



# PITCAPLE ENVIRONMENTAL PROJECT

CONSTITUTION 2<sup>nd</sup> June 2005

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## Constitution

Register No. 2662 RS

### RULES OF

### PITCAPLE ENVIRONMENTAL PROJECT LIMITED

Registered under the Industrial and Provident Societies Act

On  
2nd June 2005

Registered Office:  
The Harlaw Centre  
Inverurie  
Aberdeenshire  
AB51 4SF

Rules of

Pitcaple Environmental Project Limited

Registered under the Industrial and Provident Societies Acts 1965-1978)

### NAME

1. The name of the Society shall be Pitcaple Environmental Project Limited.

### OBJECTS

2. The Objects of the Society shall be to carry on for the benefit of the public the business of:

- (a) promoting the welfare of people with learning difficulties and/or physical difficulties or special needs particularly, but not exclusively, through the provision of therapeutic opportunity, training and constructive work experience in horticulture and thereby improve their conditions of life; and
- (b) advancing the education of the public in the benefits of organic horticulture, renewable energy and sustainable development.

In furtherance of these objects, but not otherwise, the Society shall seek to establish and maintain an environmental resource centre including an organic garden site.

### POWERS

3. The Society shall have power to do all things necessary or expedient for the fulfilment of its objects provided that, in carrying out its objects, the Society shall promote equality of opportunity for all sections of the community in its own affairs and in society generally.

### REGISTERED OFFICE

4. The Registered Office of the Society shall be at:

The Harlaw Centre, Inverurie, Aberdeenshire.

### MEMBERSHIP

5. The first members of the Society shall be the signatories to the application for registration (the "Founder Members"). The Committee may at its discretion admit to membership any person or corporate body or the nominee of any unincorporated organisation who supports the objects of the Society and who has paid or agreed to pay the appropriate annual subscription for the time being in force.

6. A person who qualifies under Rule 5 above may apply for membership to the Committee, and upon acceptance and the payment of £1.00 and the annual subscription fee (if any) the Society shall issue to her/him/it one share certificate and shall enter her/his/its name in the register of members. The Committee may refuse any application for membership at its absolute discretion.

7. The Society shall keep at its registered office a register of members in which the Secretary shall enter the following particulars:

- (a) the name and address of every member;
- (b) a statement that one share only is held by each member and that £1.00 has been paid on each share;
- (c) a statement of other property, whether in loans or otherwise, held by each member;
- (d) the date on which each member's name was entered in the register as a member and the date on which any member ceased to be a member;
- (e) the names and addresses of the Committee members and officers of the Society, of the offices held by them respectively, and the dates on which they assumed and vacated office.



8. A copy of these Rules and any amendments made to them shall be given free of charge to every member upon admission to membership and shall be provided to any other person on demand and on payment of the statutory fee chargeable for the time being in force.

#### CESSATION OF MEMBERSHIP

9. A member shall cease to be a member if s/he or it:

- (a) resigns in writing to the Secretary; or
- (b) fails to pay any subscription due in respect of membership within three months of its falling due; or
- (c) is expelled from membership in accordance with Rule 10; or
- (d) is the nominee of an unincorporated organisation and that organisation replaces her/him as its nominee or is wound up; or
- (e) being an individual, dies; or
- (f) being a corporate body, is wound up or goes into liquidation.

In the event of an individual who is the nominee of an unincorporated organisation ceasing to be a member under clauses (a), (c) or (e) of this Rule, the nominating organisation may with the express consent of the Committee nominate another individual to membership in her/his place.

10. A member may be expelled for conduct prejudicial to the Society by a resolution carried by a majority of at least two-thirds of those members voting at a General Meeting of the Society of which due notice has been given, provided that the grounds for expulsion have been specified in the notices calling the meeting and that the member whose expulsion is to be considered shall be given the opportunity to state her/his/its case to the meeting. If on due notice having been served the member fails to attend the meeting the meeting may proceed in the member's absence.

11. No member expelled from membership shall be re-admitted except by a resolution carried by a majority of at least two-thirds of those members voting at a General Meeting of which due notice has been given.

