

**COMPANIES ACT 2014**

**COMPANY LIMITED BY GUARANTEE**

**CONSTITUTION**

**OF**

**SAINT JOHN OF GOD HOUSING ASSOCIATION COMPANY LIMITED BY  
GUARANTEE**

**MEMORANDUM OF ASSOCIATION**

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1. The name of the Company (hereinafter called “the Company”) is:-  
*Saint John of God Housing Association Company Limited by Guarantee*
2. The company is a company limited by guarantee, registered under Part 18 of the Companies Act 2014.
3. The objects for which the Company is established are;-  
  
To carry on for the benefit of the community the provision of housing and associated amenities for persons in deprived or necessitous circumstances.  
  
To provide for relief of poverty and deprivation caused by poor housing conditions and homeless or other social and economic circumstances.
4. The following powers set out hereafter may be carried out exclusively in furtherance of the main object set out above and may be carried out only for the attainment of that main object and any income generated therefrom is to be applied for the main object only:-
  - (1) To provide housing accommodation for persons and families in need of housing including the construction, purchase, rehabilitation or conversion of buildings for dwelling purposes and the management and maintenance of same.
  - (2) To provide flats or other dwelling units for rent, purchase or on such terms of tenure as shall seem conducive to the relief of housing need.
  - (3) To provide housing welfare and care services for the homeless, the elderly, persons with disabilities and other disadvantaged persons or families.
  - (4) To provide advisory services as to the housing of the homeless and those living in adverse housing condition.

- (5) To raise and provide a fund out of which money may be made available to persons by way of loan to enable them to pay deposits or by way of bridging loan (pending payment of a home loan by any Building Society or Bank) on the purchase of houses, flats, or other living accommodation.
- (6) To promote a sense of community concern and care for the housing needs of disadvantaged persons including the elderly, homeless persons, the disabled, one parent and other families with low or limited incomes.
- (7) By all means possible to strive to involve the members of the Company in the activities and interests of those the Company seeks to serve.
- (8) To make, draw, accept, endorse, issue, discount and otherwise deal with promissory notes, bills of exchange, cheques, letters of credit, circular notes and other mercantile instruments.
- (9) To acquire by purchase, gift, exchange, lease, fee farm grant or otherwise, either for an estate in fee simple or for any less estate or interest, whether immediately or reversionary, and whether vested or contingent; any lands, tenements or hereditaments of any tenure, whether subject or not to any charges or encumbrances and to hold and farm and work or manage or to sell, let, alienate, mortgage, lease or charge land, house property, shops, flats, maisonettes, reversions, interest annuities, life policies and any other property real or personal, movable or immovable, either absolutely or conditionally and whether subject to or not to any mortgage, charge, ground rent or other rents or encumbrances and to pay for any lands, tenements, hereditaments or assets acquired by the Company in cash or debentures or obligations of the Company, whether fully paid or otherwise, or in any other manner.
- (10) To construct, alter, restore, repair, maintain, take down or remove buildings, erections, walls, fences, railings, gates, seats or other structures on lands and property held by or under the care or management (whether jointly with any other person or not) of the Company and generally to maintain, uphold manage, improve and develop the property of the Company.
- (11) To procure the Company to be registered or recognized in any country, state or place, and to comply with any conditions, necessary or expedient to enable the Company to carry out its main object in any country, state or place, and to establish local agencies for the purpose of carrying out the main object of the Company. Provided however that in all cases the administration thereof shall be carried on in the Republic of Ireland.
- (12) To guarantee, support, or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) of the Company, or all such methods, the performance of the obligations of and the repayment or payment of the principle amounts and interest of any person, firm or company or the dividends or interest of any securities, including (without prejudice to the generality of the foregoing) any company which is the Company's holding company or a subsidiary or associated company.

- (13) To acquire in any manner (including acquisition by the purchase out of the funds of the Company) and hold any investments (being at the time of acquisition of a nature authorised by law for the investment of trust funds, or of a nature authorised by the trust of the funds out of which the same shall be acquired, or by the Donor of the same) and to apply the income thereof (subject to any trusts imposed by the Donor of the same) at the discretion of the board of Directors for the preservation and maintenance of the property of the Company or any parts thereof, or for any of the main object of the Company.
- (14) To raise funds and accept, seek and collect grants, subscriptions and donations by any means whatsoever (whether of real or personal estate) and devises and bequests for the main object aforesaid, and to sell or dispose of or (as far as permitted by law) to lease and accept surrenders of leases of and manage all real estate (including leaseholds) so received and not required to be, or capable of being occupied for the main object of the Company and generally to manage, invest, and expand all moneys and property belonging to the Company.
- (15) To take or otherwise acquire, and to hold membership interests, shares and/or securities of any company and to sell, hold, re-issue with or without guarantee or otherwise deal with same.
- (16) To purchase or otherwise acquire and carry on the whole or any part of the business, property, goodwill and assets of any company carrying on or proposing to carry on any business which the Company is authorised to carry on or which can be conveniently carried on in connection with the same, or may seem calculated directly or indirectly to benefit the Company, or possessed of property suitable for the purposes of the Company, and as part of the consideration for any of the acts or things aforesaid or property acquired to undertake all or any of the liabilities of such company or to acquire an interest therein, amalgamate with or enter into any arrangement for sharing profits, or for co-operation, or for limiting competition or for mutual assistance with any such company and to give, issue or accept cash or any shares, debentures or securities that may be agreed upon, and to hold and retain or sell, mortgage and deal with any shares, debentures or securities so received.
- (17) To promote any company for the purpose of acquiring all or any of the property or liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company or to enhance the value of or render more profitable any property, assets or business of the Company, or for any other purpose which may seem directly or indirectly calculated to benefit the Company.
- (18) To codify, adopt and promulgate rules and regulations for the governance and management of the Company.
- (19) To ensure that there is a Code of Ethics in force in the Company which reflects the ethos of Saint John of God Hospitaller Ministries and is the same as the Code of Ethics that is in place in Saint John of God Hospitaller

