

THE COMPANIES ACT 2006

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COMPANY LIMITED BY GUARANTEE

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**ARTICLES OF ASSOCIATION**

**of**

**SHERFORD COMMUNITY LAND TRUST LIMITED**

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**PART 1**

**INTERPRETATION AND LIMITATION OF LIABILITY**

**1 EXCLUSION OF DEFAULT ARTICLES AND DEFINED TERMS**

1.1 In these articles, unless the context requires otherwise:

"**A Director**" means any director of the Company appointed or nominated jointly by the Developers in accordance with article 8.2;

"**Alternate**" or "Alternate Director" has the meaning given in article 11;

"**A Member**" means a Developer or where the context permits the Developer collectively;

"**Annual General Meeting**" means the annual general meeting of the Members of the Company held in accordance with article 36;

"**Apartment**" means one of the leasehold apartments on the Estate, if any;

"**Appointor**" has the meaning given in article 11;

"**Asset-locked Body**" means a community interest company, a charity or a body established outside the United Kingdom that is equivalent to any of those;

"**B Director**" means any director of the Company appointed or nominated by a Council;

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

**"B Member"** means a Council admitted as a member of the Company following the procedure set out in article 33.10;

**"Bovis"** means Bovis Homes Limited (registration number 397634) whose registered office is at the Manor House, North Ash Road, New Ash Green, Longfield, Kent, DA3 8HQ;

**"Business Hours"** means the period from 9.00am to 5.00pm on any Working Day;

**"CA 2006"** means the Companies Act 2006;

**"Chairman"** has the meaning given in article 26;

**"Chairman of the Meeting"** has the meaning given in article 40;

**"Charity Commission"** has the meaning given by Section 13 of the Charities Act 2011;

**"City Council"** means Plymouth City Council of Civic Centre, Plymouth, Devon, PL1 2EW;

**"C Member" or "C Members"** means a member or members of the Company admitted as member(s) of the Company following the procedure set out in article 33.12;

**"Companies Acts"** means the Companies Acts (as defined in section 2 CA 2006), in so far as they apply to the Company;

**"Commercial Unit"** means one of the freehold or long leasehold commercial units on the Estate;

**"Community"** means those persons who live or work within or visit the Estate;

**"Community Benefit"** means the enhancement of the wellbeing of the Community and those who visit the Development;

**"Community Trust Fees"** means an annual amount (to be determined by the Directors) which may be levied on Property Owners PROVIDED THAT:

- (a) In relation to a Unit this sum shall not exceed forty pounds index linked per annum; and
- (b) In relation to non-residential buildings within the Estate this sum shall be fair and reasonable taking into account factors such as the size of the building the nature of the business and the number of employees;

**"Company"** means **Sherford Community Land Trust Limited**;

**"Connected Persons"** in relation to a director means persons connected with that director for the purposes of section 252 CA 2006;

**"Council(s)"** means the City Council, the District Council, the County Council and Brixton Parish Council or where the context so permits any one of them;

**"County Council"** means Devon County Council of County Hall, Topsham Road, Exeter, Devon, EX2 4QD;

**"Developer"** means Bovis, Taylor Wimpey or Linden or any company in the same group as any of them or any person or company nominated by Bovis, Taylor Wimpey or Linden from time to time to succeed it as a Developer for the purposes of these Articles;

**"Director"** means a director of the Company, and includes any person occupying the position of director, by whatever name called. The Directors are charity trustees as defined by Section 177 of the Charities Act 2011;

**"District Council"** means South Hams District Council of Follaton House, Plymouth Road, Totnes, Devon, TQ9 5NE;

**"D Member" or "D Members"** means a member or members of the Company admitted as member(s) of the Company following the procedure set out in article 33.17;

**"Document"** includes, unless otherwise specified, any document sent or supplied in electronic form;

**"Electronic Form"** has the meaning given in section 1168 CA 2006;

**"Eligible Director"** means a Director who would be entitled to vote on the matter at a meeting of Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter);

**"Estate"** means all the land and buildings situated at the development known as Sherford (and land South/South West of A38 Deep Lane and East of Haye Road, Elburton, Plymouth) defined as the Site in the S.106 Agreement including up to 5500 new dwellings, up to 67000 square metres of business and commercial space, 16740 square metres of mixed retail accommodation, community sports and open space facilities, three primary schools and one secondary school (or two primary schools and an All Through School), healthcare centre, community park, two community wind turbines, park and ride interchange at Deep Lane and Main Street Link between Deep Lane Junction and Stanborough Cross built by the Developers and at the time of formation of the Company registered at the Land Registry under title number DN642685 together with all common parts, land, buildings, roads, parking areas, pathways and landscaped areas, public open spaces, pumping or electricity substation (if any), and other such land as shall from time to time form part of the Estate;

**"Estate Managed Areas"** means any unadopted landscaped areas, accessways and service media within the Estate which are not intended to be adopted or included in the sale of any Unit but to remain in private ownership and which are not intended to be managed or maintained by any Local Manco and which are to be used in common by two or more occupants of the Units, all of which are intended to be maintained by the Company and such other land as the Developers and the Councils shall agree from time to time form part of the Estate which is not intended to be adopted or included in the sale of any Unit and which is intended to be used in common by the C and D Members of the Company;

**"Executive"** means officers of the Company (including any managing director) appointed in accordance with article 18.1 to be responsible for the day to day management of the Company;

**"Facilities"** means each or any of the following:

- a) Adult Social Care Base
- b) All Through School
- c) Bowling Green Land
- d) Children's Centre
- e) Community Police Facility
- f) Community Reuse and Repair Centre
- g) Forest School
- h) GP Surgeries
- i) Indoor Sports Centre
- j) Library and Information Centre
- k) Open Space
- l) Outdoor Sports Provision
- m) Park and Ride Facility
- n) Permanent Place of Worship Facilities
- o) Play Facilities
- p) Police Station Land
- q) A Primary Education Provision
- r) R and D Centre
- s) Secondary Education Provision
- t) Town Hall
- u) Youth Facility; and
- v) Any temporary facility

as defined in the S.106 Agreement.

**"FOG or FOG's"** means the Freehold flat(s) over garages on the Estate (if any);

**"Full Board"** means the board of Directors constituted in accordance with article 8.6 after the Initial Development Period which shall include at least one NCTR Director;

**"Group Company"** means a Company which is at the relevant time;

- (a) a subsidiary of the Company; or
- (b) the Company's holding company or a subsidiary of that holding company and for these purposes 'holding company' has the meaning given to that expression in section 1159 CA 2006 each and every body corporate in the group;

**"House"** means one of the freehold and/or leasehold dwelling houses on the Estate (as the case may be);

**"Initial Development Period"** means the period commencing on the incorporation of the Company and ending on the admittance of 300 C Members;

**"Linden"** means Linden Homes Limited (registration number 00762318) whose registered office is at Wey Court West, Union Road, Farnham, Surrey, GU9 7PT;

**"Local Manco"** means any property management company set up by the Developers to solely manage or maintain the common parts of a single Neighbourhood on the Estate;

**"Local Worker"** means any person aged 18 or over who works within the Estate and who has done so for not less than 6 months;

**"Long Leasehold"** means a lease of any Unit for more than 7 years;

**"Manco"** means Sherford Estate Management Company Limited (CRN:10525216) or such other company established by the Developers from time to time with the object of managing and maintaining the Estate Managed Areas;

**"Member"** has the meaning given in section 112 CA 2006;

**"Membership Fee"** means such reasonable fee as the Directors in their sole discretion may decide as a contribution towards the running costs of the Company;

**"Model Articles"** means the regulations contained in Schedule 2 to the Companies (Model Articles) Regulations 2008;

**"Neighbourhood"** means either the Western Neighbourhood, the Town Centre Neighbourhood, the Southern Neighbourhood or the Eastern Neighbourhood as defined in the S.106 Agreement;

**"Neighbourhood Community Trust Representative" or "NCTR"** means a Director appointed in accordance with article 8.7 representing a particular Neighbourhood;

**"Ordinary Resolution"** has the meaning given in section 282 CA 2006;

**"Participate"**, in relation to a Directors' meeting, has the meaning given in article 24;

**"Property Owner"** means:

- a) Subject to paragraphs (b) – (c) below, in respect of a freehold or leasehold residential Unit, the registered proprietor (or joint registered proprietor) of a residential Unit registered at the Land Registry;
- b) in respect of a Unit subject to an Islamic mortgage, the customer of the bank (and occupier of the Unit) and not the bank;
- c) in respect of an RP Unit, the RP;
- d) in respect of a Commercial Unit, the registered proprietor (or joint registered proprietor) of either the freehold or long leasehold (as the case may be) interest in a Commercial Unit.

**"Proxy Notice"** has the meaning given in article 46;

**"Public Benefit"** in these Articles is a reference to the public benefit as that term is understood for the purposes of the law relating to charities in England and Wales;

**"RP"** means the registered provider of social housing on the Estate (if any);

**"RP Unit"** means a Unit to be transferred for the purpose of social housing;

**"Resident"** means a person who lives within the Estate and who has done so for more than 6 months who is not an Property Owner;

**"S.106 Agreement"** means the Agreement dated 12 November 2013 made under S106 of the Town and Country Planning Act 1990 relating to new settlement known as Sherford between the Councils, Red Tree LLP and others which obtained planning permissions 06/0236/OUT and 7\_49/2426/06/O as amended by the Deed of Variation dated 4 January 2017 made between the Councils and the Consortium;

**"Service Charge"** means a reasonable pro-rata rate for the provision of the Services levied on the Property Owners not to exceed an annual payment of £250 per Unit;

**"Services"** means the maintenance and upkeep of the Estate Managed Areas;

**"Shadow Board"** means the board of Directors constituted before the Initial Development Period by just the A and B Directors in accordance with article 8.1;

**"Special Resolution"** has the meaning given in section 283 CA 2006;

**"Subsidiary"** has the meaning given in section 1159 CA 2006;

**"Taylor Wimpey"** means Taylor Wimpey UK Limited (registration number 01392762) whose registered office is at Gate House, Turnpike Road, High Wycombe, Buckinghamshire HP12 3NR;

**"Tenant"** means any person who occupies under licence, leases or rents social housing provided on the Estate provided by the Company or by the RP or otherwise;

**"Transfer Date"** means the date on which the last of the Estate Managed Areas are transferred to the Company or to the Councils or their nominee(s) in accordance with the S.106 Agreement;

**"Unit"** means one of the Apartments, Houses, FOGs, RP Units or Commercial Units on the Estate which benefits from the Estate Managed Areas;

**"Working Day"** means any day other than Saturday or Sunday or a statutory or public holiday in England when banks in London are open for business;

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

- 1.2 The Model Articles do not apply to the Company.
- 1.3 Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in CA 2006, as in force on the date when these articles become binding on the Company.
- 1.4 Headings in these articles are used for convenience only and shall not affect the construction or interpretation of these articles.
- 1.5 A reference in these articles to an "article" is a reference to the relevant article of these articles unless expressly provided otherwise.
- 1.6 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
  - (a) any subordinate legislation from time to time made under it; and
  - (b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.7 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

## **2 LIABILITY OF MEMBERS**

- 2.1 The liability of each Member is limited to £1, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member, for:

- (a) payment of the Company's debts and liabilities contracted before he ceases to be a Member;
- (b) payment of the costs, charges and expenses of winding up; and
- (c) adjustment of the rights of the contributories amongst themselves.

