

READING BOROUGH COUNCIL

REPORT BY THE DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES  
AND DIRECTOR OF FINANCE

TO:	POLICY COMMITTEE		
DATE:	13 MARCH 2017	AGENDA ITEM:	10
TITLE:	HOMES FOR READING: MOBILISATION, FUNDING AND BUSINESS PLAN		
LEAD COUNCILLOR:	CLLR TONY PAGE	PORTFOLIO:	LEADERSHIP
SERVICE:	HOUSING/FINANCE	WARDS:	BOROUGHWIDE
LEAD OFFICER:	ALAN CROSS	TEL:	0118 9372058
JOB TITLE:	HEAD OF FINANCE	E-MAIL:	<a href="mailto:Alan.Cross@reading.gov.uk">Alan.Cross@reading.gov.uk</a>

**1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 In March 2016 Council agreed to create a housing company wholly owned by the Council with the aim of the company purchasing, over a 5 year period, 500 existing (and potentially new) residential properties to rent. The financial modelling was predicated on there being no overall cost to the Council and a proportion of the homes (as an aggregate over the life of the business plan) being provided at sub-market rent to homeless households, subsidised by letting the remainder at market rent.
- 1.2 This report updates the Committee on the progress made in setting up Homes for Reading Limited as a wholly owned company and Policy Committee is asked to approve the Financial Business Plan attached to this report. The Business Plan sets out the structure of the arrangements between the Council (RBC) and Homes for Reading (HfR); describes the assumptions underpinning the business model; and considers financial viability and risk exposure in that context. The Business Plan has informed the terms of the facility agreement between the Council and HfR which deals with lending money to the company. Both the Business Plan and the funding agreement are the subject of a State Aid report by Savills Financial Consultants which confirms that the proposed loan arrangements reflect a normal commercial arrangement for this type of business.
- 1.3 The report clearly sets out the financial implications of the Business Plan and funding arrangements and highlights some of the potential risks of such property investment. Homes for Reading's Board of Directors have approved a detailed Risk Register setting out the risks to the company and their proposed mitigation.
- 1.7 The following appendices are attached: -

Appendix 1: Shareholder Agreement (revised)

Appendix 2: Memorandum and Articles of Association (revised)

In a separate similar PART 2 Report there were 4 further appendices which are relevant to the overall consideration of this item.

- Appendix 3: HfR Business Plan
- Appendix 4: State Aid Report (Savills Financial Consultants)
- Appendix 5: Summary of Facility Agreement Terms
- Appendix 6: HfR Risk Register

These Appendices 3-6 in the Part 2 report are not for disclosure.

## 2. RECOMMENDED ACTION

Policy Committee is asked to:

- 2.1 Approve the revised Shareholder Agreement (Appendix 1).
- 2.2 Approve the revised Memorandum and Articles of Association (Appendix 2).
- 2.3 Approve the Business Plan for HfR Ltd (as provided on the Committee agenda in closed session).
- 2.4 Note the revised principal terms of the proposed Facility Agreement to enable the Council to lend money to HfR Ltd and note the contents of the State Aid Report (as provided earlier on the Committee agenda in closed session).
- 2.5 Note the HfR Ltd Risk Register (as provided on the Committee agenda in closed session).
- 2.6 Approve the appointment of Non-Executive Directors (as detailed at paragraph 4.9) and note the amendment to the Memorandum and Articles of Association to extend the appointment of all Directors of HfR Ltd to 3 years (paragraph 4.10 of the report).
- 2.7 Approve the remuneration of the HfR Managing Director in line with the Council's pay policy at Head of Service/Director Grade.

### 2.8 (1) Authority to Allot

That, in accordance with section 551 of the Companies Act 2006 (CA 2006), the Directors (Directors) of HfR be generally and unconditionally authorised to allot shares in the Company to the Council up to an aggregate nominal amount of £10,000,000 provided that this authority shall, unless renewed, varied or revoked by the Company, expire on 31 March 2018 save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted and the Directors may allot shares in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired. (This authority is in addition to the October Policy Committee authority to allocate £5,000,000 shares).

### (2) Disapplication of Pre-Emption Rights

That, subject to the passing of resolution 1 and in accordance with section 570 of the CA 2006, the Directors be generally empowered to allot equity securities (as defined in section 560 of the CA 2006) pursuant to the authority conferred by resolution 1, as if section 561(1) of the CA 2006 did not apply to any such allotment, provided that this power shall:

be limited to the allotment of equity securities up to an aggregate nominal amount of £15,000,000; and expire on 31 March 2018 (unless renewed, varied

or revoked by the Company prior to or on that date), save that the Company may, before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and the Directors may allot equity securities in pursuance of any such offer or agreement notwithstanding that the power conferred by this resolution has expired

- 2.9 That the Director of Finance and the Head of Legal and Democratic Services, in consultation with the Deputy Leader and Chair of Audit & Governance Committee) are authorised to act on behalf of the Council in agreeing arrangements with HfR Ltd save for those matters specifically reserved to Policy Committee in the Shareholder Agreement.

### 3. POLICY CONTEXT AND BACKGROUND

- 3.1 In March 2016 Council agreed to create a housing company wholly owned by the Council with the aim of the company purchasing 500 existing (and potentially new) residential properties to rent. The modelling was predicated on there being no overall cost to the Council and a proportion of the homes (as an aggregate over the life of the business plan) being provided at sub-market rent to homeless households, subsidised by letting the remainder at market rent.
- 3.2 The Council further approved a delegation to the Head of Finance, in consultation with the Leadership (and Chair of Audit & Governance Committee) to finalise the Facility Agreement and to enable up to £30m capital expenditure to be incurred to purchase shares in and make loan advances (secured on property) to the Housing Company.
- 3.3 Policy Committee appointed the initial Board of Directors on 25<sup>th</sup> May 2016 comprising four elected members and two senior officers. In October 2016 Committee further agreed arrangements for the initial capitalisation of the company, prior to purchasing its first property, and in particular authorised the board to allot up to 5,000,000 shares. By the end of 2017/18 it should be necessary to allot almost 15,000,000 shares to realise the business plan. Committee are therefore asked to provide authority to allot an additional 10,000,000 £1 shares in this report. 2.9 above provides a general delegation for the formal business arrangements between HfR and the Council to be conducted, essentially authorising the Council's most senior finance and legal officers to act on its behalf in consultation with appropriate councillors (recognising conflicts of interest of councillors who are also directors).
- 3.4 'Homes for Reading Limited' was incorporated as a Private Limited Company on 6<sup>th</sup> April 2016 and Directors have now been registered at Company's House. The HfR Board met for the first time on 29<sup>th</sup> June 2016 and the Board is currently meeting monthly to agree policy and process with the HfR Executive Management Team formed from the Managing Director and the two senior Council officers. A Company Secretary has also been appointed to advise on compliance and statutory responsibilities.
- 3.5 To date excellent progress has been made in developing the company and putting in place the necessary resources, systems, policies and procedures to ensure that mobilisation is thorough and that HfR is given the best chance of successfully achieving its goals in what is a challenging market place. The work plan includes a wide range of activity from ensuring that HfR has appropriate insurance cover in place for its commercial activity to appointing an online marketing company or

agreeing a performance reporting framework. The Company expects to commence acquisitions early in the new financial year once the facility agreement and associated documentation is finalised and company systems are fully established.

- 3.6 As previously reported it has been agreed that to avoid the burden and costs of setting up systems for the company to employ staff directly, the Council will employ the Managing Director and second them to HfR initially until the company is more established. Other services required by the company will all be contracted out in the first instance through Service Level Agreements (SLAs) with Council and external service providers as necessary. As the property portfolio grows, additional resources may be required and employed directly by the company. Service Level Agreements (SLA) are now in place with RBC service providers for legal, financial, housing management, property maintenance and valuation support. These are supplemented by operational processes in respect of acquisition, lettings, management and maintenance.
- 3.7 HfR is starting to look outward and is developing a communications strategy and web site. Ongoing market research as well as starting to build relationships with local agents and developers ensures that we are on track to commence property acquisitions this Spring 2017.

