

EMBERCOMBE

A Company Limited by Guarantee

Memorandum & Articles of Association

Incorporated 22nd September 2006

CHARLIE CATTELL
SOCIAL ECONOMY CONSULTANT
www.catwool.co.uk

in association with:

Judith Courts : Registration Agent

4 Gars End Lane, Grassington,
Skipton, North Yorkshire BD23 5BB

01756 753542

judith.courts@btinternet.com

THE COMPANIES ACT 1985

Memorandum of Association of
EMBERCOMBE

A Company Limited by Guarantee
and not having a share capital

1. Name

The name of the company is “Embercombe” (referred to in this document as “the Charity”).

2. Registered office

The registered office of the Charity will be situated in England and Wales.

3. Objects

The objects of the Company are to promote all purposes which are charitable under the laws of England and Wales from time to time “the Objects”).

4. Powers

In addition to any other powers it may have, the Charity has the following powers in order to further the Objects (but not for any other purpose):

- (a) to make grants to any individual, company, group, organisation or institution;
- (b) to establish or support any charitable trusts, associations or institutions in pursuit of the Objects;
- (c) to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- (d) to provide or assist in the provision of money, materials or other help of whatsoever kind in and towards the Objects;
- (e) to raise funds and to trade in direct furtherance of its objects, to sell donated goods, and otherwise to carry on trade which is temporary or ancillary to the objects of the Charity, provided that otherwise the Charity shall not undertake any substantial permanent trading activities in raising funds for the objects of the Charity;
- (f) to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (g) to build, construct, alter, remove, replace, equip, improve, develop, administer, maintain, manage or control any real property of the Charity;
- (h) to sell, lease or otherwise dispose of all or any part of the property belonging to the Charity, provided that in exercising this power the Charity must comply as appropriate with sections 36 and 37 of the Charities Act 1993;
- (i) to borrow money and to charge the whole or any part of the property belonging to the Charity as security for repayment of the money borrowed, provided that the Charity must comply as appropriate with sections 38 and 39 of the Charities Act 1993 if it wishes to mortgage land;
- (j) to acquire, merge with or to enter into any partnership or joint venture arrangement with any other charity formed for any of the objects;
- (k) to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;

- (l) to:
 - i) deposit or invest funds;
 - ii) employ a professional fund-manager; and
 - iii) arrange for the investments or other property of the Charity to be held in the name of a nominee;in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;
- (m) to pay out of the funds of the Charity the costs of forming and registering the Charity both as a company and as a charity;
- (n) to purchase and maintain insurance in respect of any property occupied or used by the Charity against loss or damage by fire or from any other risk and for the benefit of any persons who are or were officers or employees of the Charity against any liability incurred by such persons in respect of any act or omission by any of them in the exercise of their powers or the discharge of their duties in relation to the Charity and against public or other liabilities of the Charity;
- (o) to employ such staff or agents (who shall not be Trustees) as are necessary for the proper pursuit of the objects and to make all reasonable and necessary provision for the payment of pensions and superannuation for staff and their dependants and the payment of all professional fees or expenses of any agent;
- (p) to enter into and implement agreements or arrangements with any other charity, authority or entity or to apply for any licence, consent, permit or authority including without limitation planning permission and building consents in each case in furtherance of the objects;
- (q) to appoint and constitute such advisory committees as the Trustees may think fit;
- (r) to do all such other lawful things as are necessary for the achievement of the objects.

PROVIDED THAT:

- (s) In case the Charity shall take or hold any property which may be subject to any trusts, the Charity shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts.

5. Application of income and property

- (a) The income and property of the Charity shall be applied solely towards the promotion of its objects set out in this Memorandum of Association, and no portion shall be transferred directly or indirectly by way of dividend, bonus, or otherwise whatsoever by way of profit to the members of the Charity and no Trustee shall be appointed to any office of the Charity paid by salary or fees or receive any remuneration or other benefit in money or money's worth from the Charity, PROVIDED THAT nothing shall prevent any payment in good faith by the Charity:
 - i) of interest on money lent by any member or Trustee of the Charity at a rate per annum not exceeding 2 per cent less than the base lending rate of the Charity's bankers;
 - ii) of reasonable and proper rent for premises demised or let by any member or Trustee of the Charity;
 - iii) of fees, remuneration or other benefits in money or money's worth to a company of which a Trustee may be a member holding not more than 1/100th part of the issued capital of such company;

