



**energy saving trust**

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**Company number 02622374**

**SPECIAL RESOLUTION  
OF  
THE ENERGY SAVING TRUST LIMITED ("Company")  
Passed on February 10<sup>th</sup> 2009**

At a general meeting of the Company duly convened and held at 21 Dartmouth Street, London SW1H 9BP on 10<sup>th</sup> February 2009 at 12:00 noon, the following resolution was duly passed as a special resolution.  
Special Resolution:

That the draft regulations produced to the meeting and for the purposes of identification initialled by the Chairman be adopted as the articles of association of the Company in substitution for and to the exclusion of the existing articles of association.

Signed.....  
Dr Judith Abbott, Company secretary

*J. Abbott*

FRIDAY



A64 13/02/2009 109  
COMPANIES HOUSE

*Draft articles  
of  
initialled by Eddie Hyams,  
Chairman*

**COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL**

**ARTICLES OF ASSOCIATION  
-of-  
THE ENERGY SAVING TRUST LIMITED**

(Adopted by special resolution passed on the                      day of                      2009)

**Preliminary**

1. No regulations set out in any schedule to any of the Statutes shall apply as the regulations or articles of the Company.

**Interpretation**

2. In these Articles the following expressions shall have the following meanings: -

"the Acts"	CA 1985 and CA 2006;
"the Articles"	these Articles of Association as from time to time altered by Special Resolution;
"the Board"	the Board of Directors of the Company or the Directors present at a meeting of the Directors at which a quorum is present or any committee authorised by the Board to act on its behalf, or the persons present at a meeting of such committee at which a quorum satisfying the requirements of Article 37 is present;
"clear days"	in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;
"CA 1985"	the Companies Act 1985 for the time being in force;
"CA 2006"	the Companies Act 2006 for the time being in force;
"Directors"	the directors for the time being of the Company;
"Elected Directors"	a director nominated under either Article 29.1 or 29.2 and appointed by the Board as a Director in accordance with the Articles;
"executed"	includes any mode of execution;
"Independent Directors"	a Director appointed in accordance with the Articles (including for the avoidance of doubt the Chairman) but not being either an Elected Director or the Chief Executive of the Company and who is neither an employee of the Company (save, if applicable, as a result of such appointment) or of any Member or a director of any Member;
"office"	the registered office of the Company;
"the Seal"	the common seal of the Company;
"Secretary"	the Secretary of the Company or any other person appointed to perform the duties of the Secretary of the Company, including a joint, assistant or deputy secretary;

<b>"the Statutes"</b>	the Acts and every other act for the time being in force concerning companies and affecting the Company;
<b>"the United Kingdom"</b>	Great Britain and Northern Ireland; and
<b>"written and writing"</b>	"in" includes printing, lithography, other methods of representing or reproducing words in a legible form and electronic communication where specifically provided in a particular Article or where permitted by the Directors in their absolute discretion.

In these Articles any reference to any statutory provision or enactment shall include any statutory modification or re-enactment of such provision.

Unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Acts.

## **Objects**

3. The Company is established for the objects expressed in the Memorandum of Association.

## **Members**

4.

- 4.1 The subscribers to the Memorandum of Association of the Company and such other persons as are admitted to membership in accordance with the Company's Articles shall be members of the Company (the "Members" or "Member" as appropriate).
- 4.2 Any person or body interested in furthering the objects of the Company and who has paid any subscription owing may be admitted to membership of the Company provided:-
  - 4.2.1 s/he delivers to the Company a written application for membership in a form approved by the Directors, and
  - 4.2.2 her/his application is approved by a resolution passed by a majority consisting of not less than two thirds of the votes of the Directors.

5.

- 5.1 A Member may on giving not less than three months' written notice to the Company, at any time withdraw from the Company but such Member shall remain liable for and shall pay to the Company all moneys due to the Company at the time of her/his ceasing to be a Member or for which s/he may become liable under the provisions of the Memorandum of Association.
- 5.2 Membership shall not be transferable and shall cease on the Member's death or, in the case of a corporation or company, any resolution being passed or an effective order being made for the winding up or dissolution of that corporation or company.
- 5.3 The Members may by a resolution passed by a majority consisting of not less than two thirds of the votes of the Members at a meeting of the Company duly convened for the purposes of considering such a resolution, remove any Member from membership of the Company.
- 5.4 The power mention in Article 5.3 shall not be exercised unless the Member concerned shall have been given notice of the meeting at which the resolution is to be considered and s/he, or her/his duly authorised representative, shall have been given an opportunity to attend and speak.

