

North Yorkshire County Council

Executive

14 July 2020

Appointment of County Councillor as Director of York and North Yorkshire Local Enterprise Partnership Limited

Report of the Assistant Chief Executive (Legal and Democratic Services)

1.0 Purpose of report

- 1.1 To seek approval from the Executive to the appointment of County Councillor Carl Les as a Director of York and North Yorkshire Local Enterprise Partnership Limited, a dormant company limited by guarantee registered by the LEP, to meet the requirements of a Government review on LEP governance arrangements

2.0 Background

- 2.1 A national review of the Local Enterprise Partnership (LEP) governance arrangements was undertaken in 2017. As part of the review the LEP has recently agreed a change in its geography to remove overlapping boundaries with its neighbours. This means that the geography of the LEP has been altered and that East Riding now falls under the geography of the Humber LEP and Harrogate is no longer part of the Leeds City Region LEP. The LEP's geography now consist of York and North Yorkshire.
- 2.2 One of the requirements of the review was for each LEP to assume its own legal identity, which could be achieved via different means, including incorporation as a private company or, where appropriate, merging with a combined or mayoral combined authority. Devolution discussions are ongoing amongst local authorities however that latter option would not be achievable by the Government's deadline of 31 July 2020.

3.0 Arrangements

- 3.1 It has therefore been agreed with Government, that in the circumstances, a light-touch approach to incorporation of the LEP can be followed, pending the outcome of devolution discussions. In practical terms, there is minimal impact on current arrangements as it is considered that this is a housekeeping exercise to meet the Government requirements. In practical terms this means that:
- (a) a company limited by guarantee, "York & North Yorkshire Local Enterprise Partnership Limited", will be established;
 - (b) the intention is that the company will remain dormant save as to satisfy its obligations under the Companies Act 2006;
 - (c) business will continue to be transacted through North Yorkshire County Council as Accountable Body;
 - (d) each of the LEP's Main Board members will become directors of the company, their liability being limited to £1;

- (e) the Board of Directors of the company will consist of ten private sector directors and five local authority directors;
- (f) meetings of the LEP Board and its sub board will continue to meet and carry out LEPs functions as they do at present under the terms of its Local Assurance Framework. Currently County Councillor Carl Les continues to sit on the LEP Board and therefore it is requested that he is appointed as one of the local authority directors onto the new company.

3.2 If, in the future, a combined authority is established for the region under a devolution deal, then it is likely that the company would be wound up and the LEP incorporated into the new body.

3.3 If a combined authority is not established then the LEP will need to revisit the review of its arrangements and consider the appropriate governance arrangements at that time. The LEP will carry out a risk management process in the future as necessary.

4.0 Financial Implications

4.1 There are no significant financial implications arising from this report as the County Council remains the accountable body for the LEP and the new company has been created to meet the requirements of the national review of LEP governance arrangements. Therefore whilst the new company will have its own legal identity, the business of the LEP will still continue through existing arrangements. The cost of running the new company is expected to be minimal and will be funded by the LEP.

5.0 Legal Implications

5.1 The LEP have agreed to create a new company limited by guarantee which will have its own legal entity. The appointment of a Councillor to this company requires the Executive to approve the appointment. The Councillor will become a Director of the company and will have a legal duty to comply with the relevant company law that attaches to a Director.

5.2 A copy of the proposed Articles of Association for the new company is set out in Appendix 1.

6.0 Equalities Implications

6.1 There are no significant equalities implications arising from this report

7.0 Recommendation

7.1 To appoint County Councillor Carl Les as a Director of York & North Yorkshire Local Enterprise Partnership Limited in order to meet the requirements of a Government review on LEP governance arrangements.

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16 June 2020

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THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY GUARANTEE
ARTICLES OF ASSOCIATION

OF

YORK AND NORTH YORKSHIRE
LOCAL ENTERPRISE PARTNERSHIP LIMITED

Dated

2020

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY GUARANTEE
ARTICLES OF ASSOCIATION
OF
YORK AND NORTH YORKSHIRE LOCAL ENTERPRISE PARTNERSHIP
LIMITED (the "Company")
(Dated 2020)

Interpretation, objects and limitation of liability

1. INTERPRETATION

1.1. In these Articles, unless the context otherwise requires:

Accountable Body: means North Yorkshire County Council or such other local authority from time to time having responsibility for overseeing the proper administration of financial affairs within the LEP Area when these relate to public funds;

Act: means the Companies Act 2006;

