

Date:	16/9/20
Subject:	Election of Chair
Author:	Donna Boyle
Sponsor:	Paul Hillard
Appendices:	Extract from Association’s Rules (Rule 47(a)) – Appendix 1
Action:	Decision
Data Class:	Public

**EXECUTIVE SUMMARY**

The Rules require that, following the AGM, the Members of the Board, at a specially convened meeting, shall elect a Chair from their own number to hold office until the conclusion of the next AGM.

**RECOMMENDATION(S)**

It is therefore recommended that the Board elect a Chair from their own number to hold office until the conclusion of the next Annual General Meeting.

## **1 Background**

- 1.1 In accordance with Rule 47 of the Rules of the Association, the Chair holds office until the conclusion of the Annual General Meeting (AGM). The Rules require that, following the AGM, the Members of the Board, at a specially convened meeting, shall elect a Chair from their own number to hold office until the conclusion of the next AGM.
- 1.2 Rule 47 of the Association is attached at Appendix 1. Rule 47(d) states that the Chair may be re-elected but may not hold office continuously for more than five consecutive AGMs. Board Members are therefore required to elect a Chair from their own number to hold office until the conclusion of the next AGM.
- 1.3 In accordance with Rule 47(a), the elected person's appointment as Chair is approved in writing by the Parent i.e. the Riverside Group.
- 1.4 The Association's Managing Director is the Secretary of the Association.

## **2 Recommendation**

- 2.1 It is therefore recommended that the Board elect a Chair from their own number to hold office until the conclusion of the next Annual General Meeting.

- (ix) a disqualification order or disqualification undertaking has been made against him under the Company Directors' Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (which relate to the power of a Court to prevent someone from being a director, liquidator or administrator of a company or a receiver or manager of company property or being involved in the promotion, formation or management of a company); or
  - (x) he has been removed from the board of another registered social landlord within the previous five years; or
  - (xi) he has resigned from the Board in the previous five years in circumstances where the resignation was submitted after the date of his receipt of notice of a special meeting of the Board convened to consider a resolution for his removal from the Board in terms of rules 44.4 or 44.5 within the previous five years; or
  - (xii) he has been removed from the Board in the previous five years.
- (b) A Board member shall cease to be a member of the Board if he resigns his office by notice in writing to the Secretary, ceases to be an ordinary member of the Association for any reason, or in the case of a person who is a representative of an organisation, if the organisation revokes that person's appointment as its representative, or absents himself for four consecutive meetings of the Board without special leave of absence being previously granted by the Board.
44. (a) Any Board member or person co-opted to the Board or any committee having an interest, other than a financial interest, or any conflict or duality of interest, in any contract or other transaction about to be discussed at a meeting shall disclose the nature of his interest to the Board and shall not (unless requested so to do by the other members of the Board) remain during its discussion of the matter nor vote upon the matter and if by inadvertence he does so remain and vote, his vote shall not be counted.
- (b) Any Board member or co-opted person who fails to disclose any interest he is required to disclose under (a) above shall vacate his office if required to do so by a majority of the remaining members of the Board at a Board meeting specially convened for that purpose.

### PROCEEDINGS OF BOARD

45. Ordinary meetings of the Board shall be held at such times and places as the Board shall from time to time decide but not less than six meetings shall be held in each calendar year. Four Board members including (if appointed) the Parent Nominee (other than where the Parent Nominee has presented his apologies in writing in advance of the meeting) or such greater number as the Board shall determine shall form a quorum.
46. Notwithstanding any vacancies on the Board the remaining Board members may continue to act, but if at any time the number of Board members falls below seven the Board may act by a majority of its remaining members for a maximum period of two months. If at the end of that period the Board has not filled such vacancies to make up the membership to seven the only power which the Board may thereafter exercise shall be that of filling such vacancies as may be required to bring the number of members of the Board up to seven.
47. (a) The members of the Board shall, at their first meeting after registration of the Association and subsequently at a specially convened meeting immediately following

each annual general meeting, elect a Chairman from their own number to hold office until the conclusion of the next annual general meeting, unless he shall cease in the meantime to be a Board member. He shall provided his appointment is approved in writing by the Parent be the Chairman of the Association and shall be removable from the office of Chairman only by a vote of two-thirds of those members of the Board present at a special meeting called for that purpose. If at any meeting of the Board the Chairman is absent or unwilling to act the members of the Board present shall elect one of their number to be Chairman for the meeting. In any case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

