



**Dated**

**2022**

**The Companies Act 2006  
Private Company Limited By Guarantee  
Articles of Association  
of  
FREEPORT EAST LIMITED**

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**THE COMPANIES ACT 2006**  
**COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL**  
**ARTICLES OF ASSOCIATION**  
**of**  
**FREEPORT EAST LIMITED**

**1 Exclusion of model articles**

None of the regulations contained in the Companies (Model Articles) Regulations 2008 apply to the Company and these Articles alone are the articles of association of the Company.

**2 Interpretation**

2.1 In these Articles, unless the context requires otherwise:

<b>Act</b>	means the Companies Act 2006;
<b>Alternate or Alternate Directors</b>	has the meaning given in Article 16;
<b>Appointor</b>	has the meaning given to it in Article 16;
<b>Articles</b>	means these articles of association;
<b>Associate Member</b>	means an organisation that is not a Founding Member and that becomes a member of the Company (in accordance with the process set out in these Articles) to assist the Company in realising its vision and achieving its Objects, having such rights and responsibilities as are set out in these Articles and in the Rules or in any Relevant Agreement;
<b>Billing Authorities</b>	means East Suffolk Council, Tendring District Council and Mid Suffolk District Council;
<b>Board</b>	means the supervisory board of the Company which comprises the Chief Executive Officer, the Directors of the Company from time to time and the Chair;

<b>Business</b>	means: <ul style="list-style-type: none"> <li>a) to operate Freeport East in accordance with DLUHC and other central government requirements; and</li> <li>b) to undertake such other business as the Members may from time to time agree that promotes the achievement of the Objects;</li> </ul>
<b>Chair</b>	means the independent chair appointed in accordance with Article 18 and any Relevant Agreement;
<b>Change of Control</b>	in relation to a Member, means the incumbent controllers ceasing to Control the Member except where the ultimate parent entity of the Member remains the same (but this shall not include a change of control of a Public Sector Member arising as a result of a change of administration);
<b>Chief Executive Officer</b>	means the independent chief executive officer appointed by the Board following an external recruitment process;
<b>Companies Acts</b>	means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the Company;
<b>Control</b>	has the meaning given to it in Section 1124 of the Corporation Tax Act 2010;
<b>Customs Site</b>	means any customs site within the Freeport Boundary designated by HMRC or by statutory instrument from time to time that has been endorsed by the Board;
<b>Director</b>	means a director of the Company and includes any person occupying the position of director, by whatever name called;
<b>DLUHC</b>	means the Department for Levelling Up, Housing and Communities (formerly known as the Ministry of Housing, Communities and Local Government);
<b>Eligible Director</b>	means a Director who would have been entitled to vote on the matter had it been proposed as a resolution at a Board meeting (but excluding any Director whose vote is not to be counted provided such exclusion shall apply only in respect of the particular matter on which the Director's vote is not to be counted in accordance with these Articles);
<b>entrenched provision</b>	means a provision of these Articles which, pursuant to the provisions and operation of section 22 of the Act, is only to be amended by a unanimous decision of the Members;

**Founding Members**

means:

- a) the following Local Authorities and any Successor Body: East Suffolk Council; Suffolk County Council; Essex County Council; Tendring District Council; Mid Suffolk District Council;
- b) the following Private Sector Members: Harwich International Port Limited which owns and operates Harwich International Port; The Felixstowe Dock and Railway Company which operates the Port of Felixstowe; and Gateway14 Limited;
- c) the following LEP Members and any Successor Body: New Anglia Local Enterprise Partnership; and South East Local Enterprise Partnership; and
- d) the following University Member: University of Essex;

**Freeport Boundary**

means the outer boundary for the Freeport East area as shown on the plan set out in Freeport East's Full Business Case submitted to DLUHC or such other boundary for the operations of the Freeport East as is designated by DLUHC or by secondary legislation from time to time;

**Full Business Case**

means the full business case for Freeport East to operate a freeport in the East Anglia area as approved by DLUHC on [DATE TBC] 2022;

**Governance Review Date**

1<sup>st</sup> November 2027 or such other date as the Members may unanimously agree;

**Group**

means, in relation to a company, including the Company, that company and any company which is from time to time a Holding Company of that company or a Subsidiary of that company or of such Holding Company provided that, for the purposes of this definition, any references to companies shall be interpreted as including limited liability partnerships and the definitions of "Subsidiary" and "Holding Company" shall be such that any references to companies therein shall include references to limited liability partnerships;

**Holding Company**

has the meaning given to parent undertaking by section 1162 of the Companies Act amended to include any limited liability partnership which would fall within that meaning if it were a company;

<b>Intra-Group Transfer</b>	means the transfer of rights and obligations from a Private Sector Member to another company within the Private Sector Member's Group;
<b>Lead Authority</b>	means East Suffolk Council or any such body that becomes the accountable body to central Government from time to time in respect of the use by the Company of public funds;
<b>LEP Member</b>	means those Founding Members which are Local Enterprise Partnerships;
<b>Local Authority</b>	means a local authority as defined within section 1 of the Local Government Act 2000;
<b>Management Committee</b>	<p>means the committee with the responsibility for the day-to-day operation of the Company comprising the Chief Executive Officer; one representative on behalf of the Lead Authority; one representative on behalf of each of the following Founding Members:</p> <ul style="list-style-type: none"> <li>a) Harwich International Port Limited;</li> <li>b) The Felixstowe Dock and Railway Company;</li> <li>c) Gateway14 Limited;</li> <li>d) Tendring District Council;</li> <li>e) Mid Suffolk District Council;</li> <li>f) East Suffolk Council (in addition to any representative which may be appointed in respect of their status as Lead Authority),</li> </ul> <p>and such other individuals as may be invited by the Board from time to time;</p>
<b>Member</b>	means a member of the Company from time to time;
<b>Objects</b>	means the objectives of the Company set out at Article 3.1;
<b>Principal Ports</b>	means the principal ports of Freeport East, being the Port of Felixstowe and Harwich International Port at the date of adoption of these Articles;
<b>Private Sector Director</b>	means any Director appointed by the Private Sector Members but excluding the Chief Executive Officer and the Chair;
<b>Private Sector Member</b>	means any Founding Member that is not a Public Body;