## **PART 2**

### **CHARITABLE STATUS AND ASSET LOCK**

#### **3 COMMUNITY LAND TRUST AND CHARITY**

3.1 The Company is set up to operate as a Community Land Trust as defined in Section 79 Housing and Regeneration Act 2008 and as a registered charity within the meaning of Sections 1, 193 and 353(1) of the Charities Act 2011 on a not for profit basis for the Public Benefit for the Community.

#### **4 ASSET LOCK**

4.1 The Company shall not transfer its assets other than for full consideration.

4.2 Provided the conditions in article 4.3 are satisfied, article 4.1 shall not apply to:

- (a) the transfer of assets to any specified Asset-Locked Body, or (with the consent of the Charity Commission) to any other Asset-Locked Body; and
- (b) the transfer of assets made for the benefit of the Community other than by way of a transfer of assets into an Asset-Locked Body.

4.3 The conditions are that the transfer of assets must comply with any restrictions on the transfer of assets for less than full consideration which may be set out elsewhere in the Memorandum or Articles of Association of the Company.

4.4 If:

- (a) the Company is wound up under the Insolvency Act 1986; and
- (b) all its liabilities have been satisfied

any residual assets shall be given or transferred to such Asset-Locked Body specified in accordance with article 4.5 below.

4.5 For the purposes of this article 4, an appropriate recipient of the Company's assets under articles 4.2 and 4.4 must be an Asset Locked Body and will be chosen by the Charity Commission in consultation with the Company's Directors and Members.

4.6 For the purposes of article 4, the Company's assets shall include (without limitation) such of the Estate Managed Area which has been transferred to the Company from time to time.



## **5 NOT FOR PROFIT**

- 5.1 The Company is not established or conducted for private gain: any surplus or assets are used principally for the furtherance of the Company's objects set out in article 6.
- 5.2 The income and property of the Company shall be held on trust and no part of the Company's income or property shall be paid or transferred directly or indirectly by way of dividends, bonus or otherwise howsoever to any Member or Members of the Company provided that nothing in these articles shall prevent any payment in good faith by the Company of:
- (a) reasonable and proper remuneration to any Member, officer or servant of the Company for any services rendered to the Company;
  - (b) any interest on money lent by any Member or any Director at reasonable and proper rate;
  - (c) reasonable and proper rent for premises demised or let by any Member or Director; or
  - (d) reasonable out-of-pocket expenses properly incurred by any Director.

### **RESTRICTION OF COMPANY'S OBJECTS**

## **6 COMPANY'S OBJECTS**

- 6.1 In accordance with section 31(2) CA 2006, the Company's objects are restricted as follows:
- a) promoting the improvement of the economic, social and physical environment of the Estate;
  - b) to act always in the Community Benefit and in particular (but without limitation) to carry out any and/or all of the following activities:
    - (i) to uphold, promote and progress sustainable living on the Estate;
    - (ii) to bring together those who live and work and own property on the Estate to promote the development of social networks including associations, clubs and networks to enhance Community life and wellbeing for those who live, work and own property on the Estate;
    - (iii) to ensure that the Company has membership that is representative of the Community and that decisions are made for the Community Benefit in such a way as to be accountable to the Company's Members;
    - (iv) to promote good design and management of Facilities particularly in consideration of efficient long term management and Community Benefit;
    - (v) to manage or promote the management, and/or oversee the ownership, of assets (including Facilities and Estate Managed Areas) for the Community Benefit;

- (vi) to promote and endeavour to develop commercially viable social enterprise and or initiatives and promote and support economic development; and
- (vii) to ensure that sufficient sources of funding are available to or can be generated to ensure the Company has the opportunity to carry out its objectives.

6.2 The objects specified in each sub-clause of this article 6 shall not be limited or restricted in any way by reference to or inference from the terms of any other sub-clause, or the name of the Company, unless such limitation or restriction is expressly stated in that sub-clause. None of the sub-clauses shall be deemed merely subsidiary or auxiliary to the objects mentioned in the first sub-clause.

## **7 POWERS**

7.1 The Company has the power to do anything to further its objects set out in article 6 above or is conducive or incidental in doing so. In particular the Company has the power to:

- (a) Recruit and assist in the recruitment of voluntary workers for the promotion of the Company's objects;
- (b) Co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- (c) Establish or support any charitable companies, associations, or institutions formed for any of the charitable purposes included in the objects;
- (d) Promote and support in any way the establishment of a Subsidiary to carry out any of the Company's objects;
- (e) Borrow and raise money for the purposes of the Company on such terms and security as the Company shall think fit in the same manner and subject to the same conditions as the directors of a Company are permitted to do by the Trustee Act 2000; the Company must comply as appropriate with sections 124-126 of the Charities Act 2011 if it wishes to mortgage land;
- (f) Invest the moneys of the Company not immediately required for the furtherance of its objects in deposits with or loans to any recognised Bank (within the meaning of the Banking Act 1987 or any statutory re-enactment or modification thereof) or local authority or in securities having a final redemption date not later than 5 years after the date of acquisition thereof issued by Her Majesty's Government in the United Kingdom or of any local or public authority or nationalised industry or undertaking in the United Kingdom or in building society stock or accounts as may be thought fit;
- (g) at its complete discretion:
  - (i) invest or permit to be invested such sums or any part thereof jointly with any other funds;
  - (ii) hold all or any part of such sums in the name or names of a nominee or

nominees;

- (iii) delegate within such investment policy or other limits as it thinks fit its powers of investment to any member or members of the London Stock Exchange and to remunerate such delegate or delegates;
- (h) prior to the establishment of the payment mechanisms for the Service Charge pursuant to article 6.1 (i) below accept from the Developers such sums equivalent to the Service Charge collected by them from the first purchaser of each Unit (such sums to be provided by the Developers within 28 days of the transfer of each Unit) for the purpose of assisting with the anticipated expenditure of the Company in the provision of the Services;
- (i) on or from the date of the first transfer of any Unit :
  - (A) set the Service Charge at the level reasonably and properly required to meet the anticipated costs of operating the Company and providing the Services while making reasonable provision for future expenditure;
  - (B) assess the Service Charge payable by each Property Owner on a fair and reasonable basis, be that pro capita, per household or by reference to floor space;
  - (C) increase or decrease the Service Charge as appropriate by an amount that is fair and reasonable having regard to the need to provide the Services; and
  - (D) only collect the Service Charge on a fixed date each year following the first anniversary of the first transfer of each Unit in accordance with any requirements of the S.106 Agreement;
- (j) employ all workmen, contractors, agents and professional advisers as may be necessary to enter into all contracts and execute all deeds as shall be requisite for the purposes of the Company;
- (k) effect insurance against any risk to which the Company, any property belonging to the Company, or any person employed by the Company, may be subject;
- (l) remunerate any person, firm or company rendering services to the Company including the provision of a solicitor or other legal representative;
- (m) collect from the Members of the Company and any relevant third parties contributions payable by each of them towards the management, maintenance and improvement of the Estate Managed Areas;
- (n) sell, let, lease, grant licences, easements and other rights over the whole or any part of the undertaking, property, assets, rights, effects and business of the Company for such consideration as may be thought fit;
- (o) execute such instruments and doing such other acts and things as may be requisite

for the purpose of ensuring the efficient management and administration of the Estate Managed Areas;

- (p) arrange such insurance cover as the Company may consider to be appropriate for the Estate Managed Areas and in respect of any risks for which the Company may be liable as an employer of persons working on the Estate Managed Areas;
- (q) pay all rates, taxes, duties, charges, assessments and outgoings of any description which may be assessed, charged or payable by the Company;
- (r) employ a firm of managing agents and enforce or attempt to enforce the observance of any covenants on the part of the Property Owners and/or occupiers of the Estate;
- (s) engage a qualified accountant if the Company thinks fit for the purpose of auditing the accounts of the Company in respect of the monies received and the monies expended or reserved for anticipated or periodical expenditure by or on behalf of the Company from time to time in connection with the Estate Managed Areas;
- (t) borrow and raise money in such manner and upon such terms (including all such terms relating to the payment of interest) as the Company thinks fit (in order to provide the Services and to discharge the obligations set out in these articles and to pay all such bank charges and interest from time to time as and when the same shall become due and payable), and in particular to enter into mortgages or charges, perpetual or otherwise, and, if the Company thinks fit, charged upon all or any of the Company's property (both present and future) and undertaking, and collaterally or further to secure any obligations of the Company by a trust deed or other assurance;
- (u) purchase and maintain insurance for the benefit of any persons who are or were at any time officers or employees of the Company or any other company which is a subsidiary or subsidiary undertaking of the Company or in which the Company has any interest, whether direct or indirect, or who are or were at any time trustees of any pension fund in which any employee of the Company or any other such company or subsidiary undertaking is or has been interested indemnifying such persons against liability for negligence, default, breach of duty of trust or to cover the terms of the indemnity given to the directors in article 55 or any other liabilities which may be lawfully insured against; provided that the Company complies with section 189 of the Charities Act 2011;
- (v) sell, let, licence, purchase, take on lease or licence, hire, exchange or otherwise dispose of or acquire any property of any kind, which is appropriate or convenient for the proper discharge or conduct of the business of the Company provided that the Company must comply with sections 117 and 122 of the Charities Act 2011;
- (w) acquire, hold, deal with and dispose of any freehold or leasehold land or property in such manner and on such terms as the Company may think fit subject to complying with sections 117 and 122 of the Charities Act 2011;

and generally doing such other things as are incidental or conducive to the attainment of the above objects or any of them, or as are calculated to enhance the value and beneficial advantage of the Estate and the Units comprised in it for the benefit of the Community.

- 7.2 The Company must act in accordance with generally accepted good commercial practice, must maintain a balanced operating budget and execute financial planning where total projected expense will not exceed total revenues.