- (b) The Chairman is responsible for the leadership of the Board and ensuring its effectiveness in all aspects of the Board's role and to ensure that the Board properly discharges its responsibilities as required by law and these rules. The Chairman will be delegated such powers as is required to allow the Chairman to properly discharge the responsibilities of the office. Among the responsibilities of the Chairperson are that:
- (i) the Board works effectively with the senior staff;
  - (ii) an overview of business of the Association is maintained;
  - (iii) the agenda for each meeting is set;
  - (iv) meetings are conducted effectively;
  - (v) minutes are approved and decisions and actions arising from meetings are implemented;
  - (vi) the code of conduct for Board members and other relevant policies and procedures affecting the governance of the Association are complied with;
  - (vii) where necessary, decisions are made under delegated authority for the effective operation of the Association between meetings;
  - (viii) the Board monitors the use of delegated powers;
  - (ix) the Board receives professional advice when it is needed;
  - (x) the Association is represented at external events appropriately;
  - (xi) appraisal of the performance of Board members is undertaken, and that the senior staff officer's appraisal is carried out in accordance with the agreed policies and procedures of the Association; and
  - (xii) the training requirements of Board members, and the recruitment and induction of new Board members is undertaken.
- (c) The Chairman may resign his office by notice in writing to the Secretary and shall vacate his office if for any reason he is deemed to have vacated his office as a Board member or he ceases to be a member of the Board and in any of these events the Board shall forthwith elect one of their number to be Chairman in his place. Any such appointment as Chairman shall be subject to the written approval of the Parent.
- (d) The Chairman may be re-elected but may not hold office continuously for more than 5 consecutive annual general meetings. On the expiry of 5 continuous terms of office, the retiring Chairman shall not be eligible for election as Chairman during the ensuing twelve months.
48. A special meeting of the Board may be called by a notice in writing given to the Secretary by the Chairman of the Board, or by two Board members, specifying the business to be transacted. The Secretary shall send a copy of the notice to all Board members and persons co-opted to the Board within three days of receiving it, and the meeting shall be held at the ordinary place for meetings of the Board not earlier than ten days and not later than fourteen days after the receipt by the Secretary of the notice. No other business shall be done at the meeting than the business named in the notice. Should the Secretary fail to convene the special meeting as prescribed above, the Chairman of the Board or the Board members who

Date:	16 September 2020
Subject:	Committee Memberships and Subsidiary Appointments
Author:	Donna Boyle
Sponsor:	Paul Hillard
Appendices:	Appendix 1 - Thistle Housing Services Articles of Association
Action:	Approval
Data Class:	Public

### **EXECUTIVE SUMMARY**

The is Board required to consider on an annual basis the appointment of the Chair of the Audit & Risk Committee and also its Membership following the Annual General Meeting.

As part of the Constitutional Partnership agreed with Group, there is an appointment from Irvine's Board to Group's Neighbourhood Services Committee.

The Board had also, previously discussed and agreed to consider appointing Directors to its subsidiary, Thistle Housing Services, given the planned investigation into its future use to deliver a place-making, social enterprise facility.

### **RECOMMENDATIONS**

It is therefore recommended that Board:

a) approves the membership of the Audit and Risk Committee as follows:

Robin Hill - Chair  
 Mary Crearie  
 Janice Murray  
 Gerry Darroch

b) notes that Duncan McEachran will continue as Irvine's nominee to Group's Neighbourhood Services Committee for a further year.

c) approves the appointment of Margaret Burgess and Jane Galbraith as Directors of Thistle Housing Services and instructs the Company Secretary to provide the appropriate notice to Thistle Housing Services.

## **1 BACKGROUND**

1.1 Membership of the Association's Committee is normally approved at the meeting immediately following the AGM.

1.2 In line with the Terms of Reference of Audit and Risk Committee "the Chair of the Committee shall be appointed by the Board on an annual basis for a maximum period of 5 years".