<b>Proxy Notice</b>	has the meaning given in Article 42;
<b>Public Body</b>	means a: <ul style="list-style-type: none"> <li>a) Local Authority;</li> <li>b) Local Enterprise Partnership; or</li> <li>c) further or higher education institution.</li> </ul>
<b>Public Sector Director</b>	means any Director appointed by the Public Sector Members but excluding the Chief Executive Officer and the Chair;
<b>Public Sector Member</b>	means a Founding Member that is a Public Body or such other Founding Member as the Board otherwise agrees;
<b>Relevant Agreement</b>	means any agreement in force between the Members relating to the Company from time to time;
<b>Relevant Director</b>	has the meaning given in Article 48;
<b>Relevant Loss</b>	has the meaning given in Article 48;
<b>Retained Business Rates</b>	means the business rates retained or to be utilised by the Company after allowing for no detriment provisions to the Billing Authorities, Suffolk County Council, and Essex County Council;
<b>Rules</b>	has the meaning given in Article 22;
<b>Successor Body</b>	means, upon an amalgamation or merger of or transfer of engagements or otherwise, any Local Authority or Local Enterprise Partnership which assumes some or all of the functions exercised by another: <ul style="list-style-type: none"> <li>a) Local Authority; or</li> <li>b) Local Enterprise Partnership,</li> </ul> <p>provided that where one or more Local Authorities may assume some or all of the functions exercised by a Local Enterprise Partnership such Successor Body shall never have more than one Membership of the Company;</p>
<b>Tax Site</b>	means the sites within the Freeport Boundary designated by HMRC or by statutory instrument from time to time as benefiting from such tax advantages as the UK Government may determine from time to time;
<b>Tax Site Owners</b>	means the owners of the Tax Sites; and



**University Member** means those Founding Members that are further and higher education institutions.

- 2.2 References in these Articles to a document includes, unless otherwise specified, any document sent or supplied in electronic form.
- 2.3 References in these Articles to “**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.
- 2.4 Unless the context otherwise requires:
- 2.4.1 words importing the singular include the plural and vice versa;
- 2.4.2 words importing any gender include all other genders; and
- 2.4.3 words importing natural persons include corporations.
- 2.5 Words or expressions contained in these Articles which are defined in the Act have the same meaning as in the Act in force on the date of adoption of these Articles including the following words which are defined in the following sections of the Act:

<b>Word(s)/Expression</b>	<b>Section number in Act</b>
electronic form	section 1168
hard copy form	section 1168
ordinary resolution	section 282
special resolution	section 283
working day	section 1173
connected	sections 252 to 256

- 2.6 A reference to an Article by number is to any relevant Article of these Articles.
- 2.7 Headings used in these Articles shall not affect their construction or interpretation.
- 2.8 References to any statute or section of a statute shall include reference to any statutory amendment, extension, modification or re-enactment of such statute or section of a statute.

### **3 Objects and Powers**

- 3.1 The Objects of the Company shall be:
- 3.1.1 to facilitate skills, innovation, net zero, trade and investment and regeneration and levelling up within the Freeport Boundary

- through the development of plans aligning to partner strategies, project proposals and securing funding for such projects;
- 3.1.2 to facilitate the delivery of Tax Sites and Customs Sites within the Freeport Boundary;
  - 3.1.3 to enable Freeport East's business occupiers to align with relevant policy objectives;
  - 3.1.4 to report, monitor and evaluate the performance of Freeport East;
  - 3.1.5 to recommend proposals for projects within the Freeport Boundary, including the spending of Retained Business Rates and recommending the suitability of end occupiers for rates relief;
  - 3.1.6 to oversee the governance aspects of Freeport East;
  - 3.1.7 to monitor site infrastructure progress and support Tax Site Owners in their development of plans to enable them to secure relevant funding;
  - 3.1.8 to manage finance, investment and assets on behalf of Freeport East as may be required to ensure delivery of Freeport East's policy objectives;
  - 3.1.9 to consider proposals in respect of revenue and capital funding for wider projects within the Freeport Boundary and advise the Lead Authority in connection with the allocation of such funding;
  - 3.1.10 to liaise with the occupiers, owners and operators of Customs Sites to form and agree data sharing agreements, reporting and monitoring processes;
  - 3.1.11 to liaise with Tax Site Owners and occupiers to form and agree data sharing agreements, reporting and monitoring processes and to report to government teams in relation to Tax Site performance;
  - 3.1.12 to procure delivery services aligned to the Objects;
  - 3.1.13 to support regional and economic growth in the Freeport East area through the creation of and involvement in partnership boards and the support of programmes for any of Freeport East's policy objectives;
  - 3.1.14 to assist with the marketing, communications and investment for Freeport East including promotion of Freeport East support and investment offers and supporting investor enquiries into Freeport East;
  - 3.1.15 to engage with local communities and stakeholders within the Freeport Boundary in relation to the objectives and activities of Freeport East;

- 3.1.16 to identify and develop appropriate partnerships and collaborations as are pursuant to the objectives of Freeport East;
- 3.1.17 to monitor the use of capacity funding provided by DLUHC to the Lead Authority;
- 3.1.18 act as governing body for Freeport East and comply with the obligations of the governing body;
- 3.1.19 support the Lead Authority in its role as accountable body for Freeport East and assist the Lead Authority, where possible, in complying with its obligations; and
- 3.1.20 to carry out any actions which are required or deemed necessary by the Members to further the Company and its Objects from time to time.