## **General Meetings**

6. All general meetings other than annual general meetings shall be called general meetings.
7. The Board may, but is not obliged to, call an annual general meeting and may call general meetings. In addition, on the requisition of Members pursuant to the provisions of the Acts, the Board shall forthwith proceed to convene a general meeting for a date not later than the date determined as being the last date for such meeting to be held in accordance with the Acts. If there are not within the United Kingdom sufficient Directors to call a general meeting, any Director or Member of the Company may call a general meeting.

## **Notice of general meetings**

8. Annual general meetings (if any) and all other general meetings shall be called by at least fourteen clear days' notice but may be called by shorter notice if it is so agreed by a majority in number of the Members together representing not less than ninety per cent of the total voting rights of all the Members. The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such. The notice shall be given to all the Members and to the Directors and auditors.
9. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

## **Proceedings at general meetings**

10. No business shall be transacted at any meeting unless a quorum is present. The quorum for a general meeting shall be not less than one half of the Members present in person or by proxy or (in the case of a corporation or corporation sole) represented by its duly authorised representative).
11. If, within 15 minutes from the time appointed for a general meeting, a quorum is not present the meeting shall stand adjourned to such time, place and day as the Directors may determine and if at the adjourned meeting a quorum is not present within 15 minutes from the time appointed for the meeting the Members present shall be a quorum.
12. The Chairman, if any, of the Board shall preside as Chairman of the meeting. If the Chairman is not present within fifteen minutes after the time appointed for holding the meeting and willing to act, the Members present and entitled to vote shall elect one of their number to be Chairman.
13. A Director shall notwithstanding that s/he is not a Member, be entitled to attend and speak at any general meeting.
14. The Chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. Whenever a meeting is adjourned for thirty days or more notice of the adjourned meeting shall be given in the same manner as of an original meeting. Otherwise, it shall not be necessary to give any notice of the adjournment or of the business to be transacted at any adjourned meeting.
15. A resolution put to the vote of a meeting shall be decided on a show of hands, unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Acts, a poll may be demanded:

a) by the Chairman; or

b) by any Member (including a Member which is a corporation and is present by its duly authorised representative);

and a demand by a person as proxy for a Member shall be the same as a demand by the Member.

16. Unless a poll is duly demanded a declaration by the Chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
17. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the Chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
18. A poll shall be taken as the Chairman directs and s/he may appoint scrutineers (who need not be Members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
19. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman shall be entitled to a casting vote in addition to any other vote s/he may have.
20. A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the Chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
21. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

#### **Votes of Members**

22.

- 22.1 On a show of hands every Member who (being an individual) is present in person or by proxy or (being a corporation or corporation sole) is present by a duly authorised representative or by proxy shall have one vote.
- 22.2 On a poll each Member shall have one vote, except to the extent otherwise provided pursuant to Article 22.3 unless a higher number of votes shall have been approved for a Member by a resolution passed by a majority consisting of not less than three quarters of the Members.
- 22.3 Those Members representing Government bodies shall control in total not less than 30% of the total votes of Members. The allocation of such votes between the Government bodies shall be as agreed by those bodies.
23. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the Chairman whose decision shall be final and conclusive.

24. An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointer and shall be in the usual form (or such other form as may be approved by the Board).
25. The instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notorially or in some way approved by the Directors shall be:
- 25.1 deposited at the registered office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument or proxy sent out by the Company in relation to the meeting no later than the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- 25.2 ,where a poll is not taken forthwith after it was demanded, be delivered at the meeting at which the poll was demanded to the Chairman or to the Secretary or to any Director;
- and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.
26. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation or corporation sole shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Company at the registered office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting of adjourned meeting) the time appointed for taking the poll.
- 27.
- 27.1 Any corporation or corporation sole, which is a Member of the Company, may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company. The person so authorised shall be entitled to exercise the same powers on behalf of such corporation or corporation sole as the corporation or corporation sole could exercise if it were an individual Member of the Company and such corporation or corporation sole shall for the purpose of these Articles be deemed to be present at the meeting.
- 27.2 Any director or other officer of a corporation which is a Member shall be deemed to be a duly authorised representative of that Member (i) for the purpose of agreeing to short notice of, or attending and voting at, any general meeting of the Company and (ii) without prejudice to the generality of the foregoing, for the purpose of Articles 10 and 22.