- iv) of grants, loans, donations or any other kind of financial assistance to any individual, organisation, firm, company, society or statutory authority which is a member of the Charity or is represented on the Board of Trustees, provided that any such assistance is exclusively in respect of charitable activities in furtherance of the objects of the Charity;
 - v) to any Trustee in respect of reasonable out-of-pocket expenses incurred by them in attending and returning from meetings of the Board of Trustees or General Meetings of the Charity or in connection with the business of the Charity.
- (b) The Trustees may if they think fit pay for any premium in respect of indemnity insurance for the Trustees or any other officer of the Charity in relation to any such liability as is mentioned in clause 5(c), but subject to the restrictions specified in clauses 5(d) and 5(e);
- (c) The liabilities referred to in clause 5(b) are:
- i) any liability that by virtue of any rule of law would otherwise attach to a Trustee of a charity in respect of any negligence, default breach of duty or breach of trust of which he or she may be guilty in relation to the Charity;
 - ii) the liability to make a contribution to the Charity's assets as specified in section 214 of the Insolvency Act 1986 (wrongful trading).
- (d) The following liabilities are excluded from clause (5)(c):
- i) fines;
 - ii) costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonesty or wilful or reckless misconduct of the Trustee or other officer;
 - iii) liabilities to the Charity that result from conduct that the Trustee or other officer knew or must be assumed to have known was not in the best interests of the Charity or about which the person concerned did not care whether it was in the best interests of the Charity or not.
- (e) There is excluded from clause 5(b) any liability to make such a contribution where the basis of the Trustee's liability is his or her knowledge prior to the insolvent liquidation of the Charity (or reckless failure to acquire that knowledge) that there was no reasonable prospect that the Charity would avoid going into insolvent liquidation.
- (f) Upon the winding up or dissolution of the Charity, if after the satisfaction of its debts and liabilities there remains any property whatsoever, this property shall be given or transferred to some other charitable institution or institutions having objects similar to the objects of the Charity and which shall prohibit the distribution of its or their income to an extent as least as great as is imposed on the Charity under or by virtue of this clause 5. Such institution or institutions shall be determined by the members of the Charity at or before the time of dissolution but if this does not happen then said property shall be transferred to some other charitable purpose with the approval of the Charity Commissioners or other authority having jurisdiction under the Charities Act 1993 or other relevant legislation.

6. Members' limited liability

- (a) The liability of the members is limited.
- (b) Every member of the Charity undertakes to contribute to the assets of the Charity in the event of the same being wound up during the time he or she is a member, or within one year afterwards, for the payments of the debts and liabilities of the Charity contracted before the time at which he or she ceases to be a member, and of the

costs, charges and expenses of winding up the same, and for the adjustments of the rights of the contributors among themselves, such amount as may be required not exceeding one pound.

7. Charitable status

No such addition, alteration or amendment shall be made to or in the provisions of the Memorandum or Articles of Association for the time being in force as shall cause the Charity to cease to be a charity in law.

THE COMPANIES ACT 1985

Articles of Association of

EMBERCOMBE

A Company Limited by Guarantee
and not having a share capital

1. Interpretations

Words and expressions used in these Articles shall have the meanings attributed to them in Article 22.

2. Membership

- (a) The first members of the Charity shall be the subscribers to the Memorandum of Association. Subsequent members shall be admitted at the discretion of the Trustees.
- (b) All members of the Charity shall also be appointed as Trustees, and a member shall cease to be a member of the Charity if he or she ceases to be a Trustee for any of the reasons specified in Article 8(c).
- (c) No person shall be admitted to membership who:
 - i) is an employee of the Charity;
 - ii) has an unspent conviction for any offence involving dishonesty or deception;
 - iii) is an undischarged bankrupt; or
 - iv) is otherwise prohibited by law from serving as a trustee of a charity or as a director of a company.

3. Affiliates

- (a) Individuals and organisations that are supportive of the objects of the Company, but who are not admitted to full membership, may be enrolled as Affiliates. Affiliates shall be entitled to receive notice of, attend and speak at Annual General Meetings of the Company, but shall not hold voting rights or be counted for the purpose of calculating a quorum or be treated as a member for any other purpose of the Memorandum or Articles or of statute.
- (b) Affiliates shall enjoy such additional privileges as the Trustees may consider appropriate, and may be required to pay an annual subscription or other fee at the discretion of the Trustees.