#### 4.0 THE PROPOSAL

##### HfR Business Plan

- 4.1 The Council has been working with advisors from Trowers and Hamlins (Legal advisors) and Savills Financial Consultants (the finance arm of a property company) on the development of the HfR Business Plan. The final draft Business Plan has recently been approved by the HfR Board.
- 4.2 The Shareholder Agreement for HfR sets out matters requiring shareholder consent and this includes consent to adopt or amend the company's annual Business Plan. This therefore requires that Policy Committee approve the final Business Plan before HfR began to trade (i.e. purchase properties and rent them).
- 4.3 The essential features of the Business Plan are that the Council will purchase shares and make loan advances to HfR in the approximate ratio of 45:55 to enable HfR to acquire residential property. Both share purchases and such loan advances are capital expenditure and so approved by Council in February (as part of the budget). Whilst the Council will manage the day to day cash flows associated with such advances within its normal day to day treasury business, ultimately it will be funding those advances using borrowed money.
- 4.4 HfR pays a commercial rate of interest above the Council's borrowing levels such that the overall interest payments should be sufficient to meet the Council's debt financing costs on both the loan and share capital advances. The expectation is that the company has an operating profit from year 2 subject to being able to acquire properties at the rate assumed in the business plan (2 per week on average), and being able to manage them to the cost and income profile assumed, which is dependent on market forces and other variables.
- 4.5 On commercial and governance advice HfR appointed Centrus financial advisors to independently review the proposed loan arrangements and Business Plan on the company's behalf, with a focus on the terms of the facility agreement (a legal document that sets out the arrangements). After some amendments to the initial

draft were agreed, in early February, Centrus were able to advise HfR "that the facility agreement is now in a form that is reasonable to enter into." As detailed below, Savills have also provided State Aid advice to the Council in respect of the arrangements (as amended).

## Facility Agreement

- 4.6 Section 5 of the Business Plan summarises the funding arrangements at high level and a precis of the proposed terms of the Facility Agreement was provided as part of the Part 2 report. The State Aid report provides a review and summary of the proposed loan facility agreement in Section 4 and states that the proposed facility is reasonably market standard. (i.e. it would be lawful for the Council to provide loan finance to HfR on the proposed terms).

## Resourcing

### i) Appointment of Directors

- 4.7 The Board of Directors is responsible for providing strategic direction, as well as overseeing and scrutinising the operational and financial performance of the company to ensure that business plan targets are met, within the parameters agreed with the Shareholder. The company will be engaged in both property acquisition and ensuring that landlord responsibilities are fulfilled in the management of the stock and provision of services to tenants and so the right balance of skills, experience and commercial financial acumen are critical. It was agreed by Council that the Board membership should include two independent Non-Executive Directors to bring commercial housing and finance experience.
- 4.8 The present HfR Board of Directors is currently Councillors Richard Davies, Sarah Hacker, Ed Hopper and Jo Lovelock; Sarah Gee (Head of Housing and Neighbourhood Services); and Bruce Tindall (Chief Valuer). Policy Committee appointed officer and councillor directors in May 2016 and subsequently two Non-Executive Directors have been recruited and Policy Committee approval is sought in order to confirm their appointment.
- 4.9 HfR was successful in attracting an extremely high calibre of candidates for Non-Executive Director roles. Two directors have now been selected and the Board consider that they will bring significant commercial property and financial experience to the company. Darrell Mercer is currently the Chief Executive Officer of A2 Dominion with considerable sector experience both of the private rented sector and residential development. His extensive career in housing includes time at the Housing Corporation. John Higgins is a Chartered Accountant and currently Interim Head of Strategic Finance at East Thames Housing Group one of the largest providers of affordable housing in east London and Essex. Remuneration for NEDs has been agreed by the Board, and is allowed for in the business plan.
- 4.10 Directors have currently been appointed for the period of the Municipal Year 2016/17. It is proposed to amend the Memorandum and Articles of Association to extend this period to an initial appointment of three years - for elected members this will be subject to the Annual General Meeting of the Council confirming their appointment.

### ii) Appointment of Managing Director

- 4.11 A Managing Director for the company has been recruited, whose key task is to work with other officers and the Board to move the company from planning to operation.

Alex Jaques is a chartered surveyor with over 15 years experience of managing residential property portfolios in the private sector. The Shareholder Agreement requires that the remuneration package for the HfR Managing Director be approved by the Shareholder and Committee is asked to approve the remuneration of the Managing Director in line with the Council's pay policy at Head of Service/Director Grade. (In line with normal arrangements for such posts the precise placement on the scale will be agreed by the Director of Environment & Neighbourhood Services). It is not currently proposed that the Managing Director is a member of the company board (though she attends the Company's board meeting as does the Council's Head of Finance, as an observer).

## **Shareholder Agreement and Memorandum and Articles of Association**

- 4.12 RBC will hold all of shares in HfR and as such retains full control of the company. The governance structure in place ensures robust management of the company and protection of the Council's financial and reputational investment.
- 4.13 The final proposed Memorandum and Articles of Association (Appendix 2) and Shareholder Agreement (Appendix 1) are attached and set out how the company will be run and the decisions reserved for shareholders. The shareholder function is primarily executed through Policy Committee. Additionally the Audit and Governance Committee has been authorised to provides oversight of the arrangements and financial position in relation to the company.

## **5. CONTRIBUTION TO STRATEGIC AIMS**

- 5.1 This proposal will contribute to the service priorities set out in the Council's Corporate Plan 2015-18:
- Providing homes for those in most need.
- 5.2 The proposal will increase access to safe and suitable housing for homeless households and more widely will help to improve stock condition and promote best practice in the private rented sector.

## **6. COMMUNITY ENGAGEMENT AND INFORMATION**

- 6.1 There is no requirement in legislation or in guidance to consult with other agencies or stakeholders on the establishment of a housing company. However, it will be important that members, council staff, applicants, tenants and the wider community understand the role and offer provided by the housing company and how this differs from the provision of Council housing. Information and housing policies will be published in plain English. A communications strategy will need to be developed in due course.

## **7. EQUALITY IMPACT ASSESSMENT**

- 7.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2 An Equality Impact Assessment (EIA) does not indicate that recommendations will have a disproportionate impact on any protected group.

## 8. LEGAL IMPLICATIONS

8.1 Specialist legal advisors Trowers and Hamlins have provided legal advice including documentation in respect of powers to form and to fund the housing company. This was set out in some detail in the report to Council in March 2016.

8.2 The Housing and Planning White Paper 'Fixing Our Broken Housing Market' published in early February has the potential to impact on both the local housing market and the company's Business Plan. Further analysis will be required and the impact will be subject to the final primary and secondary legislation once enacted. There is reference to the Right to Buy being applied to affordable homes developed by local authority housing companies but there is little detail to enable any potential impact on the HfR proposed business model at this stage. It is also proposed to regulate lettings fees in the private rented sector.

## 9. FINANCIAL IMPLICATIONS

9.1 The financial model for HfR has been developed by Savills Financial Services with officers providing and agreeing assumptions. As previously noted, the modelling is predicated on there being no overall cost to the Council, which intends to borrow money and in turn support the housing company through the provision of loans and subscription to share capital. Both the loans (which will be for more than one year) and share capital will be accounted for as capital expenditure.

9.2 The interest rate on the loans to the company will be set such that the interest paid by the company is forecast to be at least as much as the interest the Council will need to pay on borrowing it undertakes to finance the share & loan finance over the life of the business plan. The treasury risks of the company (as a start up) and Council are different, so whilst in theory it would be possible to achieve this by always undertaking matching borrowing when HfR needs money to buy property, in practice a better overall financial position is likely to be achieved by managing the Council's position in the context of the treasury strategy overall (agreed at Council in February).

