

No. 08157018

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

**CORNWALL AND ISLES OF SCILLY LOCAL ENTERPRISE PARTNERSHIP
LIMITED**

(Adopted by special resolution passed on [DATE])

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AGREED TERMS

PART 1 INTERPRETATION AND LIMITATION OF LIABILITY

1. DEFINED TERMS

1.1 In the Articles, unless the context requires otherwise:

Annual Meeting means a meeting to which members of the public are invited to attend;

Appointments Committee has the meaning given in Article 17.5;

Articles means the company's articles of association;

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;

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

Chairman has the meaning given in Article 12;

Chairman of the annual Meeting has the meaning given in Article 34;

Chairman of the Meeting has the meaning given in Article 25;

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;

Connected With means, in relation to a person, a Relevant Person ;

Director means a Director of the company, and includes any person occupying the position of Director , by whatever name called;

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;

Eligible Directors means a Director who would be entitled to vote on the matter at a meeting of Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter);

Interested means, in relation to a person (the "Interested person"):

- (a) the matter for consideration by the company relates to or is likely to affect:
 - (i) any body of which the Interested person is a Member, Director, partner, shareholder or in a position of general control or management;

- (ii) any body which employs the Interested person or for whom the Interested person provides goods or services;
 - (iii) any person or body who has made a payment to the Interested person in respect of such person's election or any expenses incurred by such Interested person in carrying out his/her duties;
 - (iv) any person or body who has a place of business or land in the constituency of the Interested person;
 - (v) the interests of any person from whom the Interested person has received a gift or hospitality with an estimated value of at least £25;
 - (vi) any land in the constituency of the Interested person in which such Interested person has a beneficial interest;
- (b) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of the Interested person or the well-being or financial position of a Relevant Person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

Local Authority Associated Persons means any person associated with any local authority within the meaning given in section 69 of the Local Government and Housing Act 1989;

Member has the meaning given in section 112 of the Companies Act 2006;

Members' General Meeting means a meeting of the Members

Ordinary Resolution has the meaning given in section 282 of the Companies Act 2006;

Participate, in relation to a Directors' meeting, has the meaning given in Article 10;

Pecuniary Interest means an interest as defined by Article 14.4;

Private Sector Director means a Director that is not a Public Sector Director ;

Private Sector Member means a person that is not a Public Sector Member;

Proxy Notice has the meaning given in Article 31;

Public Sector Director means a person nominated by a Public Sector Member;

Public Sector Member means any of:

1. Cornwall Council
2. The Council of the Isles of Scilly
3. an organisation identified by the Directors from time to time that is from either the academic or the voluntary/charity sectors in Cornwall or the Isles of Scilly

Relevant Person means:

- (a) a Member of the family of the Interested person or any person with whom the Interested person has a close association; or
- (b) any person or body:
 - (i) who employs or has appointed such persons;
 - (ii) to whom such person provides goods or services
 - (iii) in which such person is a partner, or
 - (iv) of which such person is a director ;
 - (v) of which such person is a shareholder;

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;

Vice Chairman has the meaning given in Article 12; 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.

- 1.2 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.

2. LIABILITY OF MEMBERS

- 2.1 The liability of each Member is limited to £1, being the amount that each Member undertakes to contribute to the assets of the company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member, for:
- (a) payment of the company's debts and liabilities contracted before he ceases to be a Member,
 - (b) payment of the costs, charges and expenses of winding up, and
 - (c) adjustment of the rights of the contributories among themselves.

PART 2 DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

3. 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.

4. MEMBERS' RESERVE POWER

4.1 The Members may, by Special Resolution, direct the Directors to take, or refrain from taking, specified action.

4.2 No such Special Resolution invalidates anything which the Directors have done before the passing of the resolution.

5. DIRECTORS MAY DELEGATE

5.1 Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles:

- (a) to such person or committee;
- (b) by such means (including by power of attorney);
- (c) to such an extent;
- (d) in relation to such matters or territories; and
- (e) on such terms and conditions,

as they think fit.