#### GENERAL MEETINGS

12. An Annual General Meeting shall be held within six months of the close of the financial year of the Society, the business of which shall comprise:

- (a) The receipt of the accounts and balance sheet and of the reports of the Committee and auditor (if any);
- (b) The appointment of an auditor, (subject to Rule 53 (b));
- (c) The election of Committee members (or the announcement of the results of the election if held previously by ballot);
- (d) The transaction of any other business included in the notice convening the meeting.

13. All General Meetings other than the Annual General Meeting shall be called Special General Meetings.

14. A Special General Meeting shall be convened either upon an order of the Committee or at the request of three members of the Society or ten per cent of the membership, whichever is the greater.

15. An Annual or a Special General Meeting shall be called by at least fourteen days' notice in writing posted or delivered to the address of every member recorded in the register of members, specifying whether the meeting is an Annual or a Special General Meeting and stating the time, date and place at which it is to be held. The notice shall contain details of the nature of the business to be transacted, and no business may be transacted at a General Meeting other than that specified in the notices calling it.

16. A notice sent by post to a member's registered address shall be deemed to have been duly served forty-eight hours after its posting. The accidental omission to send any notice to or the non-receipt of any notice by any member shall not invalidate the proceedings at the meeting.

17. If the Society has appointed an auditor in accordance with Rule 53 (a) They shall be entitled to attend General Meetings of the Society and to receive all notices of and communications relating to any General Meeting which any member of the Society is entitled to receive. The auditor shall be entitled to be heard at any meeting on any part of the



business of the meeting which is of proper concern to an auditor.

#### PROCEEDINGS AT GENERAL MEETINGS

18. A corporate body which is a member of the Society shall appoint a representative who shall during the continuance of her/his appointment be entitled to exercise in any General Meeting of the Society all such rights and powers as the member organisation would exercise if it were an individual person. The Society shall require such notification of an organisation's appointed representative as the Committee may from time to time decide.

19. Subject to Rule 27, no person shall be entitled to vote on any question at a General Meeting other than an individual member of the Society or the duly appointed representative of a corporate body which is a member.

20. No business shall be transacted at a General Meeting unless a quorum is present in person. Unless and until otherwise decided by the Society in General Meeting, a quorum shall be 20% of the members of the Society or ten members, whichever is the greater.

21. If within half an hour after the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned until a day between seven and fourteen days after the date set for the original meeting, and all members shall be given such notice as is practicable. If at such an adjourned meeting a quorum is not present within half an hour after the time set for the meeting, then the members present shall constitute a quorum.

22. The Chairperson of the Society shall preside at every General Meeting. In the event of her/his absence or unwillingness to act, the members present shall choose one of their number to be Chairperson of the meeting.

23. 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 an adjourned meeting

other than the business left unfinished at the meeting from which the adjournment took place. Where a meeting is adjourned for twenty-one days or more, notice of the adjourned meeting shall be given as in the case of the original meeting; otherwise it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

24. At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a secret ballot is, before or on the declaration of the result of the show of hands, demanded by at least two members present. Unless a secret ballot be so demanded, a declaration by the Chairperson that a resolution has on a show of hands been carried or lost with an entry to that effect in the book containing the minutes of the proceedings of the Society shall be conclusive evidence of the fact without proof of the number or proportions of the votes recorded in favour or against such resolution.

25. If a secret ballot is duly demanded it shall be taken in such a manner as the Chairperson directs, provided that no member shall have more than one vote, and the result of the ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded.

26. The demand for a secret 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 secret ballot may be withdrawn.

27. Only one vote may be cast by or on behalf of each member on any particular resolution. A member may appoint a proxy to attend a meeting and speak and vote on their behalf. Every such appointment shall be notified to the Society in writing, signed or marked by the member and deposited the day before the meeting at the registered office of the Society. A proxy may be but need not necessarily be a member of the Society. Except where otherwise specified by these Rules or by the Act, questions shall be resolved by a simple majority of votes cast.

28. In the case of an equality of votes, whether on a show of hands or on a ballot, the Chairperson shall



not have a second or casting vote and the resolution shall be deemed to be lost.

29. A resolution in writing signed by all the members for the time being entitled to vote at General Meetings shall be valid and effective as if the same had been passed at a General Meeting duly convened and held and may consist of several documents in the same form each signed by one or more members.