### State Aid

9.3 Savills have additionally provided advice on State aid compliance and their report is intended to enable the Council to satisfy itself in respect of both this matter and compliance with UK transfer pricing rules. The Market Economy Operator Principle (MEOP) is a concept that has been developed by the European Commission to determine whether a transaction entered into by a public body gives an advantage to a particular economic undertaking and therefore falls within the State Aid regime. In broad terms, MEOP says that an economic transaction carried out by a public body does not constitute State Aid if it is carried out in line with normal market conditions. In other words, "does the beneficiary get an advantage they would not normally get from the market?". For example, if a Council was to provide a loan to a company on commercial terms and at a commercial interest rate, properly taking into account the associated risks, on terms and for a return

that a private investor would, then such activity would normally be considered to constitute lawful State Aid. The proposed arrangements meet this requirement.

- 9.4 It is recommended practice for councils to satisfy themselves on this issue by obtaining an independent report setting out that a notional private lender/investor would in the same circumstances make a loan/invest on the terms which the council proposes. In particular, the loan arrangement must comply with prevailing market terms - i.e. be commercial in nature and contain provisions which a private lender would require, have a commercial interest rate which properly reflects the risk and security, and other factors which a private/commercial lender would take into account in calculating an appropriate interest rate.
- 9.5 The intention of this report is to satisfy the Council, (HMRC & regulators) in this respect and on related Corporation Tax issues.

#### **Value for Money (VFM)**

- 9.6 See above - the proposal is cost neutral to the authority but will provide a supply of accommodation for homeless households thus contributing to a reduction in expenditure on bed and breakfast accommodation.
- 9.7 Unlike other options to accommodate homeless households, such as the Rent Guarantee Scheme and leasing property in the market, provision of housing through a housing company will be at no net cost to the authority as the company will operate on a commercial basis, cross-subsidising sub-market rent with the provision of full market rent.

#### **Risk Assessment**

- 9.8 Investing in property presents a number of significant risks and also opportunities to the housing company and the Council. The HfR Risk Register is based on the Council model and identifies 27 risks, 10 of which are red and 13 amber before mitigation. After mitigation HfR will manage 13 amber risks. These will be regularly reviewed and updated by HfR Executive Management Team and the HfR Board. Any start up business carries risks and the first year of operation will be most challenging for HfR. Many of the risks are outside the direct control of the company, but where HfR can influence matters it will focus on managing and minimizing risk.
- 9.9 The current residential property market can be characterised as uncertain. In addition to taxation and stamp duty changes, World and UK economic considerations have all had a significant impact on the UK property market over the last year. Many commentators have offered opinion, but it is clear that the impact of the UK leaving the EU is uncertain and likely to be so for several years. The fundamentals of housing in the region remain the same - high demand and a historic lack of supply. HfR continue to monitor the market and will revise assumptions as we start to move towards our first acquisitions.
- 9.10 The key variables which can impact on the viability of the company are market driven and these are not always predictable:
- i) Market rent yield (the relationship between market rent achievable on a property and it's market value). Yields will fall if for instance
- Rents fall (with no commensurate fall in sales values)
  - Sales prices rise but rents don't rise at the same rate



- ii) Interest rates/Council funding costs rise - and therefore the cost to the company.
- iii) Rate of acquisition of properties - this impacts the ability to cover a fixed cost base.
  - If there are insufficient properties available to purchase above threshold yield - risk re rate of acquisition and ability to cover fixed costs.

Other factors include:

- iv) Performance - control of operating costs. This is controllable to a considerable extent but could be impacted by market forces, for instance, if insufficient demand impacted void periods.
- v) Legislative and policy risks. For example
  - The current Housing White Paper proposes that affordable homes developed by a Council Housing Company should also be subject to the Right to Buy. There is little detail available as yet.
  - The Government are considering the need for additional disincentives for buy-to-let investors (further to increasing SDLT).

9.11 If the company cannot meet its interest payments to the Council and in turn the Council is not receiving sufficient return to meet its own financing costs, if it did the company could realise capital from the sale of a property to cover the shortfall. This situation is not ideal as the company would be a forced seller with a tenanted portfolio - but it would give the company time to then address the root problem of why it was unable to meet its interest payments. However, the Council would be exposed if property values had fallen since purchase - so that sale proceeds would not cover the Council's borrowing and initial investment. As part of the funding arrangements HfR is expected to achieve a property value to loan ratio within 3 years that provides a buffer, and ensure that only the shareholding value remains at risk.

9.12 Likewise should the rental market in Reading goes into decline and rents do not increase in line with costs, then this will require a re-alignment of the company's strategy which may include starting to sell properties and reduce the size of the portfolio.

9.13 It is anticipated that the company will hold properties for a significant time and therefore, over the longer period, property prices are expected to grow and so there should be sufficient value to cover any additional costs as well as cover the Council's original loan and equity investment. Reading property values are currently expected to increase significantly over the next 5 years. In this context, the Council needs to be able to take a long-term view of the proposal.

9.14 Furthermore, a reduction in the value of the stock only becomes a significant problem if it falls below the original purchase price, and is accompanied by significant reductions in rent levels achievable, and if the company actually has to sell properties. This business case is viewed as a long term investment and so any short term drops in property values should be seen in the context that property values generally increase over the long term.

9.15 Part of the company's management responsibility will be to continually monitor the property market and its property portfolio (and costs and incomes) to forecast any changes and adjust its strategy to manage any difficult periods or indeed, take

advantage of opportunities. In this context the Company would be expected to report to the Council as shareholder if it foresaw significant risk of problems emerging from a changing property market.

- 9.16 As well as shareholder risks above, the company will carry operational risks of managing a housing portfolio; in many ways these will be similar to those the Council already carries as HRA landlord.

## 10. BACKGROUND PAPERS

- i) PROPOSAL TO ESTABLISH A COUNCIL OWNED HOUSING COMPANY: Report to Council - 22 March 2016
- ii) APPOINTMENT/NOMINATIONS TO OTHER BODIES FOR THE MUNICIPAL YEAR 2016-17: report to Policy Committee - 25 May 2016
- iii) HFR - BOARD AUTHORITY TO ALLOT SHARES: Report to Policy Committee - 31 October 2016
- iv) Financial model (which is confidential).



**dated**

**2017**

**Reading Borough Council**

and

**Homes for Reading Ltd**

## **Shareholders' Agreement**

in respect of Homes for Reading Ltd

Trowers & Hamblins LLP  
3 Bunhill Row  
London  
EC1Y 8YZ

**t** +44 (0)20 7423 8000  
**f** +44 (0)20 7423 8001  
[www.trowers.com](http://www.trowers.com)

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# Shareholders' Agreement

dated 2017

## Parties

- (1) **Reading Borough Council** whose registered office is at Civic Offices, Bridge St, Reading, Berkshire RG1 2LU (the **Council**).
- (2) **Homes for Reading Ltd** (company no 10108064) whose registered office is at Civic Offices, Bridge St, Reading, Berkshire RG1 2LU (the **Company**).

## Introduction

- (A) The Company was incorporated in England under the Companies Act 2006 on 6 April 2016 and, at the date of this Agreement, 1 Share is in issue and is registered in the name of and are beneficially owned by the Council.
- (B) The Company has been established for the commercial purpose of increasing the supply of housing across a range of tenures including for sale (on market or shared ownership or shared equity terms) and rent (at a market or at sub-market rent).
- (C) This Agreement sets out the terms upon which the Council will participate in the Company as its shareholder.