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

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

6. COMMITTEES

6.1 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.

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

DECISION-MAKING BY DIRECTORS'

7. DIRECTORS TO TAKE DECISIONS COLLECTIVELY

7.1 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 8.

7.2 If:

- (a) the company only has one Director, and
- (b) 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.

8. UNANIMOUS DECISIONS

- 8.1 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.
- 8.2 Such a decision may take the form of a resolution in Writing, copies of which have been signed by each eligible Director or to which each eligible Director has otherwise indicated agreement in Writing.
- 8.3 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.
- 8.4 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.

9. CALLING A DIRECTORS' MEETING

- 9.1 Any Director may call a Directors' meeting by giving not less than seven days' written notice of the meeting to the Directors or by authorising the company secretary (if any) to give such notice.
- 9.2 Notice of any Directors' meeting must indicate:
- (a) its proposed date and time;
 - (b) where it is to take place; and
 - (c) 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.
- 9.3 Notice of a Directors' meeting must be given to each Director, but need not be in Writing.
- 9.4 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

10. PARTICIPATION IN DIRECTORS' MEETINGS

- 10.1 Subject to the Articles, Directors Participate in a Directors' meeting, or part of a Directors' meeting, when:
- (a) the meeting has been called and takes place in accordance with the Articles; and
 - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 10.2 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.

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

11. QUORUM FOR DIRECTORS' MEETINGS

- 11.1 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 11.2 The quorum for Directors' meetings shall be five Eligible Directors and a meeting shall not be quorate where the number of Private Sector Directors is less than the number of Public Sector Directors.
- 11.3 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:
- (a) to appoint further Directors; or
 - (b) to call a Members' General Meeting so as to enable the Members to appoint further Directors; or
 - (c) to adjourn the meeting.

12. CHAIRING OF DIRECTORS' MEETINGS AND APPOINTMENT OF VICE CHAIRMAN

- 12.1 The Directors may appoint a Private Sector Director to chair their meetings.
- 12.2 The person so appointed for the time being is known as the Chairman.
- 12.3 The Directors may terminate the Chairman's appointment at any time.
- 12.4 The Directors may appoint a Private Sector Director to act as vice chairman for such purposes as the Directors may determine from time to time and to chair their meetings in the event that Article 12.7 applies and for the purposes of Article 14.
- 12.5 The person so appointed for the time being is known as the Vice Chairman.
- 12.6 The Directors may terminate the Vice Chairman's appointment at any time.
- 12.7 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, such person being a Private Sector Director.

13. CASTING VOTE

- 13.1 If the numbers of votes for and against a proposal are equal, the Chairman or other Director chairing the meeting has a casting vote.
- 13.2 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.

14. CONFLICTS OF INTEREST

- 14.1 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, that Director shall (subject to Article 14.4), as soon as he becomes aware or ought

reasonably to have become aware, disclose (subject to Article 14.2) the existence and nature of the interest to the Chairman at the commencement of that consideration (whether at the meeting or beforehand), or (if later) when the interest becomes apparent.

14.2 Where a Director considers that the information relating to any of his personal interests is sensitive information, and the Chairman agrees, he need not declare that interest provided that, within 28 days of becoming aware of any change of circumstances which means that information excluded under this Article is no longer sensitive information, disclose the existence and nature of the interest.

14.3 In this Article, "sensitive information" means information:

- (a) that is held by the Director under obligations of confidence to a third party such that the use or application of such information in relation to the company's affairs would amount to a breach of that confidence; or
- (b) whose availability for inspection by the public creates, or is likely to create, a serious risk that the Director or a person who lives with the Director may be subjected to violence or intimidation.