- 1.3 Following the Annual General Meeting, a vacancy will be created on the Audit & Risk Committee by the retiral of Mr D. Thornton.
- 1.4 Duncan McEachran has been appointed to Group's Neighbourhood Services Committee since September 2016 as the Association's nominee.
- 1.5 It is intended that Duncan McEachran will continue as the Association's nominee for a further year.
- 1.6 In May this year, the Board approved a resolution to amend the Articles of Association of its subsidiary, Thistle Housing Services. The revised Articles of Association have since been filed with Companies House.
- 1.7 The Board also discussed at its May meeting, the potential for Thistle to be used to deliver a place-making, social enterprise facility in the future and the intention that this be investigated further as a Corporate Plan objective.
- 1.8 It was therefore considered appropriate with this in mind, to consider the future appointment of Directors to Thistle Housing Services. The Managing Director is currently the sole Director of Thistle Housing Services.
- 1.9 The Board agreed at its July 2020 Meeting that proposals for appointments should be considered at the Special Board Meeting following the Annual General Meeting.
- 1.10 In line with Thistle Housing Services' new Articles of Association (attached at Appendix 1), a person willing to act as a Director, and is permitted by law to do so, may be appointed as a Director by the Parent. The Association, as Parent, may appoint any person to be a Director by notice to the Company.
- 1.11 Board Appraisal discussions have recently been carried out by the Chair. Further to this process, individual discussions regarding potential Committee memberships and Director appointments have taken place and proposals for Committee membership and subsidiary Director appointments are recommended below.

## **2 RECOMMENDATIONS**

It is recommended that Board:

- a) approves the membership of the Audit and Risk Committee as follows:

Robin Hill - Chair  
Mary Crearie  
Janice Murray  
Gerry Darroch

- b) notes that Duncan McEachran will continue as Irvine's nominee to Group's Neighbourhood Services Committee for a further year.

c) approves the appointment of Margaret Burgess and Jane Galbraith as Directors of Thistle Housing Services and instructs the Company Secretary to provide the appropriate notice to Thistle Housing Services.

SC179930

THE COMPANIES ACTS 1985 AND 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

THISTLE HOUSING SERVICES LIMITED (THE "COMPANY")



**INTERPRETATION**

1. In these Articles, unless the context otherwise requires:
  - (a) "Act" means the Companies Act 2006;
  - (b) "appointor" has the meaning given in article 25(a);
  - (c) "Articles" means the Company's articles of association for the time being in force;
  - (d) "business day" means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in Glasgow are generally open for business;
  - (e) "Conflict" has the meaning given in article 34(a);
  - (f) "eligible director" means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);
  - (g) "Interested Director" has the meaning given in article 34(a);
  - (h) "Model Articles" means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;
  - (i) "Parent" has the meaning given in article 36;



- (j) **"relevant loss"** has the meaning given in article 41(b)(i);
  - (k) **"relevant officer"** means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act)), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).
2. Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
  3. Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
  4. A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
  5. Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
    - (a) any subordinate legislation from time to time made under it; and
    - (b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
  6. Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
  7. The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.
  8. Articles 8, 9(1), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17, 38, 44(2), 52 and 53 of the Model Articles shall not apply to the Company.
  9. Article 7 of the Model Articles shall be amended by:
    - (a) the insertion of the words "for the time being" at the end of article 7(2)(a); and
    - (b) the insertion in article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
  10. Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors)" before the words "properly incur".
  11. Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to article 11," after the word "But".
  12. Article 29 of the Model Articles shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name".
  13. Articles 31.1(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide".

