

15.10.07

COMPANY LIMITED BY GUARANTEE

MEMORANDUM OF ASSOCIATION OF THE ELDERS COUNCIL OF NEWCASTLE

1. The company's name is **THE ELDERS COUNCIL OF NEWCASTLE** (and in this document it is called the Charity).
2. The Charity's registered office is to be situated in England.
3. The Charity's objects (the Objects) are:
 - (1) to relieve the charitable needs associated with ageing of older people resident in the City of Newcastle upon Tyne, and to help make their later life a fulfilling and enjoyable experience.
 - (2) to promote the overall health and well-being of Newcastle's older people in need, primarily through association with voluntary, statutory and other agencies and individuals, in a common effort to:
 - a. relieve poverty, hardship and distress;
 - b. preserve and protect good health;
 - c. encourage the delivery of facilities for recreation and leisure time occupation in the interests of social welfare with the aim of improving their conditions of life;
 - d. advance the education of Newcastle's older people; and
 - e. promote the potential of Newcastle's older people as creative and active citizens in their community.
4. (1) In addition to any other powers it may have, the Charity has the following powers in order to further the Objects (but not for any other purpose):
 - (a) to raise funds. In doing so, the Charity must not undertake any substantial permanent trading activity and must comply with any relevant statutory regulations;
 - (b) to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
 - (c) to sell, lease or otherwise dispose of all or any part of the property belonging to the Charity. In exercising this power, the Charity must comply as appropriate with sections 36 and 37 of the Charities Act 1993;
 - (d) to borrow money and to charge the whole or any part of the property belonging to the charity as security for repayment of the money

borrowed. The Charity must comply as appropriate with sections 38 and 39 of the Charities Act 1993 if it wishes to mortgage land;

- (e) to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- (f) to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Objects;
- (g) to acquire, merge with or to enter into any partnership or joint venture arrangement with any other charity formed for any of the Objects;
- (h) to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
- (i) to employ and remunerate such staff as are necessary for carrying out the work of the Charity. The Charity may employ or remunerate a Director only to the extent it is permitted to do so by clause 5 and provided it complies with the conditions in that clause;
- (j) to :
 - (i) deposit or invest funds;
 - (ii) employ a professional fund-manager; and
 - (iii) arrange for the investments or other property of the Charity to be held in the name of a nominee;

in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;

- (k) to provide indemnity insurance for the Directors or any other officer of the Charity in relation to any such liability as is mentioned in sub-clause (2) of this clause, but subject to the restrictions specified in sub-clause (3) of the clause;
- (l) to pay out of the funds of the Charity the costs of forming and registering the Charity both as a company and as a charity;
- (m) to do all such other lawful things as are necessary for the achievement of the Objects;

(2) The liabilities referred to in sub-clause (1) (k) are:

- (a) any liability that by virtue of any rule of law would otherwise attach to a director of a company in respect of any negligence, default, breach of duty or breach of trust of which they may be guilty in relation to the Charity;
- (b) the liability to make a contribution to the Charity's assets as specified in section 214 of the Insolvency Act 1986 (wrongful trading).

- (3) (a) the following liabilities are excluded from sub-clause (2)(a):
- (i) fines;
 - (ii) costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonesty or wilful or reckless misconduct of the Director or other officer;
 - (iii) liabilities to the Charity that result from conduct that the Director or other officer knew or must be assumed to have known was not in the best interests of the Charity or about which the person concerned did not care whether it was in the best interests of the Charity or not.
- (b) There is excluded from sub-clause 2(b) any liability to make such a contribution where the basis of the Director's liability is their knowledge prior to the insolvent liquidation of the Charity (or reckless failure to acquire that knowledge) that there was no reasonable prospect that the Charity would avoid going into insolvent liquidation.
5. (1) The income and property of the Charity shall be applied solely towards the promotion of the Objects.
- (2) (a) A Director is entitled to be reimbursed from the property of the Charity or may pay out of such property reasonable expenses properly incurred by them when acting on behalf of the Charity.
- (b) Subject to the restrictions in sub-clauses 4(2) and 4(3), a Director may benefit from director indemnity insurance cover purchased at the Charity's expense.
- (3) None of the income or property of the Charity may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the Charity. This does not prevent a member who is not also a Director receiving:
- (a) a benefit from the Charity in the capacity of a beneficiary of the Charity;
 - (b) reasonable and proper remuneration for any goods or services supplied to the Charity.
- (4) No Director may:
- (a) buy any goods or services from the Charity;
 - (b) sell goods, services or any interest in land to the Charity;
 - (c) be employed by, or receive any remuneration from the Charity;
 - (d) receive any other financial benefit from the Charity;
- unless:

- (i) the payment is permitted by sub-clause (5) of this clause and the Directors follow the procedure and observe the conditions set out in sub-clause (6) of this clause; or
 - (ii) the Directors obtain the prior written approval of the Commission and fully comply with any procedures it prescribes.
- (5)
 - (a) A Director may receive a benefit from the Charity in the capacity of a beneficiary of the Charity.
 - (b) A Director may be employed by the Charity or enter into a contract for the supply of goods or services to the Charity, other than for acting as a Director.
 - (c) A Director may receive interest on money lent to the Charity at a reasonable and proper rate not exceeding 2% per annum below the base rate of a clearing bank to be selected by the Directors.
 - (d) A company of which a Director is a member may receive fees, remuneration or other benefit in money or money's worth provided that the shares of the company are listed on a recognised stock exchange and the Director holds no more than 1% of the issued capital of that company.
 - (e) A Director may receive rent for premises let by the Director to the Charity if the amount of the rent and the other terms of the lease are reasonable and proper.
- (6)
 - (a) The Charity and its Directors may rely upon the authority provided by sub-clause 5(5) only if each of the following conditions is satisfied:
 - (i) The remuneration or other sums paid to the Director do not exceed an amount that is reasonable in all the circumstances.
 - (ii) The Director is absent from the part of any meeting at which there is discussion of:
 - their employment or remuneration, or any matter concerning the contract; or
 - their performance in the employment, or their performance of the contract; or
 - any proposal to enter into any other contract or arrangement with them or to confer any benefit upon them that would be permitted under sub-clause 5(5); or
 - any other matter relating to a payment or the conferring of any benefit permitted by sub-clause 5(5).
 - (iii) The Director does not vote on any such matter and is not to be counted when calculating whether a quorum of Directors is present at the meeting.

- (iv) The other Directors are satisfied that it is in the interests of the Charity to employ or to contract with that Director rather than with someone who is not a Director. In reaching that decision the Directors must balance the advantage of employing a Director against the disadvantages of doing so (especially the loss of the Director's services as a result of dealing with the Director's conflict of interest).
 - (v) The reason for their decision is recorded by the Directors in the minute book.
 - (vi) A majority of the Directors then in office have received no such payments.
 - (b) The employment or remuneration of a Director includes the engagement or remuneration of any firm or company in which the Director is:
 - (i) a partner;
 - (ii) an employee;
 - (iii) a consultant;
 - (iv) a director; or
 - (v) a shareholder, unless the shares of the company are listed on a recognised stock exchange and the Director holds less than 1% of the issued capital.
- (7) In sub-clauses (2)-(6) of this clause 5:
- (a) "Charity" shall include any company in which the Charity:
 - holds more than 50% of the shares; or
 - controls more than 50% of the voting rights attached to the shares; or
 - has the right to appoint one or more directors to the Board of the company
 - (b) "Director" shall include any child, parent, grandchild, grandparent, brother, sister or spouse of the Director or any person living with the Director as their partner.
6. The liability of the members is limited.
7. Every member promises, if the Charity is dissolved while they are a member or within twelve months after they ceased to be a member, to contribute such sum (not exceeding £1) as may be demanded of them towards the payment of the debts and liabilities of the Charity incurred before they ceased to be a member,

and of the costs, charges and expenses of winding up, and the adjustment of the rights of the contributories among themselves.

8. (1) The members of the Charity may at any time before, and in expectation of, its dissolution resolve that any net assets of the Charity after all its debts and liabilities have been paid, or provision has been made for them, shall on or before the dissolution of the Charity be applied or transferred in any of the following ways:
 - (a) directly for the Objects; or
 - (b) by transfer to any charity or charities for purposes similar to the Objects; or
 - (c) to any charity for use for particular purposes that fall within the Objects.
- (2) Subject to any such resolution of the members of the Charity, the Directors of the Charity may at any time before and in expectation of its dissolution resolve that any net assets of the Charity after all its debts and liabilities have been paid, or provision made for them, shall on dissolution of the Charity be applied or transferred:
 - (a) directly for the Objects; or
 - (b) by transfer to any charity or charities for purposes similar to the Objects; or
 - (c) to any charity or charities for use for particular purposes that fall within the Objects.
- (3) In no circumstances shall the net assets of the charity be paid to or distributed among the members of the Charity (except to a member that is itself a charity) and if no such resolution is passed by the members or the Directors the net assets of the Charity shall be applied for charitable purposes as directed by the court or the Commission.

We, the persons whose names and addresses are written below, wish to be formed into a company under this Memorandum of Association.

Witness Signature

.....

Full Name

.....

Address

.....

.....

Occupation

.....

Dated :