## Agreed Terms

### 1 Definitions and Interpretation

1.1 In this Agreement:

**Agreed Form** means a form agreed between the Shareholders from time to time, a copy of which has been initialled for the purpose of identification by or on behalf of the Shareholders;

**Articles** means the articles of association of the Company;

**Business** means the business of the Company as set out in clause 2;

**Business Day** means a day (other than a Saturday or Sunday) on which the banks in the City of London are open for business;

**CA2006** means the Companies Act 2006;

**Director** means a director of the Company;

**Dwelling** means any dwelling owned by the Company from time to time;

**Environmental Information Regulations** means the Environmental Information Regulations 2004;

**Financial Model** means the financial model set out in a CD-R will file referenced [file name to follow] and initialled by way of identification by the signatories to this Agreement as amended from time to time with Shareholder Consent;

**Finance Documents** means a development facility agreement to be entered into by the Company and the Council on or about the date of this Agreement, a loan note instrument to be entered into by the Company on or about the date of this Agreement, and any other funding and security documentation which is entered into by the Company relating to the provision of funding for the Business from the Council;

**FOIA** means the Freedom of Information Act 2000;

**Group** means the Company and its subsidiary undertakings from time to time, or any of them as the context requires and **Group Company** shall be construed accordingly;

**Information** has the meaning given to it under section 84 of the FOIA;

**Remuneration Policy** means a policy adopted by the Company (following receipt of Shareholder Consent) in relation to the provision of remuneration (including salary, bonus, the provision of benefits-in-kind or otherwise) for its employees, officers and consultants;

**Request for Information** has the meaning set out in the FOIA or any apparent request for information made under the FOIA or the Environment Information Regulations;

**Shareholder** means any holder of any Share(s) from time to time, being the Council at the date of this Agreement;

**Shareholder Consent** means consent of the Shareholders in accordance with clause 3.6;

**Shareholder Consent Matters** means those matters listed in schedule 1;

**Shares** means the ordinary shares of £1 each in the issued share capital of the Company;

**Subsidiary** has the meaning given in the CA2006; and

**United Kingdom** means the geographical area of the United Kingdom of Great Britain and Northern Ireland as at the date of this Agreement.

1.2 A reference to a statutory provision includes a reference to:

1.2.1 a statutory amendment, consolidation or re-enactment (whether before or after the date of this Agreement),

1.2.2 statutory instruments or subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978) or orders made under the statutory provision (whether made before or after the date of this Agreement), and

1.2.3 statutory provisions of which the statutory provision is an amendment, consolidation or re-enactment.

1.3 Reference to:

- 1.3.1 a person includes a legal or natural person, partnership, trust, company, government or local authority department or other body (whether corporate or unincorporate),
- 1.3.2 a statutory or regulatory body shall include its successors and any substituted body,
- 1.3.3 an individual includes, where appropriate, his personal representatives,
- 1.3.4 the singular includes the plural and vice versa, and
- 1.3.5 one gender includes all genders.
- 1.4 Unless otherwise stated, a reference to a clause or schedule is a reference to a clause or schedule to this Agreement and a reference to this Agreement includes its schedules.
- 1.5 Clause headings in this Agreement are for ease of reference only and do not affect its construction.
- 1.6 In construing this Agreement the so-called ejusdem generis rule does not apply and accordingly the interpretation of general words shall not be restricted by words indicating a particular class or particular examples.
- 1.7 For the purposes of this Agreement **Party** means a party to this Agreement and reference to **Parties** shall be to all or more than one of them as applicable.
- 1.8 Where a provision of this agreement imposes an obligation, cost or liability on two or more Parties, that obligation, costs or liability shall be construed as being against those Parties jointly and severally, and where a provision of this Agreement gives a claim, benefit or right to two or more Parties, that claim, benefit or right attaches to those Parties jointly.
- 1.9 Where a consent and/or permission is required under this Agreement from one Party to the other that consent and/or permission should not be unreasonably withheld or delayed.

## **2 Business**

- 2.1 The Business of the Company shall be:
  - 2.1.1 to operate as a commercial company;
  - 2.1.2 to purchase land and property within the United Kingdom from either the Council or on the open market; and
  - 2.1.3 to acquire, develop, construct and/or refurbish residential homes within the 'Greater Reading' as defined by the company (subject to any variation of the geographical extent of the Company's activities agreed pursuant to clause 2.6) which it will sell at market or shared equity or shared ownership terms or rent (either on the open market or at a sub-market rent).together with any activities reasonably incidental to the above.
- 2.2 The first Business Plan of the Company is set out in schedule 2 to this Agreement [to be agreed once the company commences trading]. The Company shall circulate a revised

version of the then current Business Plan to the Shareholders by the end of November in each year and invite the Shareholders to provide comments on the proposed Business Plan or to provide Shareholder Consent. The Shareholders will use reasonable endeavours to respond by the end of the following February. Subject to the receipt of Shareholder Consent, before the end of each Accounting Period the Directors shall (in accordance with this Agreement) consider and, if appropriate, adopt an updated and revised Business Plan. No adoption, variation or replacement of any Business Plan shall take effect unless such adoption, variation or replacement has received Shareholder Consent.

- 2.3 Each Business Plan shall be substantially in the format of the first Business Plan and shall be for a three year period, unless the shareholder consents otherwise.
- 2.4 Notwithstanding any other provision of this clause 2, following the requisite approval by the Directors of a new proposed Business Plan or an amended or updated and revised Business Plan, such draft Business Plan shall become, or such amended or updated Business Plan shall become, the Business Plan for the relevant Accounting Periods. For any period when a proposed Business Plan presented under clause 2.3 has not been approved and adopted by the Directors in accordance with this Agreement the relevant existing Business Plan shall continue to be the Business Plan of the Company.
- 2.5 The Company shall not acquire any property or otherwise trade outside of the area of 'Greater Reading' as defined by the company, without Shareholder Consent.

### **3 Conduct of the Company's Affairs**

- 3.1 Meetings of the Directors shall be held no less than four times in every year and at not more than three monthly intervals.
- 3.2 With the exception of those matters requiring Shareholder Consent pursuant to clause 3.6, the management of the Company shall be vested in the Directors. The Directors may appoint a managing director on such terms as they may think fit who shall be responsible for the day to day management of the Business within the terms of the Business Plan and this Agreement and perform such duties as may be delegated to him by the Directors. The Directors may also remove such managing director and appoint a replacement, on such terms as it may think fit providing that no appointment to the post of managing director shall be made without Shareholder Consent.
- 3.3 Without prejudice to the generality of the foregoing, the Directors will determine the general policies of the Company and the manner in which the Business is to be carried out, subject to the Business Plan, to those matters requiring Shareholder Consent pursuant to clause 3.6 and to any other express provisions of this Agreement. In particular, but without limitation to the generality of the foregoing, the Directors will shall exercise all voting rights and other powers of control available to them in relation to the Company so as to procure (in so far as they are able in the exercise of such rights and power) that, at all times during the term of this Agreement, the Company shall:
- 3.3.1 carry on and conduct its business and affairs in a proper and efficient manner, for its own benefit and in accordance with the Business Plan and with good business practices, and
- 3.3.2 transact all its business on arm's length terms.



- 3.4 The Company shall not carry out any activity which would render the holding of Shares by any Shareholder unlawful provided that where a proposed change of law would render such shareholding unlawful such Shareholder will use its reasonable endeavours to take such steps as are necessary to allow it to continue lawfully to hold its Shares.
- 3.5 The Company will if it requires any approval, consent or licence for the carrying on of its Business in the manner in which it is from time to time carried on or proposed to be carried on, obtain and maintain the same in full force and effect.
- 3.6 The Company shall ensure that none of the Shareholder Consent Matters shall be carried out without the prior consent in writing of Shareholders holding in aggregate between them a majority of the Shares then in issue.
- 3.7 The Company shall permit any Director to discuss the affairs, finances and accounts of the Company and its subsidiaries with any Shareholder's designated officers and executives at any time. All books, records, accounts and documents relating to the business and the affairs of the Company and its subsidiaries shall be open to the inspection of any such person, who shall be entitled to make any copies thereof as he or she deems appropriate to keep the relevant Shareholder properly informed about the business and affairs of the Company or to protect its interests as a Shareholder. Any information secured as a consequence of such discussions and examinations shall be kept confidential by the requesting Shareholder and its designated officers and executives in accordance with the terms of clause 5.
- 3.8 The Company agrees with the Shareholders that it will maintain effective and appropriate control systems in relation to the financial, accounting and record-keeping functions of the Group and will generally keep the Shareholders informed of the progress of each Group Company's business and affairs and in particular will procure that each Shareholder is given such information and such access to the officers, employees and premises of the Group as it may reasonably require for the purposes of enabling it to monitor its investment in the Group.
- 3.9 The Company shall not breach nor cause the Council to be in breach of the Local Authorities (Companies) Order 1995.