30. Under no circumstances should the Committee of Management or the Members of the Society propose a resolution to convert to become either a company limited by guarantee or a company limited by shares, and at no time shall this rule be amended.

#### AMENDMENTS TO RULES

31. (a) Any of these Rules may be rescinded or amended or a new Rule made by a vote of two-thirds of members of the Society voting at a General Meeting of which fourteen clear days' prior notice has been given, such notice to include details of the change(s) to be proposed at that meeting.

(b) No amendment may be made to the Rules which shall cause the Society to cease to be a charity in law.

(c) No amendment of Rules is valid until registered by the Financial Services Authority.

#### COMMITTEE OF MANAGEMENT

32. The Society shall have a Committee comprising not less than three and not more than twelve persons. The initial Committee of the Society from incorporation until the first Annual General Meeting shall be appointed by the Founder Members.

33. A Committee member shall, subject to Rule 40 below, hold office until the end of the next Annual General Meeting following her/his election. Retiring members shall be eligible for re-election at the Annual General Meeting at which they retire.

34. New Committee members shall be elected in accordance with such procedures as may be adopted by the Society from time to time, provided that only members of the Society and representatives of organisations which are members may stand for

election to, or nominate persons to stand for election to the Committee.

35. The Committee may at any time co-opt any member of the Society or the representative of an organisation which is a member to fill a casual vacancy in the Committee. Any person co-opted by the Committee may be removed by a majority vote of the Committee. A casual vacancy shall be deemed to exist if the number of Committee members should drop below the minimum prescribed in these Rules or below the number elected at the preceding Annual General Meeting.

36. Under no circumstances shall any employee of the Society or any person less than 18 years of age serve on the Committee.

37. In the event that the size of the Committee should drop below the minimum number of members prescribed in these Rules, the members of the Committee may act to increase their number or to call a General Meeting of the Society, but for no other purpose.

38. A Committee member shall declare an interest in any contract or matter in which s/he has a personal material or financial interest, whether directly or indirectly, and shall not vote in respect of such contract or matter.

39. Committee members may be paid all reasonable and proper expenses incurred by them in attending and returning from meetings of the Committee or General Meetings of the Society or in connection with the business of the Society.

40. The office of Committee member shall be immediately vacated if s/he:

(a) resigns her/his office in writing to the Society; or

(b) ceases to be a member of the Society for any reason whatsoever (or is the representative of a corporate body which ceases to be a member); or  
(c) is removed from office by a majority vote of the Society in General Meeting, the notices for which specified that the question of the Committee member's removal was to be considered; or  
(d) in the opinion of a majority of the Committee, fails to declare her/his interest in any contract as referred to in Rule 38; or

(e) is absent from three successive meetings of the



Committee during a continuous period of twelve months without special leave of absence from the Committee and they decide that s/he has by reason of such absence vacated office; or  
(f) becomes bankrupt or, in the opinion of a majority of the Committee, incapable on medical or psychological grounds of carrying out the functions of a Committee member.

#### HONORARY OFFICERS

41. Members of the Committee shall elect a Chairperson, Secretary and Treasurer of the Society from amongst their own number. Any honorary officer so appointed may be removed or replaced by a majority vote of the Committee at any time, or by a majority vote of the members at a Special General Meeting the notices for which specified that the matter was to be raised.

#### POWERS AND DUTIES OF THE COMMITTEE

42. The business of the Society shall be managed by the Committee who may pay all expenses of the formation of the Society as they think fit and may exercise all such powers of the Society as may be exercised and done by the Society and as are not by statute or by these Rules required to be exercised or done by the Society in General Meeting, including the setting of annual subscriptions for members.

43. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for monies paid to the Society shall be signed, drawn, accepted, endorsed, or otherwise executed in such manner as the Committee shall from time to time direct.

44. The Committee may delegate any of its functions to sub-committees made up of members of the Committee and such other persons as it sees fit. Any sub-committee so formed shall in the exercise of its powers conform with any regulations imposed upon it by the Committee, which shall always include the requirement for regular and prompt reports back to the Committee.

#### PROCEEDINGS AT COMMITTEE MEETINGS

45. The Committee 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 two or more Committee members summon a meeting of the Committee at any reasonable time by giving all Committee members reasonable notice of the date, time and venue for the meeting and the general nature of the business to be considered.