3.2 The Company may do all such lawful things as may further the Objects.

#### **4 Liability of members and winding up**

- 4.1 The liability of each Member is limited to £1. Every Member must contribute £1 to the assets of the Company if it is wound up while they are a Member or within one year after they cease to be a Member, for:
  - 4.1.1 payment of the debts and liabilities of the Company contracted before they ceased to be a Member; and
  - 4.1.2 the costs, charges and expenses of winding up; and
  - 4.1.3 for the adjustment of the rights of the contributories among themselves.
- 4.2 Subject to any contrary provisions in any relevant law, if upon a winding up or in expectation of the dissolution of the Company and after satisfaction of its debts and liabilities, there remains any assets or property, such assets or property must be given or transferred to the Members in equal shares.

#### **5 Application of income and property**

- 5.1 Subject to Articles 25 and 26, the income and property of the Company from wherever derived shall be applied solely in promoting the Objects.
- 5.2 None of the income or property of the Company may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit, to any Member except in accordance with Article 4.2.
- 5.3 This Article 5 is an entrenched provision.

#### **6 Directors' general authority**

Subject to these Articles and any Relevant Agreement, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

## **7 Limitation on Directors' powers**

The Company shall not without the prior approval of the Members do any of the consent matters set out within any Relevant Agreement.

## **8 Members' reserve power**

8.1 The Members may, by a resolution requiring the approval of all Members, direct the Directors to take, or refrain from taking, specified action.

8.2 No such resolution invalidates anything which the Directors have done before the passing of the resolution.

## **9 Directors may delegate**

9.1 The Directors may delegate any of the powers which are conferred on them under these Articles:

9.1.1 to such person or committee (subject to Article 10);

9.1.2 by such means (including by power of attorney);

9.1.3 to such an extent;

9.1.4 in relation to such matters or territories; and

9.1.5 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 or committee to whom they are delegated.

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

9.4 Where there is any ambiguity, uncertainty or inconsistency in relation to any delegated authority and/or who is to take any decision to be made by or on behalf of the Company, the matter shall be referred to the Board for determination.

## **10 Management Committee**

10.1 The Company shall have a Management Committee which shall be responsible for the day-to-day operation of the Company and the discharge of its obligations in respect of those matters set out within any Relevant Agreement.

10.2 The Management Committee shall report to the Board no less than six times a year and at other such times as required by the Board from time to time.

## **11 Committees**

- 11.1 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 these Articles which govern the taking of decisions by Directors.
- 11.2 Subject to Article 22, the Directors may make Rules (including terms of reference) for all or any committees.
- 11.3 A member of a committee need not be a director.
- 11.4 If any matter of any committee meeting is not carried by reason of equal votes for or against the matter, the matter shall be referred to the Board for a decision.
- 11.5 All proceedings of committees must be reported to the Directors in accordance with the relevant Rules or terms of reference.

## **12 Directors to take decisions collectively**

- 12.1 Save in respect of decisions taken pursuant to Article 18.5 any decision of the Directors must be either a unanimous decision of those present and entitled to vote or a written resolution taken in accordance with Article 13.
- 12.2 If:
  - 12.2.1 the Company only has one Director, and
  - 12.2.2 no provision of these Articles requires it to have more than one Director,

the general rule does not apply and the sole Director may take decisions without regard to any of the provisions of these Articles relating to Directors' decision-making.
- 12.3 All acts done by a meeting of Directors, or a committee of Directors, or by any Director, shall be valid notwithstanding the participation in any vote of a Director who:
  - 12.3.1 was not entitled to vote on the matter, whether by reason of conflict of interest or otherwise;
  - 12.3.2 as a result of a defect in the appointment of such Director or such Director had not been properly appointed; or
  - 12.3.3 was disqualified from holding office; or
  - 12.3.4 had been obliged by these Articles to vacate office or had previously retired,

if without the vote of that Director and that Director being counted in the quorum the decision has been made by the unanimous consent of the Directors at a quorate meeting.

- 12.4 Only Directors are entitled to vote at a Board meeting. Every Director has one vote on each issue.
- 12.5 At a Board meeting, any decision will, in order for it to pass, require the unanimous consent decided by those Directors present and entitled to vote.

### **13 Board written resolutions**

- 13.1 A decision of the Directors is taken in accordance with this Article when all Eligible Directors or Directors comprising a quorum indicate to each other by any means that they share a common view on a matter in accordance with the provisions of this Article.
- 13.2 A resolution passed in accordance with this Article shall be as valid as if it had been passed at a Board meeting duly convened and held.
- 13.3 Such a decision may take the form of a resolution in writing, where each Director has one or more copies of it or to which each Eligible Director has otherwise indicated agreement in writing within 14 days of the circulation of the resolution in writing.
- 13.4 A decision may not be taken in accordance with this Article if the Eligible Directors would not have formed a quorum at a Board meeting.
- 13.5 Appropriate information and Board papers to enable Directors to make a decision will be circulated with the Board written resolution. Such information will be presented (insofar as possible) in the same manner as it would at a Board meeting.

### **14 Calling a Board meeting**

- 14.1 Any Director may call a Board meeting by giving notice of the meeting to the Directors or by authorising the Company secretary (if any) to give such notice.
- 14.2 Notice of any Board meeting must indicate:
  - 14.2.1 its proposed date and time;
  - 14.2.2 where it is to take place (which may be a virtually); and
  - 14.2.3 include a reasonably detailed agenda of the business to be transacted at the meeting accompanied by any relevant documentation; and
  - 14.2.4 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.
- 14.3 At least seven days' notice of a Board meeting must be given to each Director. Notice of a Board meeting must be given to each Director in writing.
- 14.4 Notice of a Board meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than seven days after the date on which the meeting is

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

- 14.5 Unless the Board meeting has been convened on short notice or in urgent circumstances, all Board papers shall be distributed at least five business days prior to the Board meeting.