**OBJECTS AND POWERS**

14. The Company's objects are to carry on business as a general commercial company and the Company has the power to do all or any of the following things:
- (a) To do all such things as are incidental or conducive to the carrying on or any trade or business by it.
  - (b) To purchase or by any other means acquire and take option over any property whatever, and any rights or privileges of any kind over or in respect of any property.
  - (c) To apply for, register, purchase, or by other means acquire and protect, prolong and renew, whether in the United Kingdom or elsewhere any patents, patent rights, brevets d'invention, licenses, secret processes, trade marks, designs, protections and concessions and to disclaim, alter, modify, use and turn to account and to manufacture under or grant licenses or privileges in respect of the same, and to expend money in experimenting upon, testing and improving any patents, inventions or rights which the Company may acquire or propose to acquire.
  - (d) To acquire or undertake the whole or any part of the business, goodwill, and assets of any person, firm or company carrying on or proposing to carry on any of the businesses which the Company is authorised to carry on and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with, or enter into partnership or into any arrangement for sharing profits, or for co-operation, or for mutual assistance with any such person, firm or company, or for subsidising or otherwise assisting any such person, firm or company and to give or accept, by way of consideration for any of the acts or things aforesaid or property acquired, any shares, debentures, debenture stock or securities that may be agreed upon, and to hold and retain, or sell, mortgage and deal with any shares, debentures, debenture stock or securities so received.
  - (e) To improve, manage, construct, repair, develop, exchange, let on lease or otherwise, mortgage, charge, sell, dispose of, turn to account, grant licenses, options, rights and privileges in respect of, or otherwise deal with all or any part of the property and rights of the Company.
  - (f) To invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined and to hold or otherwise deal with any investments made.
  - (g) To lend and advance money or give credit on any terms and with or without security to any person, firm or company (including without prejudice to the generality of the foregoing any holding company, subsidiary or fellow subsidiary of, or any other company associated in any way with, the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds, to receive money on deposit or loan upon any terms, and to secure or guarantee in any manner and upon any terms the payment of any sum of money or the performance of any obligation by any person, firm or company (including without prejudice to the generality of the foregoing any such holding company, subsidiary, fellow subsidiary or associated company as aforesaid).
  - (h) To borrow and raise money in any manner and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, standard security, lien or other security upon the whole or any part of the Company's property or assets (whether present or future), including its uncalled capital, and also by a similar mortgage, charge, standard security, lien or security to secure and guarantee the performance by the Company of any obligation or liability it may undertake or which may become binding on it.

- (i) To draw, make, accept, endorse, discount, negotiate, execute and issue cheques, bills of exchange promissory notes, bills of lading, warrants, debentures and other negotiable or transferable instruments.
- (j) To apply for, promote, and obtain any Act of Parliament, order or licence of the Department of Trade or other authority for enabling the company to carry any of its objects into effect, or for effecting any modification of the Company's constitution, or for any other purpose which may seem calculated directly or indirectly to promote the Company's interests, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.
- (k) To enter into any arrangements with any government or authority (supreme, municipal, local or otherwise) that may seem conducive to the attainment of the Company's objects or any of them and to obtain from any such government or authority any charters, decrees, rights, privileges, or concessions which the Company may think desirable and to carry out, exercise, and comply with any such charters, decrees, rights, privileges, and concessions.
- (l) To subscribe for, take, purchase, or otherwise acquire, hold, sell, deal with and dispose of place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any other company constituted or carrying on business in any part of the world, and debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority, municipal, local or otherwise, in any part of the world.
- (m) To control, manage, finance, subsidise, co-ordinate or otherwise assist any company or companies in which the Company has a direct or indirect financial interest, to provide secretarial, administrative, technical, commercial and other services and facilities of all kinds for any such company or companies and to make payments by way of subvention or otherwise and any other arrangements which may seem desirable with respect to any business or operations of or generally with respect to such company or companies.
- (n) To promote any other company for the purposes of acquiring the whole or any part of the business or property or undertaking or any of the liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company or to enhance the value of any property or business of the Company, and to place or guarantee the placing of, underwrite, subscribe for, or otherwise acquire all or any part of the shares or securities of any company as aforesaid.
- (o) To sell or otherwise dispose of the whole or any part of the business or property of the Company, either together or in portions, for such consideration as the Company may think fit, and in particular for shares, debentures, or securities of any company purchasing the same.
- (p) To act as agents or brokers and as trustees for any person, firm or company, and to undertake and perform sub-contracts.
- (q) To remunerate any person, firm or company rendering services to the Company either by cash payment or by the allotment to him or them of shares or other securities of the Company credited as paid up in full or in part or otherwise as may be thought expedient.
- (r) To pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company, or to contract with any person, firm or company to pay the same, and to pay commissions to brokers and others for underwriting, placing, selling, or guaranteeing the subscription of any shares or other securities of the Company.

