

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

WEST MIDLANDS RAIL LIMITED (the "Company")

(Adopted by special resolution passed on [INSERT DATE])

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PART 1 – OBJECTS, POWERS AND INTRODUCTORY PROVISIONS

1 Interpretation

1.1 In these Articles, unless the context otherwise requires:

Act: means the Companies Act 2006;

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

Associate Member: has the meaning given in article 28.1(b);

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

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

Companies Acts: means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the Company;

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

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

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

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

Eligible Director: means a Director who would be entitled to vote on the matter at a Directors’ meeting (but excluding in relation to the authorisation of a Conflict pursuant to article 18, any Director whose vote is not to be counted in respect of the particular matter);

ITA: means the West Midlands Integrated Transport Authority;

local transport authority: has the meaning given in section 108 of the Transport Act 2000;

LTA Member: has the meaning given in article 28.1(a);

Member: means a member of the Company being either an LTA Member or an Associate Member;

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

Northamptonshire: means the shire county known as Northamptonshire;

Objects: means the objects set out in article 2;

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

participate: (in relation to a Directors' meeting) has the meaning given in article 15;

Principal Director: has the meaning given in article 22.1;

proxy notice: has the meaning given in article 41;

special resolution: has the meaning given in section 283 of the Act;

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

Substitute Director: has the meaning given in article 22.1;

West Midlands: means the West Midlands metropolitan county and the shire counties of Herefordshire, Shropshire, Staffordshire (excluding the area for which Stoke-on-Trent City Council is the local transport authority), Warwickshire and Worcestershire; and

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

- 1.2 Unless the context otherwise requires and save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
 - (a) any subordinate legislation from time to time made under it; and
 - (b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall not apply to the Company.

2 Objects

2.1 The Company's objects are restricted to the following:

- (a) to promote the devolution of responsibility for rail passenger services and (where appropriate) associated facilities in the West Midlands and Northamptonshire to local transport authorities or other appropriate local authorities or other bodies within that area (acting through the Company);
- (b) to manage or to assist in managing the performance of rail passenger services operating within the West Midlands and Northamptonshire pursuant to rail franchise agreements or other similar agreements;
- (c) to improve rail passenger services and associated facilities within the West Midlands and Northamptonshire; and
- (d) to develop and oversee the implementation of a long-term strategy for rail passenger services in the West Midlands and Northamptonshire as approved by the Members.

3 Powers

3.1 In pursuance of the Objects, the Company has the power to:

- (a) enter into arrangements and/or agreements with the Secretary of State for Transport in relation to the provision of rail passenger services in the West Midlands and Northamptonshire and adjacent areas pursuant to rail franchises awarded by him or her;
- (b) enter into contracts for the provision of rail passenger services and associated facilities in the West Midlands and Northamptonshire (and outside of that area where associated with the provision of those services and facilities within that area);
- (c) enter into any other contracts to procure or to provide services of any kind (including on behalf of other bodies);
- (d) buy, lease or otherwise acquire and deal with any property real or personal and any rights or privileges of any kind over or in respect of any property real or personal and to improve, manage, develop, construct, repair, sell, lease, mortgage, charge, surrender or dispose of or otherwise deal with all or any part of such property and any and all rights of the Company;
- (e) borrow and raise money in such manner as the Directors shall think fit and secure the repayment of any money borrowed, raised or owing by mortgage, charge, lien or other security on the Company's property and assets;
- (f) invest and deal with the funds of the Company not immediately required for its operations in or upon such investments, securities or property as may be thought fit;
- (g) subscribe for, take, buy or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority in any part of the world;
- (h) lend and advance money or give credit on such terms as may seem expedient and with or without security to customers and others, to enter into guarantees, contracts of indemnity and suretyships of all kinds to receive

money on deposit or loan upon such terms as the Company may approve and to secure or guarantee the payment of any sums of money or the performance of any obligation by any company, firm or person including any holding company or subsidiary;

- (i) lobby, advertise, publish, educate, examine, research and survey in respect of all matters of law, regulation, economics, accounting, governance, politics and/or other issues and to hold meetings, events and other procedures and co-operate with or assist any other body or organisation in each case in such way or by such means as may, in the opinion of the Directors, affect or advance the Objects;
- (j) pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company and to contract with any person, firm or company to pay the same;
- (k) provide and assist in the provision of money, materials or other help;.
- (l) open and operate bank accounts and other facilities for banking and draw, accept, endorse, issue or execute promissory notes, bills of exchange, cheques and other instruments;
- (m) incorporate subsidiary companies to carry on any trade; and
- (n) do all such other lawful things as are, in the opinion of the Directors, incidental or conducive to the pursuit or to the attainment of any of the Objects.