## **15 Participation in Directors' meetings**

- 15.1 Directors participate in a Board meeting, or part of a Board meeting, when:
- 15.1.1 the meeting has been called and takes place in accordance with these Articles, and
  - 15.1.2 the Directors 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 Board 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 Alternate Directors**

- 16.1 Any Private Sector Director (the **Appointor**) may appoint an alternate who is an officer or employee of their appointing Member, as an alternate.
- 16.2 Any Public Sector Director (the **Appointor**) may appoint an alternate who is an officer or employee, or an elected member, of their appointing Member as an alternate.
- 16.3 Each alternate shall be appointed to:
- 16.3.1 exercise the Appointor's powers; and
  - 16.3.2 carry out the Appointor's responsibilities,
- in relation to the taking of decisions by the Directors in the absence of the Appointor (such appointed person, the **Alternate** or **Alternate Director**). A person may be appointed an Alternate Director by more than one Private Sector Director.
- 16.4 Any appointment or removal of an Alternate must be effected by notice in writing to the Company signed by the Appointor. The appointment or removal shall take effect when the notice is received by the Company or on such later date (if any) specified in the notice. The Board will be responsible for registering any Alternate Directors at Companies House.
- 16.5 The notice must:
- 16.5.1 identify the proposed Alternate; and

- 16.5.2 in the case of a notice of appointment, contain a statement signed by the proposed Alternate that the proposed Alternate is willing to act as the Alternate of the Director giving the notice.
- 16.6 An Alternate Director has the same rights, in relation to any decision of the Directors, as the Alternate's Appointor.
- 16.7 Alternate Directors:
  - 16.7.1 are deemed for all purposes to be Directors;
  - 16.7.2 are liable for their own acts and omissions;
  - 16.7.3 are subject to the same restrictions as their Appointors; and
  - 16.7.4 are not deemed to be agents of or for their Appointors,and, in particular, each Alternate Director shall be entitled to receive notice of all meetings of Directors and all meetings of committees of Directors of which their Appointor is a member.
- 16.8 An Alternate Director is not entitled to receive any remuneration from the Company for serving as an Alternate Director except such part of the Alternate's Appointor's remuneration (if any) as the Appointor may direct by notice in writing made to the Company.
- 16.9 An Alternate Director's appointment as an Alternate terminates:
  - 16.9.1 when the Alternate's Appointor revokes the appointment by notice in writing to the Company and the Members;
  - 16.9.2 on the occurrence in relation to the Alternate of any event which, if it occurred in relation to the Alternate's Appointor, would result in the termination of the Appointor's appointment as a Director;
  - 16.9.3 when the appointment as a Director of the Alternate's Appointor terminates; or
  - 16.9.4 when the appointment as a Director of the Alternate terminates.
- 16.10 A Director who is also an Alternate Director has an additional vote on behalf of each Appointor who is:
  - 16.10.1 not participating in a Board meeting; and
  - 16.10.2 would be an Eligible Director.
- 16.11 A Director who is also an Alternate Director shall be counted as part of the quorum of the Board on their own account and in respect of the Director for whom they are the Alternate.

## **17 Quorum for Board meetings**

- 17.1 At a Board meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.



- 17.2 Subject to article 17.5, the quorum for Board meetings shall be six Directors present (or their approved Alternates) comprising:
- 17.2.1 the Director appointed by the Lead Authority;
  - 17.2.2 each of the Directors appointed by the Billing Authorities;
  - 17.2.3 at least one other Public Sector Director representing at least one other Local Authority; and
  - 17.2.4 at least two Private Sector Directors.
- 17.3 If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than:
- 17.3.1 to call a general meeting so as to enable the Members to appoint further Directors; or
  - 17.3.2 to give notice to any Member entitled to appoint a Director but who presently has not exercised that right, requiring such Member to exercise such right. Any Member which is served a notice pursuant to this Article shall appoint a Director as soon as is reasonably practicable and in any event no later than seven days from the date of receipt of such notice.
- 17.4 The Lead Authority shall use its reasonable endeavours to ensure that its appointed Director (or their approved Alternate) is present at Board meetings.
- 17.5 For the period up to and including 1<sup>st</sup> November 2022 only, the quorum for Board meetings and written resolutions shall be all Directors then appointed and the provisions of Article 17.2 shall not apply. For any Board meetings held during that period the Board shall invite by written notice, observers from the Lead Authority, Essex County Council, Suffolk County Council, the Billing Authorities, and the Principal Ports if those bodies have not, at the date of the Board meeting, appointed a Director. Such observers will be able to speak and make representations to the Board meeting but shall not have a right to vote. Where a decision is to be taken by way of written resolution such resolution will also be sent, at the time it is sent to the Directors, to the Lead Authority, Essex County Council, Suffolk County Council, the Billing Authorities, and the Principal Ports if those bodies have not, at the date the resolution is circulated, appointed a Director. Such bodies shall be able to provide comments and make representations to the Board but shall not have a right to vote.

## **18 The Chair, chairing of Board meetings and the Chief Executive Officer**

- 18.1 The person appointed pursuant to Article 18.2 shall be known as the **Chair**.
- 18.2 An independent person shall be appointed as Chair.
- 18.3 The person to be appointed as Chair shall be selected via a robust recruitment process undertaken by the Board which shall ensure the individual appointed has the requisite level of knowledge and experience expected of an individual

occupying the position of a senior officer in an equivalent organisation to the Company.