- Services Group and ensure that there is a review group to implement and oversee the operation of the Code of Ethics within the Company.
- (20) To accumulate capital for any of the purposes of the Company, and to appropriate any of the Company's assets to specific purposes, either conditionally or unconditionally, prior permission to be obtained from the Revenue Commissioners where it is intended to accumulate funds for a period in excess of two (2) years.
  - (21) To purchase or otherwise acquire and to hold or dispose of any machinery, plant, engines, rolling-stock, materials or instruments for building or otherwise, or things and any personal property or rights which may be necessary for or may be conveniently used with or may enhance the value of any other property of the Company, or which may be requisite or convenient for the purpose of carrying out the main object of the Company.
  - (22) To sell, lease, mortgage or otherwise dispose of the undertaking of the Company or any part thereof or any of the property or investments of the Company in such a manner and for such consideration as the Company may think fit, and, if thought desirable, for shares (fully or partly paid up) debentures, debenture stock or securities of any company which is thought conducive, directly or indirectly, to the purposes of the Company and whether promoted by the Company for the purposes or not, and to improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property rights of the Company.
  - (23) To act in concert with or to enter into any arrangements with any Church body, government or authority, supreme, municipal, local or otherwise, or company now or hereafter constituted or with any resident in the neighbourhood of property of the Company that may seem conducive to the Company's main object and to obtain from any such government, authority or company, any charters, contracts, decrees, rights, privileges and concessions and to carry out, exercise and comply with any such arrangements, charters, contracts, decrees, rights, privileges and concessions, and to accept payment of money from such bodies in furtherance of the Company's main object and apply the same to such main object.
  - (24) To act as Trustees of any property for the above main object of the Company.
  - (25) To take over from existing owners, joint owners, or trustees and to hold in trust either alone or jointly with any Trustee or Trustees any real or personal property of every kind connected with such various buildings or land owned by or on charitable uses and trusts connected with the Company.
  - (26) To take over from existing Trustees and to hold either alone or jointly all or any existing charitable and benevolent funds, investments and bursaries established for the Company or for any other charitable purpose and any other property of which the Company may be appointed as Trustee.

- (27) To raise or borrow money, and to secure the payment of money by the issue of or upon debentures or debenture stock, perpetual, terminable or otherwise, or bonds or other obligations, charged or not charged upon, or by mortgage, charge, hypothecation, lien or pledge of the whole or any part of the undertaking, property, assets and rights of the Company, both present and future, and generally in such other manner and on such terms as may seem expedient, and to issue any of the Company's securities, for such consideration and on such terms as may be thought fit including the power to pay interest on any money so raised or borrowed; and also by a similar mortgage, charge, hypothecation, lien or pledge, to secure and guarantee the performance by the Company of any obligation or liability it may undertake and to redeem or pay off any such securities.
- (28) To donate, whether by way of conveyance, assurance, transfer, lease, license or other disposition or means whatsoever any land or property of the Company and whether for a nominal or other or no consideration to any person or body for charitable purposes only and to contribute by donation, subscription or guarantee or otherwise to any charitable purposes whatsoever.
- (29) To create, maintain, invest and deal with any reserve or sinking funds for redemption of obligations of the Company, or for depreciation of works or stock, or any other purpose of the Company.
- (30) To establish and support, and to aid in the establishment and support, whether as shareholder or member or otherwise, of any other charitable association or company formed for all or any of the main object of the Company.
- (31) To adopt all such means, including the granting of prizes, awards and donations and the promotion and provisions of conferences, public and private meetings, discussions, publication and dissemination of books, writings, pamphlets, correspondence and the organisation and holding of exhibitions, musical and dramatic performances and cinematographic, radio and television shows and productions, and the employment of all other types of visual and oral communication, publicising, making known, promoting and furthering the main object and proceedings of the Company, or any of them, as may seem expedient.
- (32) To enter into a partnership or into any arrangement for sharing profits, union of interest, co-operation, joint adventure, reciprocal concession or otherwise with any person, company, society, trust or other partnership whose main object are solely charitable, carrying on or engaged in, or are about to carry on or engage in, any business or transaction capable of being conducted so as directly or indirectly to benefit the Company and which prohibits the distribution of its income and assets to at least as great a degree as the Company by virtue of Clause 9 hereof and to guarantee the Contracts of, or otherwise assist any such person, company, society, trust or other partnership, and to sell, hold, re-issue with guarantee or otherwise deal with same.