4. General meetings

- (a) Once in each calendar year the Charity shall hold an Annual General Meeting. Each Annual General Meeting shall be held not more than fifteen months after the last. The business of the Annual General Meeting shall comprise:
 - i) the annual report of the Trustees including accounts;
 - ii) the appointment or re-appointment of the Charity's auditors (if any);
 - iii) such other business as may have been contained in the notices calling the meeting.
- (b) The Trustees may at any time call an Extraordinary General Meeting of the Charity.

5. Notices of General Meetings

- (a) All General Meetings shall be called by at least twenty-one clear days' notice, provided that a General Meeting may be called by shorter notice if it is so agreed:
 - i) in the case of an Annual General Meeting, by all those entitled to attend and vote at that meeting;
 - ii) in the case of any other General Meeting, by at least 95 per cent of those entitled to attend and vote at that meeting.
- (b) Notice of every General Meeting shall be given in writing to every member of the Charity and to the auditors and to such other persons who are entitled to receive notice and shall be given personally or by electronic transmission or sent by post to each member at the address recorded in the Register of Members, and to other persons at their registered office.
- (c) In the case of a General Meeting which is to consider a special resolution or a resolution to remove the auditor, such resolution shall be specified in the notices calling that meeting. In the case of all other General Meetings the general nature of the business to be raised shall be specified.
- (d) Notice of all meetings shall be given exclusive of the day on which it is served and shall specify the exact time and place of the meeting. Notice shall be deemed to have been served:
 - i) immediately on being handed to the member personally;
 - ii) 24 hours after being sent by electronic transmission or delivered by hand to the relevant address;
 - iii) two clear days after being sent by post to that address; or
 - iv) immediately the member acknowledges receipt if this is sooner than is required by the above.
- (e) The accidental omission to give notice of a meeting to or non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate proceedings at that meeting.

6. Proceedings at General Meetings

- (a) No General Meeting may proceed unless a quorum is present. Two members shall constitute a quorum.
- (b) If within half an hour after the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to a time and place to be specified by the Trustees, all members of the Charity being given such notice as is practicable of the date, time and place of the adjourned meeting.
- (c) At every General Meeting the Chair of the Charity shall preside but if he or she is not present ten minutes after the time appointed for the commencement of the meeting the members present shall choose one of their number to be Chair of that meeting, whose function shall be to conduct the business of the meeting in an orderly manner.
- (d) The Chair 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 an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

7. Votes of members

- (a) Decisions at General Meetings shall be made by passing resolutions:
 - i) Decisions involving an alteration to the Memorandum or Articles or to wind up the Charity and other decisions so required from time to time by statute shall be made by a Special Resolution. A Special Resolution is one passed by a majority of not less than three-quarters of votes cast.
 - ii) All other decisions shall be made by Ordinary Resolution requiring a simple majority of votes cast.
- (b) Each member shall have one vote on any question to be decided at a General Meeting. On a show of hands, votes may only be cast by members present in person. On a written ballot, votes may be cast by members present in person or by proxy.
- (c) A member who cannot attend a General Meeting may appoint any other member to act as proxy for him or her, and shall provide written authorisation for the appointed person so to act, stating whether the proxy is:
 - i) to vote this way or that on any particular resolution or
 - ii) permitted to vote in accordance with her or his own judgement.
- (d) In the event of a tied vote the Chair of the meeting shall have a second or casting vote.
- (e) At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a written ballot is, before or on the declaration of the result of the show of hands, demanded by at least two members present in person or by proxy. Unless a written ballot be so demanded, a declaration by the Chair that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the proceedings of the Charity shall be conclusive evidence of the fact without proof of the number or proportions of the votes recorded in favour or against such resolutions.
- (f) If a written ballot is duly demanded it shall be taken in such a manner as the Chair directs, and the result of the ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded. The demand for a written ballot shall not prevent the continuance of a meeting for the transaction of any other business than the question upon which a ballot has been demanded. The demand for a written ballot may be withdrawn.
- (g) A resolution in writing, signed by all members entitled to receive notice of a General Meeting, shall be as valid and effective as if it had been passed at a General Meeting duly convened and held. Such a resolution may consist of several documents in the same form, each signed by one or more members.
- (h) The Trustees shall promptly send to the Commissioners a copy of any amendment made to the Memorandum or Articles.

