



**Company Number SC401969**

**The Companies Act 2006**

**Private Company Limited by Guarantee**

**Articles of Association for**

**Community Pharmacy Scotland**

**Incorporated in Scotland on 20 June 2011**

**(Amended by special resolution passed on 14 November 2018)**

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1. **CONSTITUTION OF COMPANY**

- 1.1 The model articles of association as prescribed in Schedule 2 to The Companies (Model Articles) Regulations 2008 are excluded in respect of this company.

2. **DEFINITIONS AND INTERPRETATION**

- 2.1 In these articles of association, the following expressions shall have the following meanings:-

**"Articles"** mean these articles of association of the Company;

**"associate member"** has the meaning given in article 29

**"Board"** means the board of directors of the Company constituted in accordance with article 17;

**"Chairman"** has the meaning given in article 7;

**"Chief Executive Officer"** means any person appointed by the Council under article 23.1 to act as Chief Executive Officer to the Company.

**"Companies Acts"** means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the Company;

**"contractor" or "pharmacy contractor"** means a person, lawfully conducting a community pharmacy business in accordance with section 69 of the Medicines Act 1968 (as amended from time to time) and whose name appears in that part of a pharmaceutical list relating to persons, firms or bodies corporate entitled to provide pharmaceutical services;

**"Council"** means the members of the Company as elected or nominated from time to time in accordance with these Articles and **"Council member"** shall be construed accordingly;

**"elected pharmacy contractor"** means a pharmacy contractor who is not a member of the Company Chemists' Association;

**"ordinary meeting"** has the meaning given in article 10.2;

**"NHS Board"** means the NHS Board for the relevant area constituted under Section 2 of the National Health Service (Scotland) Act 1978;

**"Pharmaceutical care services"** means the dispensing of medicines, the supply of appliances, and the provision of other services under the National Health Service (Scotland) Acts and the Regulations (as amended) and Pharmaceutical Care Services

as defined under the Smoking, Health and Social Care (Scotland) Act 2005 by pharmacy contractors;

**“pharmaceutical list”** has the meaning assigned to it by Regulation 5 of the principal Regulations, being the list of premises from which pharmacy contractors operate from within an NHS Board area;

**“pharmacist”** has the meaning assigned to it in relation to Great Britain by Section 132(1) of the Medicines Act 1968 (as amended from time to time);

**“Community Pharmacy (Health Board) Committee”** means a committee established pursuant to article 21 and elected, nominated or appointed to represent pharmacy contractors providing pharmaceutical care services in the area of one of the NHS Boards in Scotland;

**“principal Acts”** means the National Health Service (Scotland) Act 1978 and the Smoking, Health and Social Care (Scotland Act) 2005;

**“principal Regulations”** means the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 (SSI 2009/183), as amended from time; and any further regulations in force from time to time under Part 3: Pharmaceutical Care Services of the Smoking Health and Social Care (Scotland) Act 2005;

**“relevant area”** in relation to a Community Pharmacy (*Health Board*) Committee means the NHS Board area for which that committee is constituted;

**“relevant committee”** has the meaning given in article 6.2;

**“Session”** means, in respect of the Council and the Board, a period of three years' duration. The Session current at the date of amendment of these Articles shall expire on 13 May 2019. Each subsequent Session shall commence the day following the expiry of the preceding Session;

**“Vice Chairman”** has the meaning given in article 9; and

**“voting member”** means any Council member entitled to vote at meetings of the Council.

2.2 In these Articles, unless the context otherwise requires:-

2.2.1 words importing the singular number only shall include the plural number and vice versa;

- 2.2.2 words importing the masculine gender only shall include the feminine gender;
  - 2.2.3 references to "articles" shall mean the paragraphs of these Articles;
  - 2.2.4 any word denoting a person only shall also denote a corporation, Company, association, partnership or other body of persons (whether incorporated or not);
  - 2.2.5 references to these Articles shall include these Articles as it may from time to time be amended, supplemented or substituted; and
  - 2.2.6 references to any enactment shall be deemed to include any amendment, extension, substitution or replacement thereof or therefore for the time being in force.
- 2.3 References in these Articles to a person who represents a pharmacy contractor or to a representative of a pharmacy contractor shall mean a pharmacist who is a director of, or partner in, a pharmacy contractor or who has been nominated to serve on a Community Pharmacy (*Health Board*) Committee by the Company Chemists' Association.
- 2.4 The Schedule hereto shall be deemed to form part of these Articles.
- 2.5 References in these Articles to notice being given to any party shall include and permit the giving of any such notice by email, facsimile transmission, publication on a website or any other means of electronic communication which the Company may notify to its members from time to time.

### 3. **NAME**

- 3.1 The name of the Company is Community Pharmacy Scotland.

### 4. **OBJECTS AND POWERS**

- 4.1 The objects of the Company are:-

- 4.1.1 to promote, represent and safeguard the rights and interests of all pharmacy contractors in the provision of pharmaceutical care services;
- 4.1.2 to negotiate, on behalf of pharmacy contractors, the terms and conditions of service for the provision of NHS pharmaceutical care services;

- 4.1.3 to consider and give advice and guidance on any matters or questions concerning the provision of NHS pharmaceutical care services referred to the Company by any government department or any authority or body (whether statutory, municipal or public), organisation, institution or other body of persons;
- 4.1.4 to provide information, advice or other assistance to pharmacy contractors in respect of any matter concerning the provision of NHS pharmaceutical care services;
- 4.1.5 to educate the public in the services provided by pharmacy contractors;
- 4.1.6 to promote and increase the profile of community pharmacy to a wide range of external bodies, stakeholders and decision makers;
- 4.1.7 to promote among pharmacy contractors a high standard of practice; and
- 4.1.8 to give concerted expression to the opinions of pharmacy contractors upon all questions and laws affecting the provision of NHS pharmaceutical care services.

