

**APPENDIX 2**

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION OF INDEPENDENCE AND WELL BEING ENFIELD LIMITED**

PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

**1 Model articles not to apply**

The model articles for private companies limited by shares contained in Schedule 1 of The Companies (Model Articles) Regulations 2008 (SI 2009/3229) as amended prior to the date of adoption of these Articles shall not apply to the Company. References to the “**Articles**” shall be to the following articles of association as amended from time to time.

**2 Defined terms**

2.1 In these Articles, unless the context requires otherwise—

“**Act**” means the Companies Act 2006;

“**bankruptcy**” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

“**board**” means the board of directors of the Company;

“**business day**” means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;

“**chairman**” has the meaning given in article 14;

“**chairman of the meeting**” has the meaning given in article 45;

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

“**conflict**” has the meaning given in article 17.1;

“**council**” means the London Borough of Enfield or any successor body thereto;

“**councillor director**” means an elected member of the council who is appointed as a director of the Company;

“**director**” means a director of the Company, and includes any person occupying the position of director, by whatever name called;

“**distribution recipient**” has the meaning given in article 37.2;

“**document**” includes, unless otherwise specified, any document sent or supplied in electronic form;

“**electronic form**” has the meaning given in section 1168 of the Act;

**“eligible director”** means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);

**“executive director”** means each director who is a councillor director or an officer director;

**“fully paid”** in relation to a share, means that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company;

**“hard copy form”** has the meaning given in section 1168 of the Act;

**“holder”** in relation to shares means the person whose name is entered in the register of members as the holder of the shares;

**“independent director”** means a director of the Company (who is not a local authority person);

**“instrument”** means a document in hard copy form;

**“local authority person”** means any person:

- a) who is a member of the council;
- b) who is an officer of the council (which for these purposes shall not include employees with non-managerial posts);

**“officer director”** means an officer of the council who is appointed as a director of the Company;

**“ordinary resolution”** has the meaning given in section 282 of the Act;

**“paid”** means paid or credited as paid;

**“participate”**, in relation to a directors’ meeting, has the meaning given in article 12;

**“proxy notice”** has the meaning given in article 51;

**“shareholder”** means a person who is the holder of a share;

**“shares”** means shares in the Company;

**“special resolution”** has the meaning given in section 283 of the Act;

**“subsidiary”** has the meaning given in section 1159 of the Act;

**“transmittee”** means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and

**“writing”** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

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- 2.2 Unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
- 2.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 2.4 A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 2.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of—
  - 2.5.1 any subordinate legislation from time to time made under it, and
  - 2.5.2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 2.6 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

### 3 Liability of members

The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

### 4 Unrestricted objects

Nothing in these Articles shall constitute a restriction on the objects of the Company to do (or omit to do) any act and, in accordance with section 31(1) of the Act, the Company's objects are unrestricted.

## PART 2

### DIRECTORS

#### DIRECTORS' POWERS AND RESPONSIBILITIES

### 5 Directors' general authority

- 5.1 Save as set out in article 5.2, the directors are responsible for the management of the Company's business and, subject to these Articles and directions given by special resolutions of the Company, they may exercise all the powers of a company for this purpose. No such special resolution of the Company invalidates anything which the directors have done before the passing of the special resolution.
- 5.2 The matters listed below ("**reserved matters**") shall not be carried out without the prior written consent of an elected member or officer of the council with authority to give that consent and each of the directors shall use their respective rights and powers to procure, so far as they are each able, that no such matter is carried out unless the required consent has been given:

- 5.2.1 the making of any political or charitable donation;
- 5.2.2 a change in the status of the Company from a limited company to a public limited company or from a company limited by guarantee to any other form of legal entity;
- 5.2.3 the admittance of any new shareholder or the issue of any shares;
- 5.2.4 issuing any loan capital in the Company or entering into any commitment with any person with respect to the issue of any loan capital;
- 5.2.5 making any borrowing or incurring any indebtedness;
- 5.2.6 altering the name of the Company or its registered office;
- 5.2.7 changing the nature of the Company's business or commencing any new business by the Company which is not ancillary or incidental to its current business;
- 5.2.8 forming any subsidiary or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not);
- 5.2.9 amalgamating or merging with any other company or business undertaking;
- 5.2.10 any acquisition or disposal by the Company of any material asset(s) otherwise than in the ordinary course of business;
- 5.2.11 creating or granting any encumbrance over the whole or any part of the business, undertaking or assets of the Company or agreeing to do so other than liens arising in the ordinary course of business;
- 5.2.12 making any loan or granting any credit or giving any guarantee (other than in the normal course of trading) or indemnity;
- 5.2.13 appointing any agent or other intermediary to conduct any of the Company's Business;
- 5.2.14 entering into any arrangement, contract or transaction outside the normal course of its business or otherwise than on arm's length terms other than arrangements to sub-let or rent the rooms in certain premises occupied by the Company but subject to the terms of the leases of such premises (being the premises at (1) Waverley Road, Enfield EN2 7BP (also known as "Formont"); (2) 25 Connop Road, Enfield, EN3 5FB (also known as "New Options"); (3) Ground Floor, 65c Park Avenue, Enfield EN1 2HL (also known as "Park Avenue"); and (4) 55b The Sunny Road, Enfield EN3 5EF (also known as "Rose Taylor"));
- 5.2.15 declaring or paying any distribution;

- 5.2.16 incurring any capital expenditure in excess of £10,000 (in respect of individual items and/or where the aggregate capital expenditure for the same project exceeds this sum);
- 5.2.17 taking any step to wind up the Company (except where it is insolvent (within the meaning of section 123 of the Insolvency Act 1986));
- 5.2.18 taking any step to place the Company into administration;
- 5.2.19 proposing or entering into any arrangement, scheme, moratorium, compromise or composition with its creditors (whether under Part I of the Insolvency Act 1986 or otherwise);
- 5.2.20 applying for an interim order under Part 1 of the Insolvency Act 1986 or inviting the appointment of a receiver or administrative receiver over all or any part of the Company's assets or undertaking;
- 5.2.21 approving any merger, liquidation, dissolution or acquisition of the Company;
- 5.2.22 employing the chief operating officer of the Company (or his replacement) and setting or amending the terms applicable to such employee or dismissing such employee;
- 5.2.23 instituting, settling or compromising any legal proceedings (other than debt recovery proceedings in the ordinary course of business) instituted or threatened against the Company or submitting to arbitration or alternative dispute resolution any dispute involving the Company except in the case of employment disputes or proceedings involving the Company and its employees whereby the quantum of any compromise agreements and/or settlements is under £10,000 provided the council is notified of such settlements or compromise agreements (including the sums involved) at least 5 working days in advance; or
- 5.2.24 making any decisions regarding the use of trust funds received by the Company which were gifted to the council for the benefit of service users.

## **6 Shareholders' reserve power**

- 6.1 The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.
- 6.2 No such special resolution invalidates anything which the directors have done before the passing of the resolution.

## **7 Directors may delegate**

- 7.1 Subject to the Articles the directors may delegate any of the powers which are conferred on them under the Articles—
  - 7.1.1 to such person or committee;

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7.1.2 by such means (including by power of attorney);

7.1.3 to such an extent;

7.1.4 in relation to such matters or territories; and

7.1.5 on such terms and conditions,

as they think fit, and the directors may make any rule which they think fit about how any such delegation should operate.

7.2 If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

7.3 The directors may revoke any delegation in whole or part, or alter its terms and conditions.

## 8 Committees

8.1 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Articles which govern the taking of decisions by directors.

8.2 The directors may make rules of procedure for all or any committees, which prevail over rules derived from the Articles if they are not consistent with them.

## DECISION-MAKING BY DIRECTORS

### 9 Directors to take decisions collectively

9.1 The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting (subject to article 9.3) or a decision taken in accordance with article 10.