8. The Board of Trustees

- (a) The affairs of the Charity shall be managed by a Board of Trustees. There shall be a minimum of three Trustees serving at any time. For the avoidance of doubt, Trustees are "trustees" for the purposes of charity law and "directors" for the purposes of company law.
- (b) All members of the Charity shall also be members of the Board of Trustees and only members of the Charity, admitted in accordance with Article 2, may serve on the Board of Trustees.

- (c) A Trustee shall cease to hold office if he or she:
- i) resigns in writing to the Charity;
 - ii) is absent from three consecutive meetings of the Trustees without good reason, and the other Trustees pass a resolution that such Trustee shall be removed from office by reason of such absence;
 - iii) is removed by a majority vote of the Trustees for conduct prejudicial to the Charity, provided that any member to be so removed shall have the right to make representation to the meeting at which the decision is to be made; or
 - iv) becomes bankrupt, or is convicted of a criminal offence involving dishonesty by a court of competent jurisdiction, or otherwise ceases to be legally eligible to serve as a charity trustee or as a company director.

9. Honorary Officers

The Trustees shall elect from amongst their own number a Chair and such other honorary officers as they may think fit, who shall have such responsibilities and functions as the Trustees may determine, and who may be removed or replaced at any time by the Trustees.

10. Secretary

The Trustees shall appoint a Secretary to the Charity, on such terms and at such remuneration as they see fit.

11. Powers of the Trustees

- (a) The Trustees may exercise all the powers of the Charity other than those which may only be exercised by the Charity in General Meeting.
- (b) In addition to all powers expressly conferred upon them and without detracting from the generality of their powers under the Articles, the Trustees shall have the following powers, namely:
 - i) to expend the funds of the Charity in such manner as they shall consider most beneficial for the achievement of the objects and to invest in the name of the Charity such part of the funds as they may see fit and to direct the sale or transposition of any such investments and to expend the proceeds of any such sale in furtherance of the objects of the Charity;
 - ii) to enter into contracts on behalf of the Charity.
- (c) In the event that the number of Trustees should fall below the minimum specified in these Articles, the remaining Trustees may act for the purpose of increasing the number of Trustees, or of winding up the Charity, but for no other purpose.
- (d) The Trustees may from time to time make and alter rules for the conduct of their business, the summoning and conduct of their meetings and the custody of documents. No rule may be made which is inconsistent with the Memorandum or Articles of Association.
- (e) The Trustees may appoint and delegate responsibilities to sub-committees consisting of Trustees and others for the purpose of making any inquiry or supervising or performing any function or duty which in the opinion of the Trustees would be more conveniently undertaken or carried out by a sub-committee, provided that all acts and proceedings of any sub-committees shall be fully and promptly reported to the Trustees.

12. Trustees' expenses

Trustees may be paid all reasonable travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of the Trustees or any sub-

committees or General Meetings or otherwise in connection with the discharge of their duties, but shall otherwise be paid no remuneration.

13. Meetings and proceedings of the Trustees

- (a) Trustees may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. The Secretary shall, at the request of a Trustee, summon a meeting of the Trustees at any reasonable time by giving adequate notice in writing to all Trustees.
- (b) A Trustee shall declare an interest in and shall not speak or vote in respect of any matter in which he or she has a personal material or financial interest or any matter arising from or connected with it.
- (c) At every meeting of the Trustees the Chair of the Charity shall preside, but if he or she is not present ten minutes after the time appointed for the commencement of the meeting the Trustees present shall choose one of their number to be Chair of the meeting, whose function shall be to conduct the business of the meeting in an orderly manner.
- (d) No meeting of the Trustees shall proceed unless a quorum is present. A quorum shall be two Trustees.
- (e) All questions shall be decided by a majority of votes of the Trustees present and voting. In the case of an equality of votes the Chair of the meeting shall have a second or casting vote.
- (f) The Trustees shall keep minutes, in books kept for the purpose, of the proceedings at meetings of the Trustees and of any sub-committees.
- (g) A resolution in writing, signed by all Trustees entitled to receive notice of a Trustees' meeting, shall be as valid and effective as if it had been passed at a meeting of the Trustees duly convened and held. Such a resolution may consist of several documents in the same form, each signed by one or more Trustees.