4.2 In furtherance of such objects, the Company may.-

- 4.2.1 employ and pay any person or persons to supervise, organise, administer and carry on the work of the Company and to advise the Company;
- 4.2.2 make reasonable provision for the payment of pensions and superannuation for employees for the time being of the Company or their dependants;
- 4.2.3 promote and carry out or assist in promoting and carrying out surveys and investigations and disseminate the results of such surveys and investigations;
- 4.2.4 publish or contribute to the publication of any papers, books, periodicals, reports or other documents;
- 4.2.5 collect and circulate information on all matters affecting the objects of the Company and exchange such information with other bodies having similar objects whether in the United Kingdom or overseas;

- 4.2.6 arrange or join in arranging conferences, meetings, discussions, seminars and courses;
- 4.2.7 establish and maintain Community Pharmacy (*Health Board*) Committees and finance, support, co-ordinate, co-operate with and assist the activities of such committees;
- 4.2.8 support or oppose any proposed legislation in the United Kingdom or elsewhere which may beneficially or adversely affect the Company or the interests of pharmacy contractors or of pharmacists as a profession;
- 4.2.9 promote, subscribe to, become a member or affiliate of, co-operate or liaise with any association or body having for its objects, or one of its objects, the benefit, assistance or protection of pharmacists;
- 4.2.10 purchase or by any other means acquire any property whatever, and any rights or privileges of any kind over or in respect of any property, and construct, maintain and alter any buildings or erections necessary for the work of the Company;
- 4.2.11 sell, let, feu, mortgage, dispose of or turn to account all or any of the property or assets of the Company;
- 4.2.12 establish, join in establishing, acquire, own (in whole or in part) and control any Company;
- 4.2.13 obtain, collect and receive money and funds by way of subscriptions, levies, donations, contributions, fees or in any other manner and borrow or raise money and secure the repayment of any money borrowed or owing on such terms and in such manner as may be thought fit;
- 4.2.14 prudently invest and deal with the money of the Company not immediately required in such manner as may from time to time be determined and hold or otherwise deal with any investments made;
- 4.2.15 make representations to international bodies on matters involving legislation which may affect the interests of pharmacy contractors in Scotland;

- 4.2.16 initiate or carry out research projects which will benefit pharmacy contractors in Scotland;
- 4.2.17 offer employee pharmacists (and, if appropriate, other persons), through a subscription (if any), an associate membership that will provide for access to support and information, thereby benefiting their engagement by a pharmacy contractor in Scotland; and
- 4.2.18 do all such other lawful things as may be considered incidental or conducive to the attainment of the Company's objects or any of them or to be advisable in the interests of pharmacy contractors or to be calculated directly or indirectly to benefit the Company or pharmacy contractors at large.

## 5. **LIABILITY OF MEMBERS**

- 5.1 Each member undertakes that if the Company is wound up while he is a member (or within one year after he ceases to be a member), he will contribute - up to a maximum of £1 - to the assets of the Company, to be applied towards:
  - 5.1.1 payment of the Company's debts and liabilities contracted before he/she ceases to be a member;
  - 5.1.2 payment of the costs, charges and expenses of winding up; and
  - 5.1.3 adjustment of the rights of the contributories among themselves.

## 6. **MEMBERSHIP OF COUNCIL**

- 6.1 The Council shall consist of:-
  - 6.1.1 a member or members elected by each Community Pharmacy (*Health Board*) Committee from among those of its members who are or who represent pharmacy contractors carrying on a community pharmacy business within the relevant area and who are eligible for appointment under the relevant Community Pharmacy (*Health Board*) Committee's constitution. Subject to article 6.1.2, the total number of members to be elected under this article 6.1.1 shall be forty-two and the number to be elected by each Community Pharmacy (*Health Board*) Committee shall be as set out in the table below, and in accordance with the procedure as determined by the Board of Community Pharmacy Scotland, and will be in such proportion as would be consistent with



the proportions of elected contractors and nominated Company Chemists' Association representatives on each such relevant committee:-

**Community Pharmacy (*Health Board*) Committee    Number of members**

Ayrshire and Arran	3
Borders	2
Dumfries and Galloway	2
Fife	3
Forth Valley	3
Glasgow	8
Grampian	4
Highland	3
Lanarkshire	3
Lothians	5
Orkney	1
Shetland	1
Tayside	3
Western Isles	1

- 6.1.2 provided that the condition specified in article 6.2 continues to be satisfied following conclusion of the term of office determined in accordance with article 7 (and provided that he has not resigned from nor been removed nor otherwise disqualified from holding office), the person who has most recently concluded a term of office as Chairman. While a Council member holds office under this article 6.1.2, the number of Council members elected by the relevant committee (as defined in article 6.2) under article 6.1.1 shall be reduced by one;
- 6.1.3 in addition to members determined under articles 6.1.1 or 6.1.2 above, it shall be competent for additional persons to be co-opted as members by the Council at any time and from time to time. Such co-opted members shall be pharmacy contractors, or representatives of pharmacy contractors, whose expertise or experience would, in the opinion of the Council, be of assistance to the Council in its work. Such members co-opted would have to be approved by a general meeting

of the Council. Members co-opted under this article 6.1.3 shall not be entitled to vote at meetings of the Council.