9.2 If—

9.2.1 the Company only has one director for the time being, and

9.2.2 no provision of the Articles requires it to have more than one director,

the general rule does not apply, and the director may (for so long as he remains the sole director) take decisions without regard to any of the provisions of the Articles relating to directors' decision-making.

9.3 At a meeting of the board any eligible director who is an executive director shall have the right to determine that the executive directors should have an enhanced vote on any resolution. Where such right is exercised the executive directors shall have in aggregate such number of votes upon such resolution as shall establish between the eligible directors a majority in favour of the executive directors.

**10 Unanimous decisions**

- 10.1 A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.
- 10.2 Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or to which each eligible director has otherwise indicated agreement in writing.
- 10.3 A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

**11 Calling a directors' meeting**

- 11.1 Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.
- 11.2 Notice of any directors' meeting must indicate—
  - 11.2.1 its proposed date and time;
  - 11.2.2 where it is to take place; and
  - 11.2.3 if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- 11.3 Notice of a directors' meeting must be given to each director, but need not be in writing.
- 11.4 Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company at any time before or after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

**12 Participation in directors' meetings**

- 12.1 Subject to the Articles, directors participate in a directors' meeting, or part of a directors' meeting, when—
  - 12.1.1 the meeting has been called and takes place in accordance with the Articles; and
  - 12.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 12.2 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.



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- 12.3 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

### 13 Quorum for directors' meetings

- 13.1 At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 13.2 Subject to article 13.3, the quorum for the transaction of business at a meeting of directors shall be three eligible directors, which must include at least one councillor director and one officer director.
- 13.3 For the purposes of any meeting (or part of a meeting) held pursuant to article 17 to authorise a director's conflict, if there are fewer directors in office of any class other than the conflicted director(s) who would constitute a quorum, the quorum for such meeting (or part of a meeting) shall be the remaining eligible directors.
- 13.4 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision—
- 13.4.1 to request that the council appoint further directors in accordance with the Articles, or
- 13.4.2 to call a general meeting so as to enable the shareholders to appoint further directors.

### 14 Chairing of directors' meetings

- 14.1 The directors may appoint a councillor director to chair their meetings. The first chairman shall be the councillor director holding the office of Cabinet Member for Health and Adult social care.
- 14.2 The person so appointed for the time being is known as the chairman.
- 14.3 The directors may terminate the chairman's appointment at any time and appoint a replacement.
- 14.4 If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint a councillor director or officer director present to chair it.

### 15 Casting vote

- 15.1 If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other director chairing the meeting has a casting vote.
- 15.2 Article 15.1 shall not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the Articles, the chairman or other director is not an eligible director for the purposes of that meeting (or part of a meeting).

**16 Transactions or other arrangements with the Company**

- 16.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Companies Acts, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company—
- 16.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
  - 16.1.2 shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
  - 16.1.3 shall be entitled to vote at a meeting of directors or of a committee of the directors, or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;
  - 16.1.4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
  - 16.1.5 may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
  - 16.1.6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.
- 16.2 For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- 16.3 Subject to article 16.4, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.

- 16.4 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

**17 Directors' conflicts of interest**

- 17.1 The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director (an **"Interested Director"**) breaching his duty under section 175 of the Act to avoid conflicts of interest (a **"Conflict"**).
- 17.2 Any authorisation under this article 17 will be effective only if—
- 17.2.1 the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
  - 17.2.2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
  - 17.2.3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.
- 17.3 Any authorisation of a Conflict under this article 17 may (whether at the time of giving the authorisation or subsequently)—
- 17.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
  - 17.3.2 provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;
  - 17.3.3 provide that the Interested Director shall or shall not be an eligible director in respect of any future decision of the directors in relation to any resolution related to the Conflict;
  - 17.3.4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
  - 17.3.5 provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and