14.4 In determining whether to declare an interest, the Director shall have regard to the following:

- (a) Pecuniary Interests:
 - (i) Any interest where the Director (or any other person Connected With such Director) is to receive a financial or economic benefit or avoid a financial or economic loss or detriment must declare his interest and the provisions of Article 14.5 shall apply.
- (b) Non-pecuniary (including political) interests:
 - (i) A Director shall seek authorisation to Participate in the meeting by disclosing to the Directors the nature and extent of his interest as soon as is reasonably practicable. The Director shall provide the Directors with such details of his interest as are necessary for the Directors to decide how to address the interest, together with such additional information as may be requested by the Directors.
 - (ii) If a question comes up at a meeting of the Directors (or in advance of such meeting) about whether a Director (other than the Chairman of the Meeting) has an interest which is likely to give rise to a conflict of interest or if he can vote or be counted in the quorum, and the Director does not agree to abstain from voting on the issue or not to be counted in the quorum, the question must be referred to the Chairman of the Meeting. The ruling of the Chairman of the Meeting about any other Director is final and conclusive, unless the nature or extent of the Director's interest (so far as it is known to him) has not been fairly disclosed to the Directors. If the question comes up about the Chairman of the Meeting, the question shall be decided by the Vice Chairman. The Chairman of the Meeting cannot vote on the question but can be counted in the quorum. The Vice Chairman's resolution about the Chairman of the Meeting is conclusive, unless the nature and extent of the Chairman's interest

(so far as it is known to him) has not been fairly disclosed to the Vice Chairman.

14.5 Where a Director has an interest that is regarded by the board as being prejudicial (and for the avoidance of doubt a Pecuniary Interest shall be automatically regarded as being prejudicial unless the Directors consider otherwise), unless the Directors resolve otherwise, he is not to be counted as participating in the decision-making process for quorum or voting purposes (save that where Article 14.6 applies, a Director who is Interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes). Accordingly, the board may require such Interested Director to:

- (a) withdraw from the room or chamber where a meeting considering the business is being held; and
- (b) reply to any questions that the board may have concerning the interest or the matter for discussion, and such questions (and their replies) shall be recorded in Writing .

14.6 This Article applies when:

- (a) the company by Ordinary Resolution disapplies the provision of the Articles which would otherwise prevent a Director from being counted as participating in the decision-making process;
- (b) the board has given authority for the Director to Participate in the meeting;
- (c) the Director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
- (d) the Director's conflict of interest arises from a permitted cause (as defined in Article 14.9).

14.7 For the purposes of Article 14.6, a Director who has directly or indirectly a duty in a matter which is material and which conflicts or may conflict with the interests of the Company may, notwithstanding his duty, vote on the matter and be included for the purposes of a quorum at any meeting at which the matter is considered provided that:

- (a) he has disclosed the nature and extent of his duty giving rise to his conflict of duties;
- (b) he does not have a personal or Pecuniary Interest in the matter which is material; and
- (c) where authority has been given by the board and the Director has not been required to be excluded from participation in discussions and/or the making of decisions related to the matter.

14.8 Where the Directors authorise a Director to Participate in the meeting, notwithstanding his interest:

- (a) the Directors may (whether at the time of giving the authorisation or subsequently):

- (i) require that the Interested Director:
 - (A) is excluded from discussions (whether at meetings of Directors or otherwise) relating to the Director's interest;
 - (B) is not given any Documents or other information relating to the Director's interest; or
 - (C) may not vote nor counted in the quorum at any future meeting of Directors in relation to any resolution relating to the Director's interest,
 - (ii) impose on the Director such other terms for the purpose of dealing with any actual or potential conflict of interest which may arise from the interest as they may determine;
- (b) except in the case of a Director where the interest arises solely from the Director's Membership of Cornwall Council or the Council of the Isles of Scilly;
- (i) the Director will be obliged to conduct himself in accordance with any terms imposed by the Directors pursuant to the authorisation;
 - (ii) the reasons for giving the authorisation shall be recorded in Writing;
 - (iii) the terms of the authorisation shall be recorded in Writing (but the authorisation shall be effective whether or not the terms are so recorded); and
 - (iv) the Directors may revoke or vary the authorisation at any time but this will not affect anything done by the Director prior to such revocation in accordance with the terms of the authorisation.