#### **4 Covenants**

The Company covenants to the Council in accordance with the terms of Schedule 3.

#### **5 Termination**

5.1 This Agreement shall terminate upon

5.1.1 the written agreement of the Parties in accordance with the terms agreed; or

5.1.2 when a resolution is passed by the Shareholders or creditors of the Company, or any order made by a court or other competent body or person instituting a process that shall lead to the Company being wound up and its assets being distributed among the creditors, Shareholders or other contributors,

but shall cease and determine in respect of a Shareholder (without prejudice to that Shareholder's accrued rights, obligations or liabilities) upon that Shareholder ceasing to hold Shares in the Company.

## **6 Confidentiality**

6.1 Each Party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other Party belongs, except as permitted by clause 5.2.

6.2 Each Party may disclose the other Party's confidential information:

6.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the Party's obligations under this Agreement. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this clause 5; or

6.2.2 as may be required by law, court order or any governmental or regulatory authority.

6.3 Each Party acknowledges that the other Party is subject to the requirements of the FOIA and the Environmental Information Regulations, and shall facilitate the other Party's compliance with its Information disclosure requirements pursuant to and in the manner provided for in clauses 5.4 and 5.7.

6.4 If either Party (the **Recipient**) receives a Request for Information in relation to Information that the other Party is holding and which the Recipient does not hold itself, the Recipient shall refer to the other Party such Request for Information as soon as practicable and in any event within five (5) Business Days of receiving a Request for Information, and the other Party shall:

6.4.1 provide the Recipient with a copy of all such Information in the form that the Recipient requires as soon as practicable and in any event within 10 Business Days (or such other period as the Recipient acting reasonably may specify) of the Recipient's request; and

6.4.2 provide all necessary assistance as reasonably requested by the Recipient to enable the Recipient to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

6.5 Following notification under 5.4, and up until such time as the other Party has provided the Recipient with all the Information specified in clause 5.4, the other Party may make representations to the Recipient as to whether or not or on what basis Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the information requested, provided always that the Recipient shall be responsible for determining, at its absolute discretion:

6.5.1 whether Information is exempt from disclosure under the FOIA and the Environmental Information Regulations; and

6.5.2 whether Information is to be disclosed in response to a Request for Information, and in no event shall the other Party respond directly to a Request for Information unless the Request for Information is addressed to it.

6.6 The Parties acknowledge that (notwithstanding the provisions of clause 5.1) the Recipient may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under part I of the Freedom of Information Act 2000, be obliged under the FOIA or the Environmental Information Regulations to disclose Information concerning the other Party:

6.6.1 in certain circumstances without consulting with the other Party; or

6.6.2 following consultation with the other Party and having taken their views into account.

6.7 Each Party shall transfer to the other Party any Request for Information which it receives but is addressed to the other Party as soon as practicable and in any event within 3 Business Days of receiving it.

6.8 The Parties acknowledge that any lists provided which list or outline Confidential Information are of indicative value only and that a Recipient may nevertheless be obliged to disclose Confidential Information in accordance with clause 5.6.

## **7 No Partnership**

Nothing in this Agreement gives rise to a partnership between the Parties or constitutes one Party the agent of another.

## **8 Contracts (Rights of Third Parties) Act 1999**

8.1 Unless the right of enforcement is expressly granted, it is not intended that a third party, other than a lawful successor in title or a lawful assignee, should have the right to enforce a provision of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

8.2 The Parties may rescind or vary this Agreement without the consent of a third party to whom an express right to enforce any of its terms has been provided.

## **9 Costs of this Agreement**

Each party shall pay its own costs in connection with the negotiation, preparation, execution and performance of this Agreement and of each department referred to in it.

## **10 Waiver**

10.1 The rights of each of the Parties in respect of a breach of this Agreement shall not be affected by completion, by its rescinding, or failing to rescind, this Agreement, or failing to exercise, or delaying in exercising, a right or remedy, or by anything else, except a specific authorised written waiver or release. A single or partial exercise of a right or remedy provided by this Agreement or by law does not prevent its further exercise or the exercise of another right or remedy.

10.2 Waiver of a breach of a term of this Agreement, or of a default under it, does not constitute a waiver of another breach or default nor affect the other terms of this Agreement.

10.3 The rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies.

## **11 Variation**

A purported variation of this Agreement is not effective unless in writing and signed by or on behalf of each of the Parties.

## **12 Invalidity**

If a provision of this Agreement is held to be illegal or unenforceable, in whole or in part, under an enactment or rule of law, it shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected. The Parties agree to negotiate in good faith to agree the terms of a mutually satisfactory provision to be substituted for the provision found to be illegal or unenforceable.

## **13 Entire Agreement**

13.1 This Agreement (together with any documents entered into under it or at the same time as it) supersedes all prior understandings and agreements between the Parties (whether written or oral) relating to its subject matter and contains the entire agreement between the Parties relating to its subject matter.

13.2 Each Party acknowledges that it does not enter into this Agreement on the basis of, and does not rely on, warranties or representations made, or agreed to, by any person (whether a party to this Agreement or not).

13.3 Each Party waives its rights against the others in respect of warranties and representations (whether written or oral) not expressly set out or referred to in this Agreement.

13.4 Nothing in this clause 12 limits or excludes liability for fraud.

13.5 The Parties acknowledge that they have had the benefit of legal advice on the effects of this clause 12 and confirm that they consider this clause 12 to be reasonable in all circumstances of this Agreement.

## **14 Status of this Agreement**

14.1 In the event of any ambiguity or discrepancy between the provisions of this Agreement and the Articles, then it is the intention of the Shareholders that the provisions of this Agreement shall prevail. Accordingly, each Shareholder (so far as each is able) shall take all such steps and do all such acts and things as may be necessary or desirable, including, without limitation, exercising all voting and other rights and powers of control available to it in relation to the Company, so as to give effect to the provisions of this Agreement and shall further if necessary procure (insofar as it is able to do so by the exercise of those rights and powers) any required amendment to the Articles.

## **15 Consents**

15.1 Consents, notices, approvals or agreements to be given by the Shareholders under this Agreement shall be given in writing.

15.2 Where this Agreement provides that a matter is subject to the consent, approval or Agreement of any Party then (except as expressly provided otherwise), it shall be in the absolute discretion of the Party concerned as to whether (and if so, on what terms and conditions) the consent, approval or agreement is made.

## **16 Communications**

16.1 Any notice or other communication under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by first-class post (and by air mail if overseas) or by facsimile as follows:

16.1.1 if to the Council, to:  
Address: Civic Offices, Bridge St, Reading, Berkshire RG1 2LU  
marked for the attention of Head of Legal Services;

16.1.2 if to the Company, to:  
Address: Civic Offices, Bridge St, Reading, Berkshire RG1 2LU  
marked for the attention of The Managing Director;

or to such other person, address, or fax number or email as any Party may specify by notice in writing to the other.

16.2 In the absence of evidence of earlier receipt, any notice or other communication shall be deemed to have been duly given:

16.2.1 if delivered personally, when left at the address referred to in clause 15.1;

16.2.2 if sent by mail, other than airmail, two Business Days after posting it;

16.2.3 if sent by fax, on completion of its legible transmission; and

16.2.4 if sent by email, when sent and there has been no communication by the recipient to the senders that the email has not been received,

provided always that a notice given in accordance with the above but received on a day which is not a Business Day or after business hours on a Business Day will only be deemed to be given on the next Business Day.