#### **Number of Directors**

- 28.
- 28.1 There shall be a Board of Directors consisting of the person holding the office of Chief Executive of the Company, up to four Elected Directors and up to nine Independent Directors.
- 28.2 The Company may from time to time by special resolution vary the number of Directors.
- 28.3 The number of Independent Directors shall always exceed the number of Elected Directors.

#### **Proposal and Election of Directors**

- 29.
- 29.1 Up to three nominations for Elected Directors may be put forward to the Board by the Electricity Retailers Association (or any body which is a successor organisations of the Electricity Retailers Association) (the "ERA"). The nominations from the ERA must include the

then current CEO of the ERA and two representatives of two different member organisations of the ERA.

- 29.2 Members who are neither member organisations of the ERA nor representatives of Government bodies may put forward one nomination for an Elected Director.
- 29.3 The Directors must consider any candidate put forward under Articles 29.1 and 29.2 and vote on whether or not they should be appointed as an Elected Director of the Company. The CEO of the ERA shall serve as an Elected Director for a period equal to the remainder of her/his term of office as CEO of the ERA. In all other cases an Elected Director shall serve for a maximum period of three consecutive years unless in exceptional circumstances (where exceptional circumstances shall be as defined by the Board at the relevant time) such period shall be extended by the Board, the Elected Director shall not be eligible to stand for re-appointment at the end of such period. The Directors may also appoint a person who is willing to act to be a Director either to fill a vacancy or as an additional Director provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with the Articles as the maximum number of directors. An Independent Director, other than the Chairman, appointed by the Board shall be appointed for a period of three years and is eligible to stand for re-appointment for a further three years at the end of such period. In exceptional circumstances (where exceptional circumstances shall be as defined by the Board at the relevant time) an Independent Director can be eligible to stand for re-appointment for a final further three year period but no Independent Director shall be appointed to serve for a consecutive period in excess of nine years. The Board shall notify the Members of the appointment of any Directors by the Board pursuant to this Article at the next general meeting following such appointment but the appointment is not subject to approval by the Members.
- 29.4 Subject to Articles 28 and 29.1 to 29.3 above, the Company may appoint as Directors by ordinary resolution any person who is willing to act as such and who is neither an employee of the Company or any of the Members nor a director of any of the Members.
- 29.5 The Directors may appoint one or more of their number to the office of Chief Executive or to any other executive office under the Company and may enter into an agreement or arrangement with any Director for her/his employment by the Company or for the provision by her/him of any services outside the scope of the ordinary duties of a Director. Any such appointment, agreement or arrangement may be made upon such terms as the Directors determine and they may remunerate any such Director for her/his services as they think fit. Any appointment of a Director to an executive office shall terminate if s/he ceases to be a Director but without prejudice to any claim for damages for breach of the contract of service between the Director and the Company.
- 29.6 The Directors may appoint one of their number, who is neither an employee or director of any Member, to be the Chairman of the Board of Directors and may at any time remove her/him from that office. If not previously removed by the Directors, a Director so appointed shall hold office until the next general meeting. If a resolution of the reappointment of the Director is lost at such general meeting, s/he shall vacate office at the conclusion thereof.
- 29.7 The Chairman shall preside at every meeting of the Board of Directors at which s/he is present. If the Chairman is not present within ten minutes after the time appointed for the meeting, the Directors present may appoint one of their number to be Chairman of the meeting. In the case of an equality of votes between the Directors, the Chairman shall be entitled to a casting vote in addition to any other vote s/he may have.
- 30.
- 30.1 Any Director appointed in accordance with Article 29.2 may at any time be removed by the Member or Members who nominated such Director and that Member or those Members may at any time nominate another Director to fill the vacancy thereby caused.

- 30.2 Every nomination of a Director pursuant to Articles 29.1 and 29.2 or removal under Article 30.1 shall be made by instrument in writing and in the case of the Members under the hand of the Member or Members or in the case of a corporation or an association under the hand of any one of its directors or of its duly authorised representative and such instrument shall only take effect on the service at the registered office of the Company or when handed to either the Chairman or Secretary of any meeting of the Board. Every such instrument shall be annexed to the Board's Minute Book as soon as practicable after service.
- 30.3 Subject to paragraph 30.1 above, and to Article 31, the Chairman and Directors shall hold office for such period as may be specified by the Company by ordinary resolution.