14.9 For the purposes of this Article, the following are permitted causes:

- (a) a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;
- (b) subscription, or an agreement to subscribe, for securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such securities provided such Director does not stand to make any financial gain from such activity;
- (c) arrangements pursuant to which benefits are made available to employees and Directors or former employees and Directors of the company or any of its subsidiaries which do not provide special benefits for Directors or former Directors; and
- (d) arrangements pursuant to which such Director (or his firm) in a professional capacity for the company (otherwise than as auditor) is entitled to remuneration for professional services as if he were not a Director.

14.10 For the purposes of this Article, references to proposed decisions and decision-making processes include any Directors' meeting or part of a Directors' meeting.

- 14.11 Subject to Article 14.12, 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.
- 14.12 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.

15. RECORDS OF DECISIONS TO BE KEPT

- 15.1 The Directors must ensure that the company keeps a record, in Writing , for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors. Where decisions of Directors are taken by electronic means, such decisions shall be recorded by the Directors in permanent form so that they may be read with the naked eye.
- 15.2 Unless otherwise agreed by the Directors, the minutes of meetings shall be taken by a representative of the democratic services department (or closest equivalent from time to time) of Cornwall Council.

16. 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.

NUMBERS AND APPOINTMENT OF DIRECTORS

17. METHODS OF APPOINTING DIRECTORS

- 17.1 Unless otherwise determined by ordinary resolution, the minimum number of Directors shall be eleven and the maximum number shall be twenty two.
- 17.2 Any person who is willing to act as a Director, and is permitted by law to do so, may be appointed to be a Director:
- (a) by ordinary resolution; or
 - (b) by a decision of the Directors.
- 17.3 The Public Sector Members shall appoint Directors as follows:
- (a) Cornwall Council and the Council of the Isles of Scilly shall, from time to time, nominate representatives to serve as Directors of the company as follows:
 - (i) Cornwall Council: three Directors being:
 - (A) the Leader of the Council (or equivalent) from time to time;

- (B) the Economy and Regeneration Cabinet Portfolio Holder (or equivalent) from time to time; and
 - (C) a representative from the largest party in opposition from time to time of the Council;
- (ii) Council of the Isles of Scilly: one Director being an elected member (as the company shall determine) of the Council for the time being;

and shall confirm the nomination to the company in a form reasonably required by the company. The confirmation of such nominees as Directors of the company shall remain at the discretion of the Directors under Article 17.2(b) above; and

- (b) the academic or voluntary/charity sector: one Director nominated by the Appointments Committee and approved by the Directors from time to time.

17.4 In any case where the company has no Private Sector Members, no Member from the academic or voluntary/charity sector and no Directors, Cornwall Council and the Council of the Isles of Scilly shall have the right, by notice in Writing, to appoint persons to be Directors under Article 17.3 and such appointed Directors shall appoint (in accordance with Article 17.5) not less than six Private Sector Directors forthwith.

17.5 For the purposes of appointing any Director, the Directors shall appoint a committee from their number and such committee shall be known as the “Appointments Committee”. The committee shall comprise at least two directors and the following provisions shall apply:

- (a) only members of the Appointments Committee have the right to attend Appointments Committee meetings. However, other individuals may be invited to attend for all or part of any meeting, as and when appropriate and necessary;
- (b) the Appointments Committee shall:
 - (i) regularly review the structure, size and composition (including the skills, knowledge, experience and diversity) of the Directors and make recommendations to the Directors with regard to any changes;
 - (ii) give full consideration to succession planning for Directors and other senior executives in the course of its work, taking into account the challenges and opportunities facing the company, and the skills and expertise needed amongst the Directors in the future;
 - (iii) keep under review the leadership needs of the organisation, with a view to ensuring the continued ability of the organisation to deliver to its strategy as outlined from time to time;
 - (iv) be responsible for identifying and nominating for the approval of the Directors, candidates to fill vacancies as and when they arise;
 - (v) before any appointment is made by the Directors, evaluate the balance of skills, knowledge, experience and diversity amongst the Directors, and, in the light of this evaluation prepare a description of the role and capabilities required for a particular appointment. In identifying suitable candidates the Appointments Committee shall:

- (A) use open advertising or the services of external advisers to facilitate the search;
 - (B) consider candidates from a wide range of backgrounds;
 - (C) consider candidates on merit and against objective criteria and with due regard for the benefits of diversity amongst the Directors, including gender, taking care that appointees have enough time available to devote to the position;
- (vi) for the appointment of a chairman, chief executive or similar position, the Appointments Committee should prepare a job specification, including the time commitment expected. A proposed chairman's other significant commitments should be disclosed to the Directors before appointment and any changes to the chairman's commitments should be reported to the Directors as they arise;
 - (vii) prior to the appointment of a Director, the proposed appointee should be required to disclose any other business interests that may result in a conflict of interest;
 - (viii) ensure that on appointment as a Director, such person receives a formal letter of appointment setting out clearly what is expected of them in terms of time commitment, committee service and involvement outside board meetings;
 - (ix) review the results of the Directors performance evaluation process that relate to the composition and competencies of the board of Directors;
- (c) the Appointments Committee shall also make recommendations to the Directors concerning:
- (i) formulating plans for succession for Directors and in particular for the key roles of chairman and chief executive (if any);
 - (ii) suitable candidates for the role of senior independent director (if any);
 - (iii) membership of any other committees as appropriate, in consultation with the chairmen of those committees;
 - (iv) the re-appointment of any Director at the conclusion of their specified term of office having given due regard to their performance and ability to continue to contribute to the board of Directors in the light of the knowledge, skills and experience required;
 - (v) any matters relating to the continuation in office of any Director at any time including the suspension or termination of service of a Director as an employee of the company subject to the provisions of the law and their service contract; and
 - (vi) the appointment of any Director to executive or other office.

17.6 Notwithstanding the number of Directors from time to time, the maximum aggregate number of votes exercisable by Local Authority Associated Persons shall never exceed 19.9% of the total number of votes exercisable by Directors in Board Meeting and the votes of the other Directors having a right to vote at the meeting will be increased on a pro-rata basis.

18. TERMINATION OF DIRECTOR'S APPOINTMENT

18.1 A person ceases to be a Director as soon as:

- (a) 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;
- (b) a Bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- (e) 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;
- (f) in the case of a Director nominated by the Public Sector Member, that nomination is withdrawn by such Public Sector Member;
- (g) that person ceases to be a Member of the company.

18.2 The company may require a Director to retire in the event that such Director:

- (a) has failed to attend a board meeting in any six month period; and
- (b) in the case of a Private Sector Director, such Director changes employment.

18.3 Subject to Articles 18.1 and 18.2, the Private Sector Directors shall hold office for a period of three years and shall retire from office but shall each be eligible for re-election by the board for a further term of not more than three years. The maximum term held by any Private Sector Director shall be six years.

19. DIRECTORS' REMUNERATION

19.1 Directors may undertake any services for the company that the Directors decide.

19.2 Directors are entitled to such remuneration as the Directors determine:

- (a) for their services to the company as Directors; and
- (b) for any other service which they undertake for the company.

19.3 Subject to the Articles, a Director's remuneration may:

- (a) take any form, and

- (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that Director.
- 19.4 Unless the Directors decide otherwise, Directors' remuneration accrues from day to day.
- 19.5 Unless the Directors decide otherwise, Directors are not accountable to the company for any remuneration which they receive as Directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

20. DIRECTORS' EXPENSES

- 20.1 The company may pay any reasonable expenses which the Directors properly incur in connection with their attendance at:
 - (a) meetings of Directors or committees of Directors;
 - (b) Members' General Meetings; or
 - (c) separate meetings of the holders 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.

