

**THE COMPANIES ACT 2006  
SPECIAL RESOLUTION  
COMMERCIAL SERVICES KENT LIMITED (05858177)  