### **PART 3**

## **DIRECTORS**

### APPOINTMENT OF DIRECTORS

#### **8 METHODS OF APPOINTING DIRECTORS**

##### The Shadow Board

- 8.1 The first board of directors shall be known as the "**Shadow Board**". The Shadow Board shall comprise of three (3) A Directors and Four (4) B Directors. The Shadow Board shall remain in place until the expiration of the Initial Development Period.

##### A Directors

- 8.2 Subject to article 8.3 below, each A Member shall have the right at any time to appoint or remove one (1) person as a Director of the Company or as a replacement A Director for the Director appointed by them by serving notice upon the Company's registered office address or upon the location where the Company's statutory records are located. Such Directors shall be known as A Directors. A Directors shall not be required to retire by rotation.
- 8.3 After the Transfer Date and after an A Member (or their successors nominated in accordance with article 33.8 has ceased to be a Member, the A Director nominated by them shall resign.

##### B Directors

- 8.4 Subject to article 8.5 below, each B Member shall have the right to appoint or remove one (1) person as a B Director or a replacement B Director appointed by them by serving notice upon the Company's registered office address or upon the location where the Company's statutory records are located. Such Directors shall be known as B Directors. The B Directors shall not be required to retire by rotation.

##### Minimum and Maximum Number of Directors

- 8.5 During the Initial Development Period, there may only be 3 A Directors and 4 B Directors in office at any one time. After the Initial Development Period, there may be up to 3 A Directors, 4 B Directors and 8 NCTR Directors in office at any one time.

#### **NCTR DIRECTORS**

- 8.6 After the expiration of the Initial Development Period the C and D Members within each Neighbourhood will be collectively entitled to nominate up to two (2) Directors to the Shadow Board by serving notice in Writing on the Company at the Company's registered office address whereupon as soon as the first NCTR Director is appointed, the Shadow Board shall become known as the "**Full Board**".

- 8.7 Directors appointed by the C and D Members shall be known as the "Neighbourhood Community Trust Representatives" or "**NCTR Directors**". The maximum number of NCTR Directors shall be eight (8) (made up of two (2) NCTR Directors per Neighbourhood.)
- 8.8 Any C or D Member wishing to stand as an NCTR Director must first apply to the Shadow Board (or Full Board, if established) in Writing and must demonstrate in their written application for directorship that:
- (a) they are a resident of the Neighbourhood they propose to represent; and
  - (b) At least 50 C or D Members in the Neighbourhood they propose to represent support their application evidenced by the signature of such persons on the application form.
- 8.9 NCTR Directors shall serve a minimum term of (one) 1 year subject to continuing qualification or entitlement. At the first AGM and at every subsequent AGM, all the NCTR Directors shall retire from office.
- 8.10 An NCTR Director who retires at an AGM may, if willing to act, be reappointed. If he is not reappointed, he shall retain office until the meeting appoints someone in his place, or if it does not do so, until the end of the meeting.
- 8.11 If the company, at the meeting at which an NCTR director retires by rotation, does not fill the vacancy the retiring director shall, if willing to act, be deemed to have been reappointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the reappointment of the director is put to the meeting and lost.
- 8.12 No NCTR Director shall be appointed or reappointed a director at any general meeting unless—
- (a) he is recommended by the directors; or
  - (b) not less than fourteen nor more than thirty-five clear days before the date appointed for the meeting, notice executed by at least 50 C or D Members of the Neighbourhood he or she represents has been given to the company of the intention to propose that person for appointment or reappointment together with notice executed by that person of his willingness to be appointed or reappointed;
- and not less than seven nor more than twenty-eight clear days before the date appointed for holding a general meeting notice has been given to all C and D Members who are entitled to receive notice of the meeting of any person (other than a NCTR director retiring by rotation at the meeting) who is recommended by the directors for appointment or reappointment as an NCTR Director at the meeting or in respect of whom notice has been duly given to the company of the intention to propose him at the meeting for appointment or reappointment as an NCTR Director.
- 8.13 The Company shall keep a register of the nominations of the NCTR Directors referred to in article 8.7 above.

## General Provisions

- 8.14 Subject to articles 8.5 - 8.13 above, any person who is a representative of any managing agent's firm (appointed to manage the Estate Managed Areas) or any person or persons nominated by the Developers jointly and who is willing to act as a Director, and is permitted by law to do so, may be appointed to be a Director:
- (a) by Ordinary Resolution; or
  - (b) by a decision of the Directors.
- 8.15 If, once the right of the C and D Members to appoint a Director under article 8.6 has arisen, the number of Directors appointed falls below two (2) and the Property Owners have neglected to appoint a Director or replacement Directors within 2 months of written request, the District Council shall have the right in accordance with Section 145 Companies Act 2006 to exercise the Members' right to appoint any person or persons at its absolute discretion to act as a Director to ensure that the minimum number of Directors is maintained.
- 8.16 In any case where, as a result of death or Bankruptcy, the Company has no Members and no Directors, the personal representative(s) of the last Member to have died or to have a Bankruptcy order made against him (as the case may be) may, by notice in Writing, appoint a natural person (indicating a personal representative who is a natural person), who is willing to act and is permitted to do so, to be a Director.
- 8.17 For the purposes of article 8.16 above, where two or more Members die in circumstances rendering it uncertain who was the last to die, a younger Member is deemed to have survived an older Member.

## **9 TERMINATION OF A DIRECTOR'S APPOINTMENT**

- 9.1 A person ceases to be a Director as soon as:
- (a) The A or B Member that nominated the Director to act has ceased to be a Member of the Company;
  - (b) that person ceases to be a Director by virtue of any provision of CA 2006 or is prohibited from being a Director by law;
  - (c) is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 or section 178A of the Charities Act 2011 (once in force) (or any statutory re-enactment or modification of that provision);
  - (d) a Bankruptcy order is made against that person;
  - (e) a composition is made with that person's creditors generally in satisfaction of that person's debts;
  - (f) 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 3 months;

- (g) is (in the reasonable opinion of a majority of the Directors) in breach of the Company's code of conduct for Directors (if any);
- (h) is subject to a custodial sentence imposed by a Court in respect of any criminal act or omission, unless the Directors resolve that he or she should remain a Director;
- (i) is convicted of any other indictable offence and the Director resolve that he or she should cease to be a Director;
- (j) 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;
- (k) that person has been absent from the UK for more than 6 months without permission from the other Directors; or
- (l) In the case of the A or B Directors, the Director is removed in accordance with article 10 below.

## **10 REMOVAL OF DIRECTORS**

- 10.1 The A and B Directors shall remain in office until removed by notice in Writing given to the Company at its registered office address (or at the address where the Company's statutory registers are located) by the A or B Member that nominated their appointment.
- 10.2 Any removal under this article takes effect on the date specified in the notice
- 10.3 In addition and without prejudice to the provisions of sections 168 and 169 CA 2006, the Company may by Ordinary Resolution remove any Director (other than the A or B Directors) before the expiry of his period of office and may, if thought fit, by Ordinary Resolution appoint another person in his place. Removal of a Director in accordance with this article shall be without prejudice to any claim that Director may have for damages for breach of any contract between him and the Company.

## **11 APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS**

- 11.1 Any Director (the "**Appointor**") may appoint as an Alternate any other Director, or any other person approved by resolution of the Directors, to:
  - (a) exercise that Director's powers; and
  - (b) carry out that Director's responsibilities,in relation to the taking of decisions by the Directors in the absence of the Alternate's Appointor.
- 11.2 Any appointment or removal of an Alternate must be effected by notice in Writing to the Company signed by the Appointor, or in any other manner approved by the Directors.



11.3 The notice must:

- (a) identify the proposed Alternate; and
- (b) 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.

## **12 RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS**

12.1 An Alternate Director has the same rights, in relation to any Directors' meeting or Directors' written resolution, as the Alternate's Appointor.

12.2 Except as these articles specify otherwise, Alternate Directors:

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

12.3 A person who is an Alternate Director but not a Director:

- (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's Appointor is not participating); and
- (b) may sign a written resolution (but only if it is not signed or to be signed by that person's Appointor).

No Alternate may be counted as more than one Director for the above purposes.

12.4 An Alternate Director is not entitled to receive any remuneration from the Company for serving as an Alternate Director except such part (if any) of the Alternate's Appointor's remuneration as the Appointor may direct by notice in Writing made to the Company.

12.5 A Director who is also an Alternate Director shall be entitled in the absence of his Appointor to a separate vote on behalf of each Appointor in addition to his own vote.

## **13 TERMINATION OF ALTERNATE DIRECTORSHIP**

13.1 An Alternate Director's appointment as an Alternate terminates:

- (a) when the Alternate's Appointor revokes the appointment by notice to the Company in Writing specifying when it is to terminate;
- (b) 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;

- (c) on the death of the Alternate's Appointor; or
- (d) when the Alternate's Appointor's appointment as a Director terminates.

## **14 DIRECTORS' REMUNERATION**

- 14.1 Directors may undertake any services for the Company that the Directors decide.
- 14.2 A and B Directors are not entitled to any remuneration for the services they provide to the Company.
- 14.3 The NCTR Directors are entitled to such remuneration as the Members determine by Ordinary Resolution:
- (a) for their services to the Company as Directors; and
  - (b) for any other service which they undertake for the Company.
- 14.4 Subject to these articles, a Director's remuneration may:
- (a) take any form; and
  - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that Director.
- 14.5 Unless the Members decide otherwise, Directors' remuneration accrues from day to day.
- 14.6 Unless the Members decide otherwise, Directors are not accountable to the Company for any remuneration which they receive as Directors or other officers or employees of the Company's subsidiaries (if any) or of any other body corporate in which the Company is interested.

## **15 OFFICERS' EXPENSES**

- 15.1 The Company may pay any reasonable expenses which the Directors (including Alternate Directors) and the secretary (if any) properly incur in connection with their attendance at:
- (a) meetings of Directors or committees of Directors;
  - (b) general meetings; and
  - (c) separate meetings of the holders of debentures of the Company,
- or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

## **DIRECTORS' POWERS AND RESPONSIBILITIES**

### **16 DIRECTORS' GENERAL AUTHORITY**

- 16.1 Subject to these articles, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

## **17 MEMBERS' RESERVE POWER**

- 17.1 The Members may, by Special Resolution, direct the Directors to take, or refrain from taking, specified action.
- 17.2 No such Special Resolution invalidates anything which the Directors have done before the passing of the resolution.