**PART 3
MEMBERS**

BECOMING AND CEASING TO BE A MEMBER

21. APPLICATIONS FOR MEMBERSHIP

- 21.1 Cornwall Council and the Council of the Isles of Scilly shall be Members of the company together with any other person (here meaning a human being) approved under article 21.2.
- 21.2 No person (here meaning a human being) shall become a Member of the company unless the Directors have approved the application.
- 21.3 Notwithstanding the number of Members from time to time, the maximum aggregate number of votes exercisable by Local Authority Associated Persons shall never exceed 19.9% of the total number of votes exercisable by Members in Members' General Meeting and the votes of the other Members having a right to vote at the meeting will be increased on a pro-rata basis.
- 21.4 No person who is a Local Authority Associated Person may be appointed as a Member if, once the appointment had taken effect, the number of Members who are Local Authority Associated Persons would represent 20% or more of the total number of Members. Upon any resolution put to the Members, the maximum aggregate number of votes exercisable by any Members who are Local Authority Associated Persons shall represent a maximum of 19.9% of the total number of votes cast by the Members on such a resolution and the votes of the other Members having a right to vote at the meeting will be increased on a pro-rata basis.

- 21.5 No person who is a Local Authority Associated Person is eligible to be appointed as a Member unless his appointment to such office is authorised by the local authority to which he is associated.
- 21.6 If at the time of his becoming a Member of the company any Member was not a Local Authority Associated Person but later becomes so during his Membership he shall be deemed to have immediately resigned his Membership.
- 21.7 If at any time the number of Members who are also Local Authority Associated Persons would (but for this Article) represent 20% or more of the total number of Members (as the case may be) then a sufficient number of the Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned as Members immediately before the occurrence of such an event to ensure that at all times the number of such Members is never equal to or greater than 20% of the total number of Members. Members who are Local Authority Associated Persons shall be deemed to have resigned in order of their appointment date the most recently appointed resigning first.
- 21.8 The Members will each notify the company and each other if at any time they believe that the company or any of its subsidiaries has become subject to the influence of a local authority (as described in section 69 of the Local Government and Housing Act 1989).

22. TERMINATION OF MEMBERSHIP

- 22.1 A Member may withdraw from Membership of the company by giving not less than 28 days' notice to the company in Writing.
- 22.2 Membership is not transferable.
- 22.3 The membership of a Private Sector Member terminates when:
- (a) that person dies; or
 - (b) that person ceases to be a Director of the company.
- 22.4 In the case of membership of Public Sector Members:
- (a) the membership of Cornwall Council and the Council of the Isles of Scilly cannot be terminated:
 - (i) without the consent of the entire membership of the Company; or
 - (ii) if such Council ceases to exist;
 - (b) in the case of the Member from the academic or voluntary/charity sector,:
 - (i) the Director so appointed:
 - (A) dies;
 - (B) ceases to be a Director of the company;
 - (C) has his nomination withdrawn by the organisation at which he is employed;

- (D) ceases to be employed by the organisation that employed him at the time that such person was appointed as a Director; or
- (ii) the organisation employing such Director ceases to exist.

ORGANISATION OF MEMBERS' GENERAL MEETINGS

23. ATTENDANCE AND SPEAKING AT MEMBERS' GENERAL MEETINGS

- 23.1 A person is able to exercise the right to speak at a Members' 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.
- 23.2 A person is able to exercise the right to vote at a Members' General Meeting when:
 - (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
 - (b) 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.
- 23.3 The Directors may make whatever arrangements they consider appropriate to enable those attending a Members' General Meeting to exercise their rights to speak or vote at it.
- 23.4 In determining attendance at a Members' General Meeting, it is immaterial whether any two or more Members attending it are in the same place as each other.
- 23.5 Two or more persons who are not in the same place as each other attend a Members' 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.