- 18.4 Following the appointment of the Chair, the Board may, if it chooses, appoint a Deputy Chair from among the Directors.
- 18.5 The Board may terminate the Chair's appointment at any time with the unanimous consent of those Directors present and entitled to vote, such resolution shall not require the Chair's approval and may be passed notwithstanding their opposition or vote.
- 18.6 The Board may terminate any Chief Executive Officer's appointment as Director (where they are appointed Director and without prejudice to any contract of employment) at any time with the unanimous consent of those Directors present and entitled to vote, such resolution shall not require the Chief Executive Officer's approval and may be passed notwithstanding their opposition or vote.
- 18.7 If at the date and time of a meeting of the Directors the person appointed as Chair pursuant to Article 18.2 or the person appointed as Deputy Chair pursuant to Article 18.4 is not participating in a Board meeting within ten minutes of the time at which it was to start, then the participating Directors may appoint a Director present to act as chair and to chair that meeting. The participating Directors may terminate the appointment of a person as chair made under this Article 18.7 at any time during the meeting at which the chair is appointed.

## 19 Casting vote

If the number of votes for and against a proposal are equal, the Chair, Deputy Chair or other Director chairing the meeting shall not have a casting vote.

## 20 Conflicts of interests

- 20.1 Where there are circumstances capable of giving rise to a conflict of interest between the Company and any person or entity responsible for the appointment of a Director or between the Company and a Director, the Director must declare the conflicting interest.
- 20.2 Notwithstanding any other provision of these Articles, any Director who is also an elected member, officer or employee of a Member or any of its subsidiary undertakings and who has a conflict situation merely by virtue of their appointment as a Director (an **Inherent Conflict**) shall be deemed to have declared the Inherent Conflict and had the Inherent Conflict authorised for the purposes of section 175 of the Act and these Articles.
- 20.3 Save as set out in Article 20.4 if a proposed decision of the Directors is concerned with an actual or proposed transaction or arrangement with the Company in which a Director is interested, that Director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- 20.4 A Director may be counted as participating in the decision-making process for quorum and voting purposes in the following circumstances:

- 20.4.1 the Company by ordinary resolution disapplies the provision of these Articles which would otherwise prevent a Director from being counted as participating in the decision-making process;
  - 20.4.2 the Director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest;
  - 20.4.3 the conflict is an Inherent Conflict; or
  - 20.4.4 the Director's conflict of interest arises from a permitted cause.
- 20.5 For the purposes of Article 20.4, the following are permitted causes:
- 20.5.1 a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the Company or any of its subsidiary undertakings;
  - 20.5.2 subscription, or an agreement to subscribe, for securities of the Company or any of its subsidiary undertakings, or to underwrite, sub-underwrite, or guarantee subscription for any such securities; and
  - 20.5.3 arrangements pursuant to which benefits are made available to employees and Directors or former employees and Directors of the Company or any of its subsidiary undertakings which do not provide special benefits for Directors or former Directors.
- 20.6 For the purposes of this Article, references to proposed decisions and decision-making processes include any Board meeting or part of a Board meeting.
- 20.7 If a question arises at a meeting of Directors or of a committee of Directors as to the right of any Director (including the Chair) to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question must be decided by a unanimous decision of the Directors in attendance but excluding the Director in question.

## **21 Records of decisions to be kept**

The Directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every decision taken by the Directors. Where decisions of the Directors are taken by electronic means, such decisions must be recorded by the Directors in permanent form so that they may be read by the naked eye.

## **22 Directors' discretion to make further rules**

- 22.1 Except as otherwise provided by these Articles, the Board with the approval of a unanimous decision of the Members (present and entitled to vote) may establish rules and terms of reference (**Rules**) governing matters relating to the Company's administration that are required from time to time for the effective operation of the Company. The Board may alter, add to or repeal Rules to the extent that such power is not reserved to the Founding Members in respect of any particular Rules or under any Relevant Agreement.

- 22.2 Without prejudice the Board's power to establish, alter, add to or repeal Rules or terms of reference, the Founding Members have, subject to the provisions of any Relevant Agreement, the power in a general meeting and acting by a unanimous decision of those present and entitled to vote to add to or repeal Rules.
- 22.3 Within 10 business days of the adoption of any Rules or the alteration of any Rules, the Company secretary (or if none the Chair of the relevant meeting) shall circulate the updated Rules and a comparison version of them to the Members, the Directors and to others impacted by such Rules, such as committee members or members of staff. The Rules shall be binding on all Members, Directors, committee members and those impacted by such Rules.
- 22.4 If there is a conflict between the terms of these Articles and any Rules established under this Article, the terms of these Articles shall prevail.

## **23 Number and methods of appointing Directors**

- 23.1 The number of Directors must not be less than 6 and shall have a maximum number of 12.
- 23.2 Subject to the provisions of any Relevant Agreement, any person who is willing to act as a Director, and is permitted by law to do so, may be appointed as a Director:
  - 23.2.1 in accordance with these Articles;
  - 23.2.2 by ordinary resolution; or
  - 23.2.3 by a decision of the Directors.
- 23.3 Subject to the limitation on the number of Directors imposed by Article 23.1, each Founding Member which is not a LEP Member or University Member shall, for so long as it remains a Member, be entitled to appoint one Director to the Board.
- 23.4 Each of the following classes of Founding Members shall, so long as there is a Member within the relevant class, be entitled to appoint one Director to the Board:
  - 23.4.1 the LEP Members; and
  - 23.4.2 the University Members.
- 23.5 Unless otherwise agreed by a unanimous decision of the Members, a Member who is not a Founding Member shall not be entitled to appoint a Director to the Board, but the Board may agree to confer observer status on to a person appointed by a Member who is not a Founding Member.
- 23.6 Any appointment by a Founding Member (or any other Member entitled to appoint a Director) of a Director after the date of incorporation shall be effected by notice in writing to the Company signed by or on behalf of the relevant Member and such notice, subject to any contrary intention expressed in the notice, shall:

- 23.6.1 state the name and post or office of the person being appointed; and
- 23.6.2 take effect when the notice is given to the Company or on delivery to a meeting of the Board (whichever is earlier).