- (s) To support and subscribe to any charitable or public object and to support and subscribe to any institution, society, or club which may be for the benefit of the Company or its directors or employees, or may be connected with any town or place where the Company carried on business, to give or award persons, annuities, gratuities, and superannuation or other allowances or benefits or charitable aid and generally to provide advantages, facilities and services for any persons who are or have been directors of, or who are or have been employed by, or who are serving or have served the Company, or any Company which is a subsidiary of the Company or the holding company of the Company or a fellow subsidiary of the Company or the predecessors in business of the Company or of any of the wives, widows, children and other relatives and dependents of such persons, to make payments towards insurance and to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any of such persons and of their wives, widows, children and other relatives and maintain profit sharing or share purchase schemes for the benefit of any of the employees of the Company or of any such subsidiary, holding or fellow subsidiary company and to lend money to any such employees or to trustees on their behalf to enable any such purchase schemes to be established or maintained.
- (t) To give, whether directly or indirectly, any kind of financial assistance (as defined in section 677 of the Act) for any such purpose in accordance with the terms of the Act.
- (u) To distribute among the members of the Company in kind any property of the Company of whatever nature.
- (v) To procure the Company to be registered or recognised in any part of the world.
- (w) To do all or any of the things or matters aforesaid in any part of the world and either as principals, agents, contractors, or otherwise, and by or through agents, brokers, sub-contractors or otherwise and either alone or in conjunction with others.
- (x) To do all such other things as may be deemed incidental or conducive to the attainment of the Company's objects or any of them.

AND so that:

- (1) None of the objects set forth in this article 14 shall be restrictively construed but the widest interpretation shall be given to each such object, and none of such objects shall, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from any other object or objects set forth in this article 14, or by reference to or inference from the terms of provision of this article 14, or by reference to or inference from the name of the Company.
- (2) None of the provisions of this article 14 and none of the objects therein specified shall be deemed subsidiary or ancillary to any of the objects specified in any other such provision of this article 14, and the Company shall have as full a power to exercise each and every one of the objects specified in this article 14 as though each provision of this article 14 contained the objects of a separate company.

#### **LIABILITY AND SHARES**

- 15. The liability of the members is limited.
- 16. The Company's share capital is £1,000 divided into 1,000 shares of £1 each.

**ALLOTMENT OF SHARES**

17. (a) Shares which are comprised in the authorised share capital with which the Company is incorporated shall be under the control of the directors who may (subject to section 551 of the Act and to article 17(d)) allot, grant options over or otherwise dispose of the same, to such persons, on such terms and in such manner as they think fit.
- (b) All shares which are not comprised in the authorised share capital with which the Company is incorporated and which the directors propose to issue shall first be offered to the members in proportion as nearly as may be to the number of the existing shares held by them respectively unless the Company shall by special resolution otherwise direct. The offer shall be made by notice specifying the number of shares offered, and limiting a period (not being less than fourteen days) within which the offer if, not accepted in writing, will be deemed to be declined. After the expiration of that period, those shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have, within the said period, accepted all the shares offered to them; such further offer shall be made in like terms in the same manner and limited by a like period as the original offer. Any shares not accepted pursuant to such offer or further offer as aforesaid or not capable of being offered as aforesaid except by way of fractions and any shares released from the provisions of this regulation by any such special resolution as aforesaid shall be under the control of the directors, who may allot, grant options or otherwise dispose of the same to such persons, on such terms, and in such manner as they think fit, provided that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of in terms which are more favourable to the subscribers therefor than the terms on which they were offered to the members. The provisions of this article 17(b) shall have effect subject to section 551 of the Act.
- (c) In accordance with section 567(1) of the Act sections 561 and 562 of the Act shall not apply to the Company.
- (d) The directors are generally and unconditionally authorised for the purposes of section 551 of the Act, to exercise any power of the Company to allot and grant rights to subscribe for or convert securities into shares of the Company up to the amount of the authorised share capital with which the Company incorporated at any time and the directors may allot any shares or grant any such rights under this authority in pursuance of an offer or agreement hereby given may at any time (subject to the said section 551 of the Act) be renewed, revoked or varied by ordinary resolution of the Company.