## **18 DIRECTORS MAY DELEGATE**

- 18.1 The Directors shall appoint the officers of the Company, including a managing director, who will be responsible for the day to day management of the Company. Such officers shall be known as the "**Executive**".
- 18.2 The Directors may delegate any of the powers which are conferred on them under these articles
- (a) to such person or committee (including the Executive) responsible for the day to day management of the Estate Managed Areas);
  - (b) by such means (including by power of attorney);
  - (c) to such an extent;
  - (d) in relation to such matters or territories; and
  - (e) on such terms and conditions
- as they think fit.
- 18.3 Article 18.1 above includes the ability for the Directors to delegate the power to execute any deed or document on behalf of the Company.
- 18.4 If the Directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.
- 18.5 The Directors may revoke any delegation in whole or part, or alter its terms and conditions.
- 18.6 The Directors shall decide from time to time to what extent of their powers are delegated to the managing director and which decisions remain with or are required to be referred to the Shadow Board or Full Board as the case may be provided that such decisions are always made in accordance with these articles.

## **19 COMMITTEES**

- 19.1 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.

- 19.2 The Directors may make rules of procedure for all or any committees, which prevail over rules derived from these articles if they are not consistent with them.

## **DECISION-MAKING BY DIRECTORS**

### **20 DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

- 20.1 The general rule about decision-making by Directors is that any decision of the Directors must be either a majority decision at a meeting or a decision taken in accordance with article 21.
- 20.2 In all proceedings of Directors each director may not have more than one vote and questions arising at a meeting of the Directors shall be decided by a majority of votes.
- 20.3 During the Initial Development Period, each A Director shall be entitled to exercise 6.667% of the total voting rights of all Directors and the A Directors shall collectively only be entitled to exercise 20% of the total voting rights of all Directors (representing one vote per A Director appointed). The 20% of the total voting rights shall be exercised by a simple majority of the A Directors. In the event that one or more A Director(s) does not vote (whether because they are not eligible to vote or are eligible but decline to do so) or purports to vote otherwise than in the manner determined by a simple majority of the A Directors, the votes (if any) purported to be cast by that A Director shall be disregarded and the other A Director(s) shall be collectively entitled to exercise such number of votes between them as equates to 20% of the total voting rights of all A Directors.
- 20.4 During the Initial Development Period each B Director shall be entitled to exercise 20% of the total voting rights of all Directors. In the event that one or more B Director(s) does not vote (whether because they are not eligible to vote or are eligible but decline to do so) the other B Director(s) shall be collectively entitled to exercise such number of votes between them as equates to 80% of the total voting rights of all Directors.
- 20.5 Once NCTR Directors are appointed, each NCTR Director shall be entitled to 1 vote and the percentage voting rights of the A and B Directors set out in paragraph 20.3 and 20.4 shall be reduced proportionately using the formula set out in Schedule 1.

### **21 INFORMAL DECISION MAKING**

- 21.1 A decision of the Directors is taken in accordance with this article when all Eligible Directors have been asked to express a view on the matter in question and a majority of all Eligible Directors indicate to each other by any means that they share a common view on a matter.
- 21.2 Such a decision may take the form of a resolution in Writing, copies of which have been signed by a majority of Eligible Directors or to which a majority of Eligible Directors have otherwise indicated agreement in Writing, or may be in electronic form.
- 21.3 A decision may not be taken in accordance with this article if the Eligible Directors would not have formed a quorum at a directors' meeting.

## **22 FREQUENCY OF DIRECTORS' MEETINGS**

- 22.1 Directors' meetings shall be held not less than every 4 months during the Initial Development Period and thereafter at such frequency as the Full Board should decide is appropriate but shall as a minimum be held not less than once annually (such annual meeting to be known as the "Annual Board Meeting" or ("**ABM**") and shall be held in addition to the Annual General Meeting of the Company's Members ("**AGM**") ;
- 22.2 During the Initial Development Period, the following decisions require a unanimous decision of the Shadow Board:
- (a) Decisions regarding the Company's Articles of Association (including but not limited to the following):
    - (i) Changing the Company's status from a company limited by guarantee or registered charity;
    - (ii) The Company's Objects and Powers;
    - (iii) Membership rights; and
    - (iv) Corporate Governance structures;
  - (b) The appointment of a Chairman for the Shadow Board.
- 22.3 Once the Full Board is in place decisions regarding the Company's Articles of Association set out in article 22.2(a) above require a simple majority provided that one of the votes in favour is cast by a NCTR Director.
- 22.4 The following decisions require a simple majority:
- (a) The appointment of a Chairman for the Full Board;
  - (b) Decisions, on the grounds of effectiveness, expense or otherwise, that it is necessary, advisable or appropriate that the Company be dissolved; and
  - (c) Any other matter decided upon by the Shadow or Full Board.
- 22.5 Day to day operational decisions on matters are expected to be made by the Company's Executive (i.e. managing director or officers of the Company) in accordance with the scope of their delegated responsibilities delegated in accordance with article 18.
- 22.6 All constitutional and decision making functions are subject always to the statutory and general law governing the Company as a Community Land Trust and registered charity from time to time.

## **23 CALLING A DIRECTORS' MEETING**

- 23.1 Any director may call a Directors' meeting by giving notice of the meeting to the Directors or by authorising the company secretary (if any) to give such notice.

- 23.2 Notice of any Directors' meeting must indicate:
- (a) its proposed date and time;
  - (b) where it is to take place; and
  - (c) if it is anticipated that Directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

23.3 Notice of a Directors' meeting must be given to each Director, but need not be in Writing.

23.4 A Director may waive the requirement that notice be given to him of a Directors' meeting, either prospectively or retrospectively and any retrospective waiver shall not affect the validity of the meeting or of any business conducted at the meeting. .

## **24 PARTICIPATION IN DIRECTORS' MEETINGS**

24.1 Subject to these articles, Directors participate in a directors' meeting, or part of a directors' meeting, when:

- (a) the meeting has been called and takes place in accordance with these articles; and
- (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

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

24.3 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.

24.4 Subject to these articles, if a Director has an interest in an actual or proposed transaction or arrangement with the Company:

- (a) that Director's Alternate may not vote on any proposal relating to it unless the interest has been duly declared (if so required by section 177 or section 182 CA 2006); but
- (b) this does not preclude the Alternate from voting in relation to that transaction or arrangement on behalf of another Appointor who does not have such an interest.

24.5 A Director who is also an Alternate Director has an additional vote on behalf of each Appointor who is:

- (a) not participating in a directors meeting; and
- (b) would have been entitled to vote if they were participating in it.

## **25 QUORUM FOR DIRECTORS' MEETINGS**

- 25.1 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 25.2 Until after the expiration of the Initial Development Period the quorum for the Shadow Board meetings shall be one (1) eligible A Director and three (3) eligible B Directors.
- 25.3 After the Initial Development Period, the quorum for a Full Board meeting shall be four (4) Eligible Directors one (1) of which must be an eligible A Director, one (1) of which must be an Eligible B Director and one (1) of which must be an eligible NCTR Director.
- 25.4 For the purposes of any meeting (or part of a meeting) held in accordance with article 28 to Authorise a Director's Conflict, if there is only one Eligible Director in office other than the Conflicted Director(s), the quorum for that meeting (or part of a meeting) is one Eligible Director.
- 25.5 In the event of the quorum not being present within ten (10) minutes of the appointed time of any Director's meeting, the Directors present shall be entitled to call another Directors' meeting to take place within a reasonable period of time (i.e. 7 days) and that the quorum for such reconvened meeting shall be a minimum of three (3) Eligible Directors.
- 25.6 If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than a decision:
- (a) to appoint further Directors; or
  - (b) to call a general meeting so as to enable the Members to appoint further Directors.

## **26 CHAIRING OF DIRECTORS' MEETINGS**

- 26.1 The Directors may appoint a Director to chair their meetings.
- 26.2 The person so appointed for the time being is known as the Chairman.
- 26.3 The Directors may terminate the Chairman's appointment at any time.
- 26.4 If the Chairman is not participating in a Directors' meeting within 10 minutes of the time at which it was to start, the participating Directors must appoint one of themselves to chair it.
- 16.5 The Chairman shall not have a casting vote.

## **27 DEADLOCK**

- 27.1 If the numbers of votes for and against a proposal at a directors' meeting are equal, the matter shall forthwith be referred by the Directors to the Members of the Company, whether in a general meeting or by way of circulating a written resolution.

## 28 CONFLICTS OF INTEREST

28.1 The provisions of this article 28 shall apply in relation to the exercise of the power of the Directors to authorise any matter which would or might otherwise constitute or give rise to a breach of the duty of a Director under section 175(1) CA 2006 to avoid a Conflict Situation (as defined in article 28.2).

28.2 In this article 28 and articles 29 and 30:

"**Authorise**" means to authorise in accordance with section 175(5)(a) CA 2006 and "**Authorisation**", "**Authorised**" and cognate expressions shall be construed accordingly;

a "**Conflict of Interest**" includes a Conflict of interest and duty and a conflict of duties;

"**Conflicted Director**" means a Director in relation to whom there is a conflicting matter;

"**Conflicting Matter**" means a matter which would or might (if not Authorised or if not permitted under article 28) constitute or give rise to a breach of the duty of a Director under section 175(1) CA 2006 to avoid a Conflict Situation;

"**Conflict Situation**" means a situation in which a Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (including a conflict of interest); and

a Conflict Situation is "**Material**" unless it cannot reasonably be regarded as likely to give rise to a conflict of interest.

28.3 The provisions of this article 28:

- (a) do not apply to any Conflict Situation permitted by article 29;
- (b) do not apply to a Conflict Situation arising in relation to a Director's interest in a transaction or arrangement with the Company; and
- (c) apply without prejudice (and subject) to the provisions of section 175(6) CA 2006.

Nothing in these articles shall invalidate an Authorisation.

28.4 A Conflicted Director seeking Authorisation of any Conflicting Matter shall disclose to the Directors the nature and extent of the Conflicting Matter as soon as is reasonably practicable. The Conflicted Director shall provide the Directors with such details of the Conflicting Matter as are necessary for the Directors to decide how to address the Conflicting Matter, together with such additional information as may be requested by the Directors.

28.5 Any Director (including the Conflicted Director) may propose that a Conflicted Director's Conflicting Matter be Authorised. Any such proposal, and any Authorisation given by the Directors, shall be effected in the same way as any other matter may be proposed to and resolved on by the Directors under the provisions of these articles, except that:



- (a) the Conflicted Director and any other interested Director shall not count towards the quorum nor vote on any resolution giving that Authorisation; and
- (b) the Conflicted Director and any other interested Director may, if the Directors so decide, be excluded from any meeting of the Directors while the Conflicting Matter and the giving of that Authorisation are under consideration.