6.2 The condition referred to in articles 6.1.2 and 8.1.3 is, in relation to each person therein referred to, that he is or represents a pharmacy contractor carrying on a community pharmacy business within the relevant area of the Community Pharmacy (*Health Board*) Committee which elected him to the Council under article 6.1.1 ("the relevant committee"), or is nominated to serve on the relevant committee by the Company Chemists' Association.

## 7. **TENURE OF OFFICE**

7.1 Subject as provided below, the members of the Council shall hold office until the expiry of a Session.

7.2 Prior to the expiry of a Session, the Council may resolve that, at the expiry of the Session, all the then existing members shall continue in office until the first general meeting of members appointed under article 6.1 in respect of the new Session.

7.3 A retiring Council member shall be eligible for re-election or re-nomination or further co-option to the Council save as otherwise expressly provided in these Articles.

7.4 In the event of a casual vacancy in the membership of the Council occurring by reason of the death, resignation, removal or disqualification of a member ("the former member"), then if the former member was elected by a Community Pharmacy (*Health Board*) Committee under article 6.1.1, the vacancy may be filled by the relevant committee electing another member from the same elected pharmacy contractor or nominated Company Chemists' Association representatives group. For the purposes of this article 7.4, a former member who held office under article 6.1.1 shall be deemed to have been elected to the Council by the relevant committee (as defined in article 6.2).

7.5 Any Council member elected or nominated to fill a casual vacancy or otherwise taking office after the commencement of a Session shall hold office only until the expiry of such Session (subject to article 7.2).

7.6 The continuation in office of any Council member beyond the expiry of a Session by virtue of article 7.2 shall be disregarded for the purposes of the election or nomination of members in respect of the new Session under article 6.1.

## **8. DISQUALIFICATION AND REMOVAL OF MEMBERS**

8.1 The office of a Council member shall be vacated if:-

8.1.1 he resigns his office by notice in writing signed by him and delivered to the Chief Executive Officer;

8.1.2 in the case of a Council member holding office as an elected member or nominee of the Company Chemists' Association, he is removed from office by the Company Chemists' Association; or

8.1.3 in the case of a Council member holding office under article 6.1.1, he ceases to satisfy the condition in article 6.2.

8.2 Any removal of a member under article 8.1.2 shall be affected by notice in writing lodged by the nominating or electing body with the Chief Executive Officer and shall take effect as at the time of lodgement or at such later time as shall be specified in the notice.

## **9. CHAIRMAN AND VICE-CHAIRMAN**

9.1 Prior to the first meeting of a new Council for the forthcoming Session, the voting members of that Council shall elect one of their number to each of the offices of Chairman and Vice-Chairman respectively. The election of the Chairman and Vice-Chairman shall be in accordance with the guidance set out in Schedule 1 to these Articles.

9.2 A Council member holding office as Chairman or Vice-Chairman shall hold that office until the expiry of the Session in which he was elected to such office, but such office shall be automatically vacated if he shall cease through any cause to be a Council member.

9.3 If the Chairman or Vice-Chairman ceases to hold such office for any cause during a Session save for suspension from office pursuant to article 17.7, the Council shall, not later than ten weeks after the date of such cessation, meet and elect from among the voting members a new Chairman or Vice-Chairman (as the case may be) to hold office for the remainder of such Session. Until such new Chairman or Vice-Chairman has been elected, the Board may elect an acting Chairman or Vice-Chairman (as the case may be) to hold office until the new officeholder has been elected by the Council.

9.4 If the Chairman or Vice-Chairman are suspended from such office pursuant to article 17.7 and for so long as they are suspended, the Board may elect an acting Chairman or Vice-Chairman (as the case may be) to hold office. If the Chairman or Vice-Chairman subsequent to this permanently ceases to hold such office, the Council shall, not later than ten weeks after the date of such cessation, meet and elect from among the voting members a new Chairman or Vice-Chairman (as the case may be) to hold office for the remainder of such Session.

## 10. **MEETINGS OF THE COUNCIL**

10.1 The Council shall in each calendar year hold a general meeting as its annual general meeting, and not more than 15 months shall elapse between the date of one annual general meeting and that of the next.

10.2 In addition to the annual general meeting, the Council shall hold at least one further general meeting (an "ordinary meeting") in each calendar year.

10.3 The Chairman of the Council may at any time at his discretion, and the Chief Executive Officer shall within 28 days of receiving a written request so to do by not less than ten voting Council members, call an ordinary meeting of the Council. A written request by Council members to call an ordinary meeting must state the objects of the meeting, and must be signed by all the voting members making the request. Any notice calling an ordinary meeting at the request of voting members shall convene the meeting for a date falling not more than 28 days after the date of the notice.

10.4 The business of an annual general meeting shall be:-

10.4.1 the reception of an annual report by the Council

10.4.2 the approval of the annual accounts of the Company;

10.4.3 the appointment of an auditor or auditors in accordance with article 14.8; and

10.4.4 any other business which, consistently with these Articles, may be introduced by a Council member.

## 11. **NOTICE OF GENERAL MEETINGS**

11.1 A general meeting of the Council shall be called by at least fourteen days' clear notice to the Council members, but an ordinary meeting may be called at shorter notice if, in the opinion of the Chairman or, if he is absent from the United Kingdom, the Vice-

Chairman, it is appropriate to do so in view of the urgent nature of the business to be transacted at the meeting.