#### **Disqualification and removal of Directors**

31. The office of a Director shall be vacated if:
- 31.1 the Director ceases to be a Director by virtue of the statutes or s/he becomes prohibited by law from acting as a Director; or
- 31.2 the Director becomes bankrupt or makes any arrangement or composition with her/his creditors generally; or
- 31.3 the Director is, or may be, suffering from mental disorder and either:
- 31.3.1 is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1984; or
- 31.3.2 an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for her/his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to her/his property or affairs; or
- 31.4 the Director resigns her/his office by notice in writing delivered to the registered office of the Company or tendered at a meeting of the Board; or
- 31.5 the Director absents himself from meetings of the Board during a continuous period of six consecutive months without permission and the Directors resolve that her/his office be vacated; or
- 31.6 the Director being neither the Chief Executive nor the Chairman has served upon her/him a notice removing her/him from office signed by three quarters of all her/his co-Directors; or
- 31.7 the Director is removed pursuant to Article 30.1; or
- 31.8 the Director having been nominated pursuant to Article 29.2 and either:
- 31.8.1 the Member nominating him/her ceases for any reason to be a Member of the Company; or
- 31.8.2 the Director ceases to hold office or employment with the Member company from which s/he was originally nominated; or
- 31.9 the Director having been nominated pursuant to Article 29.1 and either:
- 31.9.1 the Director ceases to be the CEO of the ERA; or
- 31.9.2 the organisation of which s/he is a representative within the ERA ceases for any reason to be a member organisation of the ERA; or



- 31.9.3 the Director ceases to hold office or employment with the member organisation of the ERA from which s/he was originally nominated.

#### **Directors' remuneration and expenses**

32.

- 32.1 The Directors shall be entitled to such remuneration or fees as shall be determined by them acting collectively unless the Members by ordinary resolution determine a different remuneration. Unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.
- 32.2 The Directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of Directors or general meetings or otherwise in connection with the discharge of their duties.

#### **Powers of Directors**

33.

- 33.1 Subject to the provisions of the Acts, the Memorandum and the Articles and to any directions given by special resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the Directors by the Articles and a meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.
- 33.2 The Board shall have the power to pay all the expenses incurred in the formation of the Company.
- 33.3 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board shall from time to time determine.
- 33.4 The Board shall have the power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time Directors, officers or employees of the Company, against any liability incurred by such person in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or the exercise or purported exercise of their powers and/or otherwise in relation to or in connection with their duties, powers or offices in relation to the Company.

#### **Delegation of Director's powers**

34. The Directors may delegate any of their powers to any committee consisting of such Directors as they think fit. They may also delegate to any Director such of their powers as they consider desirable to be exercised by her/him. Any such delegation may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with three or more Members shall be governed by the Articles regulating the proceedings of Directors so far as they are capable of applying. The quorum for proceedings of a committee shall be fixed by the Board and unless so fixed at any other number shall be three.

35. The Directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of her/his powers.

#### **Proceedings of the Board**

36. Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the Chairman shall have a second or casting vote.
37. The quorum for the transaction of business by the Directors may be fixed by the Directors and unless so fixed at any other number shall be five Independent Directors one of whom may be the Chairman.

Those Elected Directors nominated pursuant to Articles 29.1 and 29.2 may nominate an alternate to represent them at meetings of Directors which they are unable to attend and such alternates shall have all the rights, powers and obligations of the Director they represent for the duration of the meeting. No other Directors shall have the right to appoint an alternate.

Any Director who ceases to be a Director at a Board meeting may continue to be present and to act as a Director and be counted in the quorum until the termination of the Board meeting if no other Director objects and if otherwise a quorum of Directors would not be present.

38. The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number, but, if the number of Directors is less than the number fixed as the quorum, the continuing Directors or Director may act only for the purpose of filling vacancies or of calling a general meeting.
39. All acts done by a meeting of Directors, or of a committee of the Directors, or by a person acting as a Director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be valid as if every such person had been duly appointed and was qualified and had continued to be a Director and have been entitled to vote.

#### **Director's meetings and resolutions**

40. A resolution in writing signed or approved by letter or facsimile transmission or e-mail by each Director shall be as valid and effectual as if it had been passed at a meeting of the Directors (or, as the case may be, at a meeting of a committee of the Directors) duly convened and held and when signed or approved as aforesaid may consist of several documents in similar form each signed or approved by one or more of the persons aforesaid.