- 17.3.6 permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent to which they relate to such matters.
- 17.4 Where the directors authorise a Conflict the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.
- 17.5 The directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation of variation, in accordance with the terms of such authorisation.
- 17.6 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.
- 17.7 For the purposes of sections 175 and 180(4) of the Act and for all other purposes, it is acknowledged that a director may be or become subject to a Conflict as a result of his also being or having been (or being party to an agreement or arrangement or understanding or circumstances under which he may become) an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or a direct or indirect investor in and/or otherwise involved with or interested in, any of the council, the Company, its subsidiaries, any of its holding companies or any subsidiary of any of its holding companies (as such terms are defined in section 1159 of the Act) or any of its shareholders.
- 17.8 No director shall be in breach of the duty to avoid conflicts of interest in section 175 of the Act as a result of, and no authorisation is required in respect of, any Conflict envisaged by article 17.7 having arisen or existing in relation to him.
- 18 Records of decisions to be kept**
- 18.1 The directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.
- 18.2 Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.
- 19 Directors' discretion to make further rules**
- Subject to the Articles, the directors may make any rule which they think fit about how they take decisions and hold meetings, and about how such rules are to be recorded or communicated to directors.

## APPOINTMENT OF DIRECTORS

### 20 Number of directors

- 20.1 Unless otherwise determined by the Council, the number of directors shall not exceed seven but shall not be less than three.
- 20.2 The board of directors shall comprise:
  - 20.2.1 one councillor director;
  - 20.2.2 three officer directors; and
  - 20.2.3 three independent directors.

### 21 Methods of appointing directors

- 21.1 Any person who is willing to act as a director, and is permitted by law and these Articles to do so, may be appointed to be a director—
  - 21.1.1 by ordinary resolution, or
  - 21.1.2 by a decision of the directors.
- 21.2 The council shall from time to time have the right to appoint, by notice in writing addressed to the company, and to maintain in office:
  - 21.2.1 one elected member of the council as a councillor director; and
  - 21.2.2 three officers of the council as officer directors;and to remove any such person as a councillor director or officer director (as relevant) and to appoint a replacement. The first officer directors following the adoption of these Articles shall be those persons employed by the council, two of whom shall hold the roles of managing director of the Company and finance director of the Company respectively; and the first councillor director shall be the person elected as a member of the council holding the position of Cabinet Member of Health and Adult Social Care.
- 21.3 The council shall also have the right to appoint, by notice in writing addressed to the company, the first two independent directors. Thereafter, where at any time there are fewer than three independent directors in office, and subject to articles 20.1 and 20.2, the executive directors shall be entitled to appoint up to a total of two persons to be independent directors. Such persons shall be selected by the executive directors based on their skills and experiences. Otherwise, the executive directors may determine the selection process (and any other criteria) for candidates as it deems appropriate from time to time.
- 21.4 Subject to article 22.1:
  - 21.4.1 each of the councillor and officer directors appointed pursuant to article 21.1 and/or article 21.2 shall be appointed for a fixed term of two years, save where a shorter term is set prior to appointment (the “Fixed Term”). Directors shall retire from the board at the

end of the Fixed Term but shall be eligible for reappointment for a further term of two years, or such shorter term as is set prior to such reappointment, at the end of which the directors shall retire from the board; and

- 21.4.2 each of the independent directors appointed pursuant to article 21.1 and/or article 21.3 shall be appointed for a fixed term of two years, save where a shorter term is set prior to appointment.
- 21.5 Any appointment or removal of a director in accordance with article 21.2 shall take immediate effect upon receipt (or deemed receipt) by the Company of such notice in writing, or the production of such notice in writing at a meeting of the directors or, if later, the date (if any) specified in such notice.

## **22 Termination of director's appointment**

- 22.1 A person shall be ineligible for appointment to the board and if already appointed shall cease to be a director as soon as—
  - 22.1.1 that person ceases to be a director by virtue of any provision of the Act or is prohibited from being a director by law;
  - 22.1.2 that person has for more than six consecutive months been absent without permission of the directors from meetings of directors held during that period and the directors resolve that person's office be vacated;
  - 22.1.3 a bankruptcy order is made against that person;
  - 22.1.4 a composition is made with that person's creditors generally in satisfaction of that person's debts;
  - 22.1.5 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
  - 22.1.6 notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms;
  - 22.1.7 that person is an employee of any shareholder in the Company and ceases to be employed as such for any reason;
  - 22.1.8 that person is removed by the council by a notice in writing to the Company;
  - 22.1.9 that person is or becomes a person disqualified from being an elected councillor of a local authority; or
  - 22.1.10 that person is removed from office by a resolution of or written notice signed by not less than three quarters of all the other directors from time to time.