**SHARES**

18. The Company has a lien over every share, whether or not full paid-up, and the Company shall also have a first paramount lien on all shares, whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company, whether he/she shall be the sole registered holder thereof or shall be one or two or more joint holders, for all moneys presently payable by him/her or his/her estate to the Company.

**GENERAL MEETINGS AND RESOLUTIONS**

19. No business shall be transacted at any meeting other than the appointment of the chairman of the meeting, unless a quorum is present at the time when the meeting proceeds to business. Two persons, or one person where the Company has a single member, entitled to vote upon the business to be transacted, each being a member or a duly authorised representative of a corporation, shall be a quorum.
20. (a) A poll may be demanded at any general meeting by any qualified person (as defined in section 318 of the Act) present and entitled to vote at the meeting.

- (b) Article 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that article.
- 21. (a) Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".
- (b) Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that article.

#### **APPOINTMENT OF DIRECTORS**

- 22. Unless otherwise determined by ordinary resolution of the Company, there shall be no maximum number of directors and the minimum number of the directors shall be one.
- 23. 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 a decision of the directors; or
  - (b) by the Parent pursuant to article 36(a).

#### **BORROWING POWERS**

- 24. The directors may exercise all the powers of the Company to borrow money without limit as to the amount and upon such terms and in such manner as they think fit and subject (in the case of any security convertible into shares) to section 551 of the Act to grant any mortgage, charge or standard security over its undertaking, property and uncalled capital, or any part thereof, and to issued debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

#### **ALTERNATE DIRECTORS**

- 25. (a) Any director ("**appointer**") may appoint as an alternate any other director, or any other person approved by resolution of the directors, to:
  - (i) exercise that director's powers; and
  - (ii) carry out that director's responsibilities,in relation to the taking of decisions by the directors, in the absence of the alternate's appointer.
- (b) Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointer, or in any other manner approved by the directors.
- (c) The notice must:
  - (i) identify the proposed alternate; and
  - (ii) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

26. (a) An alternate director shall not be entitled as such to receive any remuneration from the Company, save that he/she may be paid by the Company such part (if any) of the remuneration otherwise payable to his/her appointor as such appointed may by notice in writing to the Company from time to time direct.
- (b) An alternate director may act as an alternate director to represent more than one director.
- (c) Except as these Articles specify otherwise, alternate directors:
- (i) are deemed for all purposes to be directors;
  - (ii) are liable for their own acts and omissions;
  - (iii) are subject to the same restrictions as their appointors; and
  - (iv) are not deemed to be agents of or for their appointors,
- and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member.
- (d) A person who is an alternate director but not a director:
- (i) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
  - (ii) may participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision, but does not participate); and
  - (iii) shall not be counted as more than one director for the purposes of articles 26(d)(i) and 26(d)(ii).
- (e) A director who is also an alternate director shall be entitled, in the absence of his/her appointor, at any meeting of the directors or of any committee of the directors to one vote for every director whom he/she represents in addition to his/her own vote (if any) as a director, but he/she shall count as only one director for the purpose of determining whether a quorum is present.
27. An alternate director's appointment as an alternate terminates:
- (a) when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
  - (b) on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
  - (c) on the death of the alternate's appointor; or
  - (d) when the alternate's appointor's appointment as a director terminates.

#### **PROCEEDINGS OF DIRECTORS**

28. Any director may call a directors' meeting by giving not less than two business days' notice of the meeting (or such lesser notice as all the directors may agree) to the directors or by authorising the Company secretary (if any) to give such notice.