- 11.2 Notice of a meeting shall be given to all the members of the Council. Such notice shall be in writing, and shall be signed by the Chief Executive Officer, and may be given to a member either personally or by sending it by post in a prepaid first-class envelope addressed to the member at his last known address in the United Kingdom or by email in accordance with article 2.5 above.
- 11.3 The notice of meeting shall specify the time and place of the meeting and the business to be transacted and in the case of the annual general meeting shall specify the meeting as such.
- 11.4 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, a Council member shall not invalidate the proceedings at that meeting.

## 12. **PROCEEDINGS AT MEETINGS**

- 12.1 No business shall be transacted at any general meeting of the Council unless a quorum is present. Twenty one voting members shall be a quorum.
- 12.2 The Chairman or, in his absence, the Vice-Chairman shall preside as chairman of the meeting, but if neither the Chairman nor the Vice-Chairman be present within 15 minutes after the time appointed for holding the meeting, the Council members present shall elect one of their number, being a voting member, to be chairman of the meeting.
- 12.3 Unless otherwise expressly provided herein, questions arising at a meeting shall be decided by a simple majority of those present and entitled to vote. Subject to Article 6.1.3 each Council member shall have one vote. In the case of an equality of votes the chairman of the meeting shall not have a second or casting vote and the resolution in question shall be declared lost. A resolution put to the meeting shall be decided on a show of hands unless a poll is demanded in accordance with Article 13.
- 12.4 If any Council member is unable to attend a general meeting of the Council, that member shall be permitted to nominate another pharmacist having the like eligibility for Council membership to attend and vote on his behalf at that meeting. Any nomination under this article 12.4 shall be by notice in writing to the Council signed by the Council member making the nomination and received by the Chief Executive Officer or delivered at a meeting of the Council, or in any other manner approved by

the Council members. Any person attending a meeting on behalf of a voting member under this article shall be counted for the purposes of a quorum at such meetings.

- 12.5 The Council members may act in good faith notwithstanding any vacancies in their number, and notwithstanding any failure by any committee or body referred to in article 6.1 to elect or nominate the member or members required under that article. All acts done by a meeting of the Council shall, notwithstanding that it afterwards be discovered that there was a defect in the election, nomination or co-option of any member or that any of the members were disqualified from holding office or had vacated office, be as valid as if every member had been duly elected, nominated or co-opted and was qualified and had continued to be a member.
- 12.6 The Council shall cause minutes of all proceedings at meetings of the Council to be kept in accordance with article 23.2 and shall cause such minutes to be entered in books kept for the purpose. Draft minutes of the proceedings at each meeting shall be circulated before the next meeting for approval at that meeting.
- 12.7 A declaration by the chairman of a meeting that a resolution has been carried, or carried by a particular majority or lost, 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.
- 12.8 Subject to the provisions of these Articles, the Council may regulate its proceedings as it thinks fit.

### 13. **POLL VOTES**

- 13.1 A poll on a resolution may be demanded:
- 13.1.1 in advance of the general meeting where it is to be put to the vote; or
  - 13.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 13.2 A poll may be demanded by:
- 13.2.1 the chairman of the meeting;
  - 13.2.2 the directors;
  - 13.2.3 two or more persons having the right to vote on the resolution; or

- 13.2.4 a person or persons representing not less than one tenth of the total voting rights of all the members having the right to vote on the resolution.
- 13.3 A demand for a poll may be withdrawn if:
  - 13.3.1 the poll has not yet been taken; and
  - 13.3.2 the chairman of the meeting consents to the withdrawal.
- 13.4 Polls must be taken immediately and in such manner as the chairman of the meeting directs.

#### 14. **CONTENT OF PROXY NOTICES**

- 14.1 Proxies may only validly be appointed by a notice in writing (a "proxy notice") which:
  - 14.1.1 states the name and address of the Council member appointing the proxy;
  - 14.1.2 identifies the person appointed to be that Council member's proxy and the general meeting in relation to which that person is appointed;
  - 14.1.3 is signed by or on behalf of the Council member appointing the proxy, or is authenticated in such manner as the directors may determine; and
  - 14.1.4 is delivered to the Company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- 14.2 The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 14.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 14.4 Unless a proxy notice indicates otherwise, it must be treated as:
  - 14.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - 14.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

## 15. **DELIVERY OF PROXY NOTICES**

- 15.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at an ordinary or general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.
- 15.2 An appointment under a proxy notice may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- 15.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 15.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

## 16. **AMENDMENTS TO RESOLUTIONS**

- 16.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
  - 16.1.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine); and
  - 16.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- 16.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
  - 16.2.1 the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
  - 16.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 16.3 If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.