AGM: has the meaning given to it in article 26;

Articles: means the Company's articles of association for the time being in force;

Assurance Framework: means the local assurance framework adopted by the Company from time to time in accordance with the requirements of the government's national assurance framework;

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

Chair: has the meaning given to it in article 14.1;

Conflict: means a situation in which a director has or can have, a direct or indirect interest that conflicts or possibly may conflict, with the interests of the Company;

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

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

electronic form: has the meaning given in section 1168 of the Act;

Eligible Director: means a director who would be entitled to vote on the matter at a meeting of directors (but excluding in relation to the authorisation of a Conflict pursuant to Article 16, any director whose vote is not to be counted in respect of the particular matter);

LEP Area: means the local authority areas of the City of York and North Yorkshire including North Yorkshire County Council, Scarborough Borough Council, Harrogate Borough Council, Hambleton District Council, Richmondshire District Council, Selby District Council, Craven

District Council and Ryedale District Council or such other geographical area as is assigned to the Company by government from time to time;

Local Authority Director has the meaning given to it in clause 19.3;

Local Authority Member: means a Local Authority Director in their capacity as a Member;

Member: means a person whose name is entered in the Register of Members of the Company and **Membership** shall be construed accordingly;

Model Articles: means the model articles for private companies limited by guarantee contained in Schedule 2 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;

Object: has the meaning given to it in article 2;

Ordinary resolution: has the meaning given in section 282 of the Act;

Private Sector Director: means a natural person working or connected with the private or voluntary sector;

Private Sector Member: means a Private Sector Director in their capacity as a Member;

secretary: means the secretary of the Company and any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

subsidiary: has the meaning given in section 1159 of the Act;

Working Day: means any day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business; and

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

- 1.2. Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
- 1.3. Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4. A reference in these Articles to an **article** is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5. Unless expressly provided otherwise, a reference to a statute or statutory provision shall include any subordinate legislation from time to time made under that statute or statutory provision.
- 1.6. Any word following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7. The Model Articles shall not apply to the Company.

2. OBJECT

The object for which the Company is established (**Object**) is to provide strategic leadership to maximise the economic growth and job creation across the LEP Area.

3. POWERS

- 3.1. In pursuance of the Object, the Company has the powers to:
- 3.1.1. do all such things which in the opinion of the directors are in the best interests of the Company; and
 - 3.1.2. do all such other lawful things as are incidental or conducive to the pursuit or to the attainment of the Object.

4. INCOME

- 4.1. The income and property of the Company from wherever derived shall be applied solely in promoting the Object.
- 4.2. No distribution shall be paid or capital otherwise returned to the Members in cash or otherwise.

5. WINDING UP

On the winding-up or dissolution of the Company, after provision has been made for all its debts and liabilities, any assets or property that remains available to be distributed or paid, shall not be paid or distributed to the Members but shall be transferred to similar bodies or another body with objects similar to those of the Company within the LEP Area or as directed by the government department then responsible for local enterprise partnerships or their replacement organisations.

6. GUARANTEE

- 6.1. The liability of each Member is limited to £1.00, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member, for
- 6.1.1. payment of the Company's debts and liabilities contracted before he ceases to be a Member;
 - 6.1.2. payment of the costs, charges and expenses of the winding up; and
 - 6.1.3. adjustment of the rights of the contributories among themselves.

Directors: general

7. DIRECTORS' GENERAL AUTHORITY AND CONDUCT

- 7.1. Subject to these Articles, directors are responsible for the management of the Company's business and may exercise all the powers of the Company accordingly.
- 7.2. Each of the directors shall procure that decisions of the Company are carried out in accordance with the Assurance Framework and any scheme of delegation for the time being and adopted by the Company.
- 7.3. Subject always to the Act, in their conduct of the Company's business the directors shall at all times:
- 7.3.1. conduct themselves in a professionally responsible manner;
 - 7.3.2. have due regard to all confidentiality obligations concerning the Company's business;

- 7.3.3. observe the seven principles as set out by The Committee on Standards in Public Life (as amended from time to time); and
- 7.3.4. comply with the provisions of the Assurance Framework.

8. DIRECTORS MAY DELEGATE

8.1. Subject to the Articles:

8.1.1. the board of directors may delegate any of the powers which are conferred on them under the Articles and as contemplated by the Assurance Framework:

- i. to such person, committee or sub-board;
- ii. by such means (including power of attorney);
- iii. to such an extent;
- iv. in relation to such matters or territories; and
- v. on such terms and conditions;

as they think fit.