## **24 Removal of Directors**

- 24.1 A Member (or relevant class of Member as the case may be) shall be entitled to remove and replace the Director appointed by it pursuant to Article 23. Any removal by a Member (or relevant class of Member as the case may be) of its Director shall be effected by notice in writing to the Company signed by or on behalf of the relevant Member and, subject to any contrary intention expressed in the notice, shall take effect when the notice is delivered to the Company or on delivery to a meeting of the Board (whichever is earlier).
- 24.2 Notwithstanding any other provision of these Articles, a Member shall forthwith remove a Director appointed by it by written notice to the Company where:
  - 24.2.1 the appointing Member ceases to be a Member of the Company (save where the Member is replaced by a Successor Body or as a result of an Intra-Group Transfer) and in such circumstances, the outgoing Member shall not be entitled to replace the Director; or
  - 24.2.2 the Director exercises their voting rights in contravention of these Articles or of any Relevant Agreement (in which case the Members shall co-operate with each other as appropriate to rectify any consequences of that Director's actions or omissions); or
  - 24.2.3 the Director resigns from the office of Director by providing not less than 20 business days' written notice to the Company; or
  - 24.2.4 the Director has been absent from meetings of the Board for three or more consecutive meetings (unless the Members unanimously agree to allow the Director to remain a Director); or
  - 24.2.5 the Director ceases to be an employee, officer or elected member of a Member or any Group.
- 24.3 A person ceases to be a Director as soon as:
  - 24.3.1 that person ceases to be a Director by virtue of any provision of the Act or is prohibited from being a Director by law; or
  - 24.3.2 a bankruptcy order is made against that person; or
  - 24.3.3 a composition is made with that person's creditors generally in satisfaction of that person's debts; or
  - 24.3.4 that person is convicted of any offence of fraud or dishonesty; or
  - 24.3.5 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has

become physically or mentally incapable of acting as a Director and may remain so for more than three months; or

24.3.6 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; or

24.3.7 they are removed pursuant to any Relevant Agreement; or

24.3.8 in the case of a Director appointed by a Founding Member, the relevant Member (or relevant class of Member as the case may be) serves notice to remove the Director in accordance with Article 24.1, and such notice has taken effect in accordance with its terms; or

24.3.9 where there is a sole Member, the Director is removed by the Member by notice to the Company secretary (if any) or to the Company.

24.4 If a Member removes a Director appointed by it then the relevant Member shall indemnify the Company against all losses, liabilities and costs which the Company may incur arising out of, or in connection with, any claim by the vacating Director. This indemnity shall continue notwithstanding dissolution or winding up of the Company. The Company shall notify the Member that removed the Director as soon as reasonably practicable of any claim received by it from the removed Director. The Company shall not settle any such claim without the prior consent of the relevant Member.

## **25 Directors' remuneration**

Subject to Article 26, no Director except the Chief Executive Officer and the Chair shall be entitled to receive any remuneration from the Company in respect of their service in office.

## **26 Directors' expenses**

The Company may pay any reasonable expenses which the Directors properly incur in connection with their attendance at:

26.1 meetings of Directors or committees of Directors; or

26.2 general meetings,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company, subject to the production of relevant receipts.

## **27 Accounts**

For each financial year, the Directors shall:

27.1 cause accounting records to be kept as required by the Act;

27.2 cause a statement of account to be prepared as required by the Act;

- 27.3 cause a report on the activities of the Company to be prepared; and
- 27.4 cause the accounting records and statements of accounts to be preserved for a period of 6 years from the end of the financial year to which they relate.

## **28 Members and admission to Membership**

- 28.1 The subscribers to the Memorandum shall be the initial Members of the Company.

- 28.2 Membership is non-transferable except where:

- 28.2.1 a Private Sector Member is subject to an Intra-Group Transfer; or

- 28.2.2 the Membership of a Local Authority Member or LEP Member automatically transfers to a Successor Body,

and the new party agrees to and enters into such agreements as may be required to ensure they assume all of the rights and obligations of the outgoing member under these Articles or any Relevant Agreements and all other agreements related to delivery and maintenance of Freeport East as entered into from time to time.

- 28.3 The Board may admit (although shall not be obliged to accept) to Membership an organisation that:

- 28.3.1 completes the appropriate Membership application form and applies to the Company using the application process approved by the Board;

- 28.3.2 has a substantial physical presence in Essex and/or Suffolk;

- 28.3.3 satisfies the Membership eligibility set out in the Rules and/or in any Relevant Agreement; and

- 28.3.4 is approved by the Members by way of a unanimous decision of those present and entitled to vote.

- 28.4 Save in circumstances where article 28.2 applies, the Board may in its absolute discretion decline to accept any Membership application and need not give reasons for doing so to the applicant but the Directors will share the reason amongst themselves.

- 28.5 Where the Board approves the admission of a new Member, the details of the Member shall be recorded in the register of Members.

- 28.6 The admission of a new Member as a result of an Intra-Group Transfer or automatic transfer of membership to a Successor Body in compliance with article 28.2 shall be deemed approved by the Board, in which circumstances, the membership of the original Member shall terminate upon the admission of this new Member.