46. Unless and until otherwise decided by the Society in General Meeting, the quorum necessary for the transaction of business at a Committee meeting shall be one half of the members of the Committee or three members, whichever is the greater.

47. At every Committee meeting the Chairperson shall preside, but in the event of her/his absence or unwillingness to act the members present shall choose one of their number to be Chairperson of the meeting.

48. The Committee shall cause proper minutes to be made of all the proceedings of the Society, of the Committee and of any sub-committees. All such minutes shall be open to inspection by any member of the Committee at all reasonable times.

49. Questions arising at Committee meetings shall be decided by a majority of votes of those present. In the event of a tied vote the Chairperson shall not have a second or casting vote and the resolution shall be deemed to be lost.

50. A resolution in writing signed by all the members for the time being entitled to vote at meetings of the Committee shall be valid and effective as if the same had been passed at a meeting duly convened and held and may consist of several documents in the same form, each signed by one or more members.

#### SHARE CAPITAL

51. The shares of the Society shall be of the nominal value of £1.00 each issued to persons upon admission to membership of the Society. The shares shall be neither transferable nor withdrawable, shall carry no right to interest, dividend or bonus, and shall be forfeited and cancelled on cessation of membership from whatever cause, and the amount paid up on such cancelled shares shall become the



property of the Society. Each member shall hold one share only in the Society.

## BORROWING

52. (a) The Society shall have power to borrow money for the purposes of the Society, including the issue of loan stock, providing that the amount owed shall not exceed £10,000,000.

(b) The Society shall have power to mortgage or charge any of its property, including the assets and undertakings of the Society, present and future, to issue debentures and other securities for money borrowed or for the performance of any contracts of the Society or bodies having dealings with the Society.

(c) The rate of interest on money borrowed, except on money borrowed by way of bank loan or overdraft or on mortgage from a Building Society or Local Authority shall not exceed 6½% per year or 3% above the base lending rate of the Society's bankers from time to time, whichever is the higher.

(d) The Society may receive from any persons donations or loans free of interest towards its work. The Society shall not accept deposits.

## AUDITORS

53. (a) Subject to clause (b) below, the Society shall appoint in each financial year an auditor qualified under section 7 of the Friendly and Industrial and Provident Societies Act 1968 to audit the Society's accounts and balance sheet for the year.

(b) The Society shall (subject to Rule 53 (c)) be exempt from the obligation to appoint a qualified auditor if during the preceding financial year it met such criteria regarding low levels of income and/or expenditure or other factors as to qualify it for statutory exemption from the need to appoint qualified auditors.

(c) The members of the Society shall in general meeting vote every year to allow the Society to apply the audit exemption. Such a resolution shall be deemed to have been passed if less than 20 per cent of the total number of votes cast are against the resolution and less than ten per cent of the members of the Society cast their votes against the resolution.

(d) None of the following persons shall be appointed as auditor of the Society:

- an officer or employee of the Society;
- a person who is a partner or employee of or who

employs an officer of the Society.

(e) The first appointment of an auditor shall be made within three months of the registration of the Society and shall be made by the Committee if no General Meeting is held within that time. The Committee may appoint an auditor to fill a casual vacancy occurring between General Meetings.

Except as specified in these cases, every appointment of an auditor shall be made by a resolution of a General Meeting of the Society.

(f) An auditor for the preceding financial year shall be re-appointed as auditor of the Society for the current financial year unless:

(i) a resolution has been passed at a General Meeting appointing someone else as auditor or providing expressly that s/he shall not be re-appointed; or

(ii) s/he has given notice in writing to the Society of her/his unwillingness to be re-appointed; or

(iii) s/he is ineligible for appointment as auditor of the Society for the current financial year; or

(iv) s/he has ceased to act as auditor of the Society by reason of incapacity.

(g) Any resolution of a General Meeting of the Society either to remove an auditor from office or to appoint another person as auditor shall not be effective unless notice of the proposed resolution has been given to the Society at least twenty-eight days prior to the meeting at which the resolution is to be considered. At least fourteen days' notice of such resolution must then be given to members of the Society in the manner prescribed in Rule 15 and in writing to the auditors.

