding that fewer than two Trustees are physically present at the same place. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chairman of the meeting then is. The word "meeting" in these articles shall be construed accordingly.

10.4 The Chairman or (if the Chairman is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.

10.5 Every issue may be determined by a simple majority of the votes cast at a meeting but a written resolution signed by all the Trustees is as valid as a resolution passed at a meeting (and for this purpose the resolution may be contained in more than one document and will be treated as passed on the date of the last signature).

10.6 Except for the Chairman of the meeting, who has a second or casting vote, every Trustee has one vote on each issue.

10.7 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

11 **Authorisation of Trustees' interests**

If an actual or potential conflict of interest arises for a Trustee because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in the Articles, the unconflicted Trustees may authorise such a conflict of interests provided that:

11.1 any conflicted Trustee is not to be counted in the quorum of Trustees at the meeting where the conflict is to be authorised. [For the purposes of this article a quorum shall be [].

11.2 the unconflicted Trustees consider it is in the interests of the charity to authorise the conflict of interest in the circumstances applying.

11.3 that a condition is attached to the authorisation requiring that Article 11 is complied with every time the authorised conflict arises for any conflicted Trustees at a Trustee meeting.

12 Any authorisation of a matter under Article 11 shall be on such terms and/or conditions as the Trustees (excluding the conflicted Trustees) may determine, whether at the time such authorisation is given or subsequently and may be varied or terminated by the Trustees (excluding the conflicted Trustees) at any time. Such terms or conditions may include (without limitation) terms and conditions as to the duration, renewal and/or revocation of the authorisation[, and/or the exclusion of the conflicted Trustees from all information [and discussion] of the matter in question. A Trustee shall comply with any obligations imposed on him by the Trustees (excluding the conflicted Trustees) pursuant to any such authorisation.

13 The Trustees should consider whether any actual or potential conflicts should be authorised in accordance with Article [7] each time:

13.1 a new Trustee is appointed;

13.2 a new situation arises for an existing Trustee that gives rise to an actual or potential conflict of interests.

14 **Permitted transactions**

For the purposes of sections 175(3) of the Act as substituted by section 181(2)(a) of the Act the duty to avoid conflicts of interest shall not apply to a conflict of interest arising in relation to a transaction or arrangement with the Charity in relation to the following:

14.1 A matter authorised by the Charity Commission;

14.2 An interest in any contract, arrangement, transaction or proposal concerning the purchase and/or maintenance of any insurance policy pursuant to Article 2.1.16 (power to obtain indemnity insurance);

14.3 Any payment permitted by Article 3 (benefits to members and trustees) or any benefit granted to a Trustee in the capacity of a beneficiary of the Charity;

but where such a conflict of interest does arise any conflicted Trustee shall comply with Article 11.

15 **Declaration of interests**

15.1 A Trustee who is interested directly or indirectly in any matter which is under discussion by the Trustees shall disclose the nature and extent of his interest in that matter; and

15.2 A Trustee who is directly interested in any matter which is under discussion by the Trustees;

15.2.1 shall not vote on that matter; and

15.2.2 shall not (unless required to do so by the chair) remain during the Trustees' discussion of such matter;

15.3 if a Trustee inadvertently votes on a matter to which 11.2.2 applies, his vote shall not be counted.

16 **Interested Trustee not to count for quorum**

A Trustee shall not be counted in the quorum in relation to, any resolution of the Trustees or of a committee of the Trustees concerning any contract, arrangement, transaction or any proposal to which the Charity is or is to be a party and in which he has an interest.

17 **Chairman's ruling conclusive on Trustee's interests**

If any question arises at any meeting as to the entitlement of any Trustee (other than the Chairman of the Trustees) to vote or be counted in a quorum, and such question is not resolved by his voluntarily agreeing to abstain from voting or being counted in the quorum, such question shall be referred to the Chairman of that meeting. The Chairman's ruling in relation to the Trustee concerned shall be final and conclusive.

18 **Trustees' resolution conclusive on Chairman's interest**

If any question arises at any meeting as to the entitlement of the Chairman to vote or be counted in a quorum, and such question is not resolved by his voluntarily agreeing to abstain from voting or being counted in the quorum, such question shall be decided by resolution of the Trustees or committee members present at that meeting (excluding the Chairman), whose majority vote shall be final and conclusive.

19 **Charity may ratify**

19.1 Subject to the provisions of the Act, the Charity may by ordinary resolution suspend or relax the provisions of Articles 10-13 or ratify any transaction not duly authorised by reason of a contravention of these Articles 10-13 provided always that such ordinary resolution is passed only if the necessary majority is obtained disregarding votes in favour of the resolution by the Trustee (if a member of the charity) and any member connected with him and provided further that such ratification shall not extend to any matter prohibited by Article 3.2 (payments to trustees not permitted).

19.2 For the purposes of Articles 9-14 an interest of a person who is for the purposes of the Act connected (which expression shall have the meaning given thereto by section 252 of the Act) with a Trustee shall be treated as an interest of the Trustee.