- (33) To grant pensions, gratuities, allowances or charitable aid to any person who may have served the Company as an employee, or to the wives, husbands, children or other dependants of such person provided that such pensions, gratuities, allowances or charitable aid shall be no more than that provided by a pension scheme covered by Part 30 of the Taxes Consolidation Act 1997 and provided that such occupational pension scheme has been operated by the Company and the beneficiary of the pensions, gratuities, allowances or charitable aid, or their spouse or parent, has been a member of the occupational pension scheme while employed by the Company; and to make payments towards insurance and to form and contribute to provident and benefit funds for the benefit of any persons employed by the Company and to subscribe or guarantee money for charitable objects.
- (34) To promote freedom of contract and to resist, insure against, counteract and discourage interference therewith, to join any lawful federation, union, association or party and to contribute to the funds thereof, or do any other lawful act or thing with a view to preventing or resisting directly or indirectly any interruption of or interference with the Company or any other trade or business or providing or safeguarding against the same, or resisting or opposing any strike movement which may be thought detrimental to the interest of the Company or its employees and to subscribe to any association or fund for any such purposes.
- (35) To pay all or any of the expenses of or incidental to the formation and incorporation of the Company.
- (36) To carry on any other business and do all such other things as may be deemed incidental or conducive to the attainment of the above main objects.
- (37) To do all of the above things as principal, agent, contractor, trustee or otherwise and by or through trustees, agents, subsidiaries or otherwise if the same may be seen directly or indirectly to benefit the purpose for which the Company is established

**AND IT IS HEREBY DECLARED** that in the construction of this Clause, the word “company”, except where used in reference to this Company, shall be deemed to include any person or partnership or other body of persons, whether incorporated or not incorporated, and whether domiciled in Ireland or elsewhere and words denoting the singular number only shall include the plural number and vice versa.

- 5. The liability of the Members is limited.
- 6. Every Member of the Company undertakes that if the Company is wound up while he or she is a Member or is wound up within one year after the date on which he or she ceases to be a Member, he or she will contribute to the assets of the Company such amount as may be required for -

- (a) payment of the debts and liabilities of the Company contracted before he or she ceases to be a Member,
- (b) payment of the costs, charges and expenses of winding up, and
- (c) adjustment of the rights of the contributories among themselves,

not exceeding One Euro.

### **INCOME AND PROPERTY**

7. The income and property of the Company shall be applied solely towards the promotion of its main object(s) as set forth in this Memorandum of Association. No portion of the Company's income and property shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to the Members of the Company.

No Director shall be appointed to any office of the Company paid by salary or fees, or receive any remuneration or other benefit in money or money's worth from the Company.

However, nothing shall prevent any payment in good faith by the Company of;

- a) reasonable and proper remuneration to any member, officer or servant of the Company (not being a Director) for any services rendered to the Company:
- b) interest at a rate not exceeding 1% above the Euro Interbank Offered Rate (Euribor) per annum on money lent by Directors or the Members of the Company to the Company:
- c) reasonable and proper rent for premises demised and let by the Members of the Company or any Director of the Company to the Company:
- d) reasonable and proper out of pocket expenses incurred by any Director in connection with attendance to any matter affecting the Company:
- e) fees, remuneration or other benefit in money or money's worth to any company of which a Director may be a member holding not more than one hundredth part of the issued capital of such company:
- f) nothing shall prevent any payment by the Company to a person pursuant to an agreement entered into in compliance with Section 89 of the Charities Act, 2009 (as for the time being amended, extended or replaced).

### **ADDITIONS, ALTERATIONS OR AMENDMENTS**

- 8 The Company must ensure that the Charities Regulator has a copy of its most recent Constitution. If it is proposed to make an amendment to the Constitution of the Company which requires the prior approval of the Charities Regulator, advance

notice in writing of the proposed changes must be given to the Charities Regulator for approval, and the amendment shall not take effect until such approval is received.

- 8.1 No amendments of any kind shall be made to the provisions of clauses 7 and 10 of the memorandum of association and no amendments shall be made to the memorandum and articles of association to such extent that they would alter the effect of Clauses 7 and 10 of the memorandum of association, such that there would be non-compliance with the requirements of section 971/1180 and of the Companies Act 2014
- 8.2 No addition, alteration or amendment shall be made to or in the provisions of this Memorandum of Association for the time being in force unless the same shall have been previously approved in writing by *Saint John of God Hospitaller Ministries*.