28.6 Where the Directors authorise a Conflicted Director's Conflicting Matter:

- (a) the Directors may (whether at the time of giving the Authorisation or subsequently):
  - (i) require that the Conflicted Director is excluded from the receipt of information, the participation in discussions and/or the making of decisions (whether at meetings of the directors or otherwise) related to the Conflicting Matter; and
  - (ii) impose on the Conflicted Director such other terms or conditions for the purpose of dealing with any actual or potential conflict of interest which may arise from the Conflicting Matter as they may determine;
- (b) the Conflicted Director shall conduct himself in accordance with any terms or conditions imposed by the Directors in giving that Authorisation;
- (c) the Directors may provide that, where the Conflicted Director obtains (otherwise than through his position as a Director) information that is confidential to a third party, the Conflicted Director will not be obliged to disclose the information to the Company, or to use or apply the information in relation to the Company's affairs, where to do so would amount to a breach of that confidence;
- (d) the terms of the Authorisation shall be recorded in Writing (but the Authorisation shall be effective whether or not the terms are so recorded); and
- (e) the Directors may revoke or vary the Authorisation at any time but no such action will affect anything done by the Conflicted Director prior to that action in accordance with the terms of the Authorisation.

28.7 A Director who has a Conflict Situation which is Material shall be counted as participating in the decision making process for quorum and voting purposes, notwithstanding his interest or duty, at any meeting at which his Conflict Situation arises provided that:

- (a) he has disclosed the nature and extent of the Conflicting Matter giving rise to his Conflict Situation; and
- (b) where his Conflict Situation is constituted by or arises from a Conflicting Matter of his, the Conflict Situation arising by reason of that Conflicting Matter (or any breach of his duty under section 175(1) CA 2006 by reason of that Conflicting Matter) has been Authorised, permitted, approved or ratified (either in accordance with this article 18 or article 16 or by the Members) and the Director has not been required to be excluded from participation in discussions and/or the making of decisions related to the matter.

## 29 ADDITIONAL PROVISIONS ABOUT DIRECTORS' INTERESTS AND CONFLICTS

29.1 If:

- (a) a Director or a Connected Person acquires and holds shares in the capital of:
  - (i) the Company and/or any other Group Company; or
  - (ii) any other body corporate, wherever incorporated, provided that the shares held by the Director and Connected Persons do not exceed 3% of the nominal value of the issued share capital of the relevant entity; or
- (b) a Director is appointed or acts as a director, manager or employee of any other Group Company,

any Conflict Situation which arises only by reason of such a Conflicting Matter is permitted by this article and the relevant Conflicting Matter does not require disclosure and Authorisation in accordance with article 28. A Director who has such a Conflict Situation shall be counted as participating in the decision making process for quorum and voting purposes at any meeting at which the Conflict Situation arises.

29.2 A Director shall not, by reason of his office or of the resulting fiduciary relationship, be liable to account to the Company for any benefit which he (or a person connected with him) derives from:

- (a) an interest to which article 29.1 or article 30.1 applies; or
- (b) a conflicting matter Authorised by the Directors,

and no transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit.

29.3 If a question arises at a meeting of the Directors about whether or not a Director:

- (a) has a material Conflict Situation for the purposes of article 28 or this article 29;
- (b) can vote (and that Director does not agree to abstain from voting on) the issue in relation to which the conflict arises; or
- (c) can be counted in the quorum (and that director does not agree not to be counted in the quorum) for the purposes of voting on, the issue in relation to which the conflict arises,

the question must be referred to the Members. The resolution of the Members is final and conclusive, unless the nature or extent of that Director's Conflict Situation (so far as it is known to that Director) has not been fairly disclosed to the Members.

29.4 The Company may by Ordinary Resolution ratify any transaction or arrangement which has not been properly Authorised by reason of a contravention of these articles.

### **30 DIRECTORS' INTERESTS IN TRANSACTIONS**

- 30.1 If a proposed decision of the Directors is concerned with an actual or proposed transaction or arrangement with the Company in which a Director is in any way directly or indirectly interested, that Director shall be counted as participating in the decision making process for quorum and voting purposes provided that the relevant interest either:
- (a) has been duly declared to the other Directors in accordance with section 177 or section 182 CA 2006, as the case may require; or
  - (b) is not required by the terms of either of those sections to be declared.
- 30.2 So long as the relevant interest falls within article 30.1, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction with the Company:
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
  - (b) shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision, in respect of any such Matter or proposed matter in which he is interested;
  - (c) may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director; and
  - (d) may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested.

### **31 RECORDS OF DECISIONS TO BE KEPT**

- 31.1 The Directors must ensure that the Company keeps a record, in Writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors. This function may be delegated to the Company's officers. In the event that the Executive is yet to be established these shall be kept by one of the A or B Members appointed at the beginning of the first AGM.
- 31.2 Where a decision of the Directors is taken by electronic means, that decision must be recorded in permanent form, so that it may be read with the naked eye.

### **32 DIRECTORS' DISCRETION TO MAKE FURTHER RULES**

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

## **PART 4**

### **MEMBERS**

#### **BECOMING AND CEASING TO BE A MEMBER**

#### **33 APPLICATIONS FOR MEMBERSHIP**

##### **General**

- 33.1 The subscribers to the memorandum are the first Members of the Company.
- 33.2 Such other persons as are admitted as Members in accordance with these articles shall be Members of the Company provided that they are:
- (a) aged 18 or over and are either:
    - (i) A Property Owner;
    - (ii) A Resident; or
    - (iii) A Local Worker
  - (b) A Developer; or
  - (c) A Council.
- 33.3 Subject to articles 33.8 – 33.19 below no person shall become a Member of the Company unless:
- (a) that person meets one of the criteria set out in article 33.2;
  - (b) that person has completed an application for membership in a form approved by the Directors in accordance with article 33.4; and
  - (c) the Directors have approved the application.
- 33.4 Every person who wishes to become a Member shall deliver to the Company an application for membership in such form (and containing such information) as the Directors require and executed by him or her and the directors shall be entitled to require the applicant to present evidence of residency/ ownership and/or employment as part of their application.
- 33.5 If an Property Owner has signed a transfer or lease which states that they shall become a Member of the Company if called upon to do so by one of the Developers, that shall be treated by the Directors as an application for membership in accordance with article 33.4 . In the case of an Islamic mortgage, if the bank has signed a lease and/or transfer which states that its customer (who is also the occupier of that Unit) shall become a Member, that shall be treated as an application for membership by the customer (and occupier of the Unit) in accordance with article 33.4.

- 33.6 The directors may only refuse an application for membership if, acting reasonably and properly, they consider it to be in the best interests of the Company to refuse the application. The director must inform the applicant in Writing of the reason for the refusal within twenty-one days of the decision. The directors must consider any written representations from the applicant about the refusal but the directors' decision following consideration of any written representations shall be final but shall be communicated to the applicant in Writing.

### **Subscriber Members**

- 33.7 The subscribers to the memorandum of association are the first Members of the Company. A subscriber may nominate any person to succeed it as a Member and its nominee has the same power to nominate its own successor in accordance with this article 33.7.

### **A Members**

- 33.8 There may only be a maximum of three (3) A Members of the Company at any one time. Subject to article 33.9 below, each Developer shall be entitled to be admitted as an A Member of the Company and may nominate any person or legal entity to succeed them as an A Member and its nominee has the same power to nominate its own successor in accordance with this article 33.8 and such nominee shall have the same rights afforded to the Developer by these articles as the A Member.

- 33.9 Where a Developer nominates a person or legal entity to succeed it as an A Member in accordance with article 33.8 above, the relevant Developer shall automatically cease to be an A Member on admission of the nominee as a replacement A Member.

### **B Members**

- 33.10 There may only be up to four (4) B Members of the Company at any one time. Subject to article 33.11 and 34.7 below, each of the Councils shall be entitled to be a B Member of the Company and may nominate any person or legal entity to succeed it as a B Member and its nominee has the same power to nominate its own successor in accordance with this article 33.10 and such nominee shall have the same rights afforded to the Developer by these articles as the B Member.

- 33.11 Where a Council nominates a person or legal entity to succeed it as a B Member in accordance with article 33.10 above, the relevant Council shall automatically cease to be a B Member on admission of the nominee as a replacement B Member.

### **C Members**

- 33.12 There is no maximum number of C Members that may be admitted. Only Property Owners will be admitted as C Members of the Company and shall be required to pay the Membership Fee (if any) in addition to the Community Trust Fee before the directors shall approve any application for membership.

- 33.13 Where two or more persons jointly are a Property Owner, they will together constitute one Member and the person whose name first appears in the register of Members shall exercise the voting and other powers vested in that Member, save that both or all such persons shall be entitled to speak at a general meeting of the Company.

- 33.14 Where two or more persons are registered at the Land Registry as joint tenants or tenants in common in respect of a Unit, they will together constitute one Member and the person whose name first appears in the register of members shall exercise the voting and other powers vested in that Member, save that both or all such persons shall be entitled to speak at a general meeting of the Company.
- 33.15 The Tenant(s) of the RP (if any) shall not be entitled to become C Members whilst the RP Retains a legal interest in a Unit (even if the Tenants are joint Property Owners of that Unit under a shared ownership scheme) and only the RP shall be entitled to exercise the voting rights in respect of that Unit. If the Tenants of the Unit are registered as the registered proprietors at the Land Registry of a Unit (and own 100% of the Unit) the RP shall cease to be a C Member in respect of that Unit and the Directors shall make arrangements within a reasonable time after registration of the former Tenant as the registered proprietor at the Land Registry to admit the former Tenant as a C Member and to resign the RP as a C Member in respect of that Unit. However, the RP shall still remain a Member in respect of all other Units in which it has a legal interest (if any). This article 33.15 shall not affect the right of the Tenant(s) to be admitted as a D Member of the Company in accordance with these articles.
- 33.16 The Directors shall refuse to register an application for C membership (other than upon the purchase of a Unit by the first Property Owner) unless the proposed Member has signed a Deed of Covenant requiring them to pay the annual Service Charge to the Company or the Manco in accordance with the terms of the leases and/or transfers of the Units (as required by the S.106 Agreement) and not to transfer assign or sub-let licence or otherwise dispose of their Unit without ensuring that such transfer assignment sub-lease licence or other disposal contains a like covenant.