17. **COMMUNITY PHARMACY SCOTLAND BOARD**

- 17.1 The board of directors of the Company (the "**Board**") shall manage and direct the affairs of the Company and deliberate and advise on all matters affecting its interests. The general powers given by this article shall not be limited or restricted by any special authority or power given to the Board by any other provision of these Articles.
- 17.2 The members of the Board shall be elected or appointed by the Council prior to the Council's first meeting of each Session, and shall consist of:-
- 17.2.1 Fifteen Council members, inclusive of both the elected Chairman and Vice Chairman of Council, six of whom shall be nominated by the Company Chemists' Association and nine elected from the elected pharmacy contractor group on Council. The six nominated Company Chemists' Association representatives shall be nominated members of a Community Pharmacy (*Health Board*) Committee in an NHS Board area and also be nominated by the Company Chemists' Association to represent that Community Pharmacy (*Health Board*) Committee on the Council; and
  - 17.2.2 in addition to the members so elected or nominated, the Board may at any time and from time to time co-opt further members who are or who represent pharmacy contractors, and whose expertise or experience would, in the opinion of the Board, be of assistance to the Board in its work. Co-opted members shall not be entitled to vote at meetings of the Board and may be co-opted for periods less than the duration of a Session of the Council.
- 17.3 The election of members of the Board pursuant to article 17.2.1 shall be carried out in accordance with the provisions of the Schedule 1 to these Articles.
- 17.4 The elected and nominated members of the Board shall be the directors of the Company and shall comply with all registration requirements of directors of private companies.
- 17.5 Subject to articles 17.2 and 17.6, the members of the Board shall hold office until the expiry of a Session provided that, if at the expiry of a Session a new Board has not been appointed, the existing members of the Board shall continue in office until the new Board has been appointed.

- 17.6 Subject to the provisions of this Article 17, each member of the Board shall hold office for a Session and shall cease to be a director as soon as:
- 17.6.1 he ceases for any cause to be a Council member, save in the case of a non-voting co-opted member appointed under article 17.2.2;
  - 17.6.2 he ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
  - 17.6.3 a bankruptcy order is made against him;
  - 17.6.4 a composition is made with his creditors generally in satisfaction of that person's debts;
  - 17.6.5 a decision by the current regulator of pharmacists and pharmacy premises renders him ineligible to continue in office as a director;
  - 17.6.6 a decision by the Board is taken for the director to resign in accordance with article 17.8.2;
  - 17.6.7 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that he has become physically or mentally incapable of acting as a director and may remain so for more than three months; or
  - 17.6.8 notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.
- 17.7 If at any time a director is convicted of a criminal offence that should be disclosed to the regulator for pharmacists and pharmacy premises, the Chairman (or Vice Chairman if the Chairman is the director convicted) shall:
- 17.7.1 If he deems it appropriate, temporarily suspend the director until a meeting of the directors has taken place; and
  - 17.7.2 call a meeting of the Board (at which the quorum requirements must be met without the director in question) to decide an appropriate course of action.
- 17.8 At the Board meeting referred to at article 17.7.2 above after discussing the circumstances, the Board may decide to:

- 17.8.1 continue the suspension of the director pending a decision of the current regulator of pharmacists and pharmacy premises regarding his suitability to continue in the profession;
  - 17.8.2 require that the director resign from office immediately; or
  - 17.8.3 remove the suspension and allow the director to continue as a director and resume or not resume any other office role that they previously held.
- 17.9 The Council shall have power at any time to fill any casual vacancy on the Board.
- 17.10 The provision of these Articles in relation to general meetings of the Council and to the proceedings thereat shall, mutatis mutandis, apply in relation to any meeting of the Board, except that:-
- 17.10.1 any five members of the Board entitled to vote may request the Chief Executive Officer to call a meeting of the Board;
  - 17.10.2 the necessary quorum shall be eight members of the Board entitled to vote;
  - 17.10.3 the provisions of articles 10.1 and 10.2 shall not apply. The Board shall meet as often as may be requisite.
- 17.11 All acts and proceedings of the Board shall be reported back to the Council as soon as conveniently practicable. It shall be the duty of the Board to lay an annual report of its work before each annual general meeting of the Council.
- 17.12 The Board may form or assist in forming, or procure that the Company is represented on, a Scottish Pharmaceutical Joint Advisory Committee or any other consultative or advisory body, committee or organisation representing all aspects of pharmacy in Scotland. The Board may also appoint persons to represent the Company on such other bodies, committees or organisations as may seem expedient in the interests of pharmacy contractors.
- 17.13 All significant communications regarding the provision of NHS pharmaceutical care services received by the Council from any Community Pharmacy (*Health Board*) Committee or from any Council member shall be referred to and considered by the Board on behalf of the Company.
- 17.14 In the exercise of the powers vested in it under these Articles and subject to the provisions of the Companies Acts, the Board shall conform to any rules and

restrictions, being not inconsistent with the provisions of these Articles that may be imposed on it by the Council.

## 18. **CONFLICTS OF INTEREST**

- 18.1 If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the Company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- 18.2 If article 18.3 applies, a director who is interested in an actual or proposed transaction or arrangement with the Company is to be counted as participating in the decision-making process for quorum and voting purposes.
- 18.3 This article applies when:
- 18.3.1 the Company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in the decision-making process;
  - 18.3.2 the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
  - 18.3.3 the director's conflict of interest arises from arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the Company or any of its subsidiaries which do not provide special benefits for directors or former directors.
- 18.4 For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- 18.5 Subject to article 18.6, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.
- 18.6 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

**19. RECORDS OF DECISIONS TO BE KEPT**

19.1 The directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

**20. OTHER COMMITTEES**

20.1 The Council and the Board may each delegate any of its respective powers, authorities or discretions in relation to any particular matter (but excluding in the case of the Council any power, authority or discretion vested in or exercisable by the Board under article 17) to such committees, on such terms and conditions, as it may think fit, and may determine the terms of reference, powers, duration and composition of all such committees. The Council or the Board (as the case may be) may appoint, remove and re-appoint any persons (whether members of the Council or the Board or not) to be members of such committees and may authorise the members of the committee to fill any vacancies therein and to act notwithstanding vacancies.