41.

- 41.1 Subject to approval by the Directors actually present at such meeting the Directors, or a committee of the Directors, may hold a meeting by video or telephone (whether by using conference telephone facilities or by a series of telephone conversations). The views and decisions of the Directors, or of a committee of the Directors, as ascertained and evidenced by such video or telephone conversations and communicated to the Chairman shall be treated as votes in favour of or against a particular resolution. A resolution passed at any meeting held in this manner, and signed by the Chairman, shall be conclusive evidence thereof and shall be as valid and effectual as if it had been passed at a meeting of the Directors or, as the case may be, of a committee of the Directors duly convened and held.

Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chairman of the meeting is then present.

41.2 In determining whether the quorum requirements fixed by or in accordance with these Articles are fulfilled as regards the transaction of business at any meeting of the Directors or of a committee of the Directors, the following shall be counted in the quorum:-

41.2.1 in the case of a resolution approved by a meeting of the Directors or of a committee of the Directors held by video or telephone communication, all Directors participating in such meeting; and

41.2.2 in the case of a meeting of the Directors or of a committee of the Directors, the Directors actually present at such meeting and any other Director in contact by video or telephone communication with such meeting.

## **Directors' interest**

### **42. Declarations of Directors' Interests**

42.1 Subject to the provisions of the Acts, if a Directors' meeting, or part of a Directors' meeting, is concerned with an actual or proposed contract, transaction, arrangement or proposal with the Company, or any body corporate in which the Company is in any way interested, in which a Director is (or may be held) directly or indirectly interested, that Director is not to be counted as participating in respect of the relevant decision-making process in which such interest is or may arise, for quorum, voting or agreement purposes unless the Director has disclosed (in such manner and detail as the Board requires) to the Directors the nature and extent of her/his interest, at or before the meeting of the Board at which the question of entering into the contract, transaction, arrangement or proposal is first considered, if s/he knows her/his interest then exists or, in any other case, at the first meeting of the Board after s/he knows that s/he is or has become so interested or the Director's interest (including the manner and extent of it) has been or is known or ought reasonably to be known to the other Directors and provided.

42.1.1 the Company by ordinary resolution disapplies the provisions of the Articles which would otherwise prevent the Director from being counted as participating in or voting at, a Directors' meeting or in the decision-making process; or

42.1.2 the Director's interest (including the manner and extent of it) cannot reasonably be regarded as likely to give rise to a conflict of interest; or

42.1.3 the Director's interest arises solely because of employment by a Member or by a member organisation of the ERA by whom she/he has been nominated pursuant to Article 29.1 or 29.2

42.1.4 the Director's interest arises from a 'permitted cause' (as defined in Article 42.5).

42.2 In the event that Article 42.1 applies notwithstanding her/his office the Director:

42.2.1 may be a party to, or otherwise interested in, any actual or proposed contract, transaction, arrangement or proposal with the Company or in which the Company is in any way interested;

42.2.2 may be a director or other officer of, or employed by, or a party to any actual or proposed contract, transaction, arrangement or proposal with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is in any way interested;

42.2.3 may represent other Members and act as an authorised representative of any body corporate which has a (direct or indirect) interest in the Company or any body corporate in which the Company is interested;

- 42.2.4 may, or any firm or company of which s/he is a principal may, act in a professional capacity for the Company or any body corporate in which the Company is in any way interested (except that of auditor of the Company or auditor of any body corporate in which the Company is in any way interested);
- 42.2.5 save as otherwise agreed, shall not, by reason of her/his office, be accountable to the Company for any profit, remuneration or other benefit which s/he derives or realises from such office, service or employment or from any such actual or proposed contract, transaction, arrangement or proposal or from any interest in any such body corporate or for such remuneration and no such actual or proposed contract, transaction, arrangement or proposal shall be liable to be avoided on the ground of any such interest or benefit; and
- 42.2.6 may nevertheless speak at, vote and be counted in the quorum on any matter concerning Article 42.1 and (save as otherwise agreed) may retain for her/his own absolute use and benefit all profits and advantages directly or indirectly accruing to her/him thereunder or in consequence thereof, provided always that in the case of disclosure of an interest arising under or pursuant to Article 42.1 the extent and nature of her/his interest has been disclosed prior to its consideration.
- 42.3 For the purposes of this Article:
- 42.3.1 a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in a particular contract, transaction, arrangement or proposal in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such contract, transaction, arrangement or proposal of the nature and extent so specified;
- 42.3.2 an interest of which a Director has no knowledge and of which it is unreasonable to expect her/him to have knowledge shall not be treated as an interest of hers/his; and
- 42.3.3 an interest of a person who is, for any purpose of the Acts, connected with a Director shall be treated as an interest of the Director and, in relation to an alternate director, an interest of her/his appointor shall be treated as an interest of the alternate director without the prejudice to any interest which the alternate director has otherwise.
- 42.4 Notwithstanding the foregoing, where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) or removal of two or more Directors to offices or employments with the Company or any body corporate in which the Company is interested, the proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning her/his own appointment.
- 42.5 For the purposes of this Article 42, the following are 'permitted causes':
- 42.5.1 the giving to a Director of any guarantee, indemnity or security in respect of money lent or obligations undertaken by her/him or by any other person at the request of or for the benefit of the Company;
- 42.5.2 the funding by the Company of a Director's expenditure on defending proceedings or the doing by the Company of anything to enable her/him to avoid incurring such expenditure where all other Directors are being offered substantially the same arrangements; and