#### **D Members**

- 33.17 There is no maximum number of D Members that may be admitted. Only Residents or Local Workers, will be admitted as D Members of the Company. For the avoidance of doubt, Property Owners shall not be admitted as D Members.
- 33.18 Where two or more persons jointly are residents of the same dwelling on the Estate, they will together constitute one Member and the person whose name first appears in the register of Members shall exercise the voting and other powers vested in that Member, save that both or all such persons shall be entitled to speak at a general meeting of the Company.
- 33.19 The Directors shall refuse to register an application for D membership unless the Membership Fee has been paid.

### **34 TERMINATION OF MEMBERSHIP**

#### **General**

- 34.1 Membership is not transferable to anyone else.
- 34.2 Membership is terminated if the person dies or ceases to exist; or
- 34.3 otherwise in accordance with these articles.

### **A and B Members**

- 34.4 An A Member may not withdraw from membership of the Company whilst retaining an interest in any land on the Estate.
- 34.5 An A Member will cease to be a Member on either the Transfer Date or on such date as:
- (a) such Member has ceased to have any interest in the Estate (whichever is earlier) and all the Property Owners who have acquired their Unit(s) from such Member who should be admitted as Members of the Company have been admitted as Members of the Company in accordance with article 33; and
  - (b) a Property Owner or managing agent, who is willing to act as a Director, has been appointed
- 34.6 If the A Member becomes subject to an insolvency regime, the liquidator administrator, administrative receiver or receiver of the A Member shall be entitled to become a Member on written request in place of the A Member.

### **B Members**

- 34.7 The Councils shall not be entitled to withdraw from membership until at least one (1) NCTR Director from each Neighbourhood has been appointed as a Director.

### **C Members**

- 34.8 A C Member may not withdraw from Membership of the Company while holding (either alone or jointly with others) a legal interest in a Unit.
- 34.9 A C Member (other than the subscriber or their nominated successor) ceases to be entitled to be a Member upon the registration at the Land Registry of the successor in title to the legal interest in their Unit and the Directors of the Company shall be entitled to remove the name of such a Member from the Register of Members accordingly.
- 34.10 A C Member ceases to be a Member:
- (a) on the registration as a Member of his successor in title to his Unit;
  - (b) on death;
  - (c) on becoming bankrupt;
  - (d) when 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 Member and may remain so for more than 3 months; or
  - (e) in the case of a company on the company entering into liquidation, administration or voluntary arrangement or on the appointment of a receiver, or if the company is dissolved.

- 34.11 Where a C Member ceases to be a Member due to any provision of article 34.10, his estate shall remain liable under these articles until a successor in title to the Member's Unit is registered as a Member.
- 34.12 The trustee in Bankruptcy of any bankrupt Member, the personal representatives of any deceased Member, or the receiver or attorney of any Member who is of unsound mind, shall be entitled to become a Member on written request in place of the bankrupt member or the deceased Member or the Member who is of unsound mind (as the case may be).
- 34.13 A receiver, liquidator, administrator or other appropriate insolvency practitioner of any corporate Member that has entered into receivership, liquidation, administration, or which has been dissolved shall be entitled to become a Member on written request in place of the corporate Member.
- 34.14 A chargee in possession of a Unit or other person entitled by law to transfer title to a Unit is authorised to become a Member in place of the relevant Property Owner until such time as it ceases to be a chargee in possession or until title to a Unit has been transferred.

#### **D MEMBERS**

- 34.15 D Members may withdraw from Membership of the Company at any time by serving 7 Working Day's notice in Writing upon the Company at its registered office address. D Members cease to be entitled to be a Member upon the D Member either no longer being a Resident or Local Worker and the Directors of the Company shall be entitled to remove the name of such a Member from the Register of Members accordingly.
- 34.16 A D Member ceases to be a Member of the Company in the following circumstances (and the directors shall be entitled to remove the D Member from the Company's register of Members accordingly):
- (a) on the Member no longer being a Resident or Worker;
  - (b) on the registration as a Member of another Resident in connection with the same Unit;
  - (c) on death;
  - (d) on becoming bankrupt;
  - (e) when 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 Member and may remain so for more than 3 months; or
  - (f) in the case of a company on the company entering into liquidation, administration or voluntary arrangement or on the appointment of a receiver, or if the company is dissolved;
  - (g) if any sum due from the Member to the Company is not paid within 6 month after it is due;
  - (h) the Member is removed from membership by a resolution of the Directors that it is in the best interests of the Company, that his other or its membership is terminated. A



resolution to remove a Member from membership may only be passed if:

- (i) the Member has been given at least twenty-one days' written notice of the meeting of the directors at which the resolution will be proposed and the reason why it is to be proposed; and
- (ii) 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.

34.17 Where a D Member ceases to be a Member due to any provision of article 34.16, his estate shall remain liable under these articles.

34.18 The trustee in Bankruptcy of any bankrupt Member, the personal representatives of any deceased Member, or the receiver or attorney of any Member who is of unsound mind, shall be entitled to become a Member on written request in place of the bankrupt Member or the deceased Member or the Member who is of unsound mind (as the case may be).

34.19 A receiver, liquidator, administrator or other appropriate insolvency practitioner of any corporate Member that has entered into receivership, liquidation, administration, or which has been dissolved shall be entitled to become a Member on written request in place of the corporate Member.

## **35 MEMBERSHIP CERTIFICATES**

35.1 The Company is not obliged to issue membership certificates to its Members. However, the Company or its solicitors or managing agents may charge the Member a reasonable fee for preparing a membership certificate (if the Company chooses to issue one) or for preparing board minutes approving the Directors' decision to admit that Member to membership of the Company.

## **ORGANISATION OF GENERAL MEETINGS**

### **36 FREQUENCY OF GENERAL MEETING**

#### **ANNUAL GENERAL MEETING**

36.1 The Company shall hold an Annual General Meeting of the Members each year; such a meeting shall be known as the AGM. The First AGM shall be held not later than 12 months after the expiration of the Initial Development Period and subsequent AGMs shall be held on the anniversary date of the first AGM.

36.2 The following business shall be discussed at the AGM:

- (a) Election/re-election of Directors to the Full Board;
- (b) Appointment/re-appointment of a Chairman of the Board (if considered appropriate);
- (c) Appointment/re-appointment of the Executive Officers of the Company and the Managing Director;

- (d) Appointment (or re-appointment, if required) of the Company's auditors;
- (e) Consideration of the annual report of the work done by the Company;
- (f) Consideration of the audited accounts;
- (g) Consideration and approval of the plan and budget for future activities such plan to consider not less than one (1) year forward period;
- (h) The level of Community Trust Fee PROVIDED ALWAYS THAT:
  - (i) In relation to a Unit the sum shall not exceed Forty Pounds (£40) per annum – indexed from the date of the S.106 Agreement;
  - (ii) In relation to a Commercial Unit, a sum that shall be fair and reasonable taking into account factors such as the size of the building, the nature of the business and number of employees; and
  - (iii) The Developers shall bear the cost of levying and annually paying the Community Trust Fees to the Company until the Transfer Date (thereafter the cost shall be borne by the Company or transferee (if any) of the right to collect the Community Trust Fee, if assigned by the Developers).
- (i) The transaction of such other matters as may from time to time be considered necessary and set out in the notice convening the general meeting.

#### SPECIAL GENERAL MEETINGS

36.3 The Shadow Board or Full Board may at any time at its discretion and shall upon the requisition of not less than a majority vote, giving the reasons for the request, call a special general meeting of the Company for the purposes of altering the Company's Articles of Association or for considering any other matter which may be requested PROVIDED ALWAYS THAT:

- (a) Any decision regarding such an alteration to the Articles of Association can only be made at an AGM or a special general meeting called in accordance with this article 36.3:
  - (i) Notice of any request for alteration must be given during Business Hours not less than 15 Working Days prior to the meeting;
  - (ii) Any alteration shall be in accordance with article 36.4 below; and
  - (iii) No alteration shall be made which would cause the Company to breach the statutory and general law governing the Company as a Community Land Trust and registered charity from time to time.
- (b) The Shadow Board or Full Board may choose to appoint a Chairman in accordance with article 26 and in accordance with article 40 the Chairman shall also chair general meetings. The Chairman will act independently and must act in accordance with the

Company's Objects and Powers at all times.

- (c) Minute books shall be kept by the Executive and in the event that the Executive is not yet appointed then by one of the A or B Members appointed at the beginning of the first AGM.
- 36.4 During the Initial Development Period, the following decisions regarding the Company's Articles of Association (including but not limited to the following) require a unanimous decision of the Members:
- (a) Changing the Company's status from a company limited by guarantee or registered charity;
  - (b) The Company's Objects and Powers;
  - (c) Membership rights; and
  - (d) Corporate Governance structures.
- 36.5 Once the Full Board is in place decisions regarding the Company's Articles of Association set out in article 36.4 above require a Special Resolution provided that one of the votes in favour is cast by a NCTR Director acting on behalf of at least one Neighbourhood and all of the A and B Members have given their prior written consent in accordance with article 36.7.
- 36.6 Subject to the Company receiving the prior written consent of all the A and B Members on any Reserved Matters set out in article 36.7 below, the following decisions require only a simple majority:
- (a) Decisions, on the grounds of effectiveness, expense or otherwise, that it is necessary, advisable or appropriate that the Company be dissolved; and
  - (b) Any other matter decided upon by the Shadow or Full Board to be referred to the Members unless CA06 requires a higher majority vote in favour.
- 36.7 Resolutions on the following matters (the "**Reserved Matters**") cannot be passed without the consent in Writing of both the A and B Members (whilst still Members) such consent to be served on the Company's registered office address at least 48 hours before any general meeting at which such proposal is proposed:
- (a) Winding up the Company;
  - (b) Changing the Company's name;
  - (c) Amending the Company's articles including the Objects;
  - (d) Conversion of the Company to Community Interest Company (or other corporate form);
  - (e) Borrowing or lending;

- (f) Acquisition of land and other assets;
- (g) Approval of business plan;
- (h) Appointment of non-executive directors.

36.8 All constitutional and decision making functions are subject always to the statutory and general law governing the Company as a Community Land Trust and registered charity from time to time.

## **37 NOTICE OF GENERAL MEETING**

37.1 The minimum periods of notice required to hold a general meeting of the Company are:

- (a) Twenty-one clear days for an AGM or a general meeting called for the passing of a special resolution; and
- (b) Fourteen clear days for all other general meetings.

37.2 A general meeting may be called by shorter notice if it is so agreed by a majority in number of Members having the right to attend and vote at the meeting being a majority who together hold not less than 90 percent of the total voting rights

37.3 The notice must specify the date, time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an AGM the notice must state this. The notice must contain a statement setting out the right to appoint a proxy under section 324 of the Act and article 46.