### **WINDING UP**

- 9 If upon the winding up or dissolution of the Company there remains after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall only be paid to or distributed to the Hospitaller Order of Saint John of God for their charitable purposes or in the event of the Hospitaller Order of Saint John of God ceasing to exist or not having charitable status then and failing such, to a body or bodies of persons (within the meaning of the Taxes Consolidation Acts 1997 and the Charities Act 2009 as same may be amended from time to time) having a main object similar to the main object of the Company and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of Clause 7 hereof, such institution or institutions or such a body or bodies of persons to be determined by the Members of the Company at or before the time of dissolution, and if and so far as effect cannot be given to such provision, then to some charitable object which is consistent with the ethos of the Company.

### **KEEPING OF ACCOUNTS**

10. Annual audited accounts shall be kept and made available on request to the Revenue Commissioners and the Charities Regulatory Authority.

**ARTICLES OF ASSOCIATION**  
**OF**  
**SAINT JOHN OF GOD HOUSING ASSOCIATION COMPANY LIMITED BY**  
**GUARANTEE**

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The following regulations shall apply to the Company.

**PRELIMINARY**

1. In these Articles:-

**“Act”** means the Companies Act 2014 as amended and every statutory modification or re-enactment thereof for the time being in force;

**“Articles”** means these Articles of Association and **“Article”** has a corresponding meaning;

**“Chairperson”** means the individual serving as chairperson of general meetings of the company, of meetings of the board of Directors or of a committee, respectively, for the time being as shall be appointed or elected as such pursuant to these Articles;

**“the Company”** means the registered company known as Saint John of God Housing Association Company Limited by Guarantee;

**“the Directors”** means the Directors for the time being of the Company or the Directors present at a meeting of the board of Directors and includes any person occupying the position of Director by whatever name called and **“Director”** shall have a corresponding meaning;

**“Fixed Assets”** means such of the assets from time to time of the Company comprising land, fixed property, buildings and other similar assets of the Company;

**“the Hospitaller Order of Saint John of God”** means the Hospitaller Order of Saint John of God West European Province for so long as same exists and thereafter means the Prior General;

**“Membership”** means membership of the Company in accordance these Articles;

**“Prior General”** means the Prior General for the time being of the Hospitaller Order of Saint John of God or its successor;

**“the registered office”** means the registered office for the time being of the Company;

**“Rules and Regulations”** means the Company’s guiding and operating standards and codes as adopted, amended or modified by the Company from time to time;

**“Saint John of God Hospitaller Ministries”** means *Saint John of God Hospitaller Ministries* the public juridic person of pontifical right established by decree of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life given at the Vatican on 30 July 2012;

**“Secretary”** means any person appointed to perform the duties of the Secretary of the Company;

**“the Seal”** means the Common Seal of the Company;

**“Vice-chairperson”** means the individual serving as vice-chairperson of general meetings of the Company or meetings of the board of Directors, respectively, for the time being as shall be appointed or elected as such pursuant to these Articles;

2. In these Articles, unless a contrary intention is stated, a reference to:
  - (a) writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and any other electronic modes of representing or reproducing words in a visible form:
  - (b) words or expressions contained in these Articles shall bear the same meaning as in the Act, or any statutory modification thereof in force at the date at which these Articles become binding on the Company:
  - (c) the singular includes the plural and vice versa:
  - (d) each gender includes the other:
  - (e) a person shall be construed as a reference to any individual, firm or company, corporation, governmental entity or agency of a state or any association or partnership (whether or not having separate legal personality or two or more of the foregoing.
3. The headings are to be ignored in the construction of these Articles

## **MEMBERSHIP**

4. The subscribers to the Memorandum of Association are the current Provincial and Council of the Province of the Immaculate Conception of the Order and two other Brothers of the Order entitled to attend Provincial Chapters as selected by the said Provincial and Council. The members of the Company shall at all times be the Provincial and the Council of the Province of the Immaculate Conception of the Order for the time being (or its successor in law) and two other Brothers of the Order entitled to attend Provincial Chapters as selected by the Provincial and Council for the time being.