## ANNUAL RETURN

54. Every year and within the period prescribed by statute, the Secretary shall send to the Financial Services Authority the annual return, in the form prescribed by the Financial Services Authority, relating to its affairs for the period required by the Act to be included in the return together with:

(a) a copy of the report of the auditor on the Society's accounts for the period included in the return; or a copy of such other report (if any) as is required by statute for such period, and

(b) a copy of each balance sheet made during that period and of the report (if any) of the auditor or other appropriate person as required by statute on that balance sheet.



55. The Society shall on demand supply free of charge to any member, or to any person with an interest in the funds of the Society, a copy of the latest annual return together with a copy of the auditor's report on the accounts and balance sheet contained in the return.

56. The Society shall at all times keep a copy of the latest balance sheet of the Society together with a copy of the corresponding auditor's report hung up in a conspicuous place at the registered office.

#### PROCEEDINGS ON DEATH OR BANKRUPTCY OF A MEMBER

57. (a) Upon a claim being made by the personal representative of a deceased member or the trustee in bankruptcy of a bankrupt member to any property in the Society belonging to the deceased or bankrupt member, the Society shall transfer or pay such property to which the personal representative or trustee in bankruptcy has become entitled as the personal representative or trustee in bankruptcy may direct them.

(b) A member may in accordance with the Act nominate any individual or individuals to whom any of her/his property in the Society at the time of her/his death shall be transferred, but such nomination shall only be valid to the extent of the amount for the time being allowed in the Act. On receiving a satisfactory proof of death of a member who has made a nomination the Society shall, in accordance with the Act, either transfer or pay the full value of the property comprised in the nomination to the person entitled thereunder.

#### APPLICATION OF SURPLUS

58. The Society shall not trade for profit. Any surplus generated by the Society shall be applied solely to the continuation and development of the Society.

#### SEAL

59. If the Society has a seal it shall be kept in the custody of the Secretary and used only by the authority of the Board. Sealing shall be attested by the signature of two directors or of one director and the Secretary for the time being. If the Society does not have seal, a document which would have

previously required to be sealed, should be signed by a director and secretary or two directors and accompanied by a written statement that the document has been executed by the society as if under common seal.

#### INVESTMENT OF FUNDS

60. The Society may invest any part of its funds in the manner set out in Section 31 of the Industrial and Provident Societies Act 1965.

#### REGULATIONS

61. The Society in General Meeting or the Committee may from time to time make, adopt and amend such regulations in the form of bye-laws, standing orders, and secondary rules or otherwise as they may think fit for the management, conduct and regulation of the affairs of the Society and the proceedings and powers of the Committee and sub-committees. No regulation shall be made which is inconsistent with these Rules or the Act. All members of the Society and the Committee shall be bound by such regulations whether or not they have received a copy of them.

#### DISSOLUTION

62. The Society may be dissolved by the consent of three-quarters of the members by their signatures to an instrument of dissolution, or by winding up in a manner provided by the Act. If on the winding up or dissolution of the Society any of its assets remain to be disposed of after its liabilities are satisfied, these assets shall not be distributed among the members, but shall be transferred instead to some other charitable body or bodies with objects similar to or compatible with those of the Society as may be decided by the members at the time of or prior to the dissolution.

#### DISPUTES

63. In the event of a dispute between the Society or its Committee and a member of the Society or a former member, such dispute shall be referred to an independent arbitrator whose appointment is acceptable to both parties to the dispute. The decision of such an arbitrator shall be binding. In the event that a dispute cannot, for whatever reason, be



concluded by reference to an arbitrator, the matter may be referred to the County Court (or in Scotland, to the Sheriff).

## INTERPRETATIONS

64. In these Rules, “the Act” refers to the Industrial & Provident Societies Acts 1965 to 1978 or any Act or Acts amending or in substitution for them for the time being in force.

### Signatures of Founder Members

1. FIONA POUSTIE
  2. COLIN STIRLING
  3. LYALL RENNIE
- Secretary: ROBERT YUIL

Source: this document was extracted from the original PEP website in 2010, it was then turned into a Microsoft Word document and finally PDF'd in order to make it more easily accessible and downloadable from the [www.pitcaple.org.uk](http://www.pitcaple.org.uk) website.

10<sup>th</sup> March 2012