- 42.5.3 any contract for the purchase or maintenance of insurance against any liability for, or for the benefit of, any Director or Directors or for, or for the benefit of, persons who include Directors.
- 42.6 References in this Article 42 to proposed decisions and decision-making processes include any Directors' meeting or part of a Directors' meeting.
- 42.7 For the purposes of Article 42.1 the Director may give a general or specific notice of any interest to the Board by 'electronic means' (within the meaning of being actuated by electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical means) provided that:
- 42.7.1 the Board has given its consent to receiving notice communicated by electronic means; such consent shall be deemed where the Board (or the individual Directors making up the Board) has set out an address to which the notice shall be sent by electronic means; and
- 42.7.2 the electronic means used by the Director enables the Board and its Directors concerned to read the text of the notice.
- 42.8 A notice given personally or in a form permitted by Article 42.7 above shall be deemed to be given on the earlier of the day on which it is delivered personally and the day on which it was despatched by electronic means, as the case may be.
- 42.9 Subject to Article 42.10, if a question arises at a meeting of Directors or of a committee as to the right of a Director to vote, the question may, before the conclusion of the meeting, be referred to the Chairman of the meeting whose ruling in relation to any Director (other than the Chairman) is to be final and conclusive.
- 42.10 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chairman of the meeting, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chairman of the meeting is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.
- 43. Conflicts of Interest of Directors**
- 43.1 Subject to Article 43.4 a Director shall act in all ways and manners in order to avoid a situation or matter in which s/he has, or can have, a direct or indirect interest that conflicts or may possibly conflict with the interests of the Company or any body corporate in which the Company is interested.
- 43.2 For the purposes of this Article 43, "**Conflict Situation**" means any actual or proposed situation or matter in which any Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company or any body corporate in which the Company is interested, including (without limitation) any such situation or matter which relates to the exploitation of any property, information or opportunity (irrespective of whether the Company could take advantage of the property, information or opportunity).
- 43.3 The Directors are hereby empowered and authorised for the purposes of section 175 of the CA 2006 to authorise any Conflict Situation that may arise from time to time and to amend, vary or revoke any such authorisation so given, but so that any amendment, variation or revocation shall not affect anything done by the Director prior to such action provided that the conflicted Director acts in accordance with the terms, limits and conditions of the authorisation. Any such authorisation, amendment or revocation shall be given by resolution of the Directors made in accordance with Article 43.4.2.
- 43.4 A Director shall not be in breach of the duty at Article 43.1 in the event that the Conflict Situation:
- 43.4.1 cannot reasonably be regarded as likely to give rise to a direct or indirect conflict of interest; or

