

THE COMPANIES ACT 1985

COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION OF

THE MOUNTAINEERING COUNCIL OF SCOTLAND

1. PRELIMINARY

In these Articles:

"the Act" means the Companies Act 1985 as amended and every statutory modification or re-enactment thereof for the time being in force;

"Articles" means these Articles of Association;

"Board" means the Board of Directors of the Company;

"Mountaineering" has the same meaning as in the Company's Memorandum of Association;

"Policy" means any Policy adopted at a General Meeting after appropriate consultation;

"The Scottish Mountaineer" means the magazine of that name for so long as it may be published by or on behalf of the Company;

"Staff" means the employees from time to time of the Company (whether full-time or part-time);

the singular includes the plural and vice versa, the masculine includes the feminine, and bodies includes corporate and unincorporated;

any words or expressions defined in the Act, if not inconsistent with the subject or context, bear the same meaning in these Articles.

2. MEMBERSHIP

- 2.1 The members of the Company shall be the subscribers to the Memorandum of Association and such bodies or individuals as may be admitted to membership in accordance with the Articles, but excluding those who have ceased to be members

under Article 2.10 below. There shall be three categories of membership, namely Individual Membership, Club Membership, and Associate Membership.

2.2 INDIVIDUAL MEMBERSHIP

An individual shall be eligible for Individual Membership if:

- (a) he has an interest in Mountaineering and resides and/or is domiciled in Scotland or
- (b) he although not eligible under (a) above undertakes Mountaineering activities in Scotland or
- (c) his admission is recommended by the President, at his absolute discretion.

An individual so eligible for membership may apply for admission for Individual Membership in such form as the Board may prescribe and if admitted, shall become an Individual Member upon payment to the Company of the appropriate membership subscription.

2.3 CLUB MEMBERSHIP

A club, society or other association (hereinafter referred to as a 'club') shall be eligible for Club Membership if;

- either (a) (i) its principal object is Mountaineering and
 - (ii) it is controlled by its own members and
 - (iii) it is based in Scotland or its Mountaineering activities take place predominantly in Scotland
- or (b) in the opinion of the Board its admission as a club member would be in the best interests of the Company notwithstanding that it fails to meet one or more of the foregoing criteria.

A club so eligible for Club Membership may apply for admission as a Club Member in such form as the Board may prescribe, incorporating a list of the names and addresses of its active members, and if admitted shall become a Club Member of the Company upon payment to the Company of the appropriate membership subscription reckoned by reference to the number of its members included in its list.

- 2.4 A Club Member shall submit annually to the Company a list giving the names and addresses of its active members. A Club Member may at any time submit a supplementary list, giving the names and addresses of new active members of the club

and identifying any members of the club who have ceased to be active members since the previous list or supplementary list was sent to the Company.

2.5 ASSOCIATE MEMBERSHIP

Any company, organisation, club, association or business wishing to be affiliated to the Company but not being eligible as a Club Member may apply for admission as an Associate Member in such form as the Board may prescribe and if admitted shall become an Associate Member upon payment to the Company of the appropriate membership subscription.

2.6 OPENNESS OF THE COMPANY

Membership of the Company is open to all who meet the criteria in Articles 2.2 or 2.3. No applications will be refused on other than reasonable grounds and there will be no discrimination on grounds of race, occupation, sex or religious, political or other opinion. The Company will respect the rights, dignity and worth of every member.

2.7 ORGANISED EVENTS

The Company and its Club Members, when organising events in which unaccompanied children are led or supervised by an employee, volunteer or a member of a club, shall follow a child protection policy and procedures, either that of the Company or that of their Club.

2.8 In the context of climbing competitions in which the Company is involved, the Company shall aim to protect an Athlete's fundamental right to participate in doping-free sport and thus to promote health, fairness and equality.

2.9 HONORARY MEMBERS

If so recommended by the Board, the Company in General Meeting may honour any person who in their opinion has given distinguished service to Mountaineering in Scotland or elsewhere, by conferring on him Honorary Membership of the Company.