## **GENERAL MEETINGS**

5. All general meetings of the Company shall be held in the State.
6. Subject to Article 13, the Company shall in each year hold a general meeting as its Annual General Meeting in addition to any other meetings in that year and shall specify the meetings as such in the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the Company and that of the next. So long as the Company holds its first Annual General Meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year. Subject to Article 10, the Annual General Meeting shall be held at such time and at such place in the State as the Directors shall appoint.
7. All general meetings other than annual general meetings shall be called extraordinary general meetings. The Members shall be entitled to call an extraordinary general meeting.
8. The Directors may, whenever they think fit, convene an extraordinary general meeting and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists as provided by Section 178 [convening of extraordinary general meeting by members] of the Act as modified for companies limited by guarantee by Section 1203 of the Act.
9. All the powers exercisable by the Company in general meeting shall be exercisable by the Members without the need to hold a general meeting for that purpose, which includes the exercise of the power to remove a Director but does not empower the Members to remove the statutory auditor from, or not continue a statutory auditor in, office without holding the requisite meeting. Subject to the foregoing any provision of the Act and of these Articles which enables or requires any matter to be done or to be decided by the Company in general meeting or requires any matter to be decided by a resolution of the Company shall be deemed to be satisfied by a decision of the Members which is drawn up in writing and notified to the Company in accordance with Section 196.

## **NOTICE OF GENERAL MEETINGS**

10. Subject to Article 13 and to Sections 181 [notice of general meetings] and 191 [resolutions] of the Act, an annual general meeting and a meeting called for the passing of a special resolution shall be called by 21 days notice in writing at the least and a meeting of the Company (other than an annual general meeting or a meeting for the passing of a special resolution) shall be called by 14 days notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify
- (a) the place, the date and the time of the meeting;
  - (b) the general nature of the business to be transacted at the meeting;
  - (c) in the case of a proposed special resolution, the text or substance of the proposed resolution

and shall be given in the manner hereinafter mentioned to such persons as are under these Articles entitled to receive such notices from the Company. Notices of an extraordinary general meeting shall state the purpose of the meeting and no business shall be conducted at an extraordinary general meeting except the business specified in the Notice.

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

## **PROCEEDINGS AT GENERAL MEETINGS**

16. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of the consideration of
- (a) the company's statutory financial statement and the report of the directors, the report of the auditors on those statements and that report;
  - (b) the review by the Members of the Company's affairs;
  - (c) the election and re-election of Directors in the place of those retiring and
  - (d) the appointment or re-appointment of the statutory auditors and the fixing of the remuneration of the auditors.
17. No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business. Three members present in person shall be a quorum unless the members of the Company shall determine a higher member.

18. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by the Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall again be adjourned and the same procedure followed until such time as there is a quorum.
19. The Chairperson of the Board of Directors shall preside as Chairman at every general meeting of the company shall preside as Chairperson at every general meeting of the Company.
20. The Chairperson may with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting.
21. Subject to Section 189 [right to demand a poll] of the Act, at any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands. A declaration by the Chairperson that a resolution has been carried and an entry to that effect in the book containing the minutes of proceedings of the Company shall be conclusive evidence of the fact.
22. Subject to Sections 193 [unanimous written resolution] and 196 [Single-member companies – absence of need to hold general meetings] of the Act and to Article 24, a resolution in writing signed by the Members shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and if described as a special resolution shall be deemed to be a special resolution within the meaning of the Act. A resolution passed in accordance with this Article shall be deemed to be passed at a meeting held on the date on which it was signed by the Members and where the resolution states a date as being the date of the signature of the Members thereof, the statement shall be prima facie evidence that it was signed by the Members on that date. The Company shall retain, with the minute books of the Company, the documents constituting the written resolution as if they constituted the minutes of the proceedings of a general meeting of the Company. The validity of the written resolution shall not be affected by any non compliance with the provisions of this Article.
23. Subject to Article 24, all matters requiring a resolution of the Company in general meeting and all powers exercisable by the Company in general meeting may be validly dealt with and exercised by the Members without the need to hold a general meeting for that purpose. The Members must provide the Company with a written

record of any such decision or, if it is dealt with by a written resolution under Article 22, with a copy of that resolution, and the decision or resolution shall be recorded and retained by the Company.

24. Articles 22 and 23 do not apply to a resolution or decision to effect the removal of the statutory auditors from office, or so as not to continue the statutory auditors in office.

### **VOTES OF MEMBERS**

25. Every Member shall have one vote.
26. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairperson of the meeting whose decision shall be final and conclusive.
27. Subject to Section 183 [Proxies] of the Act, votes must be given by Members' duly authorised representative.

### **RESTRICTED MATTERS**

28. No action or decision relating to any of the matters specified in this Article shall be taken or made whether by the Directors or any officer, servant or agent of the Company unless a resolution consenting to that action or decision has been passed by the Members:
  - (a) Any change to the mission or purpose of the Company,
  - (b) Any change to the ethical or religious standards or the guiding principles governing the activities and affairs of the Company and the adoption of, and any change to, the formation process for Members,
  - (c) Any request for dissolution of the Company,
  - (d) The incurring by the Company of any financial indebtedness of a value in excess of such amount as may from time to time be specified by the Members,
  - (e) The entry into by the Company of any commitment in respect of the making of any capital expenditure of a value in excess of such amount as may from time to time be specified by the Members,
  - (f) The sale or other disposition of any of the assets of the Company of a value in excess of such amount as may from time to time be specified by the Members,
  - (g) The sale, disposition or other forms of alienation of the Fixed Assets of the Company in excess of the maximum determined by *Saint John of God Hospitaller Ministries* from time to time.