## **29 Classes of Members**

29.1 At the date of adoption of these Articles, the Company has the following classes of Members:

29.1.1 Founding Members which is sub-divided into sub-classes Private Sector Members and Public Sector Members (which includes LEP Members and University Members each as a class of Members). Each Founding Member which is not a LEP Member or University Member shall be entitled to:

- (a) appoint a Director in accordance with Article 23.3;
- (b) receive notice of, attend and vote at general meetings of the Company;

29.1.2 LEP Members, who shall:

- (a) as a class of members have the right to appoint one Director in accordance with Article 23.4;
- (b) be entitled to receive notice of, attend and vote at general meetings of the Company;

29.1.3 University Members, who shall:

- (a) as a class of members have the right to appoint one Director in accordance with Article 23.4;
- (b) be entitled to receive notice of, attend and vote at general meetings of the Company; and

29.1.4 Associate Members, who shall:

- (a) not have any right to appoint a Director;
- (b) be entitled to receive notice of and attend general meetings of the Company but who shall not have any entitlement to vote whether at general meetings or in written resolutions; and
- (c) be entitled to receive notice of and attend Associate Member class meetings and to vote at such class meetings.

29.2 The provisions in these Articles relating to general meetings shall apply to any class meetings, with the necessary changes being made.

## **30 Termination of Membership**

30.1 Membership of a Member shall automatically terminate:

30.1.1 when that Member goes into receivership, administrative receivership, administration, liquidation, implements a moratorium of debts or other arrangement for the winding up of a



- company (if a company) or enters into any analogous procedure in any other jurisdiction;
- 30.1.2 when that Member ceases to trade or is dissolved or ceases to exist;
  - 30.1.3 in the case of a Private Sector Member, except with prior written approval of the Board:
    - (a) when the whole or substantially the whole of the business and assets of the Member are transferred to another person;
    - (b) when that Member transfers the whole or the majority of the land comprised within a Tax Site or a Customs Site to another person;
  - 30.1.4 when a Member undergoes a Change of Control;
  - 30.1.5 upon the expiry of the term of Membership for an Associate Member;
  - 30.1.6 when a Member has failed to pay any membership fees to the Company within 2 months of the due date and the Board decides to terminate Membership; and
  - 30.1.7 for the transferring Member, upon completion of a transfer of Membership pursuant to Article 28.2.
- 30.2 An Associate Member may withdraw from membership of the Company by giving not less than one month's written notice to the Board.
- 30.3 Save as permitted within these Articles, a Founding Member cannot withdraw from membership of the Company before the Governance Review Date without the prior unanimous consent of all other Founding Members.
- 30.4 Following the Governance Review Date, a Founding Member may withdraw from membership of the Company by giving not less than 12 months' written notice to the Company provided that such notice cannot be served before the Governance Review Date.
- 30.5 A Member whose membership of the Company is terminated under this Article shall:
- 30.5.1 not be entitled to a refund of any subscription or membership fee;
  - 30.5.2 remain liable to pay to Freeport East any overdue membership fees or any other sum owed by it to Freeport East;
  - 30.5.3 not be released from any other liabilities owed to the Company arising prior to termination.
- 30.6 Following such termination (or admission of a successor, as the case may be) the register of Members will be updated by the Company secretary (or if none, the Directors) to record the termination and any relevant admission.

### **31 Annual general meetings**

The Company shall hold an annual general meeting within 6 months from the day after the Company's accounting reference date.

### **32 Notice of general meetings**

The notice of a general meeting of the Company must state:

- 32.1 the time and date of the meeting;
- 32.2 the place of the meeting; and
- 32.3 the general matters of the business to be transacted.

### **33 Members Written Resolutions**

33.1 A written resolution approved by a unanimous decision (both in the case of an ordinary resolution and in the case of a special resolution) of the Members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective, provided that:

- 33.1.1 a copy of the proposed resolution has been sent to every eligible Member;
- 33.1.2 each of the Members have signified their agreement to the resolution; and
- 33.1.3 it is contained in an authenticated document which has been received at the registered office of the Company within the period of 28 days beginning with the circulation date.

33.2 A written resolution may comprise several copies to which one or more Members have signified their agreement.

33.3 An authorised representative of a Member that is a corporate entity (or in the case of a Public Sector Member, any of its statutorily recognised officers, acting in that capacity) may signify its agreement.

### **34 Attendance and speaking at general meetings**

34.1 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.

34.2 A person is able to exercise the right to vote at a general meeting when:

- 34.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
- 34.2.2 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.

- 34.3 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.
- 34.4 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.
- 34.5 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.

### **35 Quorum for general meetings**

- 35.1 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.
- 35.2 A quorum is formed by the presence of the duly authorised representatives of:
  - 35.2.1 the Lead Authority in its capacity as Lead Authority;
  - 35.2.2 the Billing Authorities;
  - 35.2.3 at least one other Public Sector Member representing at least one other Local Authority; and
  - 35.2.4 at least two Private Sector Members.

### **36 Chairing general meetings**

- 36.1 The Chair shall chair general meetings if present and willing to do so.
- 36.2 If the Chair is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:
  - 36.2.1 the Directors present, or
  - 36.2.2 (if no Directors are present), the meeting,must appoint a Director or Member to chair the meeting, and the appointment of the chair of the meeting must be the first business of the meeting.
- 36.3 The person chairing a meeting in accordance with this Article is referred to as the “chair of the meeting”.

### **37 Attendance and speaking by Directors and Non-Members**

- 37.1 Directors may attend and speak at general meetings, whether or not they are Members.
- 37.2 The chair of the meeting may permit other persons who are not Members of the Company to attend and speak at a general meeting.

## **38 Adjournment**

- 38.1 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.
- 38.2 The chair of the meeting may adjourn a general meeting at which a quorum is present if:
  - 38.2.1 the meeting consents to an adjournment, or
  - 38.2.2 it appears to the chair of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 38.3 The chair of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 38.4 When adjourning a general meeting, the chair of the meeting must:
  - 38.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors, and
  - 38.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 38.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
  - 38.5.1 to the same persons to whom notice of the Company's general meetings is required to be given, and
  - 38.5.2 containing the same information which such notice is required to contain.
- 38.6 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.