- 43.4.2 has been authorised by the Directors in accordance with, and as expressly permitted by, these Articles as follows:
- 43.4.2.1 the meeting in which any Conflict Situation is to be discussed as business thereof shall be convened and conducted in all respects as nearly as possible in the same way as a Directors' meeting of the Company but with such variation as is required from Articles 43.4.2.2 to 43.4.2.4 (inclusive); and
  - 43.4.2.2 the quorum at any such Directors' meeting may be fixed by the Directors (other than the Director(s) in whose interest the Conflict Situation is to be discussed) and unless so fixed at any other number shall be the same as for all other Directors meetings (excluding, for the avoidance of doubt, the Director(s) in whose interest the Conflict Situation is to be discussed); and
  - 43.4.2.3 the matter or interest giving rise to the Conflict Situation shall be considered, approved and resolved by the Directors (other than the Director(s) in whose interest the Conflict Situation is to be discussed (who for the avoidance of doubt, shall be permitted to speak but not to vote upon the matter thereat)) as being in the Company's best interests and most likely to promote the success of the Company for the benefit of its Members as a whole, having regard (amongst other matters) to the factors set out in section 172 of the CA 2006 and otherwise in accordance with the provisions of the Acts and the general Directors' duties and principles provided thereunder; and
  - 43.4.2.4 the Director(s) in whose interest the Conflict Situation is to be discussed acts in accordance with such terms, limits and conditions as the other Directors may from time to time (whether at the time of giving the authority or subsequently) consider appropriate and reasonable in the circumstances, including (without limitation) as to the conflicted Director's continued involvement and respective right (subject to such terms of confidentiality as the Board may look to impose thereon) to receive relevant Board communications, papers and analogous material relating to the Conflict Situation and her/his respective right to speak and/or vote upon the matter in respect thereof at such meeting and all future Directors' meetings concerning the Conflict Situation thereafter. For the avoidance of doubt, in the absence of such terms, limits and conditions otherwise being laid down, the Director the subject of a Conflict Situation envisaged by this Article shall nonetheless be entitled to receive notice (including any relevant Board papers) of, attend, count in the quorum towards and vote at Board meetings relating in any way to, and generally deal, with matters concerning, connected with or arising from the Conflict Situation concerned.
- 43.5 For the purposes of sections 175 and 180(4) of the CA 2006 and for all other purposes, it is acknowledged that a Director may be or become subject to a Conflict Situation or Conflict Situations as a result of her/his being or having been or being a party to an agreement or arrangement or understanding or circumstances under which s/he may become an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or a direct or indirect investor in and/or otherwise commercially involved with or economically interested in any of the following:
- 43.5.1 any Member;
  - 43.5.2 the Company's group pension scheme;
  - 43.5.3 any body corporate in which the Company is interested; and

- 43.5.4 any contract, interest or similar arrangement associated with any person or arrangement referred to in any of Articles 43.5.1 to 43.5.3 (inclusive) whereby for these purposes "**person**" shall mean any individual, body corporate, fund, trust, partnership or other entity whether or not having separate legal status.
- 43.6 A Director's duties to the Company arising from her/his holding office as Director shall not be breached or infringed as a result of any Conflict Situation envisaged by Article 43.5 nor as a result of any authorised Conflict Situation having arisen or existing in relation to her/him and s/he shall not be held accountable to the Company for any benefit s/he directly or indirectly derives from her/his involvement in any authorised Conflict Situation or with any person or entity referred to in any of Articles 43.5.1 to 43.5.4 (inclusive) (irrespective of whether the activities of such person or entity are or may become competitive with those of the Company or any body corporate in which it is interested).
- 43.7 Subject to Article 43.8, if a question arises at a meeting of Directors or of a committee as to any Conflict Situation (or related matter thereto) in respect of any Director, the question may, before the conclusion of the meeting, be referred to the Chairman of the meeting whose ruling (applying the considerations in this Article 43) in relation to any Director (other than the Chairman) and their respective Conflict Situation is to be final and conclusive.
- 43.8 If any question arises at a meeting of Directors or of a committee as to any Conflict Situation (or related thereto) in respect of the Chairman of the meeting, the question is to be decided by a decision of the Directors at that meeting (applying the considerations in this Article 43), for which purpose the Chairman of the meeting is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.
- 43.9 In the event of a Conflict Situation (whether or not Article 43.4 applies), the Director(s) in whose interest the Conflict Situation arises or may arise shall ensure that confidential information belonging to the Company or any body corporate in which the Company is interested in which the conflicted Director(s) is in receipt thereof is not (unless otherwise agreed with the respective parties thereto):
- 43.9.1 directly or indirectly disclosed, published, sold, revealed, reported, given away, traded or bartered to or with any third party howsoever or whensoever arising; and
- 43.9.2 used or applied in performing his duties for or on behalf of any third party,
- and the conflicted Director(s) shall not otherwise be in breach of her/his duties to the Company if s/he maintains similar confidentiality and non-use provisions in any matter or information which come into her/his possession as a result of a Conflict Situation where such information is confidential as regards any third party. For the avoidance of doubt, no contract, transaction, arrangement nor proposal shall be liable to be avoided on such grounds.
- 43.10 For the avoidance of doubt, this Article 43 shall not apply in respect of any actual or proposed specific contracts, transactions, arrangements or proposals between the Director and the Company or any body corporate in which the Company is interested. In such event, the provisions of Article 42 shall take precedence and apply insofar as set out in Article 42.
44. The Company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the Articles prohibiting a Director from voting at a meeting of the Board.