2.10 CESSATION OF MEMBERSHIP

Any Individual Member shall cease to be a member of the Company if he intimates in writing his resignation from the Company or fails to pay any membership subscription within six weeks of the due date. Any Club Member or Associate Member shall cease to be such if notice of any resolution to wind up or otherwise dissolve that Club or Member is passed or if such Member intimates in writing its resignation from the Company or fails to pay its subscription within six weeks of the due date.

- 2.11 The rights and privileges of Membership are not transferable and shall cease on any member ceasing to be a member for whatever reason.

3. ANNUAL SUBSCRIPTIONS

- 3.1 The Company shall be entitled to fund its operations, so far as they cannot be funded by other means, by levying annual subscriptions on members. The subscription year shall be the financial year used by the Company for accounting purposes. The rates of each year's subscription shall be fixed at the AGM prior to the financial year at amounts no more than proposed by the Board.
- 3.2 The annual subscriptions of Individual Members shall be due and payable on or before the anniversary of the member joining at the rate fixed at the previous AGM. The annual subscriptions of Club and Associate Members shall be due and paid within 9 months of the start of the financial year.

Members whose subscriptions have not been paid within six weeks of their due date shall be suspended from any benefits and excluded from any activities arranged by the Company, and shall not be entitled to vote at general meetings

4. THE MEMORANDUM & ARTICLES OF ASSOCIATION.

No amendment to the Company's Memorandum or Articles of Association shall be made unless by means of a Special Resolution passed by not less than three-quarters of the members entitled to vote and voting at a General Meeting called inter alia for the purpose of which due notice has been given

5. GENERAL MEETINGS

- 5.1 The Company shall within every calendar year hold a General Meeting as its Annual General Meeting ("AGM"). The interval between successive AGMs shall not be more than 15 months.
- 5.2 All General Meetings other than Annual General Meetings shall be called Extraordinary General Meetings. The Board may convene an Extraordinary General Meeting whenever they think fit and shall convene one upon receipt of a written requisition of not less than 10% of the paid-up number of voting members. An EGM

shall be notified to the members within 28 days of the receipt of the requisition, with the meeting held within 42 days of the receipt of the requisition.

5.3 The standard business of the Annual General Meeting shall be:

- (a) Roll Call and appointment of Tellers;
- (b) the approval of the Minutes of the previous Annual General Meeting and of any subsequent Extraordinary General Meetings;
- (c) the receipt of such reports as the Board might consider appropriate to bring before the Annual General Meeting for approval or information;
- (d) the approval of the Annual Financial Statements appropriately certified;
- (e) the fixing of members' annual subscriptions;
- (f) the election of the President, Treasurer and Board members;
- (g) the appointment of the appropriately qualified accountant;
- (h) the consideration of and taking of decisions on any duly notified proposals for the adoption of any new Policies or the amendment or revocation of any existing Policies;
- (i) any other competent business where notice has been given.

Any motions or resolutions on topics outwith the standard business of an AGM shall be competent business if notified by a voting member to the Company Secretary at least 70 days before the AGM.

Nominations for the filling at the AGM of vacancies on the Board shall be competent only if made in writing by a voting member to the Company Secretary at least 28 days before the AGM or if endorsed by the outgoing Board.

5.4 Twenty voting members present in person shall be a quorum. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during the meeting a quorum ceases to be present, the meeting shall stand adjourned to a date and reasonable time not more than 21 nor less than 10 days later, at the same place or the Company's Offices, as determined by the Board and notified not less than 6 days before the meeting, with such notification competently given by publication on the Company's web-site, and provided the Agenda includes no new business, the number of members present at the adjourned meeting will constitute a quorum.

5.5 Subject to Articles 5.6, 5.7 and 5.9 below the AGM shall elect a President, a Treasurer and six other members of the Board to serve until the following AGM. The Directors of the Company shall be the President, Treasurer and Board members. Not more than two members of the Board shall be members of the same Club Member.

In the absence of a timeous competing nomination, a President, Treasurer or member of the Board appointed at a previous AGM and willing and eligible to continue to serve in the same role shall continue until the next AGM without the need for a vote.