20 **Trustees' duty of confidentiality**

If a Trustee receives or has received any information otherwise than by virtue of his position as a Trustee of the Charity and in respect of which he owes a duty of confidentiality to another person, the Trustee is under no obligation to:

20.1 disclose any such information to the Charity, the Trustees or any other Trustee or employee of the Charity; or

20.2 use or apply any such information in connection with the performance of his duties as a Trustee;

provided that to the extent that such duty of confidentiality arises out of a situation or relationship which would or might otherwise constitute or give rise to a breach by the Trustee of the duty to avoid conflicts of interest set out in section 175 of the 2006 Act, this Article shall apply only if such situation or relationship has been authorised by the Trustees under Article 11.

21 **Powers of Trustees**

The Trustees have the following powers in the administration of the Charity:

- 21.1 to appoint (and remove) any individual or corporation (who may be a Trustee) to act as Secretary to the Charity in accordance with the Act;
- 21.2 to appoint a Chairman, Treasurer and other honorary officers from among their number;
- 21.3 to delegate any of their functions to committees consisting of two or more individuals appointed by them (but at least one member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees);
- 21.4 to make standing orders consistent with these Articles and the Act to govern proceedings at general meetings [and to prescribe a form of proxy];
- 21.5 to make Rules consistent with these Articles and the Act to govern proceedings at their meetings and at meetings of committees;
- 21.6 to make Regulations consistent with these Articles and the Act to govern the administration of the Charity and the use of its seal (if any);
- 21.7 to establish procedures to assist the resolution of disputes within the Charity;
- 21.8 to exercise any powers of the Charity which are not reserved to a general meeting.

22 **Records and Accounts**

- 22.1 The Trustees must comply with the requirements of the Act and of the Charities Act 1993 as to keeping financial records, the audit of accounts and the preparation and transmission to the Registrar of Companies and the Commission of:

- 22.1.1 annual reports;
- 22.1.2 annual returns;
- 22.1.3 annual statements of account.

- 22.2 The Trustees must keep proper records of:

- 22.2.1 all proceedings at general meetings;
- 22.2.2 all proceedings at meetings of the Trustees;
- 22.2.3 all reports of committees; and
- 22.2.4 all professional advice obtained.

22.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any reasonable time during normal office hours and may be made available for inspection by members who are not Trustees if the Trustees so decide.

22.4 A copy of the Charity's latest available statement of account must be supplied on request to any Trustee or member, or to any other person who makes a written request and pays the Charity's reasonable costs, within two months.

23 Notices

23.1 Notices under these Articles may be sent by hand, or by post or by suitable electronic means.

23.2 The only address at which a member is entitled to receive notices is the address shown in the register of members.

23.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:

23.3.1 24 hours after being sent by electronic means or delivered by hand to the relevant address;

23.3.2 two clear days after being sent by first class post to that address;

23.3.3 three clear days after being sent by second class or overseas post to that address;

23.3.4 on the date of publication of a newspaper containing the notice;

23.3.5 on being handed to the member (or, in the case of a member organisation, its authorised representative) personally or, if earlier;

23.3.6 as soon as the member acknowledges actual receipt.

24 Indemnity

The Charity may indemnify any Trustee against every liability incurred by him or her in that capacity to the extent permitted by the Act.

25 Interpretation

25.1 In these Articles:

the Act means the Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force;

AGM means an annual general meeting of the Charity;

area of benefit means the Cornwall Council Community Network Areas of West Penwith and Hayle & St Ives;

these Articles means these articles of association;

authorised representative means an individual who is authorised by a member organisation to act on its behalf at meetings of the Charity and whose name is given to the Secretary;

Chairman means the Chairman of the Trustees;

the Charity means the company governed by these Articles;

charity trustee has the meaning prescribed by section 97(1) of the Charities Act 1993;

clear day is to be calculated in accordance with section 360 of the Act;

the Commission means the Charity Commissioners for England and Wales;

the Constitutional Custodian means St Just Town Council;

financial expert means an individual, company or firm who is an authorised person or an exempt person for the purposes of the Financial Services and Markets Act 2000;

local authority person means any person:

- (a) who is or has been an elected member of a relevant local authority in the preceding four years;
- (b) who is an officer of a relevant local authority; or
- (c) who is or has been both an employee and either a director, manager, secretary or other similar officer of a company which is under control of a relevant local authority;

material benefit means a benefit which may not be financial but has a monetary value;

member and **membership** refer to membership of the Charity;

month means calendar month;

the Objects means the Objects of the Charity as defined in Article 1;

relevant local authority shall mean a local authority as defined in Section 67 of the Local Government and Housing Act 1989;

Secretary means the Secretary of the Charity;

taxable trading means carrying on a trade or business on a continuing basis for the principal purpose of raising funds and not for the purpose of actually carrying out the Objects;

Trustee means a director of the Charity and "Trustees" means all of the directors;

written or in writing refers to a legible document on paper including a fax message and electronic mail;

year means calendar year;

25.2 Expressions defined in the Act have the same meaning.

25.3 Any reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any change, extension, consolidation or re-enactment and includes any subordinate legislation for the time being in force made under it.

Name and addresses of subscribers

Subscribers' signatures

Name
Address

[repeat for each subscriber]

dated 200

witness to the above signature:

name:

address:

occupation:

signature