## **DIRECTORS**

30. Unless and until otherwise determined by the Members, the Company shall have not less than 5 Directors. Save as otherwise provided herein, the Directors shall be appointed by the Members.
31. The Members shall have power to appoint at any time and from time to time any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors and to determine the period for which each such person is to hold office (which shall be in accordance with the time periods specified in Articles 32 and 33) and (without prejudice to section 146 [removal of directors] and section 196 of the Act) at any time (and whether during any term of office of that Director or not) to remove any Director from office notwithstanding anything in these Articles or in any agreement between the Company and such Director. No Director shall be appointed other than pursuant to these Articles.
32. A Director shall be appointed for such term, not exceeding 3 (three) years, as shall be determined by the Members and such appointment shall be subject to annual review in the manner provided for in the Rules and Regulations. On the expiration of his term of appointment, the Director shall retire from office but shall subject to Article 33 be eligible for reappointment.
33. The provisions of Section 1196 [rotation of directors] of the Act shall not apply. A Director may not hold office for more than 3 consecutive terms of office, each of which may be for a period not exceeding three years, and at the end of the third of such consecutive terms of office shall automatically retire and shall not be eligible for reappointment until the expiration of a period of one year from the date of such retirement provided however that where the term of office of any of the first Directors is less than three years that initial first term shall be ignored for the purposes of this Article. Any Director appointed to fill a casual vacancy shall hold office only until the next Annual General Meeting (or, where a decision to dispense with the holding of an Annual General Meeting is in force, until the date on which the next Annual General Meeting would have been held) and shall then be eligible for reappointment and his/her term of office filling the casual vacancy shall be ignored for the purposes of this Article.
34. If two or more Directors are being reappointed on the same day, the Members may, for the purpose of avoiding two or more Directors retiring on the same day, extend or shorten their respective periods of appointment by a period of time which the Members shall determine but in any case not exceeding three years.
35. Directors may be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of Directors or any committee of the

Directors or general meetings of the Company or in connection with the business of the Company but shall not otherwise be entitled to remuneration.

### **BORROWING POWERS**

36. Subject to Article 28 [restricted matters], the Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking and property or any part thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the Company or of any third party.

### **POWERS AND DUTIES OF DIRECTORS**

37. The business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and registering the Company, and exercise all such powers of the Company as are not by the Act or Articles required to be exercised by the Company in general meeting subject nevertheless to the provisions of the Act and these Articles and to such directions, being not inconsistent with the aforesaid provisions, as may be given by the Company in general meeting, but no direction given by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that direction had not been given.
38. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the Directors shall from time to time by resolution determine.
39. The Directors shall ensure that at all times there is a Code of Ethics in force in the Company which reflects the ethos of *Saint John of God Hospitaller Ministries* and which is the same Code of Ethics that is in place in Saint John of God Hospitaller Services Group
40. The role of the board of Directors is to manage the affairs of the Company and inter alia provide vision, leadership and guidance through the review, approval and establishment of policies and strategic plans for the Company.
41. The board of Directors shall codify, adopt, vary, amend and promulgate Rules and Regulations for the governance and management of the Company as approved by ordinary resolution of the Members and provided same shall not be in conflict with these Articles.
42. In accordance with the Acts, the Directors shall cause minutes to be entered in books kept for the purpose of:-

- (a) all appointments of officers made by the Directors;
- (b) the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
- (c) all resolutions and proceedings at all meetings of the Company, and of the Directors and of committees of Directors.

### **DISQUALIFICATION OF DIRECTORS**

43. The office of Director shall be vacated if the Director:-

- (a) holds any office or place of profit under the Company; or
- (b) is adjudged bankrupt in any part of the world or being bankrupt has not obtained a certificate of discharge in the relevant jurisdiction makes any arrangement or composition with his creditors generally; or
- (c) becomes or is deemed to be the subject of a disqualification order within the meaning of Chapter 4 [disqualification generally] of Part 14 of the Act; or
- (d) a declaration of restriction is made in relation to the Director under Section 819 [declaration by court restricting director of insolvent company in being appointed or acting as director] of the Act; or
- (e) is disqualified from being a charity trustee pursuant to Section 55 of the Charities Act 2009; or
- (f) the health of the Director is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or
- (g) resigns his office by notice in writing to the Company; or
- (h) is convicted of an indictable offence unless the Directors otherwise determine; or
- (i) is directly or indirectly interested in any contract with the Company and fails to declare the nature of his interest in manner required by section 231 [duty of director to disclose his or her interest in contracts made by the Company] of the Act,
- (j) is absent from meetings of the Directors for 5 consecutive meetings and the Directors resolve that his/her office be vacated.