#### **Borrowing Powers**

45. The Board may exercise all the powers of the Company to borrow money, and to mortgage or charge its undertaking and property, or any part of them.

#### **Secretary**

46. Subject to the provisions of the Acts, the Secretary shall be appointed by the Board for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.

#### **Minutes**

47. The Board shall cause minutes to be made in books kept for the purpose:-
- 47.1 of all appointments of officers made by the Board; and
- 47.2 of all proceedings at meetings of the Company and of the Board, and of committees of the Board, including the names of the Directors at each such meeting.

#### **Sealing documents**

- 48.
- 48.1 The Seal shall only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the Seal is affixed and unless otherwise so determined it shall be signed by a Director and by the Secretary or by some other person appointed by the Board for the purpose or by a second Director.
- 48.2 Any instrument signed by one Director and the Secretary or by two Directors and expressed (in whatever form of words) to be executed by the Company and which is intended to have effect as a deed shall have the same effect as if executed under the Seal, provided that no instrument which makes it clear on its face that it is intended by the person or persons making it to have effect as a deed shall be so signed without the authority of the Directors or of a committee authorised by the Directors in that behalf.

#### **Accounts**

49. A Member shall have a right to inspect any accounting records or other book or document of the Company.

#### **Notices**

50. Any notice given to or by any person pursuant to the Articles shall be in writing except that a notice calling a meeting of the Board need not be in writing. In this Article references to any notice being in writing shall include the results of use of electronic communications subject to such terms and conditions as the Board may decide.
51. The Company may give any notice or other document to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at her/his registered address or by leaving it at that address. Where appropriate the Company can also send any notice or other documents by using electronic communications in accordance with the Acts.
52. A Member present, either in person or by proxy, at any meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
53. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of the following business day after the envelope containing it was posted. If a notice or document is sent by the Company using electronic communications it is treated as having been received on the day after it was sent. Proof that a notice or document contained in an electronic communication was sent which accords with guidance issued from time to time by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given.



## **Indemnity**

54. Subject to the provisions of the Acts, the Company may purchase and maintain for any Director, Secretary and other office (but not its auditor) insurance against any liability related to her/his indemnity to which the person concerned may otherwise be entitled:
- 54.1 no Director or other officer of the Company shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in consequence of the execution of the duties of her/his office or in relation thereto;
- 54.2 every Director or other officer of the Company shall be indemnified out of the assets of the Company against any losses or liabilities incurred by her/him
- 54.2.1 in defending any civil or criminal proceedings in which s/he is acquitted or judgement is given in her/his favour; and
- 54.2.2 in connection with any application in which relief is granted to her/him by the Court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company; and
- 54.2.3 in or about the execution of the duties of her/his office or otherwise in relation thereto.

## **Dividend**

55. The Company shall not declare or pay any dividend to members.

## **Rules**

56. The Directors may from time to time make such rules or bye-laws as they may deem necessary or expedient or convenient for the proper conduct and management of the Company and for the purpose of prescribing classes of and conditions of membership, and in particular but without prejudice to the generality of the foregoing, they may by such rules or bye-laws regulate the admission and classification of Members of the Company and the rights and privileges of such Members and the conditions of membership and the terms on which Members may resign or have their membership terminated and the entrance fees, subscriptions and other fees or payments to be made by Members.
57. The Members in general meeting shall have the power to alter, add or to repeal the rules or bye-laws and the Directors shall adopt such means as they think sufficient to bring to the notice of Members of the Company all such rules or bye-laws which shall be binding on all Members of the Company, provided that no rule or bye-law shall be inconsistent with, or shall affect or repeal, anything contained in the Memorandum of Association or the Articles of Association.

## **Winding up**

58. If the Company is wound up, the liquidator may, with the approval of a special resolution of the Company and any other sanction required by the Acts, divide among the Members in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the Members. The liquidator may, with the like approval, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the Members as s/he in accordance with any such approval may determine. No Member shall be compelled to accept any assets upon which there is a liability.