20.2 The Board may from time to time issue, vary and revoke regulations governing the meetings and proceedings of any committee established under this article 20, provided that such regulations shall not be inconsistent with the provisions of these Articles.

20.3 Unless otherwise determined by the Council or the Board (as the case may be), any act done by any committee established under this article 20 shall not be effective unless and until approved by the Board or Council.

**21. COMMUNITY PHARMACY (*HEALTH BOARD*) COMMITTEES**

21.1 Subject to article 21.2, the Company shall take all necessary steps to set up and thereafter to continue in being committees to serve the area of each NHS Board in Scotland and to be known as Community Pharmacy (*Health Board*) Committees.

21.2 The Community Pharmacy (*Health Board*) Committees (formerly referred to as Pharmacy Contractors Committees) in existence immediately prior to the date these Articles are adopted shall, subject to the provisions of these Articles, continue in existence on and after that date as if set up under article 21.1, and with the same powers and duties as they had immediately prior to that date.

21.3 The constitution, powers and duties of each Community Pharmacy (*Health Board*) Committee shall be as determined by the Company from time to time.

21.4 It shall be the duty of each Community Pharmacy (*Health Board*) Committee to elect to the Company the appropriate number of members to represent that Community Pharmacy (*Health Board*) Committee pursuant to articles 6.1.1 and 7.4 in such proportion as would be consistent with the proportions of elected pharmacy contractors and nominated Company Chemists' Association representatives on each such relevant committee, such proportion to be advised by the Chief Executive Officer.

## 22. **RAISING AND APPLICATION OF FUNDS**

22.1 The Company may raise funds from time to time by making such levies as it thinks fit upon pharmacy contractors.

22.2 The rate of levy to be paid by pharmacy contractors shall from time to time be prescribed by the Council in general meeting.

22.3 The amount of levy payable by each pharmacy contractor shall be determined by reference to the payments for NHS pharmaceutical care services from time to time received by that pharmacy contractor.

22.4 The Company may at any time arrange for the granting of a mandate by a pharmacy contractor authorising an NHS Board in Scotland to (i) deduct the amount of levy from time to time payable by the pharmacy contractor to the Company from the amount from time to time payable by the NHS Board to the pharmacy contractor for the provision of NHS pharmaceutical care services, and (ii) pay the amount deducted direct to the Company.

22.5 If any pharmacy contractor revokes a mandate granted to an NHS Board pursuant to article 22.4, or if any levy applicable to him (or it) is in arrears, such pharmacy contractor shall thereupon cease to be entitled to use or enjoy any of the services or facilities provided by the Company. The Company may restore such services and facilities to a pharmacy contractor at any time upon such pharmacy contractor granting a new mandate.

22.6 In the event of any dispute as to the amount of the levy to be paid by any pharmacy contractor the decision of the Board shall be final.

22.7 The funds of the Company shall be applied in promoting, furthering or protecting the objects of the Company, and without prejudice to this generality and to the provisions of article 4.2:-

22.7.1 the income and property of the Company shall be applied solely towards promoting the Company's objects;

- 22.7.2 in making reasonable payment to Council member and others (including officers, servants and agents of the Company and members of the Board) as reimbursement for out-of-pocket expenses incurred in the discharge of duties connected with the business of the Company or as remuneration for special duties undertaken by them on behalf of the Company;
- 22.7.3 in meeting the reasonable expenses of each Community Pharmacy (*Health Board*) Committee, by means of grants or otherwise; and
- 22.7.4 no part of the income or property of the Company shall be paid or transferred (directly or indirectly) to the members of the Company, whether by way of dividend, bonus or otherwise.
- 22.8 The Chief Executive Officer shall ensure that proper accounts of the financial affairs of the Company are kept. Accounts of the Company shall be made up annually as at 31st July and shall, as soon as practicable after the end of the financial year, be audited by an auditor or auditors who shall be appointed at each annual general meeting of the Council. A statement of the accounts shall be laid for approval, duly audited, before the next annual general meeting of the Council, a copy thereof having previously been circulated to members with the notice calling such meeting. The books of account of the Company shall be open to inspection by any Council member at all reasonable times. The Board may fill any casual vacancy in the office of auditor.
- 22.9 A bank account shall be opened and maintained in the name of the Company with such bank and at such branch as the Board shall from time to time decide. The Board shall appoint such authorised signatory or signatories for operation of the bank account as it shall from time to time deem necessary.
- 22.10 The Company's power under Article 4.2.13 to raise or borrow or secure the payment of any money may be exercised by the Board.

23. **CHIEF EXECUTIVE OFFICER AND OTHER STAFF**

- 23.1 The Council shall appoint a Chief Executive Officer, after consideration of a recommendation in that regard from the Board, and the remuneration and terms of employment of the Chief Executive Officer shall be fixed (and may be altered) by the Board. Subject to article 23.2 and to any duties laid upon the Chief Executive Officer by any other provision of these Articles, the Board may determine the powers and

duties of the Chief Executive Officer. The Chief Executive Officer may be removed or suspended from office at any time by the Board, after ratification by the Council (but without prejudice to any claim the Chief Executive Officer may have for breach of any contract of service between him and the Company).

23.2 The Chief Executive Officer, or such other individual as the Board shall nominate, shall be responsible for keeping minutes of the proceedings of meetings of the Council, the Board and any other committee established under article 20.