**23 Directors' remuneration**

- 23.1 Directors may undertake any services for the Company that the directors decide.
- 23.2 Independent directors (and not councillor directors or officer directors) are entitled to such remuneration as the directors determine—
  - 23.2.1 for their services to the Company as directors, and
  - 23.2.2 for any other service which they undertake for the Company.
- 23.3 Subject to the Articles, remuneration of an independent director may—
  - 23.3.1 take any form, and
  - 23.3.2 include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- 23.4 Unless the directors decide otherwise, such remuneration accrues from day to day.
- 23.5 Unless the directors decide otherwise, directors are not accountable to the Company for any remuneration which they receive as directors or other officers or employees of the Company's subsidiaries or of any other body corporate in which the Company is interested.

**24 Directors' expenses**

The Company may pay any reasonable expenses which the directors and the secretary properly incur in connection with their attendance at—

- 24.1 meetings of directors or committees of directors,
- 24.2 general meetings, or
- 24.3 separate meetings of the holders of any class of shares or of debentures of the Company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

**25 Secretary**

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

**PART 3**

**SHARES AND DISTRIBUTIONS**

**SHARES**

**26 All shares to be fully paid up**

26.1 No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the Company in consideration for its issue.

26.2 This does not apply to shares taken on the formation of the Company by the subscribers to the Company's memorandum.

**27 Allotment of shares**

27.1 Save to the extent authorised by these Articles, or authorised from time to time by the council, the directors shall not exercise any power to allot shares or to grant rights to subscribe for, or to convert any security into, any shares in the Company.

27.2 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

**28 Powers to issue different classes of share**

28.1 Subject to the Articles, but without prejudice to the rights attached to any existing share, the Company may issue shares with such rights or restrictions as may be determined by the council.

28.2 The Company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

**29 Company not bound by less than absolute interests**

Except as required by law, no person is to be recognised by the Company as holding any share upon any trust, and except as otherwise required by law or the Articles, the Company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

**30 Share certificates**

30.1 The Company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.

30.2 Every certificate must specify—

30.2.1 in respect of how many shares, of what class, it is issued;

30.2.2 the nominal value of those shares;

30.2.3 that the shares are fully paid; and

30.2.4 any distinguishing numbers assigned to them.

30.3 No certificate may be issued in respect of shares of more than one class.



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30.4 If more than one person holds a share, only one certificate may be issued in respect of it.

30.5 Certificates must—

30.5.1 have affixed to them the Company's common seal, or

30.5.2 be otherwise executed in accordance with the Companies Acts.

### 31 Replacement share certificates

31.1 If a certificate issued in respect of a shareholder's shares is—

31.1.1 damaged or defaced, or

31.1.2 said to be lost, stolen or destroyed,

that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

31.2 A shareholder exercising the right to be issued with such a replacement certificate—

31.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;

31.2.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and

31.2.3 must comply with such conditions as to evidence, and indemnity and the payment of a reasonable fee as the directors decide.

### 32 Share transfers

32.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.

32.2 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.

32.3 The Company may retain any instrument of transfer which is registered.

32.4 The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.

32.5 The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

### 33 Transmission of shares

33.1 If title to a share passes to a transmittee, the Company may only recognise the transmittee as having any title to that share.

## APPENDIX 2

- 33.2 A transmittee who produces such evidence of entitlement to shares as the directors may properly require—
  - 33.2.1 may, subject to the Articles, choose either to become the holder of those shares or to have them transferred to another person, and
  - 33.2.2 subject to the Articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- 33.3 Subject to article 21.5, transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

### **34 Exercise of transmittees' rights**

- 34.1 Transmittees who wish to become the holders of shares to which they have become entitled must notify the Company in writing of that wish.
- 34.2 If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- 34.3 Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

### **35 Transmittees bound by prior notices**

If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name, or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 34.2, has been entered in the register of members.