5.6 A President, Treasurer or other member of the Board shall not be eligible to continue to serve in the same role or in any other of those roles or as a member of the Board once he has served for four (five for the Treasurer) successive years (from AGM to AGM) except that a Board member or Treasurer may become President

5.7 A Director may not stand again for election to the Board until the AGM following the AGM at which he stood down.

5.8 At an AGM at which all Board members are eligible to continue in office, at least one member of the Board shall retire or stand for re-election, the Directors if necessary determining by lot before the notice calling the AGM which of them shall stand for re-election.

5.9 At General Meetings, the President shall preside as Chairman of the Meeting and in the absence of the President the Board shall choose one of their number to take the chair.

5.10 VOTING

Each Individual Member shall have one vote.

Each Club Member shall have a number of votes determined by the number of its active members listed on that Club Member's last return, rendered in compliance with Article 2.4: under 12 members - 2 votes; 12 to 30 members - 5 votes; 31 to 60 members – 10 votes; 61 to 120 members – 20 votes; 121 to 240 members – 30 votes; over 240 members – 40 votes; these votes may only be cast by nominated representatives of the Club Member.

Individual Members and Club Members who do not intend to be present may exercise their votes by post by submitting a written intimation of their vote, signed by them (or in the case of a Club Member by its Secretary or equivalent officer), to be in the hands of the Company at least 2 working days before a General Meeting.

Associate Members and Honorary Members shall have no vote.

- 5.11 All matters requiring a vote at a general meeting, other than any requiring a Special Resolution, shall be decided by a simple majority vote. The vote shall be taken by a show of hands or ballot as the Chairman may determine, but a majority of members present may require the Chairman to order a ballot. Prior to the declaration of the result of a vote there shall be taken into account such postal votes as may have been submitted in due time as given in Article 5.10. In a case of equality the Chairman of the meeting shall have a casting vote as well as any deliberative vote to which he may be entitled. Declaration of the result by the Chairman shall be final.
- 5.12 The Board of Directors shall reserve the right to introduce a suitable form of electronic voting to supplement or replace the postal and personal voting at an appropriate time.

6. NOTICES

- 6.1 A notice may be given by the Company to any member either personally or by sending it by post to the last intimated address of the member or in the case of a Club Member or Associate Member its Secretary or equivalent or by e-mail or fax address to their last intimated e-mail or fax address in compliance with the Electronic Communications Act 2000 or any subsequent statute substantially to the same effect. Any notice properly given (including notice published in Scottish Mountaineer) shall be deemed to have been received on the third day after posting.
- 6.2 The Company Secretary shall ensure that any resolution to amend the Memorandum of Association or the Articles of Association shall be intimated to all members at least 42 days prior to the date for the Extraordinary General Meeting at which it is to be considered. Members wishing to move any counter-proposals or amendments to the resolution as intimated are required to intimate them to the Company Secretary in writing not less than 28 days prior to the date for that Meeting.
- 6.3 The Company Secretary shall ensure that not less than 21 clear days' notice in writing is given of every Annual General Meeting and that not less than 14 days clear notice in writing is given of every Extraordinary General Meeting and that such notice in either case specifies the date, place, and time of the meeting and in the case of special business the nature of that business.
- 6.4 The accidental omission to give intimation of an Annual General Meeting or Extraordinary General Meeting to or the non receipt of such notice by any member entitled to receive notice thereof shall not invalidate any resolution passed at or any proceedings of any General Meeting. Any voting member present at any General

Meeting of the Company shall be deemed to have received notice of the meeting and where appropriate of the purpose for which it was called.