23.3 The Chief Executive Officer shall have power to appoint, suspend and remove such other staff as he may deem necessary, after consultation with the Board, on such terms and conditions as the Board may from time to time approve.

#### 24. **LIABILITIES AND INDEMNITIES**

24.1 The Company shall have no power to enter into transactions on behalf of pharmacy contractors at large or to bind them in respect of any debt or obligation to any third party.

24.2 The Board shall have power to enter into contracts for the purposes of the Company, but subject always to article 24.3.

24.3 No person entering into a contract for the purposes of the Company shall have any power to pledge the personal liability of any Council member in respect of such contract, and such contract shall only be entered into on terms that liability thereunder is restricted to the assets of the Company.

24.4 Every current or former:

24.4.1 Council member or of any committee,

24.4.2 director,

24.4.3 agent,

24.4.4 other office-bearer, and/or

24.4.5 employee

of the Company or associated Company (other than the auditor or auditors) shall be entitled to an indemnity out of the assets of the Company for all expenses and losses incurred by him in the execution of his office or employment or in relation thereto, unless the same shall have been incurred through his own wilful neglect, default or dishonesty.



24.5 Article 24.4 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

24.6 In this article 24 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

## 25. **INSURANCE**

25.1 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant director in respect of any relevant loss.

25.2 In this article:

25.2.1 a "relevant director" means any director or former director of the Company or an associated Company;

25.2.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the Company, any associated Company or any pension fund or employees' share scheme of the Company or associated Company; and

25.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

## 26. **AMENDMENT OF CONSTITUTION**

26.1 Subject to the provisions of these Articles, the Council members may amend these Articles by a resolution passed for that purpose at a general meeting of the Council.

26.2 A resolution to amend these Articles shall not be deemed to be passed unless it is (i) proposed by a voting member of the Council and seconded by another such member, and (ii) carried by a majority of at least three-quarters of the members of the Council who (being entitled to do so) vote on such resolution.

26.3 If any voting member desires to propose any amendment to these Articles he shall, with the support in writing of at least one other voting member, give notice in writing of such proposed amendment to the Chief Executive Officer not less than 21 clear days before the meeting at which the amendment is to be proposed. Such notice to the Chief Executive Officer shall specify the terms of the proposed amendment and shall be accompanied by a statement of not more than 1,000 words explaining the reason(s) for the proposed amendment.

26.4 The Chief Executive Officer shall give notice of any proposed amendment, and circulate copies of the relevant explanatory statement, to the Council Members in the same manner and (so far as practicable) at the same time as notice of the general meeting; and where it is not practicable for the Chief Executive Officer to do so at the same time, he shall do so as soon as practicable thereafter.

26.5 The Chief Executive Officer shall not be bound to circulate an explanatory statement under article 26.4 if the Chief Executive Officer is satisfied that the explanatory statement contains defamatory matter.

26.6 The Council shall not make any amendment to article 17.1 or alter the manner in which such article takes effect without the prior written sanction of the Board.

## 27. **ACCESS TO INFORMATION ON PHARMACY CONTRACTORS**

27.1 Subject to the provisions of this article 27, no Council member, the Board or any other committee of the Council (hereinafter referred to as a "relevant person") shall be entitled, in his capacity as such a member, to receive or obtain personal data (as defined in article 27.2) held by or on behalf of the Company.

27.2 For the purposes of this article 27, "personal data" means information relating to the provision of NHS pharmaceutical care services by a pharmacy contractor who can be identified from that information (or from that and other information in the possession of the Company).

27.3 Article 27.1 shall not prevent or restrict the provision to relevant persons of statistics, provided the statistics are not in a form which identifies the pharmacy contractors.

27.4 Article 27.1 shall not prevent the disclosure of "personal data" which is requested or consented to by the pharmacy contractor who is the subject of the personal data.

## 28. **DISSOLUTION**

28.1 A resolution for the dissolution of the Company shall only be effective if:-

28.1.1 passed by a majority of at least three-quarters of the Council members who (being entitled to do so) vote on such resolution at a general meeting; and

28.1.2 confirmed by a majority of at least three-quarters of Council members who (being entitled to do so) vote thereon at a general meeting held not less than six weeks later and at which not less than three-quarters of the members shall be present.

28.2 The dissolution shall take effect from the date of the confirmation referred to in article 28.1.2 or from such other date as may be specified in the relevant resolution, and the Council members shall be responsible for the winding-up of the assets and liabilities of the Company.

28.3 Any property remaining after the discharge of the debts and liabilities of the Company shall be sold at the best market price then current and the proceeds, after deduction of the expenses of dissolution, returned to those pharmacy contractors paying the levy pursuant to article 22 at the time of dissolution in proportion to the payments made by each such pharmacy contractor in the previous twelve months.

29. **ASSOCIATE MEMBERSHIP OF COMMUNITY PHARMACY SCOTLAND**

29.1 Any person who is a pharmacist living and working in Scotland shall be entitled to apply to become an associate member. In addition, any person who is a registered pharmacy technician who is engaged by a pharmacy contractor in Scotland or a pharmacy student (at any stage of their education) in Scotland shall be entitled to apply to become an associate member.

29.2 The Board, or such other persons as the Board may delegate to for that purpose, shall have the right to consider each application for associate membership and its decision as to whether to accept any such application shall be final.