4 Income

4.1 Subject to article 5, the income and property of the Company shall be applied solely in promoting the Objects.

4.2 Subject to article 5, no dividends or bonus may be paid or capital otherwise returned to the Members, provided that this article 4 shall not prevent any payment by the Company of:

- (a) remuneration or expenses to Directors in accordance with articles 25 and 26;
- (b) reasonable and proper remuneration and/or expenses to any other officer or servant of the Company for any services rendered to the Company or in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company;
- (c) any interest on money lent by any Member at a reasonable and proper rate;
or
- (d) reasonable and proper rent for premises demised or let by any Member.

5 Winding Up

5.1 On the winding-up or dissolution of the Company, any assets or property that remains available to be distributed or paid, shall be distributed or paid to the Members for the time being in proportion to their voting rights on a poll at general meetings of the Company (disregarding voting rights resulting from the application of article 38.3).

6 Guarantee

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

PART 2 – DIRECTORS’ MEETINGS AND DECISION MAKING

7 Directors’ General Authority

- 7.1 Subject to the Articles (including in particular article 8) and to the provisions of the Act, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

8 Members’ Reserve Power And Approval Rights

- 8.1 The Members may, by special resolution, direct the Directors to take, or refrain from taking, specified action.
- 8.2 No such special resolution invalidates anything which the Directors have done before the passing of the resolution.
- 8.3 The Directors shall ensure that the Company will not do and will not enter into any agreement to do any of the following acts or things without the prior approval of the Members by special resolution:
- (a) enter into a partnership agreement or other formal agreement with the Secretary of State for Transport providing for the involvement of the Company in the specification, letting process or management of any rail franchise agreement; and
 - (b) make any substantial amendment to any such agreement.

9 Directors May Delegate

- 9.1 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; and
 - (e) on such terms and conditions;
- as they think fit.

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

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

10 Committees

10.1 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.

10.2 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.

11 Attendance Of Non-Directors At Directors' Meetings

11.1 The Directors may from time to time invite any persons they think fit to attend Directors' meetings and to speak (but not vote) at those meetings, either in relation to individual meetings or to Directors' meetings generally.

12 Directors To Take Decisions Collectively

12.1 Subject to article 12.3 any decision of the Directors must be either a majority decision at a Directors' meeting or a decision taken in accordance with article 13.

12.2 Subject to article 18 and article 24.3 each Director participating in a Directors' meeting has one vote in respect of decisions proposed to be taken at that meeting.

12.3 If:

(a) there is only one Director for the time being, and

(b) no provision of the Articles requires it to have more than one Director,

then the Director may (for so long as he remains the sole Director) take decisions without regard to any of the provisions of the Articles relating to Directors' decision-making except for the provisions of article 18 and article 8 and any other provision of the Articles requiring Directors' decisions to be approved by the Members.

13 Directors' Written Resolutions And Unanimous Decisions

13.1 Any Director may propose a Directors' written resolution by giving notice in writing, setting out the wording of the proposed resolution and the time limit for adopting it, to each of the other Directors, provided that where the Company has a company secretary a Director may instead require the company secretary to circulate that notice to each of the Directors.

13.2 A Directors' written resolution circulated in accordance with article 13.1 is adopted when a majority of Eligible Directors have signed one or more copies of it and circulated these to all Directors or otherwise indicated their agreement in writing to the resolution to all Directors before the relevant time limit expires.

13.3 For the purposes of article 13.2 a Substitute Director shall not be an Eligible Director and shall not be counted in calculating whether a majority of Eligible Directors have agreed a resolution unless either (1) the Principal Director for whom he or she is a substitute has ceased to be a Director and no replacement has yet been appointed pursuant to article 22.4 or (2):

- (a) the Principal Director for whom he or she is a substitute would be entitled to vote on the relevant matter at a Directors' meeting;
- (b) there would have been no requirement pursuant to article 18.3(c) not to count that vote; and
- (c) that Principal Director does not, within the applicable time limit, sign a copy of the written resolution or indicate in writing either agreement or disagreement to the resolution;

provided in each case that there would have been no requirement pursuant to article 18.3(c) not to count the Substitute Director's vote had the resolution been adopted at a Directors' meeting.

- 13.4 Where article 13.3 applies the relevant Substitute Director shall be an Eligible Director for the purposes of article 13.2 in place of the Principal Director for whom he or she is a substitute.
- 13.5 A unanimous decision of the Directors is taken when all Eligible Directors indicate to each other by any means that they share a common view on a matter and 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. For the purposes of this article 13.5 a Substitute Director is not an Eligible Director except in the circumstances set out in article 24.3(e) (in which case the agreement in writing of the Principal Director for whom he or she is a substitute shall not be required for the relevant unanimous decision).
- 13.6 A decision may not be taken in accordance with this article 13 if the Eligible Directors taking that decision would not have formed a quorum at a Directors' meeting.

14 Calling A Directors' Meeting

- 14.1 Unless otherwise agreed by the Directors, Directors' meetings shall be held in March, June, September and December of each year or otherwise at least four times per year with a period of not less than 10 weeks between any two meetings.
- 14.2 Any Director may call a Directors' meeting by giving not less than 5 Business Days' notice (or such lesser notice as all the Directors, excluding Substitute Directors, may agree) to the Directors or by authorising the company secretary (if any) to give such notice.
- 14.3 Notice of a Directors' meeting shall be given to each Director in writing.
- 14.4 A Director who is absent from the UK and who has no registered address in the UK shall not be entitled to notice of the Directors' meeting.
- 14.5 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.
- 14.6 Notice of any Directors' meeting must be accompanied by an agenda specifying reasonably clearly the matters to be raised at the meeting.

14.7 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 before or up to 7 days after the date of the meeting. 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.

15 Participation In Directors' Meetings

15.1 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.

15.2 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.

15.3 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.

16 Quorum For Directors' Meetings

16.1 Subject to article 16.3, the quorum for the transaction of business at a meeting of Directors shall be such number of Eligible Directors as is equal to the number of Directors that constitutes a majority in number of the Directors for the time being appointed (excluding any Substitute Director except where the Principal Director for whom the relevant Substitute Member acts as substitute has ceased to be a Director and has not been replaced pursuant to article 22.4).

16.2 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

16.3 For the purposes of any meeting (or part of a meeting) held pursuant to article 18 to authorise a Conflict, if there are less Eligible Directors than the quorum required by article 16.1 due to the number of Interested Directors (as defined in article 18.2) in relation to that Conflict, then the quorum for such meeting (or part of a meeting) shall be the number of such Eligible Directors.

17 Chairing Of Directors' Meetings

17.1 The Directors shall appoint one of the Directors as the Chair of the Company and one of the Directors as the Vice-Chair of the Company, such appointments to take effect (subject to early termination in accordance with article 17.2) either until the next annual general meeting of the Company (if the Company holds annual general meetings) or until the start of the first Directors' meeting to take place after the first anniversary of his or her appointment (if the Company does not hold annual general meetings), provided that:

- (a) where the Chair is a Director appointed by an Associate Member then the Vice-Chair must be a Director appointed by an LTA Member (and vice versa); and
- (b) the position of Chair and the position of Vice-Chair shall alternate between a Director appointed by an Associate Member and a Director appointed by an LTA Member.

- 17.2 The Directors may terminate the appointment of the Chair or Vice-Chair of the Company at any time provided they appoint a replacement.
- 17.3 The Chair (or the Vice-Chair if the Chair is not participating in the relevant meeting) shall chair Director's meetings provided that if neither the Chair nor the Vice-Chair is participating in a Directors' meeting within ten minutes of the time at which it was due to start, the participating Directors shall appoint one of themselves to chair it.
- 17.4 The chair of a Directors' meeting shall not have a casting vote in the event of an equality of votes cast for and against a proposal at the meeting.

18 Directors' Conflicts Of Interest

- 18.1 A Director, notwithstanding his office, may be an elected member of, a director or other officer of, employed by, or otherwise interested in, the Member who appointed him or her as a Director of the Company and no authorisation under this article 18 shall be necessary in respect of any such interest. Any Director shall be entitled from time to time to disclose to the Member who appointed him or her such information concerning the business and affairs of the Company as he or she shall at his or her discretion see fit.
- 18.2 The Directors may, in accordance with the requirements set out in this article, authorise any Conflict proposed to them by any Director which would, if not authorised, involve a Director (an Interested Director) breaching his duty under section 175 of the Act to avoid conflicts of interest.
- 18.3 Any authorisation under this article 18 shall be effective only if:
- (a) to the extent permitted by the Act, the matter in question shall have been proposed by any Director for consideration in the same way that any other matter may be proposed to the Directors under the provisions of these Articles;
 - (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director;
 - (c) the matter was agreed to without the Interested Director (or the Substitute Director for that Interested Director) voting or would have been agreed to if their vote had not been counted; and
 - (d) in the case of a Conflict arising as a result of a personal financial interest of the relevant Director or a connected person, the Company by ordinary resolution also authorises that Conflict.
- 18.4 In article 18.3(d) "connected person" means:
- (a) a child, parent, grandchild, grandparent, brother or sister of the relevant Director;
 - (b) the spouse or civil partner of the relevant Director or of any person falling within paragraph (a) above;
 - (c) a person carrying on business in partnership with the relevant Director or with any person falling within paragraph (a) or (b) above;
 - (d) an institution which is controlled:
 - (i) by the relevant Director or any connected person falling within paragraph (a), (b) or (c) above; or

- (ii) by two or more persons falling within subparagraph (i), when taken together; or
 - (e) a body corporate in which:
 - (i) the relevant Director or any connected person falling within paragraphs (a), (b) or (c) above has a substantial interest; or
 - (i) two or more persons falling within subparagraph (i) who, when taken together, have a substantial interest.
- 18.5 Any authorisation of a Conflict under this article 18 may (whether at the time of giving the authorisation or subsequently):
- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
 - (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the Directors or otherwise) related to the Conflict;
 - (c) provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the Directors in relation to any resolution related to the Conflict;
 - (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit; and
 - (e) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the Directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.
- 18.6 Where the Directors authorise a Conflict, the Interested Director shall be obliged to conduct himself in accordance with any terms and conditions imposed by the Directors in relation to the Conflict.
- 18.7 The Directors may revoke or vary such authorisation at any time, but this shall not affect anything done by the Interested Director prior to such revocation or variation in accordance with the terms of such authorisation.
- 18.8 A Director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a Director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the Directors in accordance with these Articles or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.
- 18.9 Subject to sections 177(5), 177(6), 182(5) and 182(6) of the Act and to any voting restrictions or other terms imposed by the Directors pursuant to article 18.5 when authorising the relevant Conflict under article 18.2, and provided he or she has declared the nature and extent of his or her interest in accordance with the requirements of the Act, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;

- (b) shall be an Eligible Director for the purposes of any proposed decision of the Directors (or committee of Directors) in respect of such existing or proposed transaction or arrangement in which he or she is interested;
- (c) shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he or she is interested;
- (d) may be a Director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
- (e) shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

18.10 Subject to article 18.11, 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 chair of the meeting whose ruling in relation to any Director other than the chair of the meeting is to be final and conclusive.

18.11 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chair of the meeting, the question is to be decided by a decision of the Directors at that meeting, for which purpose the chair of the meeting is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

18.12 Where a Conflict has been authorised by the Directors in accordance with article 18.2 or is permitted by article 18.1 then where the Director concerned obtains or has obtained (through his involvement in the Conflict and otherwise than through his or her position as a Director) information that is confidential to a third party (including any Member) the Director shall not be obliged to disclose that information to the Company or to use it in relation to the Company's affairs where to do so would amount to a breach of a duty or obligation of confidence owed by the Director to the relevant third party.

19 Records Of Decisions To Be Kept

19.1 In addition to ensuring that the Company retains a copy of the minutes of each Directors' meeting for ten years from the date of the meeting in accordance with section 248 of the Act, the Directors shall ensure that the Company keeps a record, in writing, for at least ten years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors.

19.2 Where decisions of the Directors are taken by electronic means, such decisions shall be recorded by the Directors in permanent form, so that they may be read with the naked eye.

20 Directors' Discretion To Make Further Rules

- 20.1 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.

PART 3 - APPOINTMENT OF DIRECTORS AND COMPANY SECRETARY

21 Number Of Directors

- 21.1 Unless otherwise determined by special resolution, the number of Directors (other than Substitute Directors) shall be subject to a maximum equal to one less than the number of Members of the Company for the time being and shall not be less than three.

22 Appointment And Removal Of Directors And Substitute Directors

- 22.1 Each Member (other than the ITA) and each Associate Member shall be entitled to appoint one person to be a Director of the Company (Principal Director) and a further person as a substitute for that Director (Substitute Director), subject to them being willing to act as Directors and permitted by law to do so.
- 22.2 Any Director appointed pursuant to article 22.1 may at any time be removed from office by the Member who appointed him or her.
- 22.3 Any appointment or removal of a Director pursuant to this article 22 shall be in writing and signed by or on behalf of the relevant Member and served on the Company at its registered office, marked for the attention of the company secretary or the Directors or delivered to a duly constituted Directors' meeting as well as (in the case of removal of a Director) on the relevant Director. Any such appointment or removal shall take effect when received by the Company or at such later time as shall be specified in such notice.
- 22.4 If any Director shall die or be removed from or vacate office for any cause, the Member who appointed him or her shall be entitled to appoint another person in his place pursuant to article 22.1.
- 22.5 No Director shall be appointed or removed otherwise than pursuant to these Articles, save as provided by law.

23 Termination Of Directors' Appointments

- 23.1 A person ceases to be a Director with immediate effect where:
- (a) the Member who appointed that person pursuant to article 22.1 has ceased to be a Member of the Company;
 - (b) the Director was an elected member of the Member who appointed him or her (including by being an elected mayor) and has ceased to be such an elected member;
 - (c) (in the case of a Director appointed by an Associate Member) article 30.4 applies;
 - (d) that person dies or is removed from office pursuant to article 22.2;
 - (e) that person ceases to be a Director by virtue of any provision of the Act or is prohibited from being a Director by law;

- (f) a bankruptcy order is made against that person;
- (g) a composition is made with that person's creditors generally in satisfaction of that person's debts; or
- (h) 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.

24 Rights And Responsibilities Of Substitute Directors

24.1 The role of a Substitute Director shall generally be, in relation to the taking of decisions by the Directors, to exercise the powers of the Principal Director for whom they have been appointed as a substitute and to carry out his or her responsibilities in the event of his or her absence or non-participation.

24.2 Except as the Articles otherwise provide, Substitute Directors:

- (a) are deemed for all purposes to be Directors;
- (b) are liable for their own acts and omissions;
- (c) are subject to the same restrictions as the Principal Directors for whom they act as substitutes; and
- (d) are not deemed to be agents of or for the Principal Directors for whom they act as substitutes;

and, in particular (without limitation), each Substitute Director shall be entitled to receive notice of all Directors' meetings and of all meetings of committees of Directors of which the Principal Director for whom he or she acts as substitute is a member.

24.3 A Substitute Director:

- (a) unless otherwise agreed by the relevant Directors' meeting, may only participate in a Directors' meeting or a committee of Directors if the Principal Director for whom he or she acts as substitute is not participating in the meeting;
- (b) may only vote on a resolution taken by a Directors' meeting or a committee of Directors if the Principal Director for whom he or she acts as substitute is not participating in the meeting;
- (c) may only be counted as participating for the purposes of determining whether a quorum is present if the Principal Director for whom he or she acts as substitute is not participating in the relevant Directors' or committee of Directors' meeting;]
- (d) may only participate in adopting a Directors' written resolution pursuant to article 13.2 where permitted by article 13.3; and
- (e) may only participate in a unanimous decision of the Directors pursuant to article 13.5 if:
 - (i) the Principal Director for whom he or she acts as substitute is an Eligible Director in relation to that decision and does not indicate in writing either agreement or disagreement to the decision; or

- (ii) that Principal Director has ceased to be a Director and no replacement has yet been appointed pursuant to article 22.4.

24.4 A Substitute Director may be paid expenses and may be indemnified by the Company to the same extent as any Principal Director but shall not be entitled to receive any remuneration from the Company for serving as a Substitute Director except such part (if any) of the remuneration otherwise payable to the Principal Director for whom he or she acts as substitute as that Principal Director may by notice in writing to the Company from time to time direct.

25 Directors' Remuneration

25.1 Directors may undertake any services for the Company that the Directors decide.

25.2 Subject to article 25.3, Directors are entitled to such reasonable and proper 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.

25.3 A Director who is for the time being an employee or an elected member of a Member (including by being an elected mayor) may not receive any remuneration pursuant to article 25.2 for his or her services to the Company as a Director.

25.4 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.

25.5 Unless the Directors decide otherwise, Directors' remuneration accrues from day to day.

25.6 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.

26 Directors' Expenses

26.1 Subject to article 26.2 the Company may pay any reasonable expenses which the Directors and the company secretary (where applicable) 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 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.

26.2 In the case of a Director who is for the time being an elected member of a Member (including by being an elected mayor) any expenses paid pursuant to article 26.1 in respect of travelling or subsistence shall not exceed the maximum amount of

travelling or subsistence allowances which would for the time being be payable to that Director by the relevant Member if the duties in respect of which such expenses are paid were approved duties for the purposes of section 174 of the Local Government Act 1972.

27 Secretary

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

PART 4 – MEMBERSHIP

28 Membership Categories And Admission Of Members

- 28.1 There are two categories of membership having the differing rights set out in these Articles as follows:

- (a) LTA Members, being members of the Company who are local transport authorities; and
- (b) Associate Members, being members of the Company who are not local transport authorities.

29 Admission of Members

- 29.1 Except with the prior approval of the Members by special resolution only the following shall be entitled to be admitted as members of the Company:

- (a) the ITA (as an LTA Member);
- (b) Herefordshire Council (as an LTA Member);
- (c) Northamptonshire County Council (as an LTA Member);
- (d) Shropshire Council (as an LTA Member);
- (e) Staffordshire County Council (as an LTA Member);
- (f) Borough of Telford & Wrekin (as an LTA Member);
- (g) Warwickshire County Council (as an LTA Member);
- (h) Worcestershire County Council (as an LTA Member);
- (i) Birmingham City Council (as an Associate Member);
- (j) Coventry City Council (as an Associate Member);
- (k) Dudley Metropolitan Borough Council (as an Associate Member);
- (l) Sandwell Metropolitan Borough Council (as an Associate Member);
- (m) Solihull Metropolitan Borough Council (as an Associate Member);

- (n) Walsall Metropolitan Borough Council (as an Associate Member); and
- (o) Wolverhampton City Council (as an Associate Member).

29.2 No person shall become a Member unless that person has completed an application for membership in a form approved by the Directors and that application has been approved by the Directors (provided that the applications for membership of the prospective LTA Members and Associate Members listed in article 29.1 shall not require any such approval).

30 Termination Of Membership And Change Of Membership Status

30.1 Members may terminate their membership of the Company by giving 7 days' notice to the Company in writing.

30.2 Members may not transfer their membership and their membership shall terminate automatically on:

- (a) the Member's death or bankruptcy (in the case of a natural person);
- (b) the Member going into receivership, administrative receivership, administration, liquidation or other arrangement for the winding up of a company (in the case of a company); or
- (c) the Member ceasing to exist (in the case of a public authority) save where another authority inherits substantially the whole of their statutory functions and the Member's membership is transferred to that other authority by means of a statutory transfer scheme or otherwise by operation of law (including, for the avoidance of doubt where the statutory functions and membership of the ITA is transferred to a combined authority).

30.3 Where an LTA Member ceases to be a local transport authority (other than where this occurs as a result of legislative change that does not remove from the LTA Member the functions it had by reason of being named as a local transport authority in section 108 of the Transport Act 2000) the relevant LTA Member shall become an Associate Member.

30.4 Where an Associate Member is a constituent council of the ITA (or of such other authority to whom the ITA's membership is transferred as permitted by article 30.2(c)) and ceases to be such a constituent council then the Associate Member shall cease to have the right to appoint and remove Directors pursuant to article 22.1 and any persons appointed as Directors by that Associate Member under article 22.1 shall cease to be Directors.

31 Expulsion Of Members

31.1 Where the Members have by special resolution under article 29.1 authorised the admittance as a Member of a person or body that is not a local authority, the Directors may terminate the membership of that Member without the Member's consent by giving written notice to the Member where, in the reasonable opinion of the Directors:

- (a) the Member is guilty of conduct which has or is likely to have a serious adverse effect on the Company or bring the Company or any or all of the Members and Directors into disrepute; or
- (b) the Member has acted or has threatened to act in a manner which is contrary to the interests of the Company as a whole; or

- (c) the Member has failed to observe the terms of these Articles.
- 31.2 Any notice to a Member given under article 31.1 must give the Member the opportunity to be heard in writing or in person as to why the Member's membership should not be terminated. The Directors must consider any representations made by the Member and inform the Member of their decision following such consideration. There shall be no right to appeal from a decision of the Directors to terminate the membership of a Member.
- 31.3 A Member whose membership is terminated under this Article 31 shall not be entitled to a refund of any subscription or membership fee and shall remain liable to pay to the Company any subscription or other sum owed by the Member.

PART 5 – MEMBER'S MEETINGS

32 Calling Of General Meetings

- 32.1 The Directors may, whenever they think fit, and shall on requisition in accordance with the Act, proceed to convene a general meeting. If there are not sufficient Directors to call a general meeting then any Director or Member may call a general meeting.
- 32.2 A general meeting shall be called by at least fourteen days notice (excluding the day on which the notice is served or deemed to be served and the day on which the meeting is to be held) unless Members who together hold at least 90% of the voting rights at general meetings (disregarding voting rights resulting from the application of article 38.3) agree to the holding of the general meeting on shorter notice provided that where a resolution proposed to be considered at a general meeting requires special notice in accordance with the Act the meeting shall be called by at least twenty eight days notice (excluding the day on which the notice is served or deemed to be served and the day on which the meeting is to be held).
- 32.3 Every notice calling a general meeting shall:
 - (a) specify the place, date and time of the meeting;
 - (b) specify the general nature of the business to be transacted at the meeting;
 - (c) set out the text of all resolutions to be considered by the meeting and indicate in each case whether it is proposed as an ordinary resolution or as a special resolution;
 - (d) include with reasonable prominence a statement that a Member entitled to attend and vote is entitled to a proxy to exercise all or any of their rights to attend, speak and vote and that a proxy need not be a Member; and
 - (e) set out the addresses to which any proxy notice is to be sent in accordance with article 41 (which shall include an e-mail address for delivery of proxy notices in electronic form).
- 32.4 Every Member and Director shall be entitled to receive notices of general meetings, which shall also be given to the auditors for the time being of the Company.
- 32.5 The accidental omission to give notice of any general meeting or the non-receipt of such notice by any person entitled to receive the same shall not invalidate the proceedings of that meeting.

33 Attendance And Speaking At General Meetings

- 33.1 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.
- 33.2 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.
- 33.3 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.
- 33.4 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.
- 33.5 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.

34 Quorum For General Meetings

- 34.1 The quorum for a general meeting shall be such Members (present in person, by proxy or by authorised representative in accordance with section 323 of the Act) who together hold a majority of the voting rights at the general meeting (disregarding voting rights resulting from the application of article 38.3).
- 34.2 No business other than the appointment of the chair of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

35 Chairing General Meetings

- 35.1 The Chair appointed pursuant to article 17.1 (or if not present and willing to do so, the Vice-Chair appointed pursuant to that article) shall chair general meetings if present and willing to do so.
- 35.2 If neither the Chair nor the Vice-Chair are willing to chair the meeting or are not present within 10 minutes of the time at which a meeting was due to start:

- (a) the Directors present, or
- (b) (if no Directors are present), the meeting,

must appoint a Director or Member (or Member representative) to chair the meeting, and the appointment of the chair of the meeting must be the first business of the meeting.

36 Attendance And Speaking By Directors And Non-Members

- 36.1 Directors may attend and speak at general meetings, whether or not they are Members or appointed proxies or representatives of Members.
- 36.2 The chair of the meeting may permit other persons who are not Members or representatives of Members to attend and speak at a general meeting.

37 Adjournment

- 37.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chair of the meeting must adjourn it.
- 37.2 The chair 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 chair of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 37.3 The chair of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 37.4 When adjourning a general meeting, the chair 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.
- 37.5 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 days' notice of it (excluding day on which the notice is given and the day of the adjourned meeting):
- (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.
- 37.6 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.

38 Voting At General Meetings

- 38.1 All votes at general meetings shall be taken by way of a poll except where a resolution is passed unanimously by a show of hands of the Members entitled to vote on the resolution and present at the general meeting (either in person, by proxy or by authorised representative) and a poll vote has not been duly demanded in accordance with the Articles.
- 38.2 Subject to article 38.3, on a poll vote:
- (a) the ITA or (where applicable) such Member to whom the ITA's membership is transferred as permitted by article 30.2 shall have seven votes provided that, where the ITA's membership has been so transferred and the number of constituent councils of the transferee Member is not seven, the transferee Member shall have one vote for each constituent council for whose area it is the local transport authority;
 - (b) each LTA Member other than the ITA or Member referred to in paragraph (a) shall have one vote; and
 - (c) Associate Members shall not have a vote.

- 38.3 On a resolution to remove a Director appointed by a Member pursuant to article 22.1, the Member who appointed that Director (including where that Member is an Associate Member) shall have such number of votes as shall be required to enable that Member to prevent the passing of that resolution.
- 38.4 In accordance with the Act, the chair of a general meeting shall not have a casting vote in the event of an equality of votes cast for and against a resolution.
- 38.5 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. Any such objection must be referred to the chair of the meeting whose decision is final.

39 Poll Votes

- 39.1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 39.2 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.
- 39.3 A demand for a poll may be withdrawn if—
- (a) the poll has not yet been taken, and
 - (b) the chair of the meeting consents to the withdrawal;
- and a demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.
- 39.4 Polls must be taken immediately and in such manner as the chair of the meeting directs.

40 Authorised Representatives Of Members

- 40.1 Where a Member that is a corporation (whether or not a public authority or a company) by resolution of its directors or other governing body authorises a person to act as its representative and to exercise its voting rights and other powers at a general meeting in accordance with section 323 of the Act then a Director, the company secretary or such other person as the Directors have authorised so to require, may require the representative to produce a certified copy of that resolution.

41 Proxies

- 41.1 Proxies may only validly be appointed by a notice in writing (a **proxy notice**) which:
- (a) states the name and address of the Member appointing the proxy;
 - (b) identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the Directors may determine; and

- (d) is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate;

and a proxy notice which is not delivered in such manner shall be invalid, unless the Directors, in their discretion, accept the notice at any time before the meeting.

- 41.2 The Directors may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 41.3 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.
- 41.4 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.
- 41.5 A Member who is entitled to attend, speak or vote 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 Member.
- 41.6 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 Member by whom or on whose behalf the proxy notice was given.
- 41.7 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.

42 Amendments To Resolutions

- 42.1 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 chair of the meeting may determine), and
 - (b) the proposed amendment does not, in the reasonable opinion of the chair of the meeting, materially alter the scope of the resolution.
- 42.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
 - (a) the chair 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.
- 42.3 If the chair of a general meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chair's error does not invalidate the vote on that resolution.

PART 6 – ADMINISTRATIVE ARRANGEMENTS

43 Means Of Communication To Be Used

- 43.1 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 Act 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.
- 43.2 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.
- 43.3 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.
- 43.4 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
- (a) if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted;
 - (b) if sent by reputable international overnight courier addressed to the intended recipient (provided that delivery in at least five Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider), five Business Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom;
 - (c) if properly addressed and delivered by hand, when it was given or left at the appropriate address; and
 - (d) if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied;
 - (e) if sent or supplied by means of a website the later of the time when the material is first made available on the website and the one hour after the recipient receives notice of the fact that the material is available on the website.

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

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

44 Company Seal

- 44.1 Any common seal may only be used by the authority of the Directors.
- 44.2 The Directors may decide by what means and in what form any common seal is to be used.

- 44.3 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.
- 44.4 For the purposes of this article, an authorised person is:
- (a) any Director;
 - (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.

45 Application of the Local Authorities (Companies) Order 1995

- 45.1 For so long as the Company is a controlled company and/or a regulated company for the purposes of the Local Authorities (Companies) Order 1995 the Company shall comply with any applicable requirements of that Order including where applicable in relation to:
- (a) provision of information to auditors of Members who are local authorities;
 - (b) provision of information to elected members of Members;
 - (c) obtaining the Audit Commission's consent to appointment of the Company's auditors; and
 - (d) making minutes of general meetings available for inspection by members of the public.

Directors' Indemnity And Insurance

46 Indemnity And Insurance

- 46.1 Subject to article 46.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:
- (a) each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties, or in relation to them including any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated company's) affairs; and
 - (b) the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in paragraph (a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 46.2 Article 46.1 does not authorise any indemnity to the extent that such indemnity would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law and any such indemnity is limited accordingly.

46.3 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.

46.4 In this article 46:

- (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 loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company; and
- (c) a "relevant officer" means any Director or other officer of the Company or an associated company, but excluding any person engaged by the Company (or associated company) as auditor (whether or not he is also a Director or other officer), to the extent he acts in his capacity as auditor).