## **DIVIDENDS AND OTHER DISTRIBUTIONS**

### **36 Procedure for declaring dividends**

- 36.1 The Company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.
- 36.2 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- 36.3 No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- 36.4 Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.

## APPENDIX 2

- 36.5 If the Company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears.
- 36.6 The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- 36.7 If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

### **37 Payment of dividends and other distributions**

- 37.1 Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by such means of payment as the directors may determine.
- 37.2 In the Articles, "**the distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable—
  - 37.2.1 the holder of the share; or
  - 37.2.2 if the share has two or more joint holders, whichever of them is named first in the register of members; or
  - 37.2.3 if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

### **38 No interest on distributions**

- 38.1 The Company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by—
  - 38.1.1 the terms on which the share was issued, or
  - 38.1.2 the provisions of another agreement between the holder of that share and the Company.

### **39 Unclaimed distributions**

- 39.1 All dividends or other sums which are—
  - 39.1.1 payable in respect of shares, and
  - 39.1.2 unclaimed after having been declared or become payable,may be invested or otherwise made use of by the directors for the benefit of the Company until claimed.
- 39.2 The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.
- 39.3 If—

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39.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment, and

39.3.2 the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.

### **40 Non-cash distributions**

40.1 Subject to the terms of issue of the share in question, the Company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

40.2 For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution—

40.2.1 fixing the value of any assets;

40.2.2 paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and

40.2.3 vesting any assets in trustees.

### **41 Waiver of distributions**

41.1 Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the Company notice in writing to that effect, but if—

41.1.1 the share has more than one holder, or

41.1.2 more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

## **CAPITALISATION OF PROFITS**

### **42 Authority to capitalise and appropriation of capitalised sums**

42.1 Subject to the Articles, the directors may, if they are so authorised by an ordinary resolution—

42.1.1 decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and

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- 42.1.2 appropriate any sum which they so decide to capitalise (a “**capitalised sum**”) to the persons who would have been entitled to it if it were distributed by way of dividend (the “**persons entitled**”) and in the same proportions.
- 42.2 Capitalised sums must be applied—
  - 42.2.1 on behalf of the persons entitled, and
  - 42.2.2 in the same proportions as a dividend would have been distributed to them.
- 42.3 Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- 42.4 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- 42.5 Subject to the Articles the directors may—
  - 42.5.1 apply capitalised sums in accordance with articles 42.3 and 42.4 partly in one way and partly in another;
  - 42.5.2 make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
  - 42.5.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

## PART 4

### DECISION-MAKING BY SHAREHOLDERS

#### ORGANISATION OF GENERAL MEETINGS

#### 43 Attendance and speaking at general meetings

- 43.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- 43.2 A person is able to exercise the right to vote at a general meeting when—
  - 43.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and

43.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

43.3 The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.

43.4 In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.

43.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

#### **44 Quorum for general meetings**

No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum. The presence of a duly authorised representative of the council shall constitute a quorum.

#### **45 Chairing general meetings**

45.1 If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.

45.2 If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—

45.2.1 the directors present, or

45.2.2 (if no directors are present), the meeting,

must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

45.3 The person chairing a meeting in accordance with this article is referred to as “the chairman of the meeting”.

#### **46 Attendance and speaking by directors and non-shareholders**

46.1 Directors may attend and speak at general meetings, whether or not they are shareholders.

46.2 The chairman of the meeting may permit other persons who are not—

46.2.1 shareholders of the Company, or

46.2.2 otherwise entitled to exercise the rights of shareholders in relation to general meetings,

to attend and speak at a general meeting.