7. THE BOARD OF DIRECTORS

- 7.1 The affairs of the Company shall be under the management of the Board of Directors.
- 7.2 The Board shall elect one of their members to act as chairman of meetings of the Board and have a casting vote in addition to his deliberative vote in a case of equality.
- 7.3 In the event of a casual vacancy arising to a position on the Board, the Board may fill it by appointing a member who is willing to act as a Director but such Director shall hold office only to the next AGM at which he shall be required to stand for election if he wishes to continue to serve.
- 7.4 The Company Secretary shall be appointed by the Board.
- 7.5 The Board may invite such other persons as they deem fit to attend Board Meetings in a non-voting capacity.
- 7.6 Five Directors present (including the Chairman) shall constitute a quorum of the Board. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall stand adjourned to a date within the following fourteen days at the same time and place, when, provided there are no changes to the Agenda, the Directors present will constitute a quorum. Subject to the Chairman's possible casting vote, each Director has one vote.
- 7.7 A Director may participate in a meeting of the Board by means of video conferencing, conference telephone or similar communications equipment whereby all the members of the Board participating in the meeting can hear each other. Those so participating shall be deemed to be present in person at such meeting.

8. POWERS AND DUTIES OF THE BOARD

- 8.1 The Board shall govern the Company and shall be accountable to the members of the Company for the performance of the Company. The Board shall have overall responsibility and shall perform all statutory duties of the Company

- 8.2 The Board shall be responsible for strategic functions, preparing the corporate plan, annual operational plan, monitoring progress. The Board will achieve this by establishing appropriate Committees, Working Groups and groups of Advisors.
- 8.3 The full Board shall, as and when it is appropriate for the company to have a policy on any topic, prepare a draft Policy, inform members of the draft, publish it so that all members have an opportunity to consider it and comment on it and, after considering all comments received and making any adjustments to the draft which it considers appropriate, refer the draft Policy to the next AGM. Any such Policy shall become a Policy of the Company if approved at the AGM. Any Policy of the Company may be amended or revoked by an equivalent process of consultation and approval.
- 8.4 The Board shall communicate and consult with the membership by whatever means they deem appropriate, including, for the avoidance of doubt, electronic means.
- 8.5 The Board shall have the right to call for production of copies of the Constitution of all Club Members.
- 8.6 Save as otherwise provided, the Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit but shall meet not less than four times in each year. Notice of meetings of the Board along with a full agenda of the business to be transacted and copies of all minutes to be submitted for approval shall be sent to each Board member respectively at least seven clear days prior to the meeting (except for urgent business where, with the prior approval of all Directors then in Scotland, a Board meeting may be held at shorter notice). The Board may at its discretion circulate reports of its meetings to third parties from time to time.
- 8.7 Members of the Board, Committees, Working Groups and groups of Advisors may be paid all reasonable travelling, overnight accommodation and other expenses necessarily incurred by them in connection with their attendance at meetings of the Board or committees or otherwise in connection with the discharge of their duties.
- 8.8 The Board may appoint from within the membership of the Company such representatives to other bodies as it deems appropriate.
- 8.9 All acts done by any meeting of the Board shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any member or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office.

9. RESIGNATION OF BOARD MEMBERS

The office of Director shall be vacated if the holder:

- (a) becomes insolvent or makes any arrangement or composition with his creditors generally;
- (b) becomes prohibited from being a Director by reason of any order made under the Company Directors' Disqualification Act 1986 and every statutory modification and re-enactment thereof for the time being or in force;
- (c) becomes incapable for medical reasons of fulfilling the duties of his office and such incapacity as certified (if necessary) by two medical practitioners is expected to continue for a period of more than six months from the date or later date of such certification;
- (d) by notice in writing to the Company Secretary resigns his office;
- (e) is directly interested in any contract with the Company and fails to declare the nature of his interest in the manner required by Article 11 and the Board resolves that he vacates that office; or
- (f) fails to attend three consecutive Board meetings and the Directors resolve that that he vacates that office.

10. COMMITTEES

10.1 The Board may establish such Committees, Working Groups and groups of Advisors as it deems necessary to advise on and oversee the implementation and operation of policy and to deliver the Company's annual operational plan in line with the current strategic plan in conjunction with the Staff of the Company or to investigate and report on matters as set out in Terms of Reference drawn up by the Board.

