



South Downs
National Park Authority

Agenda Item 16
Report NPA20/21-21

Report to	South Downs National Park Authority
Date	17 December 2020
By	Head of Governance and Support Services
Title of Report Decision	Establishment of a Company Limited by Shares

Recommendation: The Authority is recommended to:

- 1. Approve the Memorandum and Articles of Association and Conflict of Interests Policy set out at appendix 1 and delegate authority to the Chief Executive in consultation with the Chair of the Authority to amend and finalise the documents in accordance with ongoing specialist advice.**
- 2. Delegate authority to the Chief Executive to authorise the share capital of company of up to £100 on the basis that the Authority will subscribe for all the shares.**
- 3. Note that a proposal for the making of a loan/investment to the company will be brought to a future meeting alongside the operating agreement.**
- 4. Agree the appointment of SDNPA Officers Tim Slaney and Andrew Lee and Authority Members Vanessa Rowlands, Stephen Whale, and William Meyer as Directors of the company.**
- 5. Agree the appointment of Stephen Whale as Chair of the Board of the Company**
- 6. Note that the directors of the company will undertake a process to appoint Independent directors (up to a maximum of 2) in line with the memorandum and articles of association.**
- 7. Agree the amended appendix 7 of the Authority's Standing Orders for Regulation of Authority Proceedings and Business as set out at appendix 3.**
- 8. Note that the operating agreement between the SDNPA and South Downs Commercial Operations Limited will be presented to the NPA for agreement in March 2021.**

I. Introduction

- I.1** As part of the business plan for acquiring Seven Sisters Country Park, which was considered by the NPA at its meeting on 16 May 2019, the NPA were advised of the need to establish a commercial vehicle before being able to undertake activities for a commercial purpose.
- I.2** A paper was considered by the NPA, in private session due to commercial sensitivity and legal advice it contained, in May 2020. This paper set out the proposed model for the commercial vehicle and the NPA approved the establishment of a company limited by shares with the draft company documentation including the Memorandum and Articles of Association to be reported to the Authority for agreement prior to incorporation. Due to

the need for continuing specialist advice the Authority is requested to approve the documents but delegate to the Chief Executive in consultation with the Chair of the Authority the authority to amend and finalise the documents in accordance with that advice.

- 1.3 At the May 2020 meeting it was agreed that the trading company be called "South Downs Commercial Operations Ltd" (SDCO) and be established as a company limited by shares. The NPA also took the following decisions:
1. Agree that a Company Limited by Shares be established to undertake for a commercial purpose the activities identified in the Seven Sisters Country Park business case and any other activities that may be approved and note that a proposal shall be brought back to the Authority for approval regarding the working capital loan identified in the business case.
 2. Agree to delegate authority to the Chief Executive in consultation with the Chair of the Authority, Chief Finance Officer and the Monitoring Officer, to develop the company documentation, including the Memorandum and Articles of Association which shall be reported to the Authority for agreement prior to the incorporation of the company, and to take all other necessary actions in order to establish the company.
 3. Agree to delegate authority to the Chief Executive, in consultation with the Chair of the Authority, to identify Members of the Authority as potential directors of the company and make recommendations for appointment to the Authority.
 4. Agree to delegate authority to the Chief Executive, in consultation with the Chair of the Authority, to undertake the process of selecting non-executive directors (up to a maximum of 2) to join the company board with a decision on the appointment(s) to be taken by the NPA at the appropriate time.
 5. Note the potential implications of the establishment of the company on the governance arrangements of the Authority and that further recommendations addressing any changes required will be presented to the Authority in due course.

2. Policy Context.

- 2.1 Undertaking the activities outlined in the business case for a commercial purpose, and therefore establishing the commercial vehicle, is a key part of delivering the Seven Sisters Country Park Project.
- 2.2 The acquisition of Seven Sisters Country Park has potential contributions to the Partnership Management Plan for Outcomes 1, 2, 3, 4, 5, 6, 7 and 10.

3. Issues for consideration

Memorandum and Articles of Association

- 3.1 Since May officers have worked with Eversheds Sutherland LLP to develop the Memorandum and Articles of Association and Conflicts of Interests Policy to establish the company. These documents are attached as **appendix 1**.
- 3.2 A member workshop was held with the advisors and members have since had sight of the draft Memorandum and Articles of Association and an opportunity to comment on the detail of these. Where appropriate the Memorandum and Articles of Association have been updated to reflect these comments.
- 3.3 Members will note that the Memorandum and Articles of Association contain a substantial list of reserved matters, which will ensure that the directors of the company must refer back to the NPA, as Shareholder, for any significant decisions that may affect the scope of the company's remit, any alternative use of the assets at the seven sisters site, or deviation from the agreed operating agreement and business plan. **Appendix 2** sets out the list of reserved matters and identify those which it is proposed to delegate to the Chief Executive and those matters that will be retained by the Authority.

Directors

- 3.4 It is proposed that the company be managed by a board of directors consisting of SDNPA appointed directors and independent directors appointed by the Board of the Company, the board of directors will manage and have day to day responsibility for the business, with the exception of those matters contained in the reserved matters list.
- 3.5 The Authority is asked to agree the appointment of the following as directors of the company: Vanessa Rowlands, Stephen Whale, William Meyer, Tim Slaney and Andrew Lee, and agree the appointment of Stephen Whale as chair of the Board of the Company.
- 3.6 Independent Directors will be appointed by the Board of the Company in line with the Memorandum and Articles of Association and a process to identify independent directors will commence once the company is established.
- 3.7 Authority to run the company is conferred on the directors by a company's Articles but may also be conferred by shareholders' resolution. Unless a shareholders' resolution provides otherwise, the directors usually exercise their powers collectively (that is by joint decision), but they are permitted by the Articles to delegate their powers either to a committee or to a Director.
- 3.8 The Articles set out how the board of directors will be appointed and removed. The SDNPA would retain the power to remove any SDNPA appointed director from the company. Independent directors can be appointed and removed by the Board of the Company.
- 3.9 The NPA has previously agreed the principle of SDNPA and Independent directors being appointed and this is captured in the mems and arts. Both will have the same legal duties, however, independent directors would participate in the decision-making process from an independent perspective. This will help mitigate conflicts of interest if they arise.
- 3.10 There are 7 key duties set out in sections 171-177 of the Companies Act 2006 which a director must comply, being:
- act within the powers conferred on him/her by the company's constitution (particularly the articles);
 - to act in a way they consider in good faith would be most likely to promote the success of the company for the benefit of its members as a whole (including the need to have regard to the likely consequences of decisions for various stakeholders including employees, suppliers, customers and creditors);
 - to exercise independent judgement on behalf of the company (i.e. any restrictions entered into with a shareholder as to how to vote which would restrict a director's ability to vote would be a breach of duty);
 - to carry out his/her duties with reasonable care, diligence and skill;
 - to seek to avoid potential conflicts between the company and his/her interests or a duty owed to a third party;
 - not to accept benefits from a third party; and
 - to declare any interests in any proposed transaction or arrangement with the company; and
- 3.11 A director must also comply with his/her duty of confidentiality to the company and with other duties imposed on directors by statute (e.g. Companies Act 2006).
- 3.12 There are risks associated with the appointment of senior SDNPA Officers and members as directors of the company, in particular in relation to conflicts of interest and decision making. A director of a company has a duty to act in the interests of the company and, where the interest of the shareholders diverges from the interest of the company, the director must act in the interest of the company, not the appointing shareholder. Officers and Members appointed to the company board will still have to comply with all necessary SDNPA codes of conduct when undertaking their duties, and potentially declare an interest

at any Authority meeting where company business or matters relating to Seven Sisters Country Park is discussed. A proposed conflict of interest policy is attached at appendix xx and appropriate training and guidance will be provided to all Officers and Members appointed to the company to ensure they are aware of their obligations and how best to meet these.

- 3.13 Although the NPA initially anticipated appointing the Chief Executive as a chair of the company it is now considered more appropriate for the Chief Executive to focus his time of the development and implementation of phases 2 and 3 of the project which will now take longer than previously expected.
- 3.14 The proposed appointments will mitigate the potential for significant conflicts of interest to arise and ensure there is appropriate senior management advice available to the Authority on matters relating to the company and the Seven Sisters Country Park. Consideration will need to be given to managing, on a day to day basis, potential conflicts on the overall work of the Authority.
- 3.15 The proposed company directors are considered to have appropriate skills and experience to undertake the role of director of the company. Any remaining skills gap will be filled through the appointment of Independent Directors. A short pen portrait of the proposed SDNPA Directors is set out in the exempt **appendix 4**.

Start-up loan /Investment

- 3.16 There are ongoing discussions regarding the varying benefits and dis-benefits of a loan compared with an investment and further advice is being sought, particularly in relation to any state aid implications that may arise. A proposal for the making of such a loan/investment to the company will be brought to a future meeting of the authority alongside the operating agreement.

Reserved matters

- 3.17 The Memorandum and Articles of Association set out a substantial list of matters that are reserved to the Shareholder (the NPA) to decide upon. The reserve matters ensure that conflicts of interest can be mitigated as far as possible and that the necessary controls are in place to protect the application of the teckal exemption (which relates to an exemption for the Authority regarding procurement rules)
- 3.18 In order to aid the effective running of the company It is proposed that some of the reserved matters be delegated to the Chief Executive and others retained for decisions by the Authority.
- 3.19 For clarification, the urgency rules set out in standing orders would be applicable to the matters retained for decision by the Authority, and these powers rely on consultation with the Chair of the Authority, or if he/she is unavailable the deputy chair. The urgency powers were recently updated to include the committee chairs, if the chair and deputy chair are unable to act, to ensure adequate member input is sought before such decisions are taken. Such decisions must be recorded and reported to all members within 3 days of the decision being taken and reported to the NPA by the Chief Executive at the first available meeting after the decision has been taken.
- 3.20 Proposed allocation of reserved matters is set out at **appendix 2**.

Operating agreement

- 3.21 The ownership and operating model for the Country park remains that ownership of the Seven Sisters site will sit with SDNPA who, through an appropriate operating agreement involving a commercial annual fee to be paid by the company, will contract with the company to deliver activities for a commercial purpose through the asset. The company will manage and operate the sites at Exceat and Foxholes within the Country Park.
- 3.22 SDNPA will carefully monitor the activities of the Trading Company through the application of the reserved matters, and through P&R committee and reports to the NPA to ensure that during the term of the Operating Agreement, the Trading Company adheres to the

business plan and operating agreement

3.23 The proposed operating agreement will be bought to the NPA for agreement in March 2021.

4. Options & cost implications

4.1 The Authority may decide not to endorse the Memorandum and Articles of Association and require to these to be bought back in a final version or may wish to not agree the appointment of the proposed Directors. further consideration of these issues will add significant delay to the establishment of the company.

5. Next steps

5.1 Subject to approval final steps will be taken to establish the company with a view to having it operational to coincide with the transfer of the SSCP site from ESCC.

5.2 Further decisions will be required to be taken by the NPA including on the basis of the loan/investment.

5.3 Training will be provided for Directors of the company to ensure they fully understand their duties and obligations.

5.4 Authority's Standing orders for Regulation and Authority Proceedings and Business will be updated and republished to reflect the changes to the scheme of delegation.

6. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	Yes as set out above
Does the proposal raise any Resource implications?	The resources required in relation to the acquisition of the Seven Sisters Country Park have been previously agreed by the NPA and allocated to the Seven Sisters' project. The resource implications of this work will be met from within the project resources, with the loan being met from reserves.
How does the proposal represent Value for Money?	By using the power to undertake activities for a commercial purpose, a surplus can be generated which will support wider SDNPA spending on activities in the National Park.
Are there any Social Value implications arising from the proposal?	No
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Yes, the business case for SDNPA managing the Country Park is based partly on increasing access to the Country Park and improving the visitor experiences, for people of different ethnic origins and those of different physical capabilities and mental health. The trading company will support the delivery of these improvements
Are there any Human Rights implications arising from the proposal?	None
Are there any Crime & Disorder implications arising from the proposal?	No

Are there any Health & Safety implications arising from the proposal?	There are none arising directly from this report. The health and safety issues that may arise from acquisition of the site will be managed in line with our adopted health and safety processes.
Are there any Data Protection implications?	None. Existing data processing methodologies will be used. Any additional personal data collected in relation to operations at Seven Sisters Country Park will be processed in line with Data protection requirements.
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy?	Living within environmental limits, Ensuring a strong healthy and just society, Achieving a sustainable economy, Promoting good governance , Using sound science responsibly.

7. Risks Associated with the Proposed Decision

- 7.1 A failure to agree the proposed company documentation would prevent the Authority's previous decision to establish the company to be enacted which would impact upon the delivery of the aspirations of the NPA, as income could not be generated through activities for a commercial purpose to offset the initial investment.

ROBIN PARR

Head of Governance & Support Services South Downs National Park Authority

Contact Officer:

Robin Parr

Tel:

01730 819207

email:

Robin.parr@southdowns.gov.uk

Appendices

1. Memorandum and Articles of Association
2. Reserved matters list
3. Draft Updated appendix 7 of the Authority's Standing orders for Regulation and Authority Proceedings and Business.
4. Pen portraits of proposed directors
This appendix is not for publication as it contains information within paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972, being information relating an individual and that in all the circumstances of the case, the public interest in maintaining the exempt information outweighs the public interest in disclosing the information. This conclusion was reached on the basis that whilst there is a public interest in maintaining transparency of Authority proceedings in relation to the business of the Authority it is felt that on balance this is outweighed by the individual's right to privacy.

SDNPA Consultees

Chief Executive; Monitoring Officer.

External Consultees

None

Background Documents

None

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY GUARANTEE

MEMORANDUM OF ASSOCIATION

OF

South Downs Commercial Operations Limited

(the "Company")

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

Name of subscriber

Authentication by each subscriber

South Downs National Park Authority

Dated:

[2020]

Articles of Association of South Downs Commercial Operations Limited

TABLE OF CONTENTS

Article	Page
1 PRELIMINARY	1
2 INTERPRETATION	1
3 UNANIMOUS DECISIONS OF DIRECTORS	3
4 CALLING A DIRECTORS' MEETING	3
5 NUMBER OF DIRECTORS AND APPOINTMENT AND REMOVAL	3
6 QUORUM FOR DIRECTORS' MEETINGS	4
7 CASTING VOTE	5
8 DIRECTORS' INTERESTS	5
9 TERMINATION OF DIRECTOR'S APPOINTMENT	7
10 DIRECTORS' PENSIONS AND GRATUITIES	7
12 ALTERNATE DIRECTORS' EXPENSES	9
13 SHARES	9
15 TRANSFER OF SHARES.....	10
16 TRANSMITTEES BOUND BY PRIOR NOTICES	10
17 NOTICE OF GENERAL MEETINGS	10
18 PROCEEDINGS AT GENERAL MEETINGS	10
20 WRITTEN RESOLUTIONS	11
22 COMPANY COMMUNICATION PROVISIONS.....	11
23 DIRECTORS' INDEMNITY AND INSURANCE	12
24 REGISTERED OFFICE	13
Appendices	
1 ANNEXURE - Model Articles	17

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

South Downs Commercial Operations Limited

•

1. **PRELIMINARY**

The model articles of association for private companies limited by shares contained in Schedule 1 to The Companies (Model Articles) Regulations 2008 in force on the date when these Articles become binding on the Company ("**Model Articles**") (a copy of which is annexed) apply to the Company except in so far as they are excluded or varied by these Articles.

2. **INTERPRETATION**

2.1 In these Articles the following expressions have the following meanings unless inconsistent with the context:

"2006 Act"	the Companies Act 2006 (as amended from time to time)
"these Articles"	these Articles of Association as amended from time to time
"Board"	The board of directors of the Company
"Business Plan"	the business plan unanimously approved by the Shareholders within 7 days of incorporation of the Company as may be amended, developed, expanded and replaced (in each case in accordance with the unanimous approval of the Shareholders) from time to time
" Ordinary Shares"	Ordinary shares of £1 each in the Company
"Board Appointed Directors"	Shall have the meaning given in Article 5.1
"Contributions"	as defined in Article 21.1
"Contributor"	as defined in Article 21.1
"Controlled Company"	as defined in the Local Government and Housing Act 1989

“electronic means”	have the meaning given in section 1168 of the 2006 Act
“eligible directors”	has the meaning given in Model Article 8(3)
“Group”	Shall have the meaning set out in Article 8.8.3
“Local Authority Company Requirements”	Shall have the meaning set out in Article 28.3
“Mutual Members Account”	as defined in Article 21.1
“Permitted Share Issue”	an issue of ordinary shares complying with Article 13 under which such ordinary shares are offered for subscription at a price per share approved in writing by shareholders holding shares carrying at least 85 per cent of the voting rights in the Company
“Permitted Transfer”	as defined in Article 14.4
Regulated Company	A company which satisfies the conditions for a regulated company for the purpose of the Local Authority (Companies) Order 1995 (as amended)
“Relevant Proportions”	[the proportions in which the shareholders hold the shares from time to time]
“Reserved Matters”	The reserved matters set out in Schedule 1 to these articles
“return of surplus”	as defined in Article 21.3
“SDNPA”	The South Downs National Park Authority
“the Statutes”	the Companies Acts as defined in Section 2 of the 2006 Act and every other statute, order, regulation or other subordinate legislation in force from time to time relating to companies and affecting the Company
Teckal entity	an entity which satisfies the requirements of Regulations 12(1) or 12(4) of the Public Contracts Regulations 2015 (“PCR”) for the purpose of a contracting authority directly awarding contracts to that entity without the need to undertake any procurement process under Part II PCR
“United Kingdom”	Great Britain and Northern Ireland

2.2 Unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Statutes but excluding any statutory modification of the same not in force when these Articles become binding on the Company.

2.3 References to any statute or statutory provision include, unless the context otherwise requires, a reference to that statute or statutory provision as modified, replaced, re-enacted or consolidated and in force from time to time and any subordinate legislation made under the relevant statute or statutory provision.

3A GENERAL POWERS OF DIRECTORS

3A.1 The directors shall exercise the powers of the company ensuring at all times that for so long as the Company is a Regulated Company, the Company shall do all the things that

are required to be done and shall not do anything which is not permitted to be done in accordance with the Local Authorities (Companies) Order 1995 including without limitation:

- (a) mentioning on all documents (being of any kind mentioned in Section 82 of the 2006 Act) the fact that it is a company controlled by South Downs National Park Authority;
- (b) not engaging in activities for party political purposes or publish, or arrange for the publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party;
- (c) giving financial or other assistance to a person for the publication of material which the Company is prohibited by Article 3A.1(a) from publishing itself;
- (d) instructing its auditors to provide such information and explanation about the affairs of the Company to the auditor for the time being of the relevant authority as that person may require for the purposes of the audit of the relevant authority's accounts;
- (e) providing information to members of the relevant authority such information about the affairs of the Company as such member or members reasonably requires for the proper discharge of his/her duties (except where provision of such information would breach any enactment or obligation owed to any other person to keep such information confidential).

3A.2 The directors shall exercise the powers of the company ensuring at all times that for so long as the Company is a Controlled Company, the Company shall make available for inspection by any member of the public a copy of the minutes of any general meeting of the Company (except where disclosure of such information would breach any enactment or obligation owed to any other person to keep such information confidential);

3A.3 The directors shall not engage in any of the Reserved Matters detailed in Schedule 1 without the prior written consent of each of the Shareholders.

3. UNANIMOUS DECISIONS OF DIRECTORS

A decision of the directors 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. Model Article 8(2) shall not apply to the Company.

4. CALLING A DIRECTORS' MEETING

4.1 Any director may call a directors' meeting by giving not less than five (5) 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. In the event of an emergency situation, the directors may call a meeting on shorter notice if the issue at hand justifies such shorter notice. Model Article 9(1) shall not apply to the Company.

4.2 Notice of a directors' meeting shall be given to each director in writing. Model Article 9(3) shall not apply to the Company.

5. NUMBER OF DIRECTORS AND APPOINTMENT AND REMOVAL

5.1 The maximum number of directors shall be 7 and the minimum shall be 1. Five (5) of the directors shall be appointed and removed by a decision of the Shareholders. The board shall appoint 2 directors (the "Board Appointed Directors") who will be independent of SDNPA and the Company and the board will have power to remove them. Model Article 17 shall not apply to the Company.

5.2 Each such appointment and removal as referred to in **Article 5.1**, shall be made by notice in writing to the Company with the accompanying resolution of the Board or Shareholders as applicable. A notice which is not in electronic form shall take effect when it is deposited at the registered office for the time being of the Company or when delivered to

a meeting of the directors. A notice which is in electronic form shall take effect when it is received at the address specified by the Company for the purpose of receiving such communications in electronic form.

6. QUORUM FOR DIRECTORS' MEETINGS

6.1 The quorum for directors' meetings shall throughout each meeting be 3, at least two of whom must be directors who have been appointed by the Shareholders, save where there are less than 3 directors in office at any time in which case the quorum shall be the number of directors in office. Model Articles 11(2) and 11(3) shall not apply to the Company.

6.2 If the total number of directors in office is less than three (3), the directors must not take any decision other than a decision to:

6.2.1 appoint further directors, subject to Article 5.1; or

6.2.2 to call a general meeting so as to enable the Shareholders to appoint further directors

6.3 If there is no quorum participating in any meeting of the directors within one hour after the time fixed for the meeting, the meeting shall be adjourned to such time (not being earlier than seven days after the date of the original meeting) as the director or directors participating in the meeting shall determine. If there is no quorum participating within one hour after the time fixed for the adjourned meeting, the meeting shall be further adjourned as aforesaid. If there is no quorum participating within one hour after the time fixed for the further adjourned meeting the director or directors participating, whatever their number and their designations, shall constitute a quorum.

6.4 Any decision of the directors shall either be a unanimous decision taken in accordance with Model Article 8 or shall be determined by a majority of votes provided that any matter agreed by shareholders to require the unanimous consent of the directors shall be deemed not to have been carried if any director participating (or their respective alternates) votes against the motion and Model Article 7(1) shall not apply to the Company.

6.5 The following shall be added as paragraph (4) to Model Article 11:-

"(4) If, as a consequence of section 175(6) of the 2006 Act, a director cannot vote or be counted in the quorum at a directors' meeting then the following shall apply:-

(a) if the eligible directors participating in the meeting do not constitute a quorum then the quorum for the purposes of the meeting shall be reduced by one for each director who cannot vote or be counted in the quorum; and

(b) if despite sub-paragraph (a) the eligible directors participating in the meeting still do not constitute a quorum or there are no eligible directors then the meeting must be adjourned to enable the shareholders to authorise any situation in which a director has a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company."

6.6 Unless otherwise agreed, the directors may delegate any of their powers to any committee consisting of 2 directors or more. The directors may also entrust to and confer upon any director any of the powers exercisable by them. Any such delegation may be made upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers, and the directors may from time to time revoke, withdraw, alter or vary all or any of such powers. Subject to any such conditions, the proceedings of such a committee shall be governed by these Articles regulating the proceedings of directors so far as they are capable of applying. Model Articles 5 and 6 shall not apply to the Company.

6.7 The directors shall not engage in any of the Reserved Matters detailed in Schedule 1 without the prior written consent of each of the Shareholders.

7. CHAIRING DIRECTORS' MEETINGS

7.1 The Shareholders may at any time, and from time to time, appoint any director to be Chairperson of the Board, and may at any time remove him/her from that office. The director so appointed shall preside at meetings of the directors at which he/she is present.

7.2 If there is no director holding the office of Chairperson, or if the director holding such office is not present within fifteen minutes after the time appointed for commencement of the meeting the directors present may appoint one of their number to act as Chairperson of that meeting.

7.3 If in respect of any item of business the Chairperson for that meeting is not able or is unwilling to participate in that business by virtue of Article 8 and Model Article 14 then another director (who is able and willing to participate and vote in respect of that item) will be appointed to preside and act as Chairperson over the meeting for that item of business only.

7.4 If the number of votes for and against a proposal are equal, the Chairperson (or other director undertaking the role of Chairperson for that item of business pursuant to the above) has a casting vote.

8. DIRECTORS' INTERESTS

8.1 Subject to these Articles and the 2006 Act, and provided that he has disclosed to the directors the nature and extent of any interest of his, a director:

8.1.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested;

8.1.2 may hold any other office or employment with the Company (other than the office of auditor);

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

8.1.4 may, or any firm or company of which he is a member or director may, act in a professional capacity for the Company or any body corporate in which the Company is in any way interested (other than as auditor);

8.1.5 shall not be accountable to the Company for any benefit which he receives or profits made as a result of anything permitted by **Articles 8.1.1 to 8.1.4** and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

8.2 Whenever a director has an interest in a matter to be discussed at a meeting of the Board the director concerned shall declare such interest at or before discussions begin on the matter. Except where the provision of Model Article 14(3), Article 8.6 or Article 8.8 applies, and subject to the provisions in Article 8.4, he/she shall withdraw from the meeting for that item and the provision of Model Article 14(1) shall apply.

8.3 Model Article 14(4) is amended by including as Model Article 14(4)(d) the following additional permitted causes:

"his/her interest arises [solely] as a consequence of his/her office within, employment or other formal engagement by, or appointment as a member of, South Downs National Park Authority"

- 8.4 Subject always to section 175(6) of the Act, a director does not have to withdraw from the meeting and shall count for the purposes of the quorum for the meeting but shall not be entitled to vote in relation to that item in respect of a vote under section 175(4) of the 2006 Act (authorising any conflict of interest which a director or any other interested director may have).

A director shall be entitled to vote in any of the circumstances set out in Model Articles 14(3) and 14(4) as amended, save where reliance is placed on an authorisation from the Board and the terms of that authorisation provide that such a director shall not vote in the circumstances that do or would be likely to apply in respect of the matter in question.

- 8.5 For the purposes of **Article 8.2:**

8.5.1 a general notice given in accordance with the 2006 Act is to be treated as a sufficient declaration of interest;

8.5.2 a director is not required to declare an interest either where he is not aware of such interest or is not aware of the transaction or arrangement in question; and

8.5.3 an interest of a director who appoints an alternate director shall be treated as an interest also of the alternate director.

- 8.6 For the purposes of section 175 of the Companies Act 2006 the directors shall have the power to authorise on such terms (including as regards duration and revocation) and subject to such limitations or conditions (if any) as they may determine, any matter which would or might if not so authorised constitute or give rise to a situation in which a director has or can have a direct or indirect interest which conflicts or possibly may conflict with the interests of the Company. Any such authorisation will extend to any actual or possible conflict of interest which may be reasonably connected with or reasonably expected to arise from such matter.

- 8.7 Where directors give an authorisation pursuant to Article 8.6:

8.7.1 the terms of the authorisation shall be recorded in writing (but the authorisation will be valid irrespective of whether or not it is recorded);

8.7.2 the directors may at any time revoke, partially revoke, suspend or vary such authorisation but this will not have retrospective effect and so will not affect anything done prior to such revocation, partial revocation, suspension or variation coming into force;

8.7.3 the director shall be obliged to comply with and conduct himself/herself in accordance with the terms limitations and/or conditions subject to which the authorisation is expressly made, if any;

8.7.4 the authorisation may include requirements setting out the extent to which a relevant director (in respect of which the conflict or potential for conflict arises) shall be excluded from the receipt of documents or information, the participation in discussion and/or the making of decisions (whether at directors' meetings or otherwise) related to the matters or any specific matter covered by the authorisation;

8.7.5 the authorisation may provide that where the relevant director (in respect of which the conflict or potential for conflict arises) obtains information related to the conflict that is confidential to a third party, then provided such information was not obtained in his/her role as a director or employee of the Company, he/she will not be obliged to disclose that information to the Company or use or apply that information in relation to the Company's affairs, where to do so would amount to a breach of that confidence;

- 8.7.6 the authorisation may also provide that the relevant director may (but shall not be under an obligation to) absent himself/herself from the discussion of and/or the making of decisions relating to the matters covered by the authorisation (whether at any meeting of the directors or otherwise) and be excused from reviewing documents and information prepared by or for the directors to the extent they relate to such matters; and
- 8.7.7 anything done or permitted to be done in accordance with the terms limitations and/or conditions of an authorisation shall not constitute a breach by him/her of the duties under section 172 to 175 of the Companies Act 2006.
- 8.8 The directors shall be deemed to have authorised, for the time being, each director to perform all the functions of a director (including without limitation attendance at meetings, review of all information and documents prepared for directors, involvement in discussions and making of decisions) in respect of any matter which, but for this authorisation, would or might constitute or give rise to a situation in which a director has or can have a direct or indirect interest which conflicts or possibly may conflict with the interests of the Company by virtue of or in connection with his/her position (whether as director, officer, employee, agent or other appointment) or other interest or concern in any member of the Group and for this purpose:
- 8.8.1 the authorisation shall include the provisions permitted by Articles 8.7.5 and 8.7.6;
- 8.8.2 no revocation, suspension or variation of this deemed authorisation shall be valid or effective unless confirmed in writing by each of the Shareholders.
- 8.8.3 the Group shall constitute any of the following entities:
- 8.8.3.1 the Company;
- 8.8.3.2 any body corporate which is for the time being a Subsidiary of the Company;
- 8.8.3.3 any body corporate of which the Company is for the time being a Subsidiary (the "Parent");
- 8.8.3.4 any body corporate which is for the time being a Subsidiary of the Parent

9. **TERMINATION OF DIRECTOR'S APPOINTMENT**

In addition to the circumstances set out in Model Article 18 (a) to (f) (inclusive):

- 9.1 a person ceases to be a director as soon as that person is removed from office as a director pursuant to **Article 5.1.**;
- 9.2 where appointment as a director by the Shareholders is made by reason of that person's post or office with SDNPA then such person shall cease to be a director immediately on vacating such post or office.

10. **DIRECTORS' PENSIONS AND GRATUITIES**

The directors may not exercise their powers of the Company to give and provide pensions, annuities, gratuities or any other benefits whatsoever to or for present or former directors or employees (or their dependants) of the Company or any subsidiary undertaking (as defined in section 1162 of the 2006 Act) or associated undertaking (as defined in section 479(4) of the 2006 Act) of the Company and the directors shall not be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers, save that the directors shall be entitled to be reimbursed for their reasonable expenses.

11. ALTERNATE DIRECTORS

11.1 Appointment and removal of alternates

11.1.1 Any director (the "appointor") may appoint as an alternate any other director, or any other person approved by the Majority Shareholder, to:

11.1.1.1 exercise that director's powers; and

11.1.1.2 carry out that director's responsibilities,

in relation to participation in directors' meetings and the taking of decisions by the directors in the absence of the alternate's appointor.

11.1.2 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 Majority Shareholder.

11.1.3 The notice must:

11.1.3.1 identify the proposed alternate; and

11.1.3.2 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.

11.2 Rights and responsibilities of alternate directors

11.2.1 An alternate director has the same rights, in relation to participation in directors' meetings and the taking of decisions by the directors and in relation to directors' written resolutions, as the alternate's appointor.

11.2.2 An alternate director may act as an alternate director for more than one appointor.

11.2.3 Except as these Articles specify otherwise, alternate directors:-

11.2.3.1 are deemed for all purposes to be directors;

11.2.3.2 are liable for their own acts and omissions;

11.2.3.3 are subject to the same restrictions as their appointors; and

11.2.3.4 are not deemed to be agents of or for their appointors.

and, 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.

11.2.4 A person who is an alternate director but not a director:-

11.2.4.1 may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating), and

11.2.4.2 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).

No alternate may be counted as more than one director for such purposes.

- 11.2.5 A director who is also an alternate director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the directors (provided that his appointor is an eligible director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present.
- 11.2.6 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company.

11.3 Termination of alternate directorship

- 11.3.1 An alternate director's appointment as alternate terminates:-
 - 11.3.1.1 when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
 - 11.3.1.2 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;
 - 11.3.1.3 on the death of the alternate's appointor; or
 - 11.3.1.4 when the alternate's appointor's appointment as a director terminates.

12. ALTERNATE DIRECTORS' EXPENSES

Model Article 20 shall be amended by the insertion of the words "(including alternate directors)" before the words "properly incur".

13. SHARES

- 13.1 The directors shall not exercise any power of the Company to allot shares or other securities in, or to grant rights to subscribe for, or convert into, shares or other securities of, the Company without the prior written consent of each of the Shareholders. Without limitation, the powers of the directors under section 550 of the Act are limited accordingly.
- 13.2 In accordance with section 567(1) and (2) of the 2006 Act, sections 561(1) and 562 (1) to (5) (inclusive) of that Act shall not apply to the Company.
- 13.3 No shares shall or may be held by or allotted, issued, granted, transferred or pledged to nor may any right to subscribe for or to convert any security into any shares be granted to any person which would or might cause the Company to lose its status as a Teckal entity.
- 13.4 Without prejudice to Article 13.3, no shares shall be allotted nor any right to subscribe for or to convert any security into any shares shall be granted unless at least one month before that allotment or grant (as the case may be) every shareholder for the time being has consented in writing to that allotment or grant (including the terms and the identity of the proposed grantee or allottee).
- 13.5 No shares shall be allotted to any employee, director, prospective employee or director unless such person has entered into a joint election with the Company under section 431 of the Income Tax (Earnings and Pensions) Act 2003.

14. TRANSFER OF SHARES

14.1 Model Article 26(5) shall be amended by the addition of the following words: "The directors may not refuse to register the transfer of a share made with the prior written approval of each of the Shareholders. In any other case" before the words "the directors may refuse to register".

Unauthorised transfers void

14.2 Any transfer or purported transfer of a share made otherwise than in accordance with the provisions of **Articles 14.1** shall be void and of no effect.

14.3 The provisions of **Articles 14.1** shall not apply to a Permitted Transfer (as defined in **Article 14.4**).

14.4 A "Permitted Transfer" means:

14.4.1 any transfer of any shares to which all the shareholders give their consent in writing; and

14.4.2 any transfer of any shares by a corporate shareholder to an associated undertaking (as defined in section 479(4) of the 2006 Act) which would not cause a loss of status as a Teckal entity;

14.5 For the purpose of **Article 14.4** inclusive, the word "shareholder" includes any former shareholder and the executors, administrators or other personal representatives of a deceased shareholder or former shareholder.

15. TRANSMITTEES BOUND BY PRIOR NOTICES

Model Article 29 shall be amended by the insertion of the words ", or the name of any person nominated under Model Article 27(2), "after the words "the transmittee's name".

16. ANNUAL GENERAL MEETINGS

An annual general meeting shall be held once a year, at such time and place, including by means of electronic facility or facilities, as may be determined by the directors.

17. NOTICE OF GENERAL MEETINGS

Every notice convening a general meeting shall:

17.1 comply with section 325(1) of the 2006 Act as to giving information to shareholders relating to their right to appoint proxies; and

17.2 be given in accordance with section 308 of the 2006 Act, that is in hard copy form, electronic form or by means of a website.

18. PROCEEDINGS AT GENERAL MEETINGS

18.1 No resolution shall be voted on and no other business shall be transacted at any general meeting of the Company unless a quorum is present when such vote is taken or other business is transacted and no resolution or transaction shall be effective unless a quorum is so present.

18.2 If the Company has only one shareholder, the presence at a general meeting of that shareholder or its proxy or representative constitutes a quorum. If the Company has more than one shareholder, a quorum shall consist of two Shareholder Representatives present in person or by proxy or (in the case of a shareholder being a corporation) by representative.

18.3 If a quorum is not present within half an hour from the time appointed for a general meeting or if, during any general meeting, a quorum ceases to be present, the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other place as the directors may determine; and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed for the same the Shareholder Representatives present provided, in the case where there is more than one class of shares, they hold between them more than one class of shares, shall form a quorum. Model Article 41(1) to (5) inclusive shall not apply to the Company.

19. **VOTES OF SHAREHOLDERS**

19.1 Subject to any rights or restrictions for the time being attached to any class or classes of shares, on a written resolution every shareholder has one vote in respect of each share held by him, on a show of hands every shareholder entitled to vote who (being an individual) is present in person or by proxy (not being himself a shareholder entitled to vote) or (being a corporation) is present by a representative or proxy (not being himself a shareholder entitled to vote) has one vote and, on a poll, each shareholder has one vote for each share held by him.

20. **WRITTEN RESOLUTIONS**

20.1 A written resolution, proposed in accordance with section 288(3) of the Companies Act 2006, will lapse if it is not passed before the end of the period of 28 days beginning with the circulation day.

20.2 For the purposes of this **Article 20 "circulation day"** is the day on which copies of the written resolution are sent or submitted to shareholders or, if copies are sent or submitted on different days, to the first of those days.

21. **MUTUAL TRADING ACCOUNT**

21.1 Contributions made by a shareholder (a **"Contributor"**) to the Company in relation to mutual trading (**"Contributions"**) shall be ascribed to a mutual members' account (the **"Mutual Members Account"**).

21.2 No interest shall be payable by the Company on the Contributions.

21.3 Subject to applicable law (including, without limitation, the provisions of the Statutes), any surpluses from mutual trading may be demanded by the Contributors from the Mutual Members Account (a **"return of surplus"**) provided that:

21.3.1 such surpluses shall not exceed the Contributions; and

21.3.2 the Contributors have provided not less than 30 days' notice in writing of such demand.

21.4 The amount of the return of surplus made to each Contributor shall be made in proportion to their Contribution relating to aggregate Contributions.

21.5 The amount of aggregate return of surplus to each Contributor shall not exceed the amount of Contribution(s) provided by such Contributor.

22. **COMPANY COMMUNICATION PROVISIONS**

22.1 Where:-

22.1.1 a document or information is sent by post (whether in hard copy or electronic form) to an address in the United Kingdom and

22.1.2 the Company is able to show that it was properly addressed, prepaid and posted.

it is deemed to have been received by the intended recipient 24 hours after it was posted.

22.2 Where:-

22.2.1 a document or information is sent or supplied by electronic means, and

22.2.2 the Company is able to show that it was properly addressed,

it is deemed to have been received by the intended recipient immediately after it was sent.

22.3 Where a document or information is sent or supplied by means of a website, it is deemed to have been received by the intended recipient -

22.3.1 when the material was first made available on the website, or

22.3.2 if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website.

22.4 Pursuant to section 1147(6) of the 2006 Act, subsections (2) (3) and (4) of that section shall be deemed modified by **Articles 22.1, 22.2 and 22.3.**

23. DIRECTORS' INDEMNITY AND INSURANCE

23.1 Subject to, and so far as may be permitted by, the 2006 Act and without prejudice to any indemnity to which the person concerned may be otherwise entitled, the Company may indemnify every director, former director, alternate director, secretary or other officer of the Company or of any associated company (as defined in section 256 of the 2006 Act) against any liabilities incurred by him in the execution and discharge of his duties or the exercise of his powers or otherwise in relation to or in connection with his duties, powers or office, including any liability which may attach to him in respect of any negligence, default, breach of duty or breach of trust in relation to anything done or omitted to be done or alleged to have been done or omitted to be done by him as a director, former director, alternate director, secretary or other officer of the Company or of any such associated company and against any such liability incurred by him in connection with the Company's activities as trustee of an occupational pension scheme as defined in section 235(b) of the 2006 Act.

23.2 Subject to the 2006 Act the directors may purchase and maintain at the cost of the Company insurance cover for or for the benefit of every director, former director, alternate director, secretary or other officer of the Company or of any associated company (as defined in section 256 of the 2006 Act) against any liability which may attach to him in respect of any negligence, default, breach of duty or breach of trust by him in relation to the Company (or such associated company), including anything done or omitted to be done or alleged to have been done or omitted to be done by him as a director, former director, alternate director, secretary or other officer of the Company or associated company.

23.3 Subject to, and so far as may be permitted by, the 2006 Act, the Company shall be entitled to fund the expenditure of every director, former director, alternate director or other officer of the Company incurred or to be incurred:

23.3.1 in defending any criminal or civil proceedings; or

23.3.2 in connection with any application under sections 661(3), 661(4) or section 1157 of the 2006 Act.

23.4 Model Articles 52 and 53 shall not apply to the Company.

24. **REGISTERED OFFICE**

The Company's registered office is to be situated in England and Wales.

25. **WINDING UP**

25.1 Subject to applicable law (including, without limitation, the provisions of the Statutes), if upon the winding up of the Company there remains, after the satisfaction of all of its debts and liabilities, any property whatsoever, the Company shall:

25.1.1 make such return of surplus to Contributors as are permitted in **Article 21**; and

25.1.2 thereafter any property not related to the surplus shall be distributed between shareholders pro rata to the number of shares in the Company held by each shareholder.

26. **MEETINGS**

26.1 In accordance with Model Article 10, directors may attend meetings by any means available to them, including (but not limited to) electronic means.

27. **OBJECTS**

27.1 The Company may not undertake any activity which threatens or may threaten the Company's status as a Teckal entity.

28. **INFORMATION**

28.1 The Company will, and the directors will procure that the Company will, supply the Shareholders with such information as is necessary to keep each Shareholder informed about how the business of the Company is performing and any information which the Shareholder may reasonably request.

28.2 The Company will allow the Shareholders or any person they nominate access at all reasonable times to examine the books and records of the Company and to discuss its affairs with the directors and senior management.

28.3 Without limitation to the foregoing:

28.3.1 the Company shall not do anything that would put SDNPA in breach of its obligations under the Local Authorities (Companies) Order 1985 (as amended), or any legislation which may replace or be implemented to reflect such provisions from time to time (together referred to for the time being as the "Local Authority Company Requirements"), and will do all things that may be required to give effect to the rights that SDNPA would require to enable it to perform its responsibilities under the Local Authority Company Requirements;

28.3.2 the Company hereby authorises all of those directors who are members of the SDNPA to provide any information that may be required by any member of SDNPA in accordance with the Local Authority Company Requirements

Schedule 1: Reserved Matters

The following matters shall be reserved to be determined by the shareholders and the such matters shall only be implemented in accordance with a unanimous resolution of the shareholders:

1. Extend its activities outside the scope of the Business Plan or close down any business operation;
2. Expand, develop or vary the Company's business other than through the Company or a wholly owned subsidiary of the Company;
3. Sell, lease (as lessor), license (as licensor), transfer or otherwise dispose of any of its assets with a value, or at a total price, per transaction exceeding £50,000, except to the extent provided for in the Business Plan.
4. Purchase, lease (as lessee), license (as licensee) or otherwise acquire any assets at a total cost to the Company per transaction exceeding £50,000, except to the extent provided for in the Business Plan.
5. Acquire or agree to acquire any freehold or leasehold interest in or licence over land.
6. Enter into any contract which cannot be terminated within 3 years and/or under which the liability for such termination could exceed £50,000.
7. Enter into or make any contract with a cost to the Company of more than £50,000 unless provided for in the Business Plan.
8. Enter any contract for the supply of services, supplies and/or works to or for a third party which would when aggregated with other contracts for third parties result in risk that the aggregate activity represented by all services, supplies and/or works to or for third parties for the time being would cause the Company to cease to be an entity to which the Authority can let contracts in accordance with regulation 12(1) of the Public Contracts Regulations 2015 (as amended);
9. Incur any item or series of items of capital expenditure of more than £50,000 unless provided for in the Business Plan.
10. Give or take any loans, borrowing or credit (other than normal trade credit in the ordinary course of business).
11. Give any guarantee, suretyship or indemnity to secure the liabilities of any person or assume the obligations of any person.
12. Create any Encumbrance over the whole or any part of the undertaking or assets of the Company or over any Share forming part of the authorised or issued share capital of the Company.
13. Enter into any agreement or arrangement (including for the avoidance of doubt any concession arrangement, lending, licence, lease, disposal or acquisition) which is not in

the ordinary course of the business and/or which is not on an arm's length basis or amend its standard terms of business.

14. Give notice of termination of any agreements of a material nature in the context of the Business or make any material variation or amendment to any such agreements.
15. Commence, settle or defend any claim, proceedings or other litigation brought by or against the Company, except in relation to debt collection *not exceeding £100,000* in the ordinary course of the Business.
16. Appoint or remove or approve the remuneration of the auditors of the Company.
17. Alter the Company's accounting reference date.
18. Approve or sign the annual accounts of the Company.
19. Change any of the Company's accounting or reporting practices.
20. Recruit or dismiss any employee *whose remuneration exceeds £40,000 per annum subject to an aggregate limit of £100,00* unless provided for in the Business Plan *provided always that any employee may be dismissed for gross misconduct without the prior consent of the Shareholders*.
21. Pay any fees, remuneration or other emoluments to any director or vary any such fees, remuneration or emoluments. For the avoidance of doubt this provision shall not apply to the payment or reimbursement of expenses properly incurred by any director in the course of carrying out his duties in relation to the Company nor to any indemnity by the Company to which the director is entitled pursuant to the Articles or under any relevant law.
22. Alter the remuneration or conditions of employment of any employee or any consultant of the Business unless provided for in the Business Plan or unless obliged to do so by statute.
23. Create any share option bonus or other incentive scheme.
24. Establish or amend any pension scheme.
25. Enter into any contracts or arrangements with any of the Shareholders or directors or any person with whom any Shareholder or director is connected, associated or interested (whether as director, consultant, shareholder or otherwise).
26. Change the name of the Company or its registered office.
27. Make any petition or resolution to wind up the Company or any petition for an administration order or any order having similar effect in a different jurisdiction in relation to the Company unless in any case the Company is at the relevant time insolvent and the directors reasonably consider (taking into account their fiduciary duties) that it ought to be wound up.

28. Apply for admission to official listing on a stock exchange or on any other investment exchange.
29. Increase or reduce or cancel the authorised or issued share capital of the Company, allot or agree to allot, whether actually or contingently, any of the share capital of the Company or any security of the Company whether or not convertible into share capital, grant any options or other rights to subscribe for or to convert any security into shares of the Company or alter the classification of any part of the share capital of the Company or issue any loan capital of the Company.
30. Make any capitalisation, repayment or other distribution of any amount standing to the credit of any reserve of the Company or pay or declare any dividend or other distribution to shareholders or redeem or purchase any Shares or otherwise reorganise the share capital of the Company.
31. Admit any person whether by subscription or transfer as a member of the Company
32. Form any subsidiary of the Company, or acquire any shares in any other company, whether through subscription or transfer, such that the company concerned becomes a subsidiary of the Company.
33. Consolidate or amalgamate with any company, association, partnership or legal entity or acquire any business or undertaking of any other person.
34. Enter into any partnership or profit sharing arrangement with any person or create any share option, bonus or other incentive scheme.
35. Make any agreement with any revenue authorities or any other taxing authority, or make any claim, disclaimer, election or consent of a material nature for tax purposes in relation to the Company, its business, assets or undertaking.
36. Alter any of the provisions of the Memorandum of Association or the Articles or any of the rights attaching to the Shares.
37. Appoint or remove any director of the Company (other than the Board Appointed Directors) or agree a remuneration package for any director.
38. Change the bankers of the Company *or open or close any bank accounts.*
39. Without prejudice to any of the above, any activity, operation or transaction which is outside the scope of the business activities, operations and transactions contemplated by, is contrary to any express limitations or restrictions contained within or is otherwise inconsistent with the Business Plan
40. Approve or adopt the Business Plan, any budget and/or maintenance plan and any amendment to any of those documents.
41. Appoint or remove the company secretary
42. Enter into or vary any agreement to do any of the things referred to in this Schedule

APPENDIX 1

ANNEXURE - Model Articles

2008 No. 3229

COMPANIES

The Companies (Model Articles) Regulations 2008

SCHEDULE 1

MODEL ARTICLES FOR PRIVATE COMPANIES LIMITED BY

SHARES

INDEX TO THE ARTICLES

PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

1. Defined terms
2. Liability of members

PART 2

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

3. Directors' general authority
4. Shareholders' reserve power
5. Directors may delegate
6. Committees

DECISION-MAKING BY DIRECTORS

7. Directors to take decisions collectively
8. Unanimous decisions
9. Calling a directors' meeting
10. Participation in directors' meetings
11. Quorum for directors' meetings
12. Chairing of directors' meetings
13. Casting vote
14. Conflicts of interest
15. Records of decisions to be kept
16. Directors' discretion to make further rules

APPOINTMENT OF DIRECTORS

- 17. Methods of appointing directors
- 18. Termination of director's appointment
- 19. Directors' remuneration
- 20. Directors' expenses

PART 3

SHARES AND DISTRIBUTIONS

SHARES

- 21. All shares to be fully paid up
- 22. Powers to issue different classes of share
- 23. Company not bound by less than absolute interests
- 24. Share certificates
- 25. Replacement share certificates
- 26. Share transfers
- 27. Transmission of shares
- 28. Exercise of transmitters' rights
- 29. Transmitters bound by prior notices

DIVIDENDS AND OTHER DISTRIBUTIONS

- 30. Procedure for declaring dividends
- 31. Payment of dividends and other distributions
- 32. No interest on distributions
- 33. Unclaimed distributions
- 34. Non-cash distributions
- 35. Waiver of distributions

CAPITALISATION OF PROFITS

- 36. Authority to capitalise and appropriation of capitalised sums

PART 4

DECISION-MAKING BY SHAREHOLDERS

ORGANISATION OF GENERAL MEETINGS

- 37. Attendance and speaking at general meetings
- 38. Quorum for general meetings
- 39. Chairing general meetings
- 40. Attendance and speaking by directors and non-shareholders
- 41. Adjournment

VOTING AT GENERAL MEETINGS

- 42. Voting: general
- 43. Errors and disputes
- 44. Poll votes
- 45. Content of proxy notices

- 46. Delivery of proxy notices
- 47. Amendments to resolutions

PART 5

ADMINISTRATIVE ARRANGEMENTS

- 48. Means of communication to be used
- 49. Company seals
- 50. No right to inspect accounts and other records
- 51. Provision for employees on cessation of business

DIRECTORS' INDEMNITY AND INSURANCE

- 52. Indemnity
- 53. Insurance

PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

Defined terms

1. In the articles, unless the context requires otherwise-
 - “articles” means the company’s articles of association;
 - “bankruptcy” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
 - “chairman” has the meaning given in article 12;
 - “chairman of the meeting” has the meaning given in article 39;
 - “Companies Acts” means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;
 - “director” means a director of the company, and includes any person occupying the position of director, by whatever name called;
 - “distribution recipient” has the meaning given in article 31;
 - “document” includes, unless otherwise specified, any document sent or supplied in electronic form;
 - “electronic form” has the meaning given in section 1168 of the Companies Act 2006;
 - “fully paid” in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;
 - “hard copy form” has the meaning given in section 1168 of the Companies Act 2006;
 - “holder” in relation to shares means the person whose name is entered in the register of members as the holder of the shares;
 - “instrument” means a document in hard copy form;
 - “ordinary resolution” has the meaning given in section 282 of the Companies Act 2006;
 - “paid” means paid or credited as paid;
 - “participate”, in relation to a directors’ meeting, has the meaning given in article 10;
 - “proxy notice” has the meaning given in article 45;
 - “shareholder” means a person who is the holder of a share;
 - “shares” means shares in the company;
 - “special resolution” has the meaning given in section 283 of the Companies Act 2006;
 - “subsidiary” has the meaning given in section 1159 of the Companies Act 2006;
 - “transmittee” means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and

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

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

Liability of members

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

PART 2

DIRECTORS

DIRECTORS’ POWERS AND RESPONSIBILITIES

Directors’ general authority

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

Shareholders’ reserve power

4. (1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking specified action.
(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

Directors may delegate

5. (1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles:
 - (a) to such person or committee;
 - (b) by such means (including by power of attorney);
 - (c) to such an extent;
 - (d) in relation to such matters or territories; and
 - (e) on such terms and conditions;as they think fit.
(2) If the directors so specify, any such delegation may authorise further delegation of the directors’ powers by any person to whom they are delegated.
(3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

Committees

6. (1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

- (2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

Directors to take decisions collectively

7. (1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8.
- (2) If:
- (a) the company only has one director, and
 - (b) no provision of the articles requires it to have more than one director,
- the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

Unanimous decisions

8. (1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.
- (2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.
- (3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.
- (4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

Calling a directors' meeting

9. (1) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.
- (2) Notice of any directors' meeting must indicate:
- (a) its proposed date and time;
 - (b) where it is to take place; and
 - (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- (3) Notice of a directors' meeting must be given to each director, but need not be in writing.
- (4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held.

Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

Participation in directors’ meeting

- 10. (1) Subject to the articles, directors participate in a directors’ meeting, or part of a directors’ meeting, when:
 - (a) the meeting has been called and takes place in accordance with the articles, and
 - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- (2) In determining whether directors are participating in a directors’ meeting, it is irrelevant where any director is or how they communicate with each other.
- (3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

Quorum for directors’ meetings

- 11. (1) At a directors’ meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- (2) The quorum for directors’ meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.
- (3) If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision:
 - (a) to appoint further directors, or
 - (b) to call a general meeting so as to enable the shareholders to appoint further directors.

Chairing of directors’ meetings

- 12. (1) The directors may appoint a director to chair their meetings.
- (2) The person so appointed for the time being is known as the chairman.
- (3) The directors may terminate the chairman’s appointment at any time.
- (4) If the chairman is not participating in a directors’ meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

Casting vote

- 13. (1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.
- (2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

Conflicts of interest

14. (1) If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- (2) But if paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes.
- (3) This paragraph applies when:
- (a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in the decision-making process;
 - (b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - (c) the director's conflict of interest arises from a permitted cause.
- (4) For the purposes of this article, the following are permitted causes:
- (a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;
 - (b) subscription, or an agreement to subscribe, for shares or other securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
 - (c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries which do not provide special benefits for directors or former directors.
- (5) For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- (6) Subject to paragraph (7), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.
- (7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

Records of decisions to be kept

15. The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

Directors' discretion to make further rules

16. Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

Methods of appointing directors

17. (1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:
- (a) by ordinary resolution, or
 - (b) by a decision of the directors.
- (2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.
- (3) For the purposes of paragraph (2), where two or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

Termination of director's appointment

18. A person ceases to be a director as soon as:
- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
 - (b) a bankruptcy order is made against that person;
 - (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
 - (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
 - (e) ...¹
 - (f) 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.

Directors' remuneration

19. (1) Directors may undertake any services for the company that the directors decide.
- (2) Directors are entitled to such remuneration as the directors determine:
- (a) for their services to the company as directors, and
 - (b) for any other service which they undertake for the company.

¹ Article 18(e) was repealed by the Mental Health (Discrimination) Act 2013. The amendment applies to all private companies created on or after 28 April 2013.

- (3) Subject to the articles, a director's remuneration may:
 - (a) take any form, and
 - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.
- (5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

Directors' expenses

- 20. The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at:
 - (a) meetings of directors or committees of directors,
 - (b) general meetings, or
 - (c) separate meetings of the holders of any class of shares or of debentures of the company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

PART 3

SHARES AND DISTRIBUTIONS

SHARES

All shares to be fully paid up

- 21. (1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

Powers to issue different classes of share

- 22. (1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
- (2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

Company not bound by less than absolute interests

- 23. Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

Share certificates

- 24. (1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.
- (2) Every certificate must specify:
 - (a) in respect of how many shares, of what class, it is issued;
 - (b) the nominal value of those shares;
 - (c) that the shares are fully paid; and
 - (d) any distinguishing numbers assigned to them.
- (3) No certificate may be issued in respect of shares of more than one class.
- (4) If more than one person holds a share, only one certificate may be issued in respect of it.
- (5) Certificates must:
 - (a) have affixed to them the company’s common seal, or
 - (b) be otherwise executed in accordance with the Companies Acts.

Replacement share certificates

- 25. (1) If a certificate issued in respect of a shareholder’s shares is:
 - (a) damaged or defaced, or
 - (b) said to be lost, stolen or destroyed,

that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.
- (2) A shareholder exercising the right to be issued with such a replacement certificate:
 - (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
 - (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
 - (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

Share transfers

- 26. (1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.
- (2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (3) The company may retain any instrument of transfer which is registered.

- (4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- (5) The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

Transmission of shares

- 27. (1) If title to a share passes to a transmittee, the company may only recognise the transmittee as having any title to that share.
- (2) A transmittee who produces such evidence of entitlement to shares as the directors may properly require:
 - (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and
 - (b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- (3) But transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

Exercise of transmittees' rights

- 28. (1) Transmittees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.
- (2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- (3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

Transmittees bound by prior notices

- 29. If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS

Procedure for declaring dividends

- 30. (1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.
- (2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- (4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must

be paid by reference to each shareholders' holding of shares on the date of the resolution or decision to declare or pay it.

- (5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.
- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (7) If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

Payment of dividends and other distributions

- 31. (1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means:
 - (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or
 - (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.
- (2) In the articles, "the distribution recipient" means, in respect of a share in respect of which a dividend or other sum is payable:
 - (a) the holder of the share; or
 - (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
 - (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

No interest on distributions

- 32. The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by:
 - (a) the terms on which the share was issued, or
 - (b) the provisions of another agreement between the holder of that share and the company.

Unclaimed distributions

33. (1) All dividends or other sums which are:
- (a) payable in respect of shares, and
 - (b) unclaimed after having been declared or become payable,
- may be invested or otherwise made use of by the directors for the benefit of the company until claimed.
- (2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.
- (3) If:
- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
 - (b) the distribution recipient has not claimed it,
- the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

Non-cash distributions

34. (1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).
- (2) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:
- (a) fixing the value of any assets;
 - (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
 - (c) vesting any assets in trustees.

Waiver of distributions

35. Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if:
- (a) the share has more than one holder, or
 - (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise.

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

CAPITALISATION OF PROFITS

Authority to capitalise and appropriation of capitalised sums

36. (1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution:

- (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and
 - (b) appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.
- (2) Capitalised sums must be applied:
- (a) on behalf of the persons entitled, and
 - (b) in the same proportions as a dividend would have been distributed to them.
- (3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (5) Subject to the articles the directors may:
- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
 - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
 - (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

PART 4

DECISION-MAKING BY SHAREHOLDERS

ORGANISATION OF GENERAL MEETINGS

Attendance and speaking at general meetings

37. (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.
- (2) A person is able to exercise the right to vote at a general meeting when:
- (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
 - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (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.
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

Quorum for general meetings

- 38. 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.

Chairing general meetings

- 39. (1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.
- (2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:
 - (a) the directors present, or
 - (b) (if no directors are present), the meeting,
 must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.
- (3) The person chairing a meeting in accordance with this article is referred to as “the chairman of the meeting”.

Attendance and speaking by directors and non-shareholders

- 40. (1) Directors may attend and speak at general meetings, whether or not they are shareholders.
- (2) The chairman of the meeting may permit other persons who are not:
 - (a) shareholders of the company, or
 - (b) otherwise entitled to exercise the rights of shareholders in relation to general meetings, to attend and speak at a general meeting.

Adjournment

- 41. (1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.
- (2) The chairman of the meeting may adjourn a general meeting at which a quorum is present if:
 - (a) the meeting consents to an adjournment, or

- (b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- (4) When adjourning a general meeting, the chairman of the meeting must:
 - (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors; and
 - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
 - (a) to the same persons to whom notice of the company's general meetings is required to be given, and
 - (b) containing the same information which such notice is required to contain.
- (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

Voting: general

- 42. 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.

Errors and disputes

- 43. (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.
- (2) Any such objection must be referred to the chairman of the meeting, whose decision is final.

Poll Votes

- 44. (1) A poll on a resolution may be demanded:
 - (a) in advance of the general meeting where it is to be put to the vote, or
 - (b) 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.
- (2) A poll may be demanded by:
 - (a) the chairman of the meeting;

- (b) the directors;
 - (c) two or more persons having the right to vote on the resolution; or
 - (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if:
- (a) the poll has not yet been taken, and
 - (b) the chairman of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

Content of proxy notices

45. (1) Proxies may only validly be appointed by a notice in writing (a "proxy notice") which:
- (a) states the name and address of the shareholder appointing the proxy;
 - (b) identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) the company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as:
- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
 - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

Delivery of proxy notices

46. (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.

- (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.
- (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.
- (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.

Amendments to resolutions

- 47. (1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
 - (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
 - (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
 - (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
 - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- (3) If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

PART 5

ADMINISTRATIVE ARRANGEMENTS

Means of communication to be used

- 48. (1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.
- (2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.
- (3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

Company seals

49. (1) Any common seal may only be used by the authority of the directors.
- (2) The directors may decide by what means and in what form any common seal is to be used.
- (3) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.
- (4) For the purposes of this article, an authorised person is:
- (a) any director of the company;
 - (b) the company secretary (if any); or
 - (c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

No right to inspect accounts and other records

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

Provision for employees on cessation of business

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

DIRECTORS’ INDEMNITY AND INSURANCE

Indemnity

52. (1) Subject to paragraph (2), a relevant director of the company or an associated company may be indemnified out of the company’s assets against:
- (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company.
 - (b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),
 - (c) any other liability incurred by that director as an officer of the company or an associated company.
- (2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.
- (3) In this article:
- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
 - (b) a “relevant director” means any director or former director of the company or an associated company.

Insurance

53. (1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.
- (2) In this article:
- (a) a "relevant director" means any director or former director of the company or an associated company.
 - (b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and
 - (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

Conflicts of Interest Policy

1. Introduction

- 1.1 There are 7 key duties set out in sections 171-177 of the Companies Act 2006 which a director must comply, being:
- 1.1.1 to act within the powers conferred on him/her by the company's constitution (particularly the articles) – section 171;
 - 1.1.2 to act in a way they consider in good faith would be most likely to promote the success of the company for the benefit of its members as a whole (including the need to have regard to the likely consequences of decisions for various stakeholders including employees, suppliers, customers and creditors) – section 172;
 - 1.1.3 to exercise independent judgement on behalf of the company (i.e. any restrictions entered into with a shareholder as to how to vote which would restrict a director's ability to vote would be a breach of duty)- section 173;
 - 1.1.4 to carry out his/her duties with reasonable care, diligence and skill – section 174;
 - 1.1.5 to seek to avoid potential conflicts between the company and his/her interests or a duty owed to a third party – section 175;
 - 1.1.6 not to accept benefits from a third party – section 176; and
 - 1.1.7 to declare any interests in any proposed transaction or arrangement with the company - section 177 (and section 182).
- 1.2 A director must also comply with his/her duty of confidentiality to the company and with other duties imposed on directors by statute (e.g. Companies Act 2006).

2. Principles

- 2.1 This policy applies to directors and is aimed at protecting both the organisation and the individuals involved from any appearance of impropriety in connection with the duty to avoid conflicts of interest under sections 175 and 182 of the Companies Act 2006.
- 2.2 The Company recognises the benefits to the Company of having a board of directors with a diverse range of interests and skills but acknowledges that this will sometimes create conflicts and/or the perception of conflicts between those interests and the best interest of the Company.
- 2.3 A "conflict of interest" is in general terms any direct or indirect interest of the person concerned (whether or not relating to financial/economic interests, loyalty or affiliation) which may influence or interfere (or appear to influence or interfere) with that person's ability to exercise judgement impartially, on the merits, and in good faith in a way which would be most likely to promote the success of the company for the benefit of its members as a whole manner. In this context an "indirect" interest may include matters in which a member of a person's family or one of his/her close friends, associates or a connected entity ("connected persons") may be concerned or have an interest.
- 2.4 Conflicts of interest can:
- 2.4.1 inhibit free discussion;
 - 2.4.2 lead to decisions which are not likely to promote the success of the company for the benefit of its members as a whole and having regard to all those

matters that a director must have regard to when considering the performance of his/her duty under section 172 of the Act;

- 2.4.3 risk the impression that the board has acted improperly; and
- 2.4.4 often result or be associated with other potential breaches of the directors' duties.
- 2.5 As the "Guidance for Directors of companies fully or partly owned by the public sector" issued in 2016 (the "2016 Guidance") states:
- "Conflicts of interest can be actual, potential or perceived.*
- *Actual -there is a real conflict between duties and interests.*
 - *Potential -there could be a conflict between duties and interests.*
 - *Perceived -a third party could form the view that there is a conflict between duties and interests."*
- 2.6 It is fully recognised that where members or officers of SDNPA are appointed as directors of the company, notwithstanding that the company is wholly owned by the SDNPA, there will be potential for their roles as directors to create conflicts with their roles in SDNPA. The Government guidance "General Power for Local Authorities to Trade in Function Related Activities Through a Company" has been withdrawn (having first been published in 2004), but stated:
- "Local authority members and officers should be aware of potential conflicts of interest when carrying out their roles for their authorities, or when acting as directors of trading companies."*
- 2.7 The Corporate Governance Guidance and Principles for Unlisted Companies in the UK explains that:
- 'An important principle of Company Law is that directors have a duty to promote the success of the company as a whole. They are specifically prohibited from directing the activities of the company in favour of themselves or particular shareholders and/ or stakeholders'.*
- 2.8 The 2016 Guidance also explains (in a way that can easily be adapted to the issues of members and officers of local authorities) that:
- "It is worth noting that a civil servant's responsibilities to the relevant Government Department can place demands on him / her as director that make it unrealistic to expect the same degree of independence as one can expect from a director that is not a civil servant. This can sometimes create apparent or real conflicts of interest between the priorities of the relevant Government Department and of the Company in question."*
- 2.9 Whilst changes to the articles of the company have been made, in accordance with the Companies Act 2006, to include provisions to deal with conflicts of interest and the ability of directors to authorise them, there will continue to be a need to comply with the other duties of directors (which may not be possible where a conflict of interest applies) and the officer or member of the SDNPA will still be subject to principles for holding office in the public sector including integrity and objectivity.
- 2.10 Any member or officer acting in the role of director of the company will also need to keep in mind the need to avoid bringing the reputation of SDNPA into disrepute.
- 2.11 The duty to avoid conflicts of interest does not cease when the relevant person ceases to be a director but continues to apply as *"regards the exploitation of any property, information or opportunity of which he became aware at a time when he was a director"*.

2.12 There is no exhaustive list of matters that may create a conflict of interest. As a result directors must remain vigilant, be open and exercise good judgement when considering the nature and extent to which his/her interests may conflict or appear to conflict with those of the Company. Directors should apply a cautionary approach and should in the event of any doubt seek independent guidance.

3. Policy

3.1 The Company, as a wholly owned subsidiary of South Downs National Park Authority, expects its directors and employees to work to the highest personal and professional standards.

3.2 This policy is intended to assist directors in the discharge of their duties to manage and avoid potential conflicts of interest. It complements the other governance documents of the Company including its memorandum and articles and should be read and observed alongside them.

3.3 This policy will not relieve a director from complying with his/her legal and/or professional duties including without limitation in respect of any other codes of conduct to which he/she shall be subject.

4. Register

4.1 The Company Secretary shall maintain a register of Directors' disclosed interests (the "Register"). It will be the responsibility of each director to complete a declaration of interests in the form attached as Appendix 1 to this policy (the "Director's interests declaration") and return it to the Company Secretary so that he/she can enter the details into the Register

4.1.1 on accepting appointment as a director;

4.1.2 on receipt of a request from the Company Secretary to update the Director's interests declaration from time to time (but in the normal course of events this is not anticipated to be more than twice in any year); and

4.1.3 reasonably promptly and within 28 days of becoming aware of any change or addition (including any new interest) to the information comprised in the Director's interests declaration

4.2 It is each director's responsibility to ensure that the register of his/her interests is kept up to date.

4.3 The Register will be open for inspection by [all persons who are entitled to inspect the register of interests of SDNPA members].

4.4 The information provided will be processed in accordance with data protection principles and the General Data Protection Regulation. Data will be processed only to ensure that directors act in accordance with the key duties mentioned in the introduction. The information provided will not be used for any other purpose

5. Declaring an interest

5.1 Whenever a director becomes aware that a matter will or has arisen in a meeting which relates to an interest which may cause a conflict of interest to arise (whether or not that interest is identified in the Register for the time being) he/she shall promptly declare that interest.

5.2 If the interest is a disclosable pecuniary interest (having the same meaning as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, save as mentioned below) then the director will be expected not to participate and/or to cease participating in the discussion on that matter and shall not vote on that matter. He/she must not remain in the meeting (and must absent himself/herself) whilst that matter is

being discussed and voted upon unless the board of Directors shall authorise him/her to remain. An interest shall not be regarded as a pecuniary interest solely because it is a financial interest of SDNPA or if it is identified as a permitted cause under the Articles or it is authorised by Article 8.8 of the Company ("Group interest").

- 5.3 If the interest is an interest other than a pecuniary interest, a permitted cause or a Group interest then the director shall absent himself/herself from the meeting whilst the other directors (without any conflict of interest) vote on whether to authorise the director to be present in the meeting during the discussion of the matter, whether to authorise the director to participate in the discussions on the matter and whether to authorise the director to vote on that matter (with or without conditions).
- 5.4 If the interest is a permitted cause or a Group interest then the articles permit the director to choose to remain in the meeting and to be involved in the discussions and vote. Nevertheless, directors must exercise caution and must consider their other directors duties, any professional codes they may be subject to, their duties under the SDNPA's code of conduct and the Nolan principles. Directors particularly need to consider the risk of perception of conflicts and whether any person (including any auditor) being aware of that director's interest by virtue of the permitted cause or Group interest may consider that the director would be or would have been unable to exercise his/her judgement in good faith in a way that would be most likely to promote the success of the company for the benefit of its members as a whole.
- 5.5 Directors remain personally responsible for managing the risk of conflicts of interest and resolving any that may arise and must remain vigilant at all times to the potential for conflicts of interests to arise or be perceived to arise and seek to minimise situations in which such conflicts are likely to arise.

Reserved Matters

Delegated to the Chief Executive	Matters reserved for the NPA
<p>a) Change the bankers of the Company or open or close any bank accounts.</p> <p>b) Give notice of termination of any agreements of a material nature in the context of the Business or make any material variation or amendment to any such agreements.</p> <p>c) Commence, settle or defend any claim, proceedings or other litigation brought by or against the Company, except in relation to debt collection [not exceeding £100,000] in the ordinary course of the Business.</p> <p>d) Alter the Company's accounting reference date.</p> <p>e) Approve or sign the annual accounts of the Company.</p> <p>f) Change any of the Company's accounting or reporting practices.</p> <p>g) Recruit or dismiss any employee [whose remuneration exceeds £[40,000] per annum subject to an aggregate limit of [£100,000] unless provided for in the Annual Business Plan [provided always that any employee may be dismissed for gross misconduct without the prior consent of the Shareholders].</p> <p>h) Alter the remuneration or conditions of employment of any employee or any consultant of the Business unless provided for in the Annual Business Plan or unless obliged to do so by statute.</p> <p>i) Make any agreement with any revenue authorities or any other taxing authority, or make any claim, disclaimer, election or consent of a material nature for tax purposes in relation to the Company, its business, assets or undertaking.</p> <p>j) Appoint and remove the Company Secretary.</p>	<p>k) Extend its activities outside the scope of the Business Plan or close down any business operation; -</p> <p>l) Expand, develop or vary the Company's business other than through the Company or a wholly owned subsidiary of the Company;</p> <p>m) Sell, lease (as lessor), license (as licensor), transfer or otherwise dispose of any of its assets at a total price per transaction exceeding [£50,000], except to the extent provided for in the Annual Business Plan.</p> <p>n) Purchase, lease (as lessee), license (as licensee) or otherwise acquire any assets at a total cost to the Company per transaction exceeding £[50,000] otherwise than in the ordinary course of the Business, except to the extent provided for in the Annual Business Plan.</p> <p>o) Acquire or agree to acquire any freehold or leasehold interest in or licence over land.</p> <p>p) Enter into any contract which cannot be terminated within with 3 years and/or under which the liability for such termination could exceed [£50,000].</p> <p>q) Enter into or make any contract with a cost to the Company of more than £[50,000] unless provided for in the Annual Business Plan.</p> <p>r) Enter any contract for the supply of services, supplies and/or works to or for a third party which would when aggregated with other contracts for third parties result in risk that the aggregate activity represented by all services, supplies and/or works to or for third parties for the time being would cause the Company to cease to be an entity to which the Authority can let contracts in accordance with regulation 12(1) of the Public Contracts Regulations 2015 (as amended);</p> <p>s) Incur any item or series of items of capital expenditure of more than [£50,000] unless provided for in the Annual Business Plan. –</p> <p>t) Give or take any loans, borrowing or credit (other than normal trade credit in the ordinary course of business).</p> <p>u) Give any guarantee, suretyship or indemnity to secure the liabilities of any person or assume the obligations of any person.</p> <p>v) Create any Encumbrance over the whole or any part of the undertaking or assets of the</p>

	<p>Company or over any Share forming part of the authorised or issued share capital of the Company. –</p> <ul style="list-style-type: none"> w) Enter into any agreement or arrangement (including for the avoidance of doubt any concession arrangement, lending, licence, lease, disposal or acquisition) which is not in the ordinary course of the business and/or which is not on an arm's length basis or amend its standard terms of business. x) Appoint or remove or approve the remuneration of the auditors of the Company. y) Pay any fees, remuneration or other emoluments to any Director or vary any such fees, remuneration or emoluments. For the avoidance of doubt this provision shall not apply to the payment or reimbursement of expenses properly incurred by any Director in the course of carrying out his duties in relation to the Company nor to any indemnity by the Company to which the Director is entitled pursuant to the Articles or under any relevant law. z) Create any share option bonus or other incentive scheme. aa) Establish or amend any pension scheme. bb) Enter into any contracts or arrangements with any of the Shareholders or Directors or any person with whom any Shareholder or Director is connected, associated or interested (whether as director, consultant, shareholder or otherwise). cc) Change the name of the Company or its registered office. dd) Make any petition or resolution to wind up the Company or any petition for an administration order or any order having similar effect in a different jurisdiction in relation to the Company unless in any case the Company is at the relevant time insolvent and the Directors reasonably consider (taking into account their fiduciary duties) that it ought to be wound up. ee) Apply for admission to official listing on a stock exchange or on any other investment exchange. ff) Increase or reduce or cancel the authorised or issued share capital of the Company, allot or agree to allot, whether actually or contingently, any of the share capital of the Company or any security of the Company whether or not convertible into share capital, grant any options or other rights to subscribe for or to convert any security into shares of the Company or alter the classification of any part of the share
--	---

	<p>capital of the Company or issue any loan capital of the Company. NPA</p> <p>gg) Make any capitalisation, repayment or other distribution of any amount standing to the credit of any reserve of the Company or pay or declare any dividend or other distribution to shareholders or redeem or purchase any Shares or otherwise reorganise the share capital of the Company.</p> <p>hh) Admit any person whether by subscription or transfer as a member of the Company</p> <p>ii) ii) Form any subsidiary of the Company, or acquire any shares in any other company, whether through subscription or transfer, such that the company concerned becomes a subsidiary of the Company.</p> <p>jj) Consolidate or amalgamate with any company, association, partnership or legal entity or acquire any business or undertaking of any other person.</p> <p>kk) Enter into any partnership or profit sharing arrangement with any person or create any share option, bonus or other incentive scheme.</p> <p>ll) Alter any of the provisions of the Memorandum of Association or the Articles or any of the rights attaching to the Shares.</p> <p>mm) Appoint or remove any director of the Company (other than the Board Appointed Directors) or agree a remuneration package for any director.</p> <p>nn) Adopt any Business plan or amend any Business Plan after its approval</p> <p>oo) Enter into or vary any agreement to do any of the things referred to in this Schedule</p>
--	--

APPENDIX 7**SOUTH DOWNS NATIONAL PARK AUTHORITY GENERAL DELEGATION OF AUTHORITY TO THE CHIEF EXECUTIVE AND DIRECTORS****1. INTRODUCTION**

- 1.1. Section 101(1) Local Government Act 1972 provides that, subject to any express provision contained in legislation, a local authority (which term includes a National Park Authority) may arrange for the discharge of any of their functions by a committee, sub-committee or officer of the authority, or by any other local authority.
- 1.2. In the exercise of its power under s.101(1), and to ensure efficiency in the management of resources and delivery of services, the Authority has adopted this Scheme of Delegation to the Chief Executive and Directors.

2. GENERAL PRINCIPLES

In all cases, officers shall carry out the functions delegated to them by this Scheme in accordance with the following general principles:

- 2.1. The objective for officers shall be to give effect to, and achieve the objectives of, the strategies, policies and plans adopted by the Authority and its committees.
- 2.2. Officers shall comply with all procedures and protocols adopted by the Authority, including Standing Orders, Financial Regulations, and the Officer Code of Conduct, and ensure that any expenditure that is incurred is provided for within the Authority's approved budget.
- 2.3. Officers shall maintain close liaison with the Chair of the Authority or, where the function being exercised relates to a matter within the terms of reference of a committee, sub-committee or panel, the Chair of that committee, sub-committee or panel (and in any case where the Chair is absent, the Deputy Chair(s) of the Authority, committee, sub-committee or panel, as the case may be).
- 2.4. The delegation of authority to officers is subject in all cases to the right of the Authority to discharge any function hereby delegated to any officer, instead of that officer, where the Authority considers this to be in the best interests of the Authority.

3. DELEGATION OF FUNCTIONS TO THE CHIEF EXECUTIVE

The Chief Executive is hereby authorised to:

- 3.1. Undertake the day-to-day management and control of the Authority, its officers, resources, premises and services.
- 3.2. Make such decisions and take such action as he considers necessary to give effect to any decision of the Authority, its committees and panels and any objectives within the PMP or Authority Corporate Plan to ensure the efficient and effective co-ordination and discharge of the Authority's functions, including power to commit resources and incur expenditure within the Authority's approved budget.
- 3.3. Commission or otherwise undertake due diligence or other such investigatory activity in relation to matters being considered for inclusion in the Authority's capital programme.
- 3.4. Authorise any other officer of the Authority to act on his behalf in the exercise of any of the functions delegated to him, but shall remain fully accountable to the Authority for the discharge of such functions.
- 3.5. Authorise any Director to discharge the functions hereby delegated to him, in his absence.
- 3.6. Act in relation to the appointment, termination, discipline and determination of all matters relating to the employment of staff.

SDNPA Standing Orders, May 2019 (Appendix 7)

- 3.7. Commence, defend, participate in or settle any legal proceedings in any case where he considers this necessary to protect the interests of the Authority, including the power to take all such procedural or other steps incidental to such proceedings.
- 3.8. Authorise any officer of the Authority to prosecute or defend or appear in any legal proceedings further to Section 223 Local Government Act 1972.
- 3.9. Authorise staff to exercise such powers of entry, inspection and survey of land, buildings or premises and to issue evidence of such authority.
- 3.10. Sign any order or document necessary to give effect to any decision of the Authority or committee.
- 3.11. Agree any term, condition or provision within any legal documentation to protect the interests of the Authority.
- 3.12. Discharge any function hereby delegated to any Director, instead of that Director, or to authorise another Director to do so, in the Director's absence or where he considers this to be in the interests of the Authority.
- 3.13. Implement, manage and administer the Coast to Capital Local Enterprise Partnership Joint Committee.
- 3.14. In consultation with the Chair of the Authority the appointment of members to outside bodies in accordance with rule 26 where such appointment cannot be deferred to the next Annual Meeting of the Authority.
- 3.15. In consultation with the Chair of the Policy & Resources Committee, the power to make decisions on applications for, or reviews of, directions for restrictions on Access Land which require public consultation (long-term restrictions), except in those cases when the Chief Executive and Chair of the Policy and Resources Committee are of the opinion that it should be dealt with by the Policy and Resources Committee.
- 3.16. In relation to the operation of South Downs Commercial Operations Limited the powers of the NPA as Shareholder to:
 - 3.16.1. Change the bankers of the Company or open or close any bank accounts.
 - 3.16.2. Give notice of termination of any agreements of a material nature in the context of the Business or make any material variation or amendment to any such agreements.
 - 3.16.3. Commence, settle or defend any claim, proceedings or other litigation brought by or against the Company, except in relation to debt collection not exceeding £100,000 in the ordinary course of the Business in which case the Board of the Company may do this.
 - 3.16.4. Alter the Company's accounting reference date.
 - 3.16.5. Approve or sign the annual accounts of the Company.
 - 3.16.6. Change any of the Company's accounting or reporting practices.
 - 3.16.7. Recruit or dismiss any employee whose remuneration exceeds £40,000 per annum subject to an aggregate limit of £100,000 unless provided for in the Annual Business Plan. [provided always that any employee may be dismissed for gross misconduct by the Board of the Company]
 - 3.16.8. Alter the remuneration or conditions of employment of any employee or any consultant of the Business unless provided for in the Annual Business Plan or unless obliged to do so by statute in which case the Board of the Company may do this.
 - 3.16.9. Make any agreement with any revenue authorities or any other taxing authority, or make any claim, disclaimer, election or consent of a material nature for tax purposes in relation to the Company, its business, assets or undertaking.
 - 3.16.10. Appoint or remove the Company Secretary.

4. DELEGATION OF FUNCTIONS TO THE DIRECTOR OF COUNTRYSIDE AND POLICY MANAGEMENT

- 4.1. 4.1 In consultation with the Chair of the Policy and Resources Committee, the power to make decisions on applications for, or reviews of, directions for restrictions on Access Land which do not require public consultation (short-term restrictions).

5. DELEGATION OF FUNCTIONS TO THE DIRECTOR OF PLANNING

- 5.1. The Director of Planning is hereby authorised to make all decisions required and take all actions necessary in the discharge of the functions of the Authority falling within the terms of reference of the Planning Committee, except where and to the extent that the particular matter falls within one of the following descriptions (in which case it shall be referred to the Planning Committee for determination, however, this does not prevent the Planning Committee from delegating any of these functions to the Director of Planning):

- 5.1.1. planning applications (except for householder and other minor applications) which are contrary to the approved or draft development plan or other planning policies but which are recommended for approval
- 5.1.2. applications (except for householder and other minor applications) which are requested for referral to the Planning Committee by any Member of the Authority, in writing or email to the Director of Planning and with specified reasons
- 5.1.3. applications (except for householder and other minor applications) which, in the opinion of the Director of Planning, have generated significant and material third party representations which are contrary to the officer recommendation
- 5.1.4. applications from Authority Members or employees
- 5.1.5. applications submitted by or on behalf of the Authority for its own developments, except for the approval of minor developments
- 5.1.6. applications which, at the discretion of the Director of Planning, have potential significant impact or could set an important precedent
- 5.1.7. enforcement action which requires prosecution, the service of a “Stop Notice” or any other Notice or action which in the opinion of the Director of Planning might potentially have significant financial risks for the Authority.
- 5.1.8. Viii) the allocation of resources received through the community infrastructure levy.

Note – All other enforcement action taken in terms of these delegations is to be carried out only after the appropriate legal advice has been taken and subject to reports on progress being made to the Planning Committee as required by the committee

- 5.2. In exercising the development management functions of the Authority the Director of Planning is authorised to allocate funds received under s106 agreements.
- 5.3. The Director of Planning shall determine whether a matter that would otherwise be determined by a local council under delegation arrangements is suitably “significant” to be referred instead for determination by the Authority.
- 5.4. The Director of Planning may authorise any other officer of the Authority with appropriate planning qualifications and experience to act on his/her behalf in carrying out the functions hereby delegated to him/her, but shall remain fully accountable to the Authority for the discharge of such functions.

6. DELEGATION OF FUNCTIONS TO THE DIRECTORS - GENERAL

- 6.1. The provisions in this section apply to the following posts: Director of Countryside and Policy Management and Director of Planning; (“the Directors”)

SDNPA Standing Orders, May 2019 (Appendix 7)

- 6.2. Subject to the terms of the more specific delegations in the sections above, each of the Directors is hereby authorised to make such decisions and take such action as they consider necessary to give effect to any decision of the Authority, its committees, sub-committees and panels, and to carry out the day to day business of the Authority within their Area of Responsibility as defined in paragraph 6.3. This authority includes power to:
- 6.2.1. commit resources and incur expenditure within the Authority's approved budget
 - 6.2.2. authorise any other officer of the Authority to act on his/her behalf in the exercise of any of the functions delegated, although they shall remain fully accountable to the Authority for the discharge of such functions.
- 6.3. The Directors' Areas of Responsibility are as follows:
- 6.3.1. **Director of Director of Countryside and Policy Management** : the Authority's functions in relation to the delivery on the ground of National Park purposes, including the management of rangers and volunteers and the statutory duty to manage access land, rights of way, water, tourism , sustainability, maintain the National Trail and convene a Local Access Forum, Sustainable Communities Fund and Strategic Fund (subject to powers reserved by the Authority and delegated elsewhere), policy, research and evidence base underpinning the Authority's statutory duties, the preparation and maintenance of the Management Plan
 - 6.3.2. **Director of Planning**: the Authority's functions in relation to its statutory duties as the local planning authority for the National Park, including spatial planning, environmental design, development control, planning enforcement, minerals and waste, Economic Planning Advice, Landscape, Historic Buildings and NP Design.