16.3 The original of any notice or other communication by fax shall be forwarded to the recipient(s) but the non-arrival of that original shall not affect the validity of the notice or other communication by fax.

## **17 Counterparts**

17.1 This Agreement may be executed in a number of counterparts and by the Parties on different counterparts, but shall not be effective until each Party has executed at least one counterpart.

17.2 Each counterpart, when executed, shall be an original, but all the counterparts together constitute the same document.

**18 Governing Law and Jurisdiction**

18.1 This Agreement and the rights and obligations of the Parties shall be governed by and construed in accordance with the laws of England and Wales.

18.2 The Parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales in respect of any dispute or claim arising out of or in connection with this Agreement or any of the documents to be executed pursuant to this Agreement or their subject matter or formation (including non-contractual disputes or claims). This Deed has been executed as a deed and delivered on the date stated at the beginning of this Deed.

## Schedule 1

### Shareholder Consent Matters – Part A (Corporate Matters)

The Company and any Group Company shall not, unless it has Shareholder Consent:

1. vary in any respect its articles of association or the rights attaching to any of its shares; or
2. permit the registration (upon subscription or transfer) of any person as a member of the Company other than the Shareholders in accordance with the terms of this Agreement and/or any permitted transferees, or permit the registration (upon subscription or transfer) of any person as a member of any other Group Company save for the Company; or
3. increase the amount of its issued share capital except as provided in this agreement, grant any option or other interest (in the form of convertible securities or in any other form) over or in its share capital, redeem or purchase any of its own shares or effect any other reorganisation of its share capital; or
4. issue any loan capital or enter into any commitment with any person with respect to the issue of any loan capital; or
5. make any borrowing other than under the Finance Documents; or
6. apply for the listing or trading of any shares or debt securities on any stock exchange or market; or
7. pass any resolution for its winding up or present any petition for its administration (unless it has become insolvent); or
8. engage in any business other than as contemplated by the Business Plan or defray any monies other than in good faith for the purposes of or in connection with the carrying on of such business; or
9. form any Subsidiary or acquire shares in any other company or participate in any partnership or joint venture (incorporated or not); or
10. close down any business operation, or dispose of or dilute its interest in any of its Subsidiaries for the time being, or dispose of any material asset unless in each case such closure or disposal is expressly contemplated by the Business Plan; or
11. amalgamate or merge with any other company or business undertaking; or
12. alter its name or registered office; or
13. enter into any transaction or arrangement of any nature whatsoever (including, for the avoidance of doubt, a service contract) with any of its directors or any person who is connected (within the meaning of sections 1122 and 1123 of the Corporation Tax Act 2010) to any of its directors whether or not any other person shall be party to such transaction or arrangement; or

14. enter into any arrangement, contract or transaction outside the normal course of its business or otherwise than on arm's length terms; or
15. enter into, as lessor or as lessee, any finance lease; or
16. create or permit to be created any mortgage, charge, encumbrance or other security interest whatsoever on any material asset or its business in whole or in part or any of its shares other than:
  - (a) the Finance Documents;
  - (b) liens arising in the ordinary course of business; or
  - (c) any charge arising by the operation or purported operation of title retention clauses and in the ordinary course of business; or
17. adopt or amend its annual Business Plan; or
18. change either:
  - (a) its statutory auditors; or
  - (b) its financial year end; or
19. make or permit to be made any material change in the accounting policies and principles adopted by the Company in the preparation of its accounts except as may be required to ensure compliance with relevant accounting standards under the Companies Act 2006 or any other generally accepted accounting principles in the United Kingdom; or
20. make any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit (other than in the normal course of trading) or give any guarantee (other than in the normal course of trading) or indemnity (other than in the normal course of trading); or
21. give any guarantee, suretyship or indemnity to secure the liability of any person or assume the obligations of any person outside the scope of its Business Plan; or
22. factor or assign any of its book debts; or
23. establish or amend any profit-sharing, share option, bonus or other incentive scheme of any nature for directors, officers or employees (but for the avoidance of doubt, this will not prevent any Group Company from awarding a discretionary cash bonus to directors, officers or employees); or
24. establish or amend any pension scheme or grant any pension rights to any director, officer, employee, former director, officer or employee, or any member of any such person's family; or
25. dismiss any director
26. adopt or amend its Remuneration Policy;



27. agree to remunerate (by payment of salary, bonus, the provision of benefits-in-kind or otherwise) or to increase the remuneration of any employee, officer of or consultant to the Company unless the annual aggregate amount of such remuneration (by payment of salary, bonus, the provision of benefits-in-kind or otherwise) is in accordance with the Company's current Remuneration Policy or Business Plan; or
28. institute, settle or compromise any material legal proceedings (other than possession or debt recovery proceedings in the ordinary course of business or where the Value of such claim is reasonably believed by the Company to be less than £100,000 instituted or threatened against it or submit to arbitration or alternative dispute resolution any dispute if the effect of this is that its solvency may be imperilled, or it may require additional funding in order to undertake its Business Plan; or
29. make any agreement with any revenue or tax authorities or make any claim, disclaimer, election or consent for tax purposes in relation to the Group Company or its business if the effect of this is that its solvency may be imperilled, or it may require additional funding in order to undertake its Business Plan.
30. (in addition to the Covenant 4 in Schedule 3 to this Agreement) acquire any land or any individual dwelling with a value in excess of £750,000
31. enter into any contract with a value in excess of £1,000,000.

## Shareholder Consent Matters – Part B (Operational Matters)

The Company and any Group Company shall not unless it has Shareholder Consent make any amendments to the Financial Model or to its Remuneration Policy

**Schedule 2**  
**First Business Plan**

**Schedule 3**  
**Company Covenants**

The Company covenants to the Shareholder as follows:

1. To only acquire land or a dwelling if the acquisition is in accordance with the Financial Model.
2. To appoint the Council's auditors as its statutory auditors and to maintain the Council's financial year and as its financial year end.

**In witness** whereof the parties have executed this Agreement as a deed.

executed as a deed by affixing the common seal of )

**Reading Borough Council** )

)

in the presence of:

Authorised signatory

executed as a deed by )

**Homes for Reading Ltd** )

)

acting by: )

a director in the presence of:

.....

Director

Witness signature

Name

Address

Private company limited by shares

**Memorandum of association**

**of**

**Homes for Reading Limited**

---

Each subscriber to this memorandum of association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company and to take at least one share.

---

Name of each subscriber

Authentication by each subscriber

---

Reading Borough Council

---



**Homes for Reading Limited**

**Articles of association**

Trowers & Hamlins LLP  
3 Bunhill Row  
London  
EC1Y 8YZ

t +44 (0)20 7423 8000  
f +44 (0)20 7423 8001  
[www.trowers.com](http://www.trowers.com)

1

Company number: 10108064

Private company limited by shares

Articles of association

of

Homes for Reading Limited

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**1 Model articles not to apply**

The model articles of association for private companies limited by shares contained in Schedule 1 to the Companies (Model Articles) Regulations 2008, 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.

**2 Defined terms**

In the articles, unless the context requires otherwise:

**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 from time to time;

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

**chairman of the meeting** has the meaning given in article 47;

**Companies Acts** means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;

**council** means Reading Borough Council or any successor body thereto;

**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 39;

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

**electronic form** has the meaning given in section 1168 of the Companies Act 2006;



**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 Companies Act 2006;

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

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

**ordinary resolution** has the meaning given in section 282 of the Companies Act 2006;

**paid** means paid or credited as paid;

**Parent** means the council;

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

**proxy notice** has the meaning given in article 53;

**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 Companies Act 2006;

**subsidiary** has the meaning given in section 1159 of the Companies Act 2006;

**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.

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.

### **3 Liability of members**

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

### **4 Objects clause**

The company's objects are unrestricted.

### **5 Directors' general authority**

Subject to the articles, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.