### **VOTING ON CONTRACTS**

44. Provided that the Director concerned shall have disclosed such interest in accordance with the Acts, a Director shall be entitled to vote in respect of any contract, transaction, arrangement or agreement with the Company in which they are in any way, whether directly or indirectly, interested and if they shall do so their vote shall be counted and taken into account in ascertaining whether a quorum is present.

## PROCEEDINGS OF DIRECTORS

45. The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. Where there is an equality of votes, the Chairperson shall have a second or casting vote.
46. The Chairperson, or any Director with the Chairperson may, and the Secretary on the requisition of the Chairperson, or any Director with the Chairperson shall, at any time summon a meeting of Directors.
47. A Director may, in accordance with Article 57 [meeting by conference], participate in a meeting by a conference telephone, video conference equipment, web and internet technology equipment or similar communications equipment by which all persons participating in the meeting can hear and be heard with each other and all participants are advised of the communications equipment and the names of the participants and those in attendance are divulged to all participants. Participation in a meeting in this fashion constitutes presence in person at the meeting.
48. The quorum necessary for the transaction of the business of the Directors shall be a simple majority of the Directors one of whom must be the Chairperson or the Vice-chairperson.
49. The continuing Directors may act notwithstanding any vacancy in their number but, if and so long as their number is reduced below the number fixed by or pursuant to the Articles as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of requesting the Members to increase the number of Directors to that number, or for the purpose of summoning a general meeting of the Company, but for no other purpose.
50. The Provincial for the time being shall appoint the Chairperson of meetings of the Directors. If at any meeting the Chairperson is not present within fifteen minutes after the time appointed for holding the same, the Vice-chairperson shall be Chairperson of the meeting.
51. The Directors may delegate any of their powers to committees consisting of such persons as they think fit, at least one of whom shall be a member of the board of Directors: any committee so formed shall, in exercise of the powers so delegated, conform to any regulations and terms of reference that may be imposed on it by the Directors.
52. The board of Directors shall appoint the Chairperson of any such committee, but if at any meeting the Chairperson is not present within 15 minutes after the time appointed for holding the same, the members present may, subject to and in accordance with any regulations and terms of reference imposed by the Directors,

choose one of their number to be Chairperson of the meeting provided however that the Chairperson of such committees shall always be a member of the board of Directors.

53. A committee may meet and adjourn as it thinks proper. Questions arising at any meetings shall be determined by a majority of votes of the members present, and when there is an equality of votes, the Chairperson shall have a second or casting vote.
54. All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.
55. A resolution in writing signed by all of the Directors for the time being entitled to receive notice of a meeting of the Directors shall be as valid and effective for all purposes as a resolution of the Directors as if it had been passed at a meeting of the Directors duly convened and held and may consist of several documents in the like form each signed by one or more of the Directors and for all purposes shall take effect from the time it is signed by the last Director.
56. For the purposes of these Articles, the contemporaneous linking together (in a manner contemplated by Article 47) by telephone or other means of audio communication, in a manner contemplated by this Article, of a number of Directors not less than the quorum shall be deemed to constitute a meeting of the Directors, and all the provisions in these Articles as to meetings of the Directors shall apply to such meetings provided that:
  - (a) each of the Directors taking part in the meeting must be able to speak, be heard and to hear each of the other Directors taking part;
  - (b) at the commencement of the meeting it must be expressly stated to be a meeting of the Directors, and each Director must acknowledge his presence; and
  - (c) a Director may not cease to take part in the meeting by disconnecting his telephone or other means of communication unless he has previously obtained the express consent of the Chairperson of the meeting, and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he has previously obtained the express consent of the Chairperson of the meeting to leave the meeting;

and a minute of the proceedings at a meeting of the Directors contemplated by this Article shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chairperson of that meeting.

57. The board of Directors and any committee formed pursuant to these Articles may invite persons to attend and speak at meetings of the board of Directors or committee and to assist the members of the board of Directors or committee in their deliberations provided however that no person invited to attend meetings of the board of Directors or committee as aforesaid shall have a vote or be deemed to be a member of the board of Directors (whether by virtue of being deemed a de facto member of the board of Directors or otherwise) or committee, nor shall the benefit or burden of any rights or obligations attaching to membership of the board of Directors or any committee accrue to them, nor shall they be entitled in any way to hold themselves out as a member of the board of Directors or any such committee.

### **SECRETARY**

58. Subject to Clause 8 of the Memorandum of Association and to Section 89 of the Charities Act, a Secretary, who may or may not be a Member or Director of the Company and who may be an actual person or a body corporate, shall be appointed by the board of Directors for such term, at such remuneration and upon such conditions as they may think fit and any Secretary so appointed may be removed by them.
59. A provision of the Act or of these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

### **THE SEAL**

60. The Seal shall be used only by the authority of the Directors or of a committee of Directors authorised by the Directors in that behalf, and every instrument to which the Seal shall be affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director.