29. (a) Subject to article 29(b), the quorum for the transaction of business at a meeting of directors is any two eligible directors.
- (b) For the purposes of any meeting (or part of a meeting) held pursuant to article 28 to authorise a director's conflict, if there is only one eligible director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one eligible director.
30. If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other director chairing the meeting shall not have a casting vote.
31. (a) 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.
- (b) Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or to which each eligible director has otherwise indicated agreement in writing.
- (c) 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.
- (d) Where there is only one director that director shall take decisions in the form of resolutions in writing.
32. Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.
33. (a) Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he/she has declared the nature and extent of his/her interest in accordance with the requirements of the Companies Acts, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:
- (i) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- (ii) shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he/she is interested;
- (iii) shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested;
- (iv) may act by himself/herself or his/her firm in a professional capacity for the Company (otherwise than as auditor) and he/she or his/her firm shall be entitled to remuneration for professional services as if he/she were not a director;
- (v) may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
- (vi) shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he/she (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in



any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his/her duty under section 176 of the Act.

34. (a) The directors may, in accordance with the requirements set out in this article 34, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director (an "**Interested Director**") breaching his/her duty under section 175 of the Act to avoid conflicts of interest ("**Conflict**").
- (b) Any authorisation under this article 34 will be effective only if:
- (i) to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
  - (ii) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
  - (iii) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.
- (c) Any authorisation of a Conflict under this article 34 may (whether at the time of giving the authorisation or subsequently):
- (i) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
  - (ii) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;
  - (iii) provide that the Interested Director shall or shall not be an eligible director in respect of any future decision of the directors vote in relation to any resolution related to the Conflict;
  - (iv) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
  - (v) provide that, where the Interested Director obtains, or has obtained (through his/her involvement in the Conflict and otherwise than through his/her position as a director of the Company) information that is confidential to a third party, he/she will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
  - (vi) permit the Interested Director to absent himself/herself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.
- (d) Where the directors authorise a Conflict, the Interested Director will be obliged to conduct himself/herself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.
- (e) The directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.

- (f) A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

#### MEANS OF COMMUNICATION TO BE USED

35. (a) Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
- (i) 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);
  - (ii) if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - (iii) if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
  - (iv) 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.
- (b) For the purposes of this article, no account shall be taken of any part of a day that is not a business day.
- (c) In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

#### OVERRIDING PROVISIONS

36. If any member alone, jointly or acting together with any other member or members (such member or members jointly or acting together being hereinafter referred to as the "Parent") shall hold not less than 75 per cent in nominal value of the issued shares of the Company as confers the right for the time being to attend and vote at general meetings of the Company, the following provisions shall apply (but without prejudice to the provisions of section 168 of the Companies Act 2006) and to the extent of any inconsistency shall have over-riding effect as against all other provisions of these Articles:
- (a) the Parent may at any time and from time to time appoint any person to be a director or remove from office any director howsoever appointed in each case by notice to the Company; and
  - (b) any or all powers of the directors shall be restricted in such respects and to such extent as the Parent may by notice to the Company from time to time prescribe and any such restriction may be removed or varied in such regard and to such extent as the Parent may by notice to the Company from time to time prescribe.

37. Any such notice as referred to in article 36(a) shall be in writing, served on the Company and signed by, or on behalf of, the Parent (where the Parent consists of two or more persons, jointly or acting together, any such notice shall be signed by, or on behalf of, each of them). No person dealing with the Company shall be concerned to enquire as to whether the powers of the directors have been in any way restricted hereunder and no obligation incurred, security given or transaction effected by the Company to, or with, any third party shall be invalid or ineffectual unless the third party had at the time express notice that the incurring of such obligation, the giving of such security or the effecting of such transaction was in excess of the powers of the directors.
38. Any appointment or removal of a director under article 36(1) shall have effect from the date on which the relevant notice is given to the Company.

#### INDEMNITY

39. Subject to article 40, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:
- (a) each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him/her as a relevant officer:
- (i) in the actual or purported execution and/or discharge of his/her duties, or in relation to them; and
- (ii) in relation to the Company's (or any associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),
- including (in each case) any liability incurred by him/her in defending any civil or criminal proceedings, in which judgment is given in his/her favour or in which he/she is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his/her part or in connection with any application in which the court grants him/her, in his/her capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated company's) affairs; and
- (b) the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him/her in connection with any proceedings or application referred to in article 38(a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
40. (a) Article 39 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or any other provision of law.
- (b) In article 39, companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

#### INSURANCE

41. (a) The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.
- (b) In this article:
- (i) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company; and

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