8.1.2. the board of directors may revoke any delegation in whole or part, or alter its terms and conditions.

9. COMMITTEES AND SUB-BOARDS

The rules of procedure for all or any committees and sub-boards shall be as determined by the directors from time to time.

Directors: decision-making

10. DIRECTORS TO TAKE DECISIONS COLLECTIVELY

10.1. The directors shall endeavour to reach consensus on all decisions.

10.2. In the absence of consensus amongst the directors, any decision of the directors must be a majority decision at a meeting of directors (or a unanimous decision taken in accordance with article 11).

11. UNANIMOUS DECISIONS

11.1. A decision is taken in accordance with this article 11 when all Eligible Directors indicate to each other by any means (including by e-mail or other electronic communication) that they share a common view on a matter.

11.2. A decision may not be taken in accordance with this article 11 if the Eligible Directors purporting to take the decision would not have formed a quorum had the decision taken place in a meeting.

12. DIRECTORS' MEETINGS

12.1. Directors' meetings shall take place at approximately every two months and the directors shall endeavour to ensure there shall be at least six meetings in any twelve-month period.

- 12.2. Notwithstanding the provisions of article 12.1 meetings of the directors are called by the Chair or Vice Chair by giving not less than 5 clear Working Days' notice of the meeting to the directors or by authorising the secretary (if any) to give such notice.
- 12.3. In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.
- 12.4. A director who is absent from the UK and who has no registered address in the UK shall not be entitled to notice of the directors' meeting.

13. QUORUM FOR DIRECTORS' MEETINGS

- 13.1. At a meeting of the directors, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 13.2. The quorum for the transaction of business at a meeting of directors is any seven Eligible Directors, which must include 5 Private Sector Directors and 2 Local Authority Directors.
- 13.3. If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision to appoint further directors.

14. CHAIRING OF DIRECTORS MEETINGS AND APPOINTMENT OF CHAIR AND VICE CHAIR

- 14.1. The Company shall have at all times appointed a chairperson, who shall be a Private Sector Director and the person so appointed for the time being is the **Chair**.
- 14.2. The Company shall have at all times appointed a vice chair, who shall be a Private Sector Director and the person so appointed for the time being is the **Vice Chair**.
- 14.3. If neither the Chair nor the Vice Chair are participating in a meeting of directors within fifteen minutes of the time at which it was due to start, the directors must elect one of themselves to chair it.
- 14.4. Subject to clause 14.5:
 - 14.4.1. a Chair shall be appointed for periods of no more than three years, such appointment ending at the board meeting falling closest to the third anniversary of their appointment (or re-appointment) and the Chair shall be entitled to put themselves forward for re-election for a further period of three years provided that no Chair shall be able to serve more than six years in their respective role; and
 - 14.4.2. a Vice Chair shall be appointed for periods of no more than twelve months, such appointment ending at the board meeting falling closest to the first anniversary of their appointment (or re-appointment) and Vice Chair shall be entitled to put themselves forward for re-election for a further period of twelve months provided that no Vice Chair shall be able to serve more than six years in their respective role.
- 14.5. The terms of office for the first directors of the Company (including for the Chair and Vice Chair) shall be deemed to include the period of appointment prior to the incorporation of the Company in which they were appointed to the board of the unincorporated local enterprise partnership.
- 14.6. Where the Chair or Vice Chair puts him or herself forward for re-election, such election shall occur at the board meeting at which their board appointment ends in accordance with article 14.4.

15. CASTING VOTE

- 15.1. If the numbers of votes for and against a proposal at a meeting of directors are equal, the director chairing the meeting has a casting vote.
- 15.2. But this does not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the Articles, the Chair or Vice Chair (or other directors, if applicable) chairing the meeting is not an Eligible Director for the purposes of that meeting (or part of a meeting).

16. DIRECTORS' CONFLICTS OF INTEREST

- 16.1. If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the Company in which a director is interested that director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- 16.2. For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- 16.3. Subject to article 16.4, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the director chairing whose ruling in relation to any director other than his or her own is to be final and conclusive.
- 16.4. If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the director chairing the meeting, the question is to be decided by a decision of the directors at that meeting, for which purpose the chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.
- 16.5. The provisions of this article 16 are without prejudice to any conflict of interest policy adopted by the Company from time to time.

17. RECORDS OF DECISIONS TO BE KEPT

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.