10.2 The Board shall appoint the members and conveners of any such Committees and Working Groups from the elected members of the Board and from members of clubs and Individual Members with the expertise, interest and availability to assist the Committees, Working Groups and groups of Advisors in their work programme. The Board may also appoint members who are not members of the MCoS but have special expertise or represent partnership bodies. In each case, the Committee or Groups will be supported by the Company's staff.

11. CONFLICTS OF INTEREST

- 11.1 Any person being nominated for election as a Director or for appointment to any committee who has any financial interest in Mountaineering shall before accepting nomination state them fully in writing to the Company Secretary who shall inform any others concerned to know of them. No person having made such a statement of financial interest shall act as a director or a member any committee until notified by the Company Secretary of the Board's acceptance of his disclosure. The above provisions shall apply *mutatis mutandis* to any person who subsequent to his nomination, election or appointment as the case may be acquires any financial interest in Mountaineering.
- 11.2 All Directors and Staff of the Company together with any Committee or Working Group members shall have an obligation to declare any interest which might arise in respect of dealings with the Company by themselves and/or by parties with whom they are connected or associated and, where such interests do arise, to avoid conflicts of interest by way of such declaration either of a general nature to the Company Secretary on an annual basis or of a specific nature to the Chairman of the meeting in question. Where a conflict, real or potential, arises in any meeting, the Chairman of the meeting in question may determine:
- (a) whether the potential or real conflict only be minuted; or
 - (b) whether in addition the Director or Committee member in question, whilst being permitted to remain at the meeting, must not partake in discussions or decisions relating to such matter; or
 - (c) whether in addition the Director or Committee member in question should be required to leave the meeting during the discussion on that particular matter (on the basis that his leaving will be disregarded in determining whether the meeting remains quorate).

12. FINANCE

- 12.1 The Board shall be responsible for the setting of budgets and the keeping of accounts and records showing a true and fair view of the financial affairs of the Company. The Board shall be responsible for overseeing the operation of the Company's banking arrangements for the collection of the annual subscriptions and all other revenue of the Company and for the oversight of any capital assets of the Company.

12.2 The Company's annual accounting date shall be 31 March or such other date as may from time to time be decided by the Board who shall inform those concerned to know of it. The statutory financial statements shall after approval by the Board and certification by the accountant, appointed at the AGM as showing a true and fair view of the financial affairs of the Company, be submitted for approval to the members at the next General Meeting. The primary books of account shall be open for inspection only by members of the Board of the Company and others as the Board may determine.

13. SUSPENSION OF MEMBERS

If it is made to appear to the Board that any member has conducted himself in a manner detrimental to the reputation or interests of Mountaineering or the Company, they shall have power to suspend that member from the Company. Before so proceeding the Board shall cause the evidence to be reduced to writing, and shall then intimate to the member their intention to proceed under this article, inviting him to a hearing, within twenty eight days, and to adduce any explanation or evidence which he wishes to have considered by the Board in determining the matter. Any member so suspended has the right, by notice in writing to the Company Secretary within fourteen days of the decision being intimated to him, to appeal against the Board's decision, to the next Annual General Meeting of the Company, the decision whereof shall be final. After that AGM a suspended member will cease to be a member unless he has appealed and the AGM has allowed his appeal.

14. INDEMNITY

Subject to the provisions of Section 310 of the Act, the Directors or members any Committee and all any other office bearers or Staff for the time being of the Company shall be indemnified out of the Company' funds against all loss, costs and charges which they may respectively incur or be put to on account of any contract, deed, act, matter or thing done, entered into, executed or permitted by them on behalf of the Company. Subject as aforesaid, no Director or any Committee member or any other office bearer or Staff or his or her executors or administrators shall be liable for any loss or expense happening to the Company through the insufficiency or deficiency of title to any property acquired for or on behalf of the Company or for the insufficiency or deficiency of any obligation of security in or upon which any funds of the Company shall be invested or for any loss or damage arising from bankruptcy, insolvency or wrongful act of any person or body with whom any monies, securities or effects shall be deposited or for any loss, damage or misfortune whatsoever

which shall happen in the execution of the duties of his or her office or in relation thereto unless the same shall happen through his or her own fraud, wilful neglect, default, breach of duty or breach of trust.