14. Minutes

The Trustees must keep minutes of all:

- (a) appointments of officers made by the Trustees;
- (b) proceedings at meetings of the Charity;
- (c) meetings of the Trustees and committees of Trustees including:
 - the names of the Trustees present at the meeting;
 - the decisions made at the meetings; and
 - where appropriate, the reasons for the decisions.

15. Receipts and expenditure

- (a) The funds of the Charity, including all donations, contributions and bequests, shall be paid into an account operated by the Trustees in the name of the Charity at such bank as the Trustees shall from time to time decide. All instruments of expenditure above a certain limit set from time to time by the Trustees must be signed by at least two Trustees.
- (b) The funds belonging to the Charity shall be applied only in furthering its objects.

16. Accounts

- (a) The Trustees must prepare for each financial year accounts as required by section 226 (or, if applicable, section 227) of the Act. The accounts must be prepared to show a true and fair view and follow accounting standards issued or adopted by the

Accounting Standards Board or its successors and adhere to the recommendations of applicable Statements of Recommended Practice.

- (b) The Trustees must keep accounting records as required by sections 221 and 222 of the Act.

17. Annual Report and Return and Register of Charities

- (a) The Trustees must comply with the requirements of the Charities Act 1993 with regard to:
 - i) the transmission of the statements of account to the Charity;
 - ii) the preparation of an annual report and its transmission to the Commission;
 - iii) the preparation of an annual return and its transmission to the Commission.
- (b) The Trustees must notify the Commission promptly of any changes to the Charity's entry on the Central Register of Charities.

18. Audit

- (a) In accordance with the law for the time being in force the Charity may—if it is eligible to do so—apply the small company audit exemptions. Otherwise once at least in every year the accounts of the Charity shall be examined and the correctness of the income and expenditure account and balance sheet ascertained by one or more properly qualified auditor or auditors.
- (b) Auditors shall be appointed and their duties regulated in accordance with sections 237 and 384 of the Act.

19. Seal

If the Charity should have a seal, it shall only be used by the authority of the Trustees and every instrument to which the Seal shall be applied shall be signed by a Trustee and shall be countersigned by the Secretary or by a second Trustee. Every such application of the seal shall be minuted.

20. Indemnity

- (a) Subject to the provisions of the Act, all Trustees and other officers and auditors of the Charity shall be indemnified out of the assets of the Charity against any liability incurred by them in that capacity in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in which relief is granted by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Charity.
- (b) In the execution of his or her duties no Trustee shall be liable for any loss to the property of the Charity arising by reason of any improper investment made in good faith (so long as he or she shall have sought professional advice before making such investment) or for the negligence or fraud of any agent employed by him or her or by any other Trustee in good faith (provided reasonable supervision shall have been exercised) or by reason of any mistake or omission made in good faith by any Trustee or by reason of any other matter or other than wilful and individual fraud or wrongdoing or wrongful omission on the part of the Trustee who is sought to be made liable.

21. Dissolution

Clause 5(f) of the Memorandum relating to the winding up and dissolution of the Charity shall have effect as if its provisions were repeated in these Articles.

22. Definitions

In these Articles:

- (a) "The Charity" means the company intended to be regulated by these Articles.
- (b) "The Act" means the Companies Act 1985 including any statutory modification or re-enactment for the time being in force.
- (c) "The Memorandum" means the Memorandum of Association of the Charity.
- (d) "The Articles" means these Articles of Association of the Charity.
- (e) "Clear days" in relation to the period of a notice means the period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.
- (f) "The seal" means the common seal of the Charity if it has one.
- (g) "Secretary" means the secretary of the Charity or any other person appointed to perform the duties of the secretary of the Charity; including a joint, assistant or deputy secretary.
- (h) "The Board of Trustees" and "Trustees" means the directors of the Charity.
- (i) "The Commissioners" means the Charity Commissioners for England and Wales.

Otherwise words or expressions contained in these Articles shall, unless the context requires otherwise, bear the same meaning as in the Act.