## **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, including to any appointed managing director and non-executive directors;
- 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.

- 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.

## **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 or a decision taken in accordance with article 10.

- 9.2 If:

- 9.2.1 the company only has one director; 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 take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

## **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, which may consist of several copies each signed by one or more eligible directors or to which the eligible directors have otherwise indicated agreement in writing.
- 10.3 References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.
- 10.4 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. A director may waive the requirement that notice of a meeting of the directors or of a committee of the directors be given to him at any time before or after the date on which the meeting is held by notifying the company to that effect. Where a director gives such notice 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.

12.3 If all the directors participating in a meeting are not in the same place, the meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting 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 The quorum for the transaction of business of the directors shall be five.

13.3 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision to request that the Parent appoints such number of further directors as are required to make up the board under articles 20 and 21.

### **14 Chairing of directors' meetings**

14.1 The board shall appoint a director to chair the directors' meetings.

14.2 The person so appointed for the time being is known as the chairman.

14.3 The Parent may require the directors to terminate the chairman's appointment at any time upon giving written notice to the company.

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 one of themselves to chair it.

### **15 Casting vote**

15.1 If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.

15.2 But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

### **16 Conflicts of interest**

16.1 If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, then provided that the director has disclosed his interest in such actual or proposed transaction or arrangement with the company in accordance with the Companies Acts or the provisions of these articles, he may nevertheless be counted as participating in the decision-making process for quorum and voting purposes in respect of any such matter in which the director is in any way interested, and shall not, save as otherwise agreed, be accountable to the company for any benefit which he derives under or in consequence of any such transaction or arrangement.

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 Authorisation of directors' conflicts of interest**

17.1 For the purposes of section 175 of the Companies Act 2006, as amended, consolidated or re-enacted from time to time (the **2006 Act**), the directors shall have the power to authorise any relationship, situation or other matter which would or might otherwise constitute or give rise to a breach by a director of the duty to avoid conflicts of interest set out in that section of the 2006 Act (a **Conflict Situation**). Any reference in these articles to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

17.2 For the purposes of sections 175 and 180(4) of the 2006 Act and for all other purposes, it is acknowledged that a director may be or become subject to a Conflict Situation or Conflict Situations 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 2006 Act) or any of its shareholders.

17.3 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 Situation envisaged by article 17.2 having arisen or existing in relation to him.

17.4 Authorisation of a matter under this article 17 shall be effective only if:

17.4.1 the matter in question shall have been proposed in writing for consideration by the directors, or in such other manner as the directors may determine;

17.4.2 any requirement as to the quorum at the meeting of the directors at which the matter is considered is met without counting the director in question and any other interested director (together, the **interested directors**); and

17.4.3 the matter was agreed to without the interested directors voting or would have been agreed to if the votes of the interested directors had not been counted.

17.5 Unless otherwise determined by the directors (excluding the interested directors), any authorisation of a matter under this article 17 shall extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised.

17.6 Any authorisation of a matter under this article 17 shall be on such terms and/or conditions as the directors (excluding the interested directors) may determine, whether at the time

such authorisation is given or subsequently and may be varied or terminated by the directors (excluding the interested directors) at any time. Such terms or conditions may include (without limitation) terms and conditions as to the duration, renewal and/or revocation of the authorisation, and/or the exclusion of the interested directors from all information and discussion of the matter in question. A director shall comply with any obligations imposed on him by the directors (excluding the interested directors) pursuant to any such authorisation.

17.7 If a director receives or has received any information otherwise than by virtue of his position as a director of the company and in respect of which he owes a duty of confidentiality to another person, the director is under no obligation to:

17.7.1 disclose any such information to the company, the directors or any other director or employee of the company; or

17.7.2 use or apply any such information in connection with the performance of his duties as a director;

provided that to the extent that such duty of confidentiality arises out of a situation or relationship which would or might otherwise constitute or give rise to a breach by the director of the duty to avoid conflicts of interest set out in section 175 of the 2006 Act, this article 17.7 shall apply only if such situation or relationship has been authorised by the directors under this article 17.

17.8 A director shall not, save as otherwise agreed by him, be accountable to the company for any benefit which he (or a person connected with him) derives from any matter authorised by the directors under this article and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit.

## **18 Records of decisions to be kept**

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.

## **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 about how such rules are to be recorded or communicated to directors.

## **20 The board**

Unless otherwise determined by ordinary resolution, the number of directors is not subject to any maximum and the minimum number is one.

## **21 Appointment and Removal of Directors**

21.1 Notwithstanding any other provision of these articles, the holder or holders of a majority in nominal value of the issued ordinary shares in the capital of the company may at any time and from time to time:

- 21.1.1 appoint any person to be a director in an executive or non-executive director role (provided that any such appointment does not cause the number of directors to exceed a number fixed by or in accordance with these articles as the maximum number of directors) for an initial term of three years. Where a director is an elected member of the council their term of appointment shall be for an initial term of three years subject to the annual general meeting of the council confirming their appointment; or
- 21.1.2 Remove any director from office.
- 21.2 The shareholder must consent to directors holding additional terms of office up to a maximum of nine years.
- 21.3 Every such appointment or removal shall be effected by notice in writing to the company and shall take effect immediately (or on such later date, if any, specified in the notice). Any such notice of appointment or removal may consist of several documents in similar form, each signed by or on behalf of one or more holders.
- 21.4 In any case where, as a result of bankruptcy, the company has no shareholders and no directors, the trustee in bankruptcy or other transmittee(s) of the last shareholder to have a bankruptcy order made against him has the right, by notice in writing, to appoint a natural person (including himself) who is willing to act and is permitted to do so to be a director.

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

A person shall be ineligible for appointment to the board and if already appointed ceases to be a director as soon as:

- 22.1 that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
- 22.2 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;
- 22.3 a bankruptcy order is made against that person;
- 22.4 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 22.5 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;
- 22.6 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;
- 22.7 that person is an elected member or employee of any shareholder in the company where that person ceases to be an elected member or an employee of any shareholder for any reason;
- 22.8 that person is removed by the Parent by a notice in writing to the company;

22.9 that person is or becomes a person disqualified from elected membership of a local authority;

## **23 Directors' remuneration**

23.1 Directors may undertake any services for the company that the directors decide **provided that** no sum shall be paid to a director who is an elected member of the council.

23.2 The board may decide on any remuneration packages to be offered to non-executive directors.

## **24 Directors' expenses**

The company may pay any reasonable expenses which the directors 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 **provided that** no sum shall be paid to a director who is an elected member of the council.

## **25 Company Secretary**

The directors may appoint a company secretary for such term, at such remuneration and upon such conditions as they think fit. Any company secretary may be removed or replaced by the directors.

## **26 Nil- or partly-paid shares permitted**

If the company at any time has nil or partly-paid shares in issue, articles 52 to 62 (inclusive) of the model articles of association for public companies contained in Schedule 3 to the Companies (Model Articles) Regulations 2008, as amended prior to the date of adoption of these articles, shall apply to the company and form part of these articles as if the text of such provisions was set out in full in these articles.

## **27 Allotment of shares**

27.1 Save as authorised from time to time by an ordinary resolution of the shareholders, 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 Sections 561 and 562 of the Companies Act 2006 shall not apply to any allotment of equity securities (as defined in section 560 of the Companies Act 2006) 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 ordinary resolution.

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 the amount paid up on the shares to which it relates; 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.

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, 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 The instrument of transfer of any share taken on formation of the company by a subscriber to the company's memorandum of association need not be executed by or on behalf of the transferee even where the share is not fully paid.
- 32.3 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- 32.4 The company may retain any instrument of transfer which is registered.
- 32.5 The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- 32.6 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.
- 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 But 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 has been entered in the register of members.

### **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.

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 Calculation of dividends**

Except as otherwise provided by these articles or the rights attached to shares, all dividends must be:

37.1 declared and paid according to the amounts paid up on the shares on which the dividend is paid; and

37.2 apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.