### **ACCOUNTS**

61. The Directors shall cause adequate accounting records to be kept which comply with the provisions of Part 6 [financial statements, annual returns and audit] of the Act and which:-
- (a) correctly record and explain the transactions of the Company,
  - (b) enable, at any time, the assets, liabilities, financial position and profit or loss of the Company to be determined with reasonable accuracy,

- (c) enable the directors to ensure that any financial statements of the Company, required to be prepared under Section 290 [Obligation to prepare entity financial statements under relevant financial reporting framework] of the Act, and any director's report required to be prepared under Section 325 [Obligation to prepare directors' report for each financial year] of the Act, comply with the requirements of the Act, and
- (d) enable those financial statements so prepared to be audited.

The Directors shall, in accordance with Part 6 of the Act, prepare and approve statutory financial statements for the Company in respect of each financial year but, in accordance with section 289 [statutory financial statements to give true and fair view] of the Act, the Directors shall not approve the statutory financial statements unless they are satisfied that they give a true and fair view of the assets, liabilities and financial position, as at the end of the financial year, and profit or loss, for the financial year of the Company.

- 62. The accounting records shall be kept at the registered office or, subject to Section 283 [where accounting records are to be kept] of the Act, at such other place as the Directors think fit, and shall at all reasonable times be open to the inspection of the Directors.
- 63. The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the financial statements and accounting records of the Company or any of them shall be open to the inspection of Members not being Directors and no Member (not being a Director) shall have any right of inspecting any financial statement, accounting record, book or document of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.
- 64. The Directors shall from time to time in accordance with the Acts cause to be prepared and to be laid before the annual general meeting of the Company such statutory financial statements, directors' reports, including any group directors' report and statutory auditors' report as are required by the Acts to be prepared and laid before the Company in general meeting.
- 65. A copy of every statutory financial statements, directors' reports, including any group directors' report and statutory auditors' report (including every document required by law to be annexed thereto) which is to be laid before the annual general meeting of the Company shall not less than 21 days before the date of the annual general meeting, be sent to every person entitled to receive notice of general meetings of the Company provided however that if copies of the documents are sent less than 21 days before the date of the annual general meeting they shall notwithstanding that fact be deemed to have been duly sent if it is so agreed by all the Members entitled to attend and vote at the meeting.

## **AUDIT**

66. Auditors shall be appointed and their rights and duties regulated in accordance with the Act. The auditors shall be entitled to attend any general meeting and to receive all notices of, and other communications relating to, any general meeting of the Company which any Member is entitled to receive, and to be heard on any part of the business which concerns them as auditors.

## **CHIEF EXECUTIVE**

67. The Company may have a Chief Executive and decisions relating to the appointment and removal of the Chief Executive, including the terms and conditions of appointment, shall be made by the board of directors subject to final approval of the Members, by resolution of its directors.
68. The Chief Executive shall be responsible for the day to day management of the Company, and shall report to and be responsible to the board of Directors.

## **NOTICES**

69. A notice may be given by the Company to the Members in one of the following ways:
- (a) by delivering it to the Member;
  - (b) by leaving it at the address of the Member as entered in the register of members;
  - (c) by sending it by post in a prepaid letter to the address of the Member entered in the register of members; or
  - (d) by electronic means.

In the absence of any agreement to the contrary any such notice shall be deemed to have been served or given –

- (a) in the case of its being delivered, at the time of its delivery (or, if delivery is refused, when tendered);
- (b) in the case of its being left, at the time that it is left;
- (c) in the case of its being posted (to an address in the State) on any day other than a Friday, Saturday or Sunday, 24 hours after dispatch and in the case of its being posted (to such address) –
  - (I) on a Friday, 72 hours after dispatch; or
  - (II) on a Saturday or Sunday, 48 hours after dispatch;
- (d) in the case of electronic means, 12 hours after dispatch

Provided however that where notice is given by posting it by ordinary prepaid post to the address of the Member as entered in the register of members, then, for the purposes of any issue as to whether the correct period of notice for that meeting has

been given, the giving of the notice shall be deemed to have been effected on the expiration of 24 hours following posting.

70. Notice of every general meeting shall be given in any manner hereinbefore authorised to:-
- (a) the Members;
  - (b) each Director
  - (c) the Secretary and
  - (d) the auditors for the time being of the Company.

No other person shall be entitled to receive notices of general meetings.

### **INDEMNITY**

71. Subject to the Act, the Company shall indemnify every Director, manager, agent, auditor, secretary and other officer for the time being of the Company out of the assets of the Company against all losses and liability which he may incur in or about the execution of the duties of his office or otherwise in relation thereto including any liability incurred by him in defending any proceedings, whether civil or criminal, in relation to his acts or omissions while acting in such office, in which judgement is given in his favour or in which he is acquitted or in connection with any application under section 233 [power of court to grant relief to officers of company] of the Act in which relief is granted to him by the court except where such loss and liability is attributable to any negligence, wilful default or bad faith on the part of such officer.