37.4 Notice must be given to all Members and to the Director and the Company's auditors. Any accidental failure by the Company to serve on any person entitled to receive it shall not invalidate the proceedings at the meeting.

## **38 ATTENDANCE AND SPEAKING AT GENERAL MEETINGS**

38.1 The provisions of this article take effect subject to article 41.3 .

38.2 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.

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

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

38.4 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.

- 38.5 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.
- 38.6 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.

### **39 QUORUM FOR GENERAL MEETINGS AND VOTING RIGHTS**

- 39.1 No business other than the appointment of the Chairman of the Meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.
- 39.2 A person who is not a Member of the Company shall not have any right to vote at a general meeting of the Company; but this is without prejudice to any right to vote on a resolution affecting the rights attached to a class of the Company's debentures (if any).
- 39.3 Article 39.2 shall not prevent a person who is a proxy for a Member or a duly authorised representative from voting at a general meeting of the Company.
- 39.4 Until the A Member (or their successor(s) nominated under these articles) cease to be Members of the Company the quorum for general meetings shall be five (5) Members to include one (1) A Member, the three (3) B Members and one NCTR Director (once appointed) present in person, by proxy or by authorised representative.
- 39.5 After the Initial Development Period and all the A Members have resigned as Members, the quorum for general meetings shall be five (5) Members to include three (3) B Members (if still Members) and at least one (1) NCTR Director present in person or by proxy or in the case of a corporate Member present by a corporate representative
- 39.6 In the event of the quorum not being present within thirty (30) minutes of the appointed time of any general meeting, the Chairman shall be entitled to adjourn the meeting to take place within a reasonable period of time (i.e. 7 days) and the quorum for any adjourned meeting shall be a minimum of three (3) eligible Members.

### **40 CHAIRING GENERAL MEETINGS**

- 40.1 If the Directors have appointed a Chairman, the Chairman shall chair general meetings if present and willing to do so.
- 40.2 If the Directors have not appointed a Chairman, or if the Chairman is unwilling to chair the meeting or is not present within ten (10) minutes of the time at which a meeting was due to start:
- (a) the Directors present; or
  - (b) (if no Directors are present), the meeting,
- must appoint a Director or Member to chair the meeting, and the appointment of the Chairman of the Meeting must be the first business of the meeting.

40.3 A proxy or a representative appointed in accordance with section 323 CA 2006 may chair a general meeting if appointed to do so in accordance with article 40.2 above.

40.4 The person chairing a meeting in accordance with this article is referred to as the "**Chairman of the Meeting**".

#### **41 ATTENDANCE AND SPEAKING BY DIRECTORS, MEMBERS AND NON-MEMBERS**

41.1 Directors may attend and speak at general meetings, whether or not they are Members.

41.2 A and B Members may attend and speak and vote at general meetings represented either by their respective A or B Directors (provided appointed as a corporate representative or proxy), by the appointment of a proxy or by the appointment of a corporate representative.

41.3 C and D Members shall not be entitled to attend and speak at general meetings but shall instead be represented by the NCTR Director elected for their Neighbourhood. The NCTR Director should therefore seek the views of the C and D Members he or she represents prior to any General Meeting.

41.4 The Chairman of the Meeting may permit other persons who are not Members of the Company to attend and speak at a general meeting.

#### **42 ADJOURNMENT**

42.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chairman of the Meeting must adjourn it.

42.2 The Chairman of the Meeting may adjourn a general meeting at which a quorum is present if:

- (a) the meeting consents to an adjournment; or
- (b) it appears to the Chairman of the Meeting that an adjournment is necessary to protect the safety of any person attending the meeting or to ensure that the business of the meeting is conducted in an orderly manner.

42.3 The Chairman of the Meeting must adjourn a general meeting if directed to do so by the meeting.

42.4 When adjourning a general meeting, the Chairman of the Meeting must:

- (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors; and
- (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.

42.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' Notice of it (that is, excluding the day of the adjourned meeting and the day on which the Notice is given):

- (a) to the same persons to whom notice of the Company's general meetings is required to be given; and
  - (b) containing the same information which such notice is required to contain.
- 42.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

## **VOTING AT GENERAL MEETINGS**

### **43 VOTING: GENERAL**

- 43.1 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
- 43.2 Subject to articles 43.3 – 43.11 below, at a general meeting on a show of hands every Member who (being an individual) is present in person or by proxy or by a representative duly authorised under section 323 Companies Act 2006, not being himself a Member entitled to vote, shall have one vote.
- 43.3 No C or D Member (via their nominated NCTR Director) shall be entitled to vote at any general meeting or any adjournment of it, or on any poll called at it or in relation to it, or on any written resolution unless all amounts payable to the Company in respect of that person's membership have been paid including any Service Charge payments due to the Company or the Manco.

#### **Rights of A Members**

- 43.4 During the Initial Development Period:
- (a) subject to articles 43.5 - 43.7 below, each A Member shall have one (1) vote at any general meeting or when voting by written resolution.
  - (b) The A Members shall collectively have such number of votes as equals 20% of the total voting rights of the Company whether voting on a show of hands or on a poll at any general meeting or when voting by written resolution.
  - (c) The 20% referred to in paragraph 43.4(b) shall be exercised as determined by a simple majority of the A Members.
  - (d) If any A Member is not present (in person nor otherwise) at a general meeting or neglects or refuses to vote, or purports to vote otherwise than in the manner determined by a simple majority of the A Members, the votes (if any) purported to be cast by that A Member shall be disregarded and the other A Members present (in person or otherwise) at any general meeting (or voting by written resolution) shall be collectively entitled to exercise 20% of the total voting rights.

43.5 After the Initial Development Period but before the Transfer Date:

- (a) The percentage voting rights of the A Members referred to in article 43.4 above shall be reduced in proportion to the number of votes each NCTR Director is entitled to exercise in accordance with article 43.10 below.

#### **Rights of B Members**

43.6 During the Initial Development Period:

- (a) Subject to article 43.7 below, each B Member is entitled to 20% of the total voting rights;
- (b) collectively the B Members shall have 80% of the total voting rights whether on a show of hands or on a poll at any general meeting or when voting by written resolution.
- (c) If any B Member is not present (in person nor otherwise) at a general meeting or neglects or refuses to vote, the other B Members present (in person or otherwise) at any general meeting (or voting by written resolution) shall be collectively entitled to exercise 80% of the total voting rights.

43.7 After the Initial Development Period but before the Transfer Date:

- (a) the percentage voting rights of the B Members referred to in article 43.6 above shall be reduced in proportion to the number of votes each NCTR Director is entitled to exercise in accordance with article 43.10 below.

#### **Rights of C and D Members**

43.8 In accordance with section 145 CA 2006 the C and D Members in each Neighbourhood irrevocably nominate their respective NCTR Directors (holding office at the time of the relevant meeting or circulation of the relevant written member resolution):

- (a) to attend and vote (in person or by proxy) on their behalf at the Company's AGM or any special general meeting of the Company to the exclusion of the rights of the C and D Members to attend and vote (in person or by proxy) at any such AGM or special general meeting; and
- (b) to receive any written member resolution circulated to the C and D Members and to vote on their behalf (to the exclusion of the rights of the C and D Members to receive and vote on the member written resolution) by signing and returning the same to the Company,

and the C and D Members shall have no right to direct their respective NCTR Directors as to whether or not to attend or vote, or as to how to vote, at any such AGM or special general meeting, or how to vote on a written resolution, all such matters being within the entire discretion of the NCTR Directors.



- 43.9 In the event that there is no NCTR Director appointed for a particular Neighbourhood then the C and D Members in that Neighbourhood shall not have any other right to attend, vote or speak at any general meeting or vote by written resolution.
- 43.10 Subject to article 45.11 below, each NCTR Director shall have:
- (a) one vote when he is present (or deemed to be present in accordance with article 40) in person at a general meeting on a show of hands; or
  - (b) one vote in aggregate for each C and D Member in the Neighbourhood he represents when:
    - (i) present in person at a general meeting and voting on a poll; or
    - (ii) for the purposes of passing a written member resolution.
- 43.11 No NCTR Director shall be entitled to exercise the voting rights of a C or D Member unless all amounts payable to the Company in respect of that person's membership have been paid including any service charge or Service Charge payments or Membership Fee due to the Company or Manco.

#### **44 ERRORS AND DISPUTES**

- 44.1 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.
- 44.2 Any such objection must be referred to the Chairman of the Meeting whose decision is final.

#### **45 POLL VOTES**

- 45.1 A poll on a resolution may be demanded:
- (a) in advance of the general meeting where it is to be put to the vote; or
  - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 45.2 A poll may be demanded by:
- (a) the Chairman of the Meeting;
  - (b) the Directors;
  - (c) two or more persons having the right to vote on the resolution; or
  - (d) a person or persons representing not less than one tenth of the total voting rights of all the Members having the right to vote on the resolution.

- 45.3 A demand for a poll may be withdrawn if:
- (a) the poll has not yet been taken; and
  - (b) the Chairman of the Meeting consents to the withdrawal.

A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.

- 45.4 Polls must be taken immediately and in such manner as the Chairman of the Meeting directs.

## **46 CONTENT OF PROXY NOTICES**

- 46.1 Proxies may only validly be appointed by a notice in Writing (a "**Proxy Notice**") which:

- (a) states the name and address of the Member appointing the proxy;
- (b) identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
- (c) is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the directors may determine; and
- (d) is delivered to the Company in accordance with these articles and any instructions contained in the notice of the general meeting to which they relate,

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

- 46.2 The Company may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.

- 46.3 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.

- 46.4 Unless a Proxy Notice indicates otherwise, it must be treated as:

- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
- (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

## **47 DELIVERY OF PROXY NOTICES**

- 47.1 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.

- 47.2 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.

47.3 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.

47.4 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.

## **48 AMENDMENTS TO RESOLUTIONS**

48.1 An Ordinary Resolution to be proposed at a general meeting may be amended by Ordinary Resolution if:

(a) notice of the proposed amendment is given to the Company in Writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chairman of the Meeting may determine); and

(b) the proposed amendment does not, in the reasonable opinion of the Chairman of the Meeting, materially alter the scope of the resolution.

48.2 A Special Resolution to be proposed at a general meeting may be amended by Ordinary Resolution, if:

(a) the Chairman of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and

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

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

## **PART 5**

### **ADMINISTRATIVE ARRANGEMENTS**

## **49 ACCOUNTS AND ANNUAL REPORT**

49.1 The Directors must keep accounting records as required by the Act and must prepare for each financial year accounts as required by the Act which show a true and fair view and follow accounting standards issued or adopted by the [Accounting Standards Board or its successors and adhere to the recommendations of Recommended Practice].