If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly. For the purposes of calculating dividends,

no account is to be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

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

38.1 Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means:

38.1.1 transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;

38.1.2 sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;

38.1.3 sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or

38.1.4 any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.

38.2 In these articles, the **distribution recipient** means, in respect of a share in respect of which a dividend or other sum is payable:

38.2.1 the holder of the share; or

38.2.2 if the share has two or more joint holders, whichever of them is named first in the register of members; or

38.2.3 if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

### **39 No interest on distributions**

The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by:

39.1 the terms on which the share was issued, or

39.2 the provisions of another agreement between the holder of that share and the company.

### **40 Unclaimed distributions**

40.1 All dividends or other sums which are:

40.1.1 payable in respect of shares; and

40.1.2 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.

40.2 The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.

40.3 If:

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

40.3.2 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.

#### **41 Non-cash distributions**

41.1 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).

41.2 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:

41.2.1 fixing the value of any assets;

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

41.2.3 vesting any assets in trustees.

#### **42 Waiver of distributions**

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:

42.1 the share has more than one holder; or

42.2 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.

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

43.1 Subject to the articles, the directors may, if they are so authorised by an ordinary resolution:

43.1.1 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

43.1.2 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.

43.2 Capitalised sums must be applied:

43.2.1 on behalf of the persons entitled; and

43.2.2 in the same proportions as a dividend would have been distributed to them.

43.3 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.

43.4 A capitalised sum which was appropriated from profits available for distribution may be applied in or towards:

43.4.1 paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct;

43.4.2 paying up any amounts unpaid on existing shares held by the persons entitled.

43.5 Subject to the articles the directors may:

43.5.1 apply capitalised sums in accordance with paragraphs 46.3 and 46.4 partly in one way and partly in another;

43.5.2 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

43.5.3 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.

#### **44 Attendance and speaking at general meetings**

44.1 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.

44.2 A person is able to exercise the right to vote at a general meeting when:

44.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and

44.2.2 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.

44.3 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.

44.4 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.

44.5 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.

#### **45 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 Parent shall be a quorum.

#### **46 Chairing general meetings**

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

46.2 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:

46.2.1 the directors present; or

46.2.2 (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.

46.3 The person chairing a meeting in accordance with this article is referred to as **the chairman of the meeting**.

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

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

47.2 The chairman of the meeting may permit other persons who are not:

47.2.1 shareholders of the company; or

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

to attend and speak at a general meeting.

#### **48 Adjournment**

- 48.1 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.
- 48.2 The chairman of the meeting may adjourn a general meeting at which a quorum is present if:
- 48.2.1 the meeting consents to an adjournment; or
  - 48.2.2 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.
- 48.3 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 48.4 When adjourning a general meeting, the chairman of the meeting must:
- 48.4.1 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
  - 48.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 48.5 If a general meeting is adjourned, then notice of the time and place to which it is adjourned shall be given:
- 48.5.1 to the same persons to whom notice of the company's general meetings is required to be given; and
  - 48.5.2 containing the same information which such notice is required to contain.
- 48.6 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.

#### **49 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.

#### **50 Errors and disputes**

- 50.1 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.
- 50.2 Any such objection must be referred to the chairman of the meeting, whose decision is final.

#### **51 Poll votes**

- 51.1 A poll on a resolution may be demanded:



- 51.1.1 in advance of the general meeting where it is to be put to the vote, or
- 51.1.2 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.

51.2 A poll may be demanded by:

- 51.2.1 the chairman of the meeting;
- 51.2.2 the directors;
- 51.2.3 any member (present in person or by proxy) having the right to attend and vote at the meeting or by a duly authorised representative of a corporation.
- 51.2.4 A demand for a poll may, before the poll is taken, be withdrawn. A demand so withdrawn shall not invalidate the result of a vote on a show of hands declared before the demand was made.

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

## **52 Content of proxy notices**

52.1 Proxies may only validly be appointed by a notice in writing (a **proxy notice**) which:

- 52.1.1 states the name and address of the shareholder appointing the proxy;
- 52.1.2 identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
- 52.1.3 is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
- 52.1.4 is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.

52.2 The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

52.3 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.

52.4 Unless a proxy notice indicates otherwise, it must be treated as:

- 52.4.1 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
- 52.4.2 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.

## **53 Delivery of proxy notices**

- 53.1 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.
- 53.2 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.
- 53.3 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.
- 53.4 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.

#### **54 Proxies and corporate representatives**

The failure of any proxy or corporate representative to vote in accordance with any instructions given by the member by whom such proxy or corporate representative is appointed shall not invalidate the result of any vote in which the proxy or corporate representative has participated and the company and the directors shall be under no duty to enquire as to the instructions given to any such proxy or corporate representative.

#### **55 Amendments to resolutions**

- 55.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
- 55.1.1 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
  - 55.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- 55.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
- 55.2.1 the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
  - 55.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 55.3 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.

#### **56 Written resolutions and decisions of the Parent**

A proposed written resolution of the members of the company (or of a class of members) shall lapse if it is not passed before the end of the period of six months beginning with the circulation date of such resolution (as defined in section 290 of the Companies Act 2006).

If the Parent makes a decision which is required to be taken in a general meeting or by means of a written resolution, that decision shall be valid and effectual as if agreed by the Company in general meeting. Any decision taken by the Parent pursuant to this Article 57 shall be recorded in writing and delivered by the Parent to the Company for entry in the Company's minute book.

## **57 Means of communication to be used**

57.1 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 Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.

57.2 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.

57.3 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.

57.4 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:

57.4.1 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 working 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 working days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

57.4.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;

57.4.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and

57.4.4 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 working day.

57.5 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 Companies Act 2006.

## **58 Company seals**

58.1 Any common seal may only be used by the authority of the directors.

58.2 The directors may decide by what means and in what form any common seal is to be used.

58.3 Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

58.4 For the purposes of this article, an authorised person is:

58.4.1 any director of the company;

58.4.2 the company secretary (if any); or

58.4.3 any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

## **59 No right to inspect accounts and other records**

Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

## **60 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.

## **61 Indemnity**

61.1 The company may indemnify any relevant officer out of the assets of the company from and against any loss, liability or expense incurred by him or them in relation to the company (including any liability incurred in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006)) **provided that** this article shall have effect, and any indemnity provided by or pursuant to it shall apply, only to the extent permitted by, and subject to the restrictions of, the Companies Act 2006. This article does not allow for or provide (to any extent) an indemnity which is more extensive than as permitted by the Companies Act 2006 and any such indemnity is limited accordingly. This article is also without prejudice to any indemnity to which any person may otherwise be entitled.

61.2 To the extent permitted by, and subject to the restrictions in, the Companies Act 2006 and without prejudice to any indemnity to which he may otherwise be entitled, the board shall

have the power to provide funds to meet any expenditure incurred or to be incurred by any relevant officer in defending any criminal or civil (including regulatory) proceedings, or in connection with an application under the Companies Act 2006, or to enable him to avoid incurring such expenditure.

61.3 Without prejudice to the provisions of article 63, the directors may exercise all the powers of the company to purchase and maintain insurance for the benefit of any person who is a relevant officer or an employee or former employee of the company or any associated company or who is or was a trustee of a retirement benefits scheme or another trust in which a relevant officer or an employee or former employee is or has been interested, indemnifying him against liability for negligence, default, breach of duty or breach of trust or any other liability which may lawfully be insured against by the company.

61.4 In these articles:

61.4.1 companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate;

61.4.2 **relevant officer** means any current or former director, secretary or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006)), other than any person (whether an officer or not) engaged by the company (or associated company) as an auditor, to the extent he acts as an auditor.

## 62 Insurance

62.1 The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

62.2 In this article:

62.2.1 a **relevant director** means any director or former director of the company or an associated company;

62.2.2 a **relevant loss** means any loss or liability which has been or may be incurred by a relevant director in connection with that director'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

62.2.3 companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate.