

**THE COMPANIES ACTS 1985 TO 2006**

**PRIVATE COMPANY LIMITED BY GUARANTEE**

**ARTICLES OF ASSOCIATION**

**OF**

**DERBY GRAMMAR SCHOOL TRUST LIMITED**

**NELSONS**

Business Law | Personal Law | Investment

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**COMPANY NO. 02739356**

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**OF**

**DERBY GRAMMAR SCHOOL TRUST LIMITED (Trust)**

**(Adopted by special resolution passed on 27 September 2021)**

## **INTRODUCTION**

### **1. INTERPRETATION**

1.1 In these Articles, unless the context otherwise requires, the following expressions have the following meanings:

<b>AGM</b>	annual general meeting of the Trust
<b>Articles</b>	these articles of association as amended from time to time
<b>Bankrupt</b>	includes bankruptcy in England and Wales and individual insolvency proceedings in a jurisdiction other than England and Wales which have an effect similar to that of bankruptcy
<b>Business Day</b>	a day (other than a Saturday or Sunday) on which banks in England are open for normal business
<b>CA 2006</b>	the Companies Act 2006
<b>Chair</b>	the Governor who is appointed to chair meetings of the Governors and Members
<b>Commission</b>	the Charity Commission for England and Wales
<b>Conflict</b>	a situation in which a Governor has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Trust
<b>Electronic Platform</b>	includes, but is not limited to, website addresses which have the ability to host meetings and conference call systems
<b>Eligible Governor</b>	a Governor who would be entitled to vote on the matter at a Governors' meeting (but excluding any Governor whose vote is not to be counted in respect of the particular matter)
<b>Governor</b>	a director of the Trust

<b>Member</b>	a member of the Trust
<b>Objects</b>	objects of the Trust as set out in <b>article 3</b>
<b>Vice-Chair</b>	the Governor who is appointed to act as vice-chair of meetings of the Governors and Members
<b>writing or written</b>	the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise

1.2 Save as otherwise specifically provided in these Articles:

- 1.2.1 words and expressions which have particular meanings in the CA 2006 shall have the same meanings in these Articles;
- 1.2.2 headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles;
- 1.2.3 a reference in these Articles to an **article** is a reference to the relevant article of these Articles;
- 1.2.4 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and all subordinate legislation made under that statute or statutory provision from time to time; and
- 1.2.5 words importing the masculine gender include the feminine and neuter gender.

1.3 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## 2. EXCLUSION OF MODEL ARTICLES

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 shall not apply to the Trust.

## 3. OBJECTS

The objects of the Trust (**Objects**) are specifically restricted to promoting and providing for the advancement of education in particular by establishing, maintaining, carrying on, acquiring, managing and developing in the United Kingdom or elsewhere a school or schools for the education of students and children of either sex or both sexes.

## 4. POWERS

- 4.1 The Trust has the power to do anything which is calculated to further its Objects or is conducive or incidental in doing so. In particular, the Trust has the power to:
  - 4.1.1 establish and maintain an independent school in Derby for students and children of high academic, artistic or sporting potential and to provide for the pupils' general instruction of high standard and quality, including spiritual, moral, social and cultural education;

- 4.1.2 establish or acquire other schools in Derby or elsewhere for like purposes and to carry on any schools established or acquired by the Trust as educational charities and to use and apply for that purpose all monies and properties coming to it;
- 4.1.3 equip, furnish, fit up and maintain any school, schoolhouses, rooms and other buildings and land for any of the purposes of the Trust;
- 4.1.4 award scholarships, exhibitions and prizes to pupils or prospective pupils for proficiency in academic studies, the arts of sport, and to provide pecuniary exhibitions or scholarships for the benefit of pupils who become students at any of the universities or at any other places of education or who undertake any special course of instruction or research work;
- 4.1.5 subscribe or guarantee money to further the Objects or any other charitable objects;
- 4.1.6 act as trustee or manager of any property, endowment, legacy, bequest or gift for educational purposes only;
- 4.1.7 accumulate funds for such periods as is allowed by law and to receive voluntary donations and subscriptions for any of the purposes of the Trust;
- 4.1.8 purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges necessary for the promotion of its Objects, and to construct, maintain and alter any buildings or erections necessary for the work of the Trust;
- 4.1.9 sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with all or any of the property or rights of the Trust as may be thought necessary with a view to the promotion of its Objects;
- 4.1.10 undertake and execute any charitable trusts which may lawfully be undertaken by the Trust and may be necessary to its Objects;
- 4.1.11 borrow and otherwise raise money for the purposes of the Trust on such terms and on such security as may be thought fit and in particular by the issue of debentures or debenture stock charged upon all or any of the Trust's property;
- 4.1.12 invest the moneys of the Trust that are not immediately required for its purposes in or upon such investments, securities or property as may be thought fit, but so that moneys subject to (or representing property subject to) the jurisdiction of the Commission or the Department for Education shall only be invested in such securities and with such sanction (if any) as may for the time being be prescribed by law;
- 4.1.13 establish and support or aid in the establishment and support of any charitable associations or institutions and to subscribe or guarantee money for charitable purposes in any way connected with the purposes of the Trust or calculated to further its Objects;
- 4.1.14 pay reasonable annual sums or premiums for or towards the provision of pensions for officers or servants for the time being of the Trust or their dependants;

- 4.1.15 issue appeals, hold public meetings and take such other steps as may be required for the purpose of procuring contributions to the funds of the Trust in the shape of donations, subscriptions or otherwise, provided that the Trust will not undertake any permanent trading activities in raising funds for its charitable Objects;
- 4.1.16 draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and to operate bank accounts;
- 4.1.17 take and accept any gift of money, property or other assets, whether subject to any special trust or not, for any one or more of the Objects;
- 4.1.18 employ and pay any person or persons to supervise, organise, carry on the work of and advise the Trust;
- 4.1.19 insure and arrange insurance cover for, and to indemnify its officers, servants and voluntary workers and those of its Members from and against all such risks incurred in the course of the performance of their duties as may be thought fit;
- 4.1.20 amalgamate with any companies, institutions, societies or associations which are charitable at law and have objects altogether or mainly similar to those of the Trust and prohibit the payment of any dividend or profit to, and the distribution of any of their assets amongst, their members at least to the same extent as such payments or distributions are prohibited in the case of Members of the Trust by these Articles;
- 4.1.21 pay out of the funds of the Trust the costs, charges and expenses of and incidental to the registration of the Trust; and
- 4.1.22 do all such other lawful things as are necessary to the attainment of the Objects or any of them,

PROVIDED THAT:

- 4.1.23 nothing contained herein shall be deemed to authorise the application of property of the Trust otherwise than in a manner calculated to promote its Objects; and
- 4.1.24 in case the Trust shall take or hold any property subject to the jurisdiction of the Commission or Secretary of State for Education, the Trust shall not sell, mortgage, charge or lease the same without such authority, approval or consent as may be required by law, and as regards any such property the Governors shall be chargeable for any such property that may come into their hands and shall be answerable and accountable for their own acts, receipts, neglects and defaults, and for the due administration of such property in the same manner and to the same extent as they would as such Governors have been if no incorporation had been effected, and the incorporation of the Trust shall not diminish or impair any control or authority exercisable by the Chancery Division, the Commission or the Secretary of State for Education over such Governors, but they shall as regards any such property be subject jointly and separately to such control or authority as if the Trust were not incorporated.

## **5. BENEFITS**

- 5.1 The income and property of the Trust shall be applied solely towards the promotion of the Objects, and no portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the Members of the Trust.
- 5.2 Nothing herein shall prevent the payment, in good faith, of:
- 5.2.1 reasonable and proper remuneration to any officer or servant of the Trust, or to any Member, in return for services actually rendered to the Trust;
  - 5.2.2 reasonable expenses properly incurred by a Governor when acting on behalf of the Trust;
  - 5.2.3 the payment of interest at a reasonable and proper rate on money lent;
  - 5.2.4 reasonable and proper rent for premises demised or let by any Member; and/or
  - 5.2.5 indemnity insurance for the officers of the Trust.

## **6. LIMITED LIABILITY**

- 6.1 The liability of Members is limited.
- 6.2 Every Member guarantees, if the Trust is dissolved while he remains a Member or within one year after he ceases to be a member, to pay up to £10 towards:
- 6.2.1 payment of those debts and liabilities of the Trust incurred before he ceased to be a Member;
  - 6.2.2 payment of the costs, charges and expenses of winding up; and
  - 6.2.3 the adjustment of the rights of the contributories among themselves.
- 6.3 If the Trust is wound up or dissolved and after all its debts and liabilities have been satisfied there remains any property, it shall not be paid to or distributed among the Members of the Trust, but shall be given or transferred to some other trust or charities having objects similar to the Objects which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the Trust by **article 5**, chosen by the Members at or before the time of dissolution and if that cannot be done then to some other charitable object.

## **7. MEMBERSHIP**

- 7.1 The Trust must maintain a register of Members.
- 7.2 No person shall be admitted as a Member unless:
- 7.2.1 he applies for membership in the form and manner prescribed by the Governors; and
  - 7.2.2 his application for membership is approved by the Governors.
- 7.3 Membership is not transferable.

- 7.4 A person shall cease to be a Member when:
- 7.4.1 he delivers a written notice of his resignation to the registered office of the Trust;
  - 7.4.2 he dies or becomes incapable by reason of mental disorder, illness or disability of managing and administering his own affairs for the foreseeable future;
  - 7.4.3 he becomes Bankrupt; or
  - 7.4.4 he is removed from membership by a resolution of the Governors that it is in the best interests of the Trust that his membership be terminated. A resolution to remove a Member from membership may only be passed if:
    - 7.4.4.1 the Member has been given at least twenty-one days' notice in writing of the meeting of the Governors at which the resolution will be proposed and the reasons why it is to be proposed; and
    - 7.4.4.2 the Member or, at the option of the Member, the Member's representative (who need not be a Member) has been allowed to make representations to the meeting.
- 7.5 The Governors may establish different classes of Members with different rights and obligations and shall record the rights and obligations in the register of Members.

## **DECISION MAKING BY MEMBERS**

### **8. MEETINGS**

- 8.1 The Trust must hold an AGM each calendar year. Not more than 15 months may elapse between successive AGMs.
- 8.2 The Governors may call a general meeting at any time and in any case, a general meeting must be called within 21 days from receipt by the Governors of a written request from at least 5% of the Members.
- 8.3 AGMs and general meetings shall be called by giving at least 14 clear days' notice, but an AGM or general meeting may be called on shorter notice if it is so agreed by a majority in number of Members together holding not less than 90% of the total voting rights.
- 8.4 The notice of the AGM or general meeting shall specify the time, date, location of the meeting and the general business to be discussed and (if an ordinary or special resolution is to be proposed) setting out the terms of the proposed resolution.
- 8.5 The notice shall state that the Member is entitled to appoint a proxy.
- 8.6 The notice shall be given to all Members, Governors and the Trust's auditors.

### **9. QUORUM FOR GENERAL MEETINGS (INCLUDING AGMS)**

- 9.1 The quorum at any general meeting (including an AGM of the Company, or adjourned general meeting or AGM, shall be three. Members present in person or by proxy.
- 9.2 No business shall be transacted by any general meeting (or an AGM) unless a quorum is present at the commencement of the meeting and also when that business is voted on.

- 9.3 If a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other time and place as the Governors may determine.

## **10. CHAIRING GENERAL MEETINGS (INCLUDING AGMS)**

The Chair, if any, or in their absence some other Governor nominated by the Governors shall preside as chair of the meeting, but if neither the Chair nor such other Governor (if any) are present within fifteen minutes after the time appointed for holding the meeting, the Governors present shall elect one of their number to chair the meeting.

## **11. VOTES OF MEMBERS**

At a general meeting (including an AGM), on a show of hands, every Member who is present in person or by proxy shall have one vote, unless the proxy is himself a Member entitled to vote; and on a vote on a written resolution every Member has one vote.

## **12. POLL VOTES**

- 12.1 A resolution put to the vote at a general meeting (including an AGM) shall be decided on a show of hands except:

12.1.1 where the election of the Chair or Vice-Chair is contested, the resolution put to the vote shall be voted on a poll; or

12.1.2 before, or on the declaration of the result of the show of hands, a poll is duly demanded.

- 12.2 Subject to the provisions of the CA 2006, a poll may be demanded by:

12.2.1 the Chair;

12.2.2 at least two Members having the right to vote at the meeting; or

12.2.3 a Member or Members representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting.

- 12.3 Unless a poll is duly demanded a declaration by the Chair that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

- 12.4 The demand for a poll may be withdrawn before the poll is taken, but only with the consent of the Chair. The withdrawal of a demand for a poll shall not invalidate the result of a show of hands declared before the demand for the poll was made.

- 12.5 A poll shall be taken as the Chair directs and he may appoint scrutineers (who need not be Members) and fix a time, date and place for declaring the results. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

- 12.6 A poll demanded on the election of the Chair or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken either immediately or

at such time, date and place as the Chair directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent continuance of a meeting for the transaction of any business other than the question on which the poll is demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

- 12.7 No notice need be given of a poll not taken immediately if the time, date and place at which it is to be taken are announced at the meeting at which it is demanded. In other cases at least seven clear days' notice shall be given specifying the time, date and place at which the poll is to be taken.

### **13. PROXIES**

- 13.1 Proxies may only validly be appointed by a notice in writing (**proxy notice**) which:

- 13.1.1 states the name and address of the Member appointing the proxy;
- 13.1.2 identifies the person appointed to be that Member's proxy and the meeting in relation to which that person is appointed;
- 13.1.3 is signed by or on behalf of the Member appointing the proxy, or is otherwise authenticated in such manner as the Governors may determine; and
- 13.1.4 is delivered to the Trust in accordance with these 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 meeting (or adjourned meeting) to which they relate,

and a proxy notice which is not delivered in such manner shall be invalid.

- 13.2 The Trust may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 13.3 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.
- 13.4 Unless a proxy notice indicates otherwise, it must be treated as:
- 13.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - 13.4.2 appointing that person as a proxy in relation to any adjournment of the meeting to which it relates as well as the meeting itself.
- 13.5 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a 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 Trust by or on behalf of that person.
- 13.6 An appointment under a proxy notice may be revoked by delivering to the Trust a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.

- 13.7 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.
- 13.8 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.

## **THE GOVERNORS**

### **14. COMPOSITION OF THE BOARD OF GOVERNORS**

- 14.1 A Governor may not act as a Governor unless he:
- 14.1.1 is a natural person aged 16 years or older;
  - 14.1.2 is a Member; and
  - 14.1.3 has expressed a willingness to act as a Governor.
- 14.2 The appointment of any Governor must not cause the number of Governors to exceed any number fixed by the Governors or under these Articles.

### **15. NUMBER OF GOVERNORS**

Unless otherwise determined by a general meeting, the number of Governors shall not be less than 6 nor more than 30.

### **16. CHAIR AND VICE-CHAIR**

- 16.1 The Members shall, by ordinary resolution passed at an AGM, elect or re-elect (as the case may be) a Chair and Vice-Chair.
- 16.2 Where the Chair is absent from a Governors' meeting, the Vice-Chair shall act as the Chair for the sole purpose of chairing that meeting.
- 16.3 Where the Chair and the Vice-Chair are both absent from a Governors' meeting, the Governors present shall elect a Chair from among their number for the sole purpose of chairing that meeting, but such person shall not have the casting vote referred to in **article 22**.
- 16.4 The Chair and Vice-Chair shall hold office for three years unless re-elected.
- 16.5 Where a vacancy arises in the office of Chair or Vice-Chair before the date of the AGM, the Governors shall elect a Chair or Vice-Chair from among their number at their next Governors' meeting.
- 16.6 Any election of the Chair or Vice-Chair which is contested shall:
- 16.6.1 in the case of an election by the Governors, be held by secret ballot; and
  - 16.6.2 in the case of an election by the Members at the AGM, be voted on by a poll.
- 16.7 The Chair and Vice-Chair shall cease to hold such office as soon as (in each case):
- 16.7.1 they cease to be a Governor;

- 16.7.2 they resign;
  - 16.7.3 their term of office expires and they are not re-elected; or
  - 16.7.4 they are removed as Chair (or Vice-Chair, as the case may be) in accordance with **article 16.8**.
- 16.8 A resolution to remove the Chair or Vice-Chair from office which is passed at a meeting of the Governors shall not have effect unless:
- 16.8.1 it is confirmed by a resolution passed at a second meeting of the Governors held not less than fourteen days after the first meeting; and
  - 16.8.2 the matter of the Chair's or Vice-Chair's removal from office is specified as an item of business on the agenda for each of those meetings.
- 16.9 Before the Governors resolve at the relevant meeting on whether to confirm the resolution to remove the Chair or Vice-Chair from office, the Governor or Governors proposing their removal shall at that meeting state their reasons for doing so and the Chair or Vice-Chair shall be given an opportunity to make a statement in response.
- 17. TERM OF OFFICE**
- 17.1 Upon the fourth anniversary of a Governor's appointment or re-appointment, his office as Governor shall automatically terminate unless he is further re-appointed as a Governor.
- 17.2 No Governor may be re-appointed to office for more than four consecutive terms, and no Chair may be re-appointed as Chair for more than six consecutive terms except with the prior unanimous agreement of the Governors.
- 18. DISQUALIFICATION AND REMOVAL OF GOVERNORS**
- 18.1 A Governor shall cease to hold office if:
- 18.1.1 he ceases to be a Governor by virtue of any provision of the CA 2006 or is prohibited by law from being a Governor;
  - 18.1.2 he is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of those provisions);
  - 18.1.3 he ceases to be a Member;
  - 18.1.4 in the written opinion given to the Trust of a registered medical practitioner treating that person, the Governor has become physically or mentally incapable of acting as a Governor and may remain so for more than three months;
  - 18.1.5 he resigns as a Governor by notice to the Trust (but only if at least four Governors will remain in office when the notice of resignation is to take effect);
  - 18.1.6 he is absent without the permission of the Governors from all of their meetings held within a period of six consecutive months and the Governors resolve that his office be vacated;

18.1.7 he is deemed (in the reasonable opinion of the Governors) to have acted in such a way as to adversely affect the reputation of the Trust and the Governors resolve that his office be vacated; or

18.1.8 he is removed by the Members at a general meeting under the CA 2006.

## **19. GOVERNORS' MEETINGS**

19.1 Any decision of the Governors must be taken at a Governors' meeting in accordance with these Articles or must be a decision taken in accordance with **article 23**.

19.2 Subject as provided in these Articles, the Governors may participate in Governors' meetings for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

19.3 A meeting of the Governors may be held either in person or by a suitable Electronic Platform agreed by the Governors in which all participants may communicate with all the other participants.

## **20. CALLING A GOVERNORS' MEETING**

20.1 Any Governor may call a meeting of Governors by giving not less than 10 Business Days' notice of the meeting (or such shorter period of notice as agreed in writing by the Governors) to each Governor or by authorising the Trust's secretary (if any) to give such notice.

20.2 Notice of any Governors' meeting must be accompanied by:

20.2.1 an agenda specifying in reasonable detail the matters to be raised at the meeting; and

20.2.2 copies of any papers to be discussed at the meeting.

20.3 Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of Governors unless all the Governors agree in writing.

## **21. QUORUM FOR GOVERNORS' MEETINGS**

21.1 The quorum at any meeting of the Governors (including adjourned meetings) shall be three Governors or one-third of the Governors (if greater).

21.2 No business shall be conducted at any meeting of Governors unless a quorum is present at the beginning of the meeting and also when that business is voted on.

21.3 If a quorum is not present within 30 minutes of the time specified for the relevant meeting in the notice of the meeting then the meeting shall be adjourned for 5 Business Days at the same time and place, or to such time and place as the Governors may determine.

21.4 If the number of Governors is less than the number fixed as the quorum, the continuing Governors or Governor may only act for the purpose of filling vacancies or calling a general meeting.

## **22. VOTES OF GOVERNORS**

Each Governor has one vote at any meeting of the Governors or on any resolution in writing of the Governors but in the case of equality of votes, the Chair shall have a casting vote.

## **23. UNANIMOUS DECISIONS OF GOVERNORS**

- 23.1 A decision of the Governors is taken in accordance with this article when all Governors indicate to each other by any means that they share a common view on a matter.
- 23.2 Such a decision may take the form of a resolution in writing, where each director has signed one or more copies of it, or to which each Eligible Governor has otherwise indicated agreement in writing.
- 23.3 A decision may not be taken in accordance with this article if the Governors would not have formed a quorum at a Governors' meeting to vote on the matter.

## **24. TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE TRUST**

Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the CA 2006 and provided he has declared the nature and extent of his interest in accordance with the requirements of the CA 2006, a Governor who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Trust:

- 24.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Trust or in which the Trust is otherwise (directly or indirectly) interested;
- 24.2 will be an Eligible Governor for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;
- 24.3 may act by himself or his firm in a professional capacity for the Trust (otherwise than as auditor) and he or his firm will be entitled to remuneration for professional services as if he were not a Governor;
- 24.4 may be a Governor 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 Trust is otherwise (directly or indirectly) interested; and
- 24.5 will not, save as he may otherwise agree, be accountable to the Trust for any benefit which he (or a person connected with him, as defined in section 252 of the CA 2006) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement will be liable to be avoided on the grounds of any such interest or benefit nor will the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the CA 2006.

## **25. GOVERNORS' CONFLICTS OF INTEREST**

- 25.1 The Governors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any Governor which would, if not authorised, involve a Governor (an **Interested Governor**) breaching his duty under section 175 of the CA 2006 to avoid conflicts of interest (**Conflict**).
- 25.2 Any authorisation under this article will be effective only if:
  - 25.2.1 the matter in question has been proposed by any Governor for consideration at a meeting of the Governors in the same way that any other matter may be

- proposed to the Governors under the provisions of these Articles or in such other manner as the Governors may determine;
- 25.2.2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Governor; and
  - 25.2.3 the matter was agreed to without the Interested Governor voting or would have been agreed to if the Interested Governor's vote had not been counted.
- 25.3 Any authorisation of a Conflict under this article may (whether at the time of giving the authorisation or subsequently):
- 25.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
  - 25.3.2 provide that the Interested Governor be excluded from the receipt of documents and information and the participation in discussions (whether at Governors' meetings or otherwise) related to the Conflict;
  - 25.3.3 provide that the Interested Governor will or will not be an Eligible Governor in respect of any future Governors' vote in relation to any resolution related to the Conflict;
  - 25.3.4 impose upon the Interested Governor such other terms for the purposes of dealing with the Conflict as the Governors think fit;
  - 25.3.5 provide that, where the Interested Governor obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a Governor of the Trust) information that is confidential to a third party, he will not be obliged to disclose that information to the Trust, or to use it in relation to the Trust's affairs where to do so would amount to a breach of that confidence; and
  - 25.3.6 permit the Interested Governor to absent himself from the discussion of matters relating to the Conflict at any Governors' meeting and be excused from reviewing papers prepared by, or for, the Governors to the extent they relate to such matters.
- 25.4 Where the Governors authorise a Conflict, the Interested Governor will be obliged to conduct himself in accordance with any terms and conditions imposed by the Governors in relation to the Conflict.
- 25.5 The Governors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Governor, prior to such revocation or variation, in accordance with the terms of such authorisation.
- 25.6 In authorising a Conflict, the Governors may decide (whether at the time of giving the authorisation or subsequently) that if a Governor has obtained any information through his involvement in the Conflict otherwise than as a Governor of the Trust and in respect of which he owes a duty of confidentiality to another person, the Governor is under no obligation to:
- 25.6.1 disclose such information to the Governors or to any Governor or other officer or employee of the Trust; or

25.6.2 use or apply any such information in performing his duties as a Governor,  
where to do so would amount to a breach of that confidence.

25.7 A Governor is not required, by reason of being a Governor (or because of the fiduciary relationship established by reason of being a Governor), to account to the Trust 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 Governors or by the Trust 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.

## **26. DELEGATION**

26.1 The Governors may delegate any of their powers or functions to a committee, but the terms of any delegation must be recorded in the minute book.

26.2 The Governors shall determine the constitution, membership and proceedings of committees provided that:

26.2.1 Governors constitute the majority of Members on any committee;

26.2.2 no vote on any matter shall be taken at any meeting of a committee unless the majority of Members present are Governors; and

26.2.3 all acts and proceedings of any committees are fully and promptly reported to the Governors.

26.3 Subject to the Articles, the Governors may revoke or alter a delegation.

## **27. RECORDS OF DECISIONS TO BE KEPT**

27.1 The Governors must keep records of all:

27.1.1 proceedings at meetings of the Governors;

27.1.2 resolutions;

27.1.3 reports of any committees; and

27.1.4 professional advice obtained.

27.2 Where decisions of the Governors are taken by electronic means, such decisions shall be recorded by the Governors in a form that enables the Trust to retain a copy of such decisions.

## **28. SECRETARY**

The Governors may appoint a secretary for such term, at such remuneration and upon such conditions as they may think fit, and any secretary so appointed may be removed by them.

## **29. AUDIT**

29.1 The annual accounts of the Trust for each financial year shall be examined by one or more properly qualified auditor or auditors who shall be appointed by the Trust to ascertain whether such accounts give a true and fair view of the state of the affairs of the Trust as at each respective financial year end.

29.2 Auditors shall be appointed in accordance with section 485 of the CA 2006.

## **ADMINISTRATIVE ARRANGEMENTS**

### **30. MEANS OF COMMUNICATION TO BE USED**

30.1 The only address at which a Member is entitled to receive notices sent by post is an address in the United Kingdom shown in the register of Members.

30.2 Subject to **article 30.3**, any notice, document or other information shall be deemed received by the intended recipient:

30.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address;

30.2.2 if sent by pre-paid first class post or other next working day delivery service providing proof of delivery, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or

30.2.3 if sent by email, at the time of transmission.

30.3 If deemed receipt under **article 30.1** would occur outside Usual Business Hours, the notice, document or other information shall be deemed to have been received when Usual Business Hours next recommence. For the purposes of this article, **Usual Business Hours** means 9.00 am to 5.30 pm local time on a Business Day.

30.4 To prove service, it is sufficient to prove that:

30.4.1 if delivered by hand, the notice was delivered to the correct address;

30.4.2 if sent by post, the envelope containing the notice was properly addressed, paid for and posted; or

30.4.3 if sent by email, the notice was properly addressed and sent to the email address of the recipient.

### **31. INDEMNITY AND INSURANCE**

31.1 Subject to **article 31.2**, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

31.1.1 each relevant officer of the Trust shall be indemnified out of the Trust's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer 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 Trust's affairs; and

31.1.2 the Trust may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or

application referred to in **article 31.1.1** and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

- 31.2 This article does not authorise any indemnity to the extent that such indemnity would be prohibited or rendered void by any provision of the CA 2006 or by any other provision of law and any such indemnity is limited accordingly.
- 31.3 The Governors may decide to purchase and maintain insurance, at the expense of the Trust, for the benefit of any relevant officer in respect of any relevant loss.
- 31.4 In this article:
  - 31.4.1 a **relevant officer** means any Governor or other officer or former Governor or other officer of the Trust, including in each case any person engaged by the Trust as auditor, to the extent he acts in his capacity as auditor; and
  - 31.4.2 a **relevant loss** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Trust or any pension fund of the Trust.