24. QUORUM FOR MEMBERS' GENERAL MEETINGS

- 24.1 No business other than the appointment of the Chairman of the Meeting is to be transacted at a Members' General Meeting if the persons attending it do not constitute a quorum.
- 24.2 Save in circumstances where Article 17.4 applies, the quorum for Members' General Meetings shall be five Members, and a meeting shall not be quorate where the number of Private Sector Members is less than the number of Public Sector Members.

25. CHAIRING MEMBERS' GENERAL MEETINGS

- 25.1 If the Directors have appointed a Chairman, the Chairman shall chair Members' General Meetings if present and willing to do so.
- 25.2 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:
 - (a) the Directors present; or
 - (b) (if no Directors are present), the meeting

must appoint a Director or Member to chair the meeting, and the appointment of the Chairman of the Meeting must be the first business of the meeting.

- 25.3 The person chairing a meeting in accordance with this Article is referred to as “the Chairman of the Meeting” and shall be a Private Sector Member.

26. ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-MEMBERS

- 26.1 Directors may attend and speak at Members’ General Meetings, whether or not they are Members.

- 26.2 The Chairman of the Meeting may permit other persons who are not Members of the company to attend and speak at a Members’ General Meeting.

27. ADJOURNMENT

- 27.1 If the persons attending a Members’ 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.

- 27.2 The Chairman of the Meeting may adjourn a Members’ General Meeting at which a quorum is present if:

- (a) the meeting consents to an adjournment; or
- (b) 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.

- 27.3 The Chairman of the Meeting must adjourn a Members’ General Meeting if directed to do so by the meeting.

- 27.4 When adjourning a Members’ General Meeting, the Chairman of the Meeting must:

- (a) 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
- (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.

- 27.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days’ notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):

- (a) to the same persons to whom notice of the company’s Members’ General Meetings is required to be given; and
- (b) containing the same information which such notice is required to contain;
- (c) No business may be transacted at an adjourned Members’ General Meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT MEMBERS’ GENERAL MEETINGS

28. VOTING: GENERAL

28.1 A resolution put to the vote of a Members' Members' General Meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

28.2 On a resolution or vote, Cornwall Council shall be entitled cast three votes. Every other Member shall be entitled to one vote.

29. ERRORS AND DISPUTES

29.1 No objection may be raised to the qualification of any person voting at a Members' Members' 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.

29.2 Any such objection must be referred to the Chairman of the Meeting whose decision is final.

30. POLL VOTES

30.1 A poll on a resolution may be demanded:

- (a) in advance of the Members' Members' General Meeting where it is to be put to the vote; or
- (b) at a Members' 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.

30.2 A poll may be demanded by:

- (a) the Chairman of the Meeting;
- (b) the Directors;
- (c) two or more persons having the right to vote on the resolution; or
- (d) a person or persons representing not less than one tenth of the total voting rights of all the Members having the right to vote on the resolution.

30.3 A demand for a poll may be withdrawn if:

- (a) the poll has not yet been taken; and
- (b) the Chairman of the Meeting consents to the withdrawal.

30.4 Polls must be taken immediately and in such manner as the Chairman of the Meeting directs.

31. CONTENT OF PROXY NOTICES

31.1 Proxies may only validly be appointed by a notice in Writing (a "proxy notice") which:

- (a) states the name and address of the Member appointing the proxy;
 - (b) identifies the person appointed to be that Member's proxy and the Members' General Meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the Directors may determine; and
 - (d) is delivered to the company in accordance with the Articles and any instructions contained in the notice of the Members' General Meeting to which they relate.
- 31.2 The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 31.3 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.
- 31.4 Unless a proxy notice indicates otherwise, it must be treated as:
- (a) 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
 - (b) appointing that person as a proxy in relation to any adjournment of the Members' General Meeting to which it relates as well as the meeting itself.

32. DELIVERY OF PROXY NOTICES

- 32.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a Members' 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.
- 32.2 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.
- 32.3 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.
- 32.4 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.