29.3 The rate of subscription to be paid for the said associate membership (if any) shall be set by the Council and shall from time to time be prescribed by the Council in a general meeting.

29.4 Associate membership shall entitle the associate member to receive the Company's monthly mailing and access to support from pharmacy services for advice and information.

29.5 An associate member is not a Council member and shall not be entitled to attend nor vote at any meeting of the Company.

29.6 An associate member may become an appointed member of a Community Pharmacy (*Health Board*) Committee provided they are a pharmacist and are eligible for membership under the constitution of the relevant Community Pharmacy (*Health Board*) Committee. For the avoidance of doubt, an associate member may only apply to, and participate as an appointed member of, one Community Pharmacy (*Health Board*) Committee, irrespective of the associate member's eligibility to become an appointed member of another Community Pharmacy (*Health Board*) Committee.

29.7 If an associate member fails to pay any annual subscription fees due to the Company then such person shall cease to be entitled to use and enjoy the services as defined in 29.4.

## **SCHEDULE**

### **Method of election of Chairman, Vice Chairman and Board Members of Community**

#### **Pharmacy Scotland**

##### **(under articles 17.2.1 and 9.1)**

1. The election of the Chairman, Vice Chairman and members of the Board shall take place prior to the first meeting of a new Council for each Session.
2. Following receipt from Community Pharmacy (*Health Board*) Committees of the names of their representative(s) elected to the Council under article 6.1.1 for the forthcoming Session, the Chief Executive Officer or such other individual as may be nominated by the Board shall prepare a list of the names of all members of the Council eligible for election to the Board under article 17.2.1. This list shall be in two parts comprising (a) those members eligible for election to the Board from the elected pharmacy contractor group and (b) those eligible for nomination from the Company Chemists' Association representatives.
3. 3.1 This list shall be circulated to all voting members of the new Council, together with a request for nominations of members on the list willing to serve as Chairman or Vice Chairman of the Council, such nominations to be submitted not later than the dates specified by the returning officer.  
  
3.2 The list shall also request nominations from the elected pharmacy contractor group for those places on the Board, being nine in total, assigned to the elected pharmacy contractor group, such nominations to be submitted not later than the dates specified by the returning officer.  
  
3.3 The list shall also request nominations from the Company Chemists' Association for the six Company Chemists' Association representatives on the Board, such nominations to be submitted not later than the dates specified by the returning officer.
4. Each nominee for membership of the Board from the elected pharmacy contractor group shall be proposed by another voting member of the Council from that same group, while Company Chemists' Association nominees shall be declared by the Company Chemists' Association Scottish Management Group. There shall be no necessity for a formal seconder. Nominations, in writing, shall be submitted to the Chief Executive Officer, or such other individual as may be nominated by the Board, in accordance with the timescales and otherwise as set out in paragraph 3 above.

Nominations for Chairman or Vice Chairman shall require a formal seconder.

5. 5.1 In order to assist members at the election of the Chairman, Vice Chairman and Board, the Chief Executive Officer, or such other individual as may be nominated by the Board, shall call for brief biographical notes from each person seeking election as the Chairman, Vice Chairman or to the Board. These may be edited, for the purposes of brevity, by and at the discretion of the Chief Executive Officer or such other individual as may be nominated by the Board and shall be circulated in advance of the meeting of the Council to all voting members of the Council. Such biographical details must be submitted with the nomination.

5.2 The Company, Chief Executive Officer or such other individual as may be nominated by the Board for the purpose of this election shall bear no responsibility for the accuracy of such biographical notes submitted.

6. Prior to the first meeting of a new Council for each Session the election of the Chairman and Vice Chairman, if required, shall be by electronic ballot of all members of the Council with each member having one vote. The method of election of the elected pharmacy contractor group Board members shall be by an electronic ballot in which each voting member of the elected pharmacy contractor group section of Council shall be entitled to select a maximum of the remaining balance of nine persons (who may include himself) from the list of nominees to serve as members of the Board. In the event that an electronic ballot shall fail, the ballot process shall be by post.

7. The Chief Executive Officer or such other individual as may be nominated by the Board shall act as scrutineer in any such election. Those persons for whom the highest numbers of votes have been cast for such number of places (up to a maximum of nine) as may be available shall be declared to have been elected. In the event of a tied vote resulting in more persons having a claim to election than the balance of places available, fresh ballots shall take place, on the same or substantially the same procedural terms as those outlined above, specifically to resolve this tie. The members elected by the first ballot but not involved in the tie, together with those successful in the resolution of the tie, shall be deemed to be elected to the Board.

8. 8.1 If fewer nominations than the remaining balance of places on the Board (up to a maximum of nine) are received from the elected pharmacy contractor group, those members so nominated shall be deemed to have been automatically elected, and the

Board so formed shall have power to co-opt, as full voting Board members, sufficient members of the Council from those entitled to have been originally nominated for this purpose to fill the remaining vacant places.

8.2 If fewer nominations than the remaining balance of places on the Board (up to their full quota of six) are received by way of nominations from the Company Chemists' Association, those members so nominated shall be deemed to have been automatically elected, and the Board so formed shall have the power to co-opt, as full voting Board members, sufficient members of the Council from those entitled to have been originally nominated for this purpose to fill the remaining vacant places.

9. The Chief Executive Officer or such other individual as may be nominated by the Board shall conduct the procedures specified in this Schedule as soon as reasonably practicable thereafter and the decision of the Chief Executive Office as to any matter regarding the election procedure set out in this Schedule shall be final.