49.2 The Directors must comply with the requirements of the Charities Act 2011 with regard to the:

(a) Transmission of a copy of the statements of account to the Commission;

(b) Preparation of an Annual Report and the transmission of a copy of it to the Commission; and

(c) Preparation of a Confirmation Statement and its transmission to the

Commission.

- 49.3 The Directors must notify the Commission promptly of any changes to the Company's entry on the Central Register of Charities.

## **50 MEANS OF COMMUNICATION TO BE USED**

- 50.1 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 CA 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- 50.2 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.
- 50.3 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.

## **51 DEEMED DELIVERY OF DOCUMENTS AND INFORMATION**

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

For the purposes of this article, no account shall be taken of any part of a day that is outside Business Hours on a Working Day.

- 51.2 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 CA 2006.
- 51.3 For the purposes of section 1147(3) CA 2006, where a document or information is sent or supplied by the Company to any Member by electronic means, and the Company is able to

show that it was properly addressed, it is deemed to have been received by the intended recipient one hour after it was sent (but subject to section 1147(5)).

51.4 Article 47.3 above does not apply where a document or information is in Electronic Form but is delivered by hand or by post or by other non-electronic means.

51.5 Where a document or information is sent or supplied to the Company by one person (the "**Agent**") on behalf of another person (the "**Sender**"), the Company may require reasonable evidence of the authority of the Agent to act on behalf of the Sender.

## **52 FAILURE TO NOTIFY CONTACT DETAILS**

52.1 If:

- (a) the Company sends two consecutive documents to a Member over a period of at least 12 months; and
- (b) each of those documents is returned undelivered, or the Company receives notification that each has not been delivered,

that Member ceases to be entitled to receive notices from the Company.

52.2 A Member who has ceased to be entitled to receive notices from the Company becomes entitled to receive such notices again by sending in Writing to the Company:

- (a) a new address to be recorded in the register of Members; or
- (b) if the Member has agreed that the Company should use a means of communication other than sending things to such an address, the information that the Company needs in order to use that means of communication effectively.

## **53 NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

53.1 Except as provided by law or authorised by the Directors or an Ordinary Resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a Member.

## **54 PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS**

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

## **DIRECTORS' INDEMNITY AND INSURANCE**

### **55 INDEMNITY**

#### Directors Indemnity

55.1 Subject to article 55.2 below, a Relevant Director of the Company or an Associated Company

may be indemnified out of the Company's assets against:

- (a) any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an Associated Company;
- (b) any liability incurred by that Director in connection with the activities of the Company or an Associated Company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) CA 2006); and
- (c) any other liability incurred by that Director as an officer of the Company or an Associated Company.

55.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

55.3 In this article:

- (a) "**Associated Company**" means where one company is a subsidiary of another company or both are subsidiaries of the same body corporate; and
- (b) a "**Relevant Director**" means any Director or former Director of the Company or an Associated Company

#### Member and Employee Indemnity

55.4 The Company shall indemnify and keep indemnified every Member and officer, volunteer and employee of the Company from and against all claims, demands, actions and proceedings (and all costs and expenses in connection with and arising therefrom made or brought against the Company in connection with its activities, the actions of Members or its officers, volunteers or employees, or in connection with its property or equipment but this indemnity shall not extend to liabilities arising from wilful and individual wrongdoing or wrongful omission on the part of the Members or officer volunteer or employee sought to be made liable.

55.5 The Company shall effect a policy of insurance in respect of the indemnity provided in article 55.4 and any other insurance policy from time to time that is generally considered to be good practice.

## 56 INSURANCE

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

56.2 In this article:

- (a) a "**Relevant Director**" means any Director or former Director of the Company or an Associated Company;
- (b) a "**Relevant loss**" means any loss or liability which has been or may be incurred by a Relevant Director in connection with that Director's duties or powers in relation to the Company, any Associated Company or any pension fund or employees' benefit scheme of the Company or Associated Company; and

- (c) **"Associated Company"** means where one company is a subsidiary of another or both are subsidiaries of the same body corporate company or both are subsidiaries of the same body corporate.

## **PART 6**

### **OTHER PROVISIONS**

#### **57 COMPANY SECRETARY**

- 57.1 Subject to article 57.2 below, the Directors may appoint a suitably qualified Company Secretary for such term at such remuneration and conditions as they think fit; and any Company Secretary so appointed may be removed by them.
- 57.2 For so long as the A and B Members are Members of the Company, the Company Secretary shall be a person or company nominated jointly by the A and B Members.

#### **58 COSTS OF GRANTING CONSENT TO SALES OF UNITS**

- 58.1 Where the Company or its solicitors or managing agents are requested by the seller or buyer of a property on the Estate to give consent to the sale of a Unit or to deal with a Deed of Covenant as required under the transfer of a Unit, the Company or its solicitors or managing agent may charge a reasonable fee at the Directors' discretion to the seller or buyer of the Unit.

#### **59 RULES**

- 59.1 The Directors may from time to time make and amend such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the Company.
- 59.2 The byelaws may regulate the following matters
- (a) The admission of Members (including the entrance and subscription fees);
  - (b) The conduct of Members in relation to one another and to the Company's employees and volunteers;
  - (c) The setting aside of the whole or any part of the Company's premises for any particular purpose; and
  - (d) Generally all such matters which are commonly the subject matter of company rules or byelaw
- 59.3 No rule or byelaw shall be inconsistent with or repeal anything contained in these Articles and in the case of any inconsistency, these Articles shall prevail.
- 59.4 The Directors must take such steps as they think sufficient to bring the rules and byelaws to

the attention of the Members

59.5 The Company may in general meeting alter, add to or repeal the rules or byelaws.

## **60 DISPUTE RESOLUTION**

60.1 The Company will adopt a dispute resolution procedure. This procedure will identify how any issues, concerns or complaints about the Company may be notified, how parties shall then seek to resolve the issue by a process of consultation. This procedure will also identify how, if the issue cannot be resolved, such matters may be referred to the Shadow Board or Full Board and if not resolved thereby within a certain period of time, the procedure will identify the body to which the matter shall be escalated for dispute resolution and how the responsibility for the costs of such procedure shall be allocated.

## **61 WINDING UP**

61.1 On the winding up or dissolution of the Company, any assets or property that remains available to be distributed or paid to the members shall not be paid or distributed to such Members but shall be applied in the following order:

- (a) to meet the costs of winding up the Company; and
- (b) transferred to another body (charitable or otherwise) in accordance with article 4.5:
  - (i) with objects similar to those of the Company; and
  - (ii) which shall prohibit the distribution of its or their income to its or their members.

## **62 NO JOINT VENTURE**

62.1 Noting in these Articles is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any part as the agent of the other parties, nor authorise any of the parties to make or enter into any commitments for or on behalf of the other parties.



## SCHEDULE 1

### Sherford Community Land Trust Limited:

Formula for adapting voting power upon the appointment of NCTR Directors

#### 1 When the Formula shall apply

The formula set out in paragraph 3 below shall, in accordance with article 20.5, be used to calculate the percentage voting rights of the A and B Directors and shall apply only upon the appointment of NCTR Directors:

#### 2 Abbreviations used within the Formula

V = Voting Rights	A= Council Directors	B= Developer Directors
NCTR = NCTR Directors  (who are appointed by the Property Owners, Residents and Local Workers)	D= Directors	VNCTR = total percentage voting rights of all NCTR Directors
VA&B = total percentage voting rights of all A and all B Directors	VA = total percentage voting rights of all A Directors	VB = total voting percentage rights of all B directors
A Directors = Directors appointed by the Developers	B Directors = Directors appointed by the Councils	

#### 3 The Formula

3.1 Total percentage voting rights of **all NCTR Directors**:

$$VNCTR = 100(NCTR/D)$$

3.2 Total percentage voting rights of **all A and B Directors**:

$$VA\&B = 100 - VNCTR$$

3.3 Total percentage voting rights of **all A Directors**:

$$VA = VA\&B \times 0.20$$

3.4 Total percentage voting rights of **all B Directors**

$$VB = A\&B \times 0.80$$

3.5 Percentage voting rights of **each NCTR Director**

$$VNCTR/NCTR$$

3.6 Percentage voting rights of **each A Director**

$$A = VA/3$$

3.7 Percentage voting rights of **each B Director:**

$$B = VB/4$$

**4 Examples of how this will work in practice**

**4.1 Example A – 1 NCTR Director appointed:**

(a) The total number of directors is 8, of which there are 3 A Directors, 4 B Directors and 1 NCTR Director.

(b) As each Director gets 1 vote:

(A) collectively the Property Owners (via the **NCTR Directors**) get **12.5%** of the vote calculated as follows:

$$NCTR = 1/8 = 0.125 \times 100 = 12.5\%$$

(B) The **A Directors** collectively get **17.5%** of the vote (equating to **5.833% for each A Director**) calculated as follows:

$$VA\&B = 100 - 12.5 = 87.5\%;$$

$$VA = 87.5 \times 0.20 = 17.5\%; \text{ and}$$

$$A = 17.5/3 = 5.833\%$$

(C) the **B Directors** collectively get **70.0%** (equating to **17.5% for each B Director**) calculated as follows:

$$VA\&B = 100 - 12.5 = 87.5\%$$

$$VB = 87.5\% \times 0.80 = 70\%$$

$$B = 70/4 = 17.5\%.$$

**4.2 Example B – if there are 4 NCTR Directors appointed:**

- (a) The total number of directors is 11, of which there are 3 A Directors, 4 B Directors and 4 NCTR Directors
- (b) As each Director gets 1 vote:
  - (i) collectively the Property Owners (via the **NCTR Directors**) get **36.36%** of the vote (equating to **9.09% per NCTR Director**).
  - (ii) The **A Directors** collectively get **12.728%** of the vote (equating to **4.243%** for each **A Director**);
  - (iii) The **B Directors** collectively get **50.912** of the vote (equating to **12.728%** for each **B Director**;

**4.3 Example C. - if there are 8 NCTR Directors appointed:**

- (a) The total number of directors is 15, of which there are 3 A Directors, 4 B Directors and 8 NCTR Directors.
- (b) As each Director gets 1 vote:
  - (i) collectively the Property Owners (via the **NCTR Directors** get **53.33%** of the vote (equating to **6.666% per NCTR Director**)
  - (ii) the **A Directors** collectively get **9.334%** (equating to **3.111% per A Director**);
  - (iii) the **B Directors** collectively get **37.336%** of the vote (equating to **9.334% per B Director**).