33. AMENDMENTS TO RESOLUTIONS

- 33.1 An Ordinary Resolution to be proposed at a Members' General Meeting may be amended by Ordinary Resolution if:
- (a) notice of the proposed amendment is given to the company in Writing by a person entitled to vote at the Members' 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
 - (b) the proposed amendment does not, in the reasonable opinion of the Chairman of the Meeting, materially alter the scope of the resolution.

- 33.2 A Special Resolution to be proposed at a Members' General Meeting may be amended by Ordinary Resolution, if:
- (a) the Chairman of the Meeting proposes the amendment at the Members' General Meeting at which the resolution is to be proposed, and
 - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 33.3 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.

34. ANNUAL MEETING

- 34.1 The company shall hold an Annual Meeting at least once every calendar year in Cornwall or the Isles of Scilly and such meeting shall be open to the public and the following provisions shall apply:

Chairing the Annual Meeting

- (a) if the Directors have appointed a Chairman, the Chairman shall chair Annual Meeting if present and willing to do so;
- (b) 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:
 - (i) the Directors present; or
 - (ii) (if no Directors are present), the meeting

must appoint a Director or Member to chair the meeting, and the appointment of the Chairman of the Annual Meeting must be the first business of the meeting.

- (c) the person chairing a meeting in accordance with this Article is referred to as "the Chairman of the Annual Meeting".

Attendance and speaking at the Annual Meeting

- (d) any person may attend and speak at an Annual Meeting.

Adjournment

- (e) the Chairman of the Annual Meeting may adjourn an Annual Meeting if:
 - (i) the meeting consents to an adjournment; or
 - (ii) it appears to the Chairman of the Annual 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.

- (f) the Chairman of the Annual Meeting must adjourn an Annual Meeting if directed to do so by the meeting.
- (g) when adjourning an Annual Meeting, the Chairman of the Annual Meeting must:
 - (i) 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
 - (ii) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (h) if the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
 - (i) to the same persons to whom notice of the company's Annual Meeting is required to be given; and
 - (ii) containing the same information which such notice is required to contain;
 - (iii) no business may be transacted at an adjourned Annual Meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

PART 4 ADMINISTRATIVE ARRANGEMENTS

35. MEANS OF COMMUNICATION TO BE USED

- 35.1 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.
- 35.2 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.
- 35.3 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.
- 35.4 Any notice, Document or other information shall be deemed served on or delivered to the intended recipient:
 - (a) if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five Business Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight

courier addressed to the intended recipient, provided that delivery in at least five Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

- (b) if properly addressed and delivered by hand, when it was given or left at the appropriate address;
- (c) if properly addressed and sent or supplied by electronic means, one hour after the Document or information was sent or supplied; and
- (d) 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.

35.5 For the purposes of this Article, no account shall be taken of any part of a day that is not a Business Day.

35.6 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 Acts.

36. COMPANY SEALS

36.1 Any common seal may only be used by the authority of the Directors.

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

36.3 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.

36.4 For the purposes of this Article, an authorised person is:

- (a) any Director of the company;
- (b) the company secretary (if any); or
- (c) any person authorised by the Directors for the purpose of signing Documents to which the common seal is applied.

37. 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 Member.

38. PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS

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

DIRECTORS' INDEMNITY AND INSURANCE

39. INDEMNITY

39.1 Subject to Article 39.2, a relevant Director of the company or an associated company may be indemnified out of the company's assets against:

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

39.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

39.3 The company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in Article 39.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

39.4 In this Article:

- (a) companies are associated if one is a Subsidiary of the other or both are subsidiaries of the same body corporate; and
- (b) a "relevant Director" means any Director or former Director of the company or an associated company.

40. INSURANCE

40.1 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.

40.2 In this Article:

- (a) a "relevant Director" means any Director or former Director of the company or an associated company;
- (b) 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

- (c) companies are associated if one is a Subsidiary of the other or both are subsidiaries of the same body corporate.