#### **47 Adjournment**

- 47.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.
- 47.2 The chairman of the meeting may adjourn a general meeting at which a quorum is present if—
  - 47.2.1 the meeting consents to an adjournment, or
  - 47.2.2 it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 47.3 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 47.4 When adjourning a general meeting, the chairman of the meeting must—
  - 47.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
  - 47.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 47.5 If a general meeting is adjourned, the Company must give notice of the time and place to which it is adjourned:
  - 47.5.1 to the same persons to whom notice of the Company's general meetings is required to be given, and
  - 47.5.2 containing the same information which such notice is required to contain.
- 47.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

#### **VOTING AT GENERAL MEETINGS**

##### **48 Voting: general**

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

##### **49 Errors and disputes**

- 49.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the

vote objected to is tendered, and every vote not disallowed at the meeting is valid.

- 49.2 Any such objection must be referred to the chairman of the meeting, whose decision is final.

## **50 Poll votes**

- 50.1 A poll on a resolution may be demanded—

50.1.1 in advance of the general meeting where it is to be put to the vote, or

50.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.

- 50.2 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.

- 50.3 A demand for a poll may be withdrawn if—

50.3.1 the poll has not yet been taken, and

50.3.2 the chairman of the meeting consents to the withdrawal.

A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.

- 50.4 Polls must be taken immediately and in such manner as the chairman of the meeting directs.

## **51 Content of proxy notices**

- 51.1 Proxies may only validly be appointed by a notice in writing (a “**proxy notice**”) which—

51.1.1 states the name and address of the shareholder appointing the proxy;

51.1.2 identifies the person appointed to be that shareholder’s proxy and the general meeting in relation to which that person is appointed;

51.1.3 is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and

51.1.4 is delivered to the Company in accordance with the Articles and any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate,

and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting.



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- 51.2 The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 51.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 51.4 Unless a proxy notice indicates otherwise, it must be treated as—
  - 51.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
  - 51.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

### 52 Delivery of proxy notices

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

### 53 Amendments to resolutions

- 53.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—
  - 53.1.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
  - 53.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- 53.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if—
  - 53.2.1 the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and

- 53.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 53.3 If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

## PART 5

### ADMINISTRATIVE ARRANGEMENTS

#### 54 Means of communication to be used

- 54.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company.
- 54.2 Any notice, document or other information shall be deemed served on or delivered to the intended recipient—
  - 54.2.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);
  - 54.2.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - 54.2.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
  - 54.2.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article, no account shall be taken of any part of a day that is not a business day.

- 54.3 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.
- 54.4 Subject to the Articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

- 54.5 A director may agree with the Company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

## **55 Reporting**

- 55.1 The directors shall procure that the Company shall at all times maintain accurate and complete accounting, financial and other records in accordance with the requirements of all applicable laws and generally accepted accounting principles applicable in the United Kingdom.
- 55.2 The Company shall provide the council with the financial and other information necessary to keep them informed about how effectively the business of the Company is performing (including any information specifically requested by the council) and in particular shall supply the council with a six monthly report addressed to the cabinet of the council in such form as the council may require.

## **56 Provision for employees on cessation of business**

The directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary.

## **DIRECTORS' INDEMNITY AND INSURANCE**

### **57 Indemnity**

- 57.1 Subject to article 57.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled—

- 57.1.1 each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer—

- (a) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
- (b) in relation to the Company's (or any associated Company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated Company's) affairs; and

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- 57.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 57.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 57.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.
- 57.3 In this article—
  - 57.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
  - 57.3.2 a “**relevant officer**” means any director or other officer or former director or other officer of the Company or an associated Company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act, but excluding in each case any person engaged by the Company (or associated Company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

## 58 Insurance

- 58.1 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.
- 58.2 In this article—
  - 58.2.1 a “**relevant officer**” has the meaning attributed to it in article 57.3.2;
  - 58.2.2 a “**relevant loss**” means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer’s duties or powers in relation to the Company, any associated Company or any pension fund or employees’ share scheme of the Company or associated Company, and
  - 58.2.3 companies are “**associated**” if one is a subsidiary of the other or both are subsidiaries of the same body corporate.