18. DIRECTORS' DISCRETION TO MAKE FURTHER RULES

Subject to the Articles, the directors may make any rule which they think fit about how they and any committees formed by them take decisions, and about how such rules are to be recorded or communicated to directors.

Directors: numbers and appointment

19. NUMBER AND APPOINTMENT OF DIRECTORS

- 19.1. The board of directors shall be composed of not less than ten (10) Private Sector Directors and not less than five (5) Local Authority Directors.
- 19.2. Private Sector Directors shall be appointed by the Chair with the approval of the leader of the Accountable Body. Any such appointment will take effect from the day of the board meeting immediately following the appointment.
- 19.3. The Local Authority Directors shall be and will comprise:

- (a) The leaders of North Yorkshire County Council, City of York Council and Scarborough Borough Council;
- (b) A representative (being a leader from) one of Ryedale District Council, Hambleton District Council and Richmondshire District Council; and
- (c) A representative (being a leader from) one of Craven District Council, Harrogate Borough Council and Selby District Council.

19.4 In the event a leader of a particular local authority is unable or unwilling to be a Local Authority Director, the local authority shall nominate an alternate councillor occupying a cabinet position (or such position of equivalent seniority if the local authority concerned operates a committee system).

20. RETIREMENT OF DIRECTORS

20.1. Private Sector Directors shall retire from office from the end of the third anniversary of their appointment. Subject to article 20.2, such retiring Private Sector Director shall be eligible for re-election by the Members at the next general meeting.

20.2. A retiring Private Sector Director shall be eligible for re-election, provided that any Private Sector Director (including the Chair and Vice Chair) who shall have served for a total term of six years shall not be entitled to be re-elected.

21. DISQUALIFICATION AND REMOVAL OF DIRECTORS

21.1. A person ceases to be a director as soon as:

21.1.1. that person ceases to be a director by virtue of any provision of the Act or these Articles or he becomes prohibited by law from being a director;

21.1.2. that person shall for more than six months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that that person's office be vacated;

21.1.3. a bankruptcy order is made against that person;

21.1.4. a composition is made with that person's creditors generally in satisfaction of that person's debts;

21.1.5. notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms;

21.1.6. two-thirds of the board of directors resolve that the person has failed to conduct themselves in accordance with article 7.3 and should as a consequence be removed from office; or

21.1.7. in the case of a Local Authority Director, they cease for any reason to be the leader of the Local Authority Member or, if the leader for a particular Local Authority Member is not a Local Authority Director, the relevant Local Authority Director ceases to hold a cabinet position (or such position of equivalent seniority where the Local Authority Member adopts a committee system) within the relevant local authority.

21.2. A director shall upon ceasing to be a director shall at the same time cease to be a Member.

Directors: alternate directors and miscellaneous

22. APPOINTMENT AND REMOVAL OF ALTERNATES

- 22.1. Local Authority Directors (other than an alternate Local Authority Director) may appoint as an alternate an elected member from his or her local authority holding a cabinet position (or such position of equivalent seniority where no cabinet member is available or if the local authority operates a committee system)), or any other person approved by resolution of the directors, to:
- 22.1.1. exercise that director's powers; and
 - 22.1.2. carry out that director's responsibilities,
- in relation to the taking of decisions by the directors in the absence of the alternate's appointor.
- 22.2. Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors.
- 22.3. The notice must:
- 22.3.1. identify the proposed alternate; and
 - 22.3.2. 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.

23. SECRETARY

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

Members: becoming and ceasing to be a Member

24. MEMBERSHIP

- 24.1. The directors from time to time shall be the only Members and a director shall become a Member on becoming a director.
- 24.2. A Member shall cease to be a Member if they cease to be a director.

25. TRANSFER OF MEMBERSHIP

Membership shall not be transferable.

Decision making by Members: general meetings

26. ANNUAL GENERAL MEETING

The Company shall hold an annual general meeting (**AGM**) at least once every calendar year to be held within the LEP Area and which shall be open to the general public save for items that are determined by the Chair to be commercially sensitive.

27. ATTENDANCE AND SPEAKING AT GENERAL MEETINGS

- 27.1. A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- 27.2. A Member is able to exercise the right to vote at a general meeting when:
- 27.2.1. that Member is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
 - 27.2.2. that Member's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other Members attending the meeting.
- 27.3. The directors may make whatever arrangements they consider appropriate to enable those Members attending a general meeting to exercise their rights to speak or vote at it.
- 27.4. In determining attendance at a general meeting, it is immaterial whether any two or more Members attending it are in the same place as each other.

28. QUORUM FOR GENERAL MEETINGS

- 28.1. No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.
- 28.2. The quorum for a general meeting is seven Members and of these Members, 5 must be Private Sector Directors and 2 must be Local Authority Members.

29. CHAIRING GENERAL MEETINGS

- 29.1. The Chair or, in his or her absence, the Vice Chair shall preside as chair of every general meeting.
- 29.2. If neither the Chair nor the Vice Chair is present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors must appoint one from their number to chair the meeting.

30. ATTENDANCE AND SPEAKING BY NON-MEMBERS

The chair of the meeting may permit other persons who are not Members of the Company to attend and speak at a general meeting and, in the case of an AGM, the chair of the meeting is obliged to permit such other persons who are not Members of the Company to speak.

31. ADJOURNMENT

- 31.1. If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chair of the meeting must adjourn it.
- 31.2. The chair of the meeting may adjourn a general meeting at which a quorum is present if:
- 31.2.1. the meeting consents to an adjournment; or
 - 31.2.2. it appears to the chair of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.

- 31.3. The chair of the meeting must adjourn a general meeting if directed to do so by a majority of the Members present at the meeting.
- 31.4. When adjourning a general meeting, the chair of the meeting must:
- 31.4.1. either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors; and
 - 31.4.2. have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 31.5. If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
- 31.5.1. to the same persons to whom notice of the company's general meetings is required to be given; and
 - 31.5.2. containing the same information which such notice is required to contain.
- 31.6. No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

Voting at general meetings

32. VOTING: GENERAL

Without prejudice to any other provision of these Articles, a resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

33. ERRORS AND DISPUTES

- 33.1. No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 33.2. Any such objection must be referred to the chair of the meeting whose decision is final.

34. POLL VOTES

- 34.1. A poll on a resolution may be demanded:
- 34.1.1. in advance of the general meeting where it is to be put to the vote; or
 - 34.1.2. at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 34.2. A poll may be demanded by:
- 34.2.1. the chair of the meeting;
 - 34.2.2. the directors;
 - 34.2.3. two or more persons having the right to vote on the resolution; or
 - 34.2.4. a person or persons representing not less than one tenth of the total voting rights of all the Members having the right to vote on the resolution.

- 34.3. A demand for a poll may be withdrawn if:
- 34.3.1. the poll has not yet been taken; and
 - 34.3.2. the chair of the meeting consents to the withdrawal.
- 34.4. Polls must be taken immediately and in such manner as the chair of the meeting directs.

35. CONTENT OF PROXY NOTICES

- 35.1. Proxies may only validly be appointed by a notice in writing (a “proxy notice”) which:
- 35.1.1. states the name and address of the Member appointing the proxy;
 - 35.1.2. identifies the person appointed to be that Member’s proxy and the general meeting in relation to which that person is appointed;
 - 35.1.3. is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - 35.1.4. is delivered to the company in accordance with the Articles and any instructions contained in the notice of the general meeting to which they relate.
- 35.2. The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 35.3. Unless a proxy notice indicates otherwise, it must be treated as:
- 35.3.1. allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
 - 35.3.2. appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

36. DELIVERY OF PROXY NOTICES

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

37. AMENDMENTS TO RESOLUTIONS

- 37.1. An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
- 37.1.1. notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48

hours before the meeting is to take place (or such later time as the chair of the meeting may determine); and

37.1.2. the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

37.2. If the chair of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chair's error does not invalidate the vote on that resolution.

Administrative arrangements

38. MEANS OF COMMUNICATION TO BE USED

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

38.1.1. if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five Working Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five Working Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

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

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

38.1.4. if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

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

38.2. In proving that any notice, document or other information was properly addressed, it shall suffice to show that the notice, document or other information was addressed to an address permitted for the purpose by the Act.

39. INDEMNITY AND INSURANCE

39.1. Subject to article 39.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

39.1.1. each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties, or in relation to them including any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated company's) affairs; and

- 39.1.2. the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 39.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 39.2. This article does not authorise any indemnity to the extent that such indemnity would be prohibited or rendered void by any provision of the Act or by any other provision of law and any such indemnity is limited accordingly.
- 39.3. 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.
- 39.4. In this article:
- 39.4.1. companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- 39.4.2. a **relevant loss** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company; and
- 39.4.3. a **relevant officer** means any director or other officer or former director or other officer of the Company, 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 audit.