## **39 Voting: general**

- 39.1 Associate Members shall have no right to vote in relation to any resolution except a class resolution of the Associate Members.
- 39.2 Subject to any consent matters requiring special voting majorities contained in any Relevant Agreement, any resolution put to the Founding Members, shall be deemed to be a sub-class resolution requiring their unanimous approval.

- 39.3 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with these Articles.
- 39.4 On a vote on a resolution on a show of hands every Member present in person or by proxy or by a duly authorised representative shall, subject to Article 39.5, have one vote and on a poll every Member present in person or by proxy or by a duly authorised representative shall have one vote.
- 39.5 If a proxy has been duly appointed by more than one Member entitled to vote on the resolutions and:
- 39.5.1 the proxy has been instructed by one or more of those Members to vote for the resolution and by one or more Members to vote against it; or
  - 39.5.2 the proxy has been instructed to vote the same way on the resolution (either for or against) by all of those Members except those who have given the proxy discretion as to how to vote on the resolutions,
- the proxy is entitled to one vote for and one for or against the resolution.
- 39.6 Neither the chair of the meeting nor any Member shall have a casting vote on any decision at a general meeting.

#### **40 Errors and disputes**

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

#### **41 Poll votes**

- 41.1 A poll on a resolution may be demanded:
- 41.1.1 in advance of the general meeting where it is to be put to the vote; or
  - 41.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 41.2 A poll may be demanded by:
- 41.2.1 the chair of the meeting;
  - 41.2.2 the Directors;
  - 41.2.3 two or more persons having the right to vote on the resolution; or

- 41.2.4 a person or persons representing not less than one tenth of the total voting rights of all the Members having the right to vote on the resolution.
- 41.3 A demand for a poll may be withdrawn if:
  - 41.3.1 the poll has not yet been taken; and
  - 41.3.2 the chair of the meeting consents to the withdrawal.
- 41.4 Polls must be taken immediately and in such manner as the chair of the meeting directs.

## **42 Content of proxy notices**

- 42.1 Proxies may only validly be appointed by a notice in writing (a **proxy notice**) which:
  - 42.1.1 states the name and address of the Member appointing the proxy;
  - 42.1.2 identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
  - 42.1.3 is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the Directors may determine; and
  - 42.1.4 is delivered to the Company in accordance with these Articles and any instructions contained in the notice of the general meeting to which they relate.
- 42.2 The Company may require proxy notices to be delivered in a particular form and may specify different forms for different purposes.
- 42.3 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.
- 42.4 Unless a proxy notice indicates otherwise, it must be treated as:
  - 42.4.1 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
  - 42.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

## **43 Delivery of proxy notices**

- 43.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.

- 43.2 An appointment under a proxy notice may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- 43.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting, or adjourned meeting, to which it relates.
- 43.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

#### **44 Amendments to resolutions**

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

#### **45 Notices and communication**

- 45.1 The Company may send, supply or give any document, information or notice to a Member by hard copy, electronic form or by making that document or information available on a website and giving notice of the availability of that document or information to any relevant Member (provided that Member has individually agreed (or is deemed to have agreed) to the Company sending or supplying documents or information generally, or those documents or information in question, to them by means of a website), in each case subject to the provisions of sections 1143 to 1148 and Schedule 5 of the Act.
- 45.2 A notice given by means of a website shall be deemed to have been sent, supplied or given when the material was first made available on the website or, if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website.

- 45.3 Any document, information or notice which is required to be sent or given to the Company shall be sent by hard copy or electronic form in each case, subject to the provisions of sections 1143 to 1148, Schedule 4 and Schedule 5 of the Act.
- 45.4 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
- 45.4.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or 5 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, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least 5 business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);
  - 45.4.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - 45.4.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
  - 45.4.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.
- 45.5 For the purposes of this Article, no account shall be taken of any part of a day that is not a working day.
- 45.6 Proof that an envelope containing a document, notice or information was properly addressed, prepaid and posted shall be conclusive evidence that the document, notice or information was sent, supplied or given by post. A copy of a record of the total number of recipients sent to or each recipient to whom an e-mail message was sent together with any notices of failed transmissions and copies of records of subsequent re-sending, suitably certified by or on behalf of the Company, shall be conclusive evidence that the document, notice or information was sent, supplied or given by e-mail.
- 45.7 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

#### **46 Means of communication to be used**

- 46.1 Subject to these Articles, anything sent or supplied by or to the Company under these 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 the Act to be sent or supplied by or to the Company.



- 46.2 Subject to these 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.
- 46.3 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.

#### **47 Company seals**

- 47.1 Any common seal may only be used by the authority of the Directors.
- 47.2 The Directors may decide by what means and in what form any common seal is to be used.
- 47.3 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.
- 47.4 For the purposes of this Article, an authorised person is:
- 47.4.1 any Director;
  - 47.4.2 the Company secretary; or
  - 47.4.3 any person authorised by the Directors for the purpose of signing documents to which the common seal is applied.

#### **48 Indemnity and insurance**

- 48.1 Subject to Article 48.2, but without prejudice to any indemnity to which they are otherwise entitled, a Relevant Director may be indemnified out of the Company's assets against:
- 48.1.1 any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated company; and/or
  - 48.1.2 any other liability incurred by that Director as an officer of the Company or an associated company.
- 48.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.
- 48.3 The Directors may purchase and maintain insurance, at the expense of the Company, for the benefit of any Relevant Director in respect of any Relevant Loss.
- 48.4 In this Article:
- Relevant Director** means any Director or former Director of the Company;

**Relevant Loss**

means any loss or liability which has been or may be incurred by a Relevant Director in connection with that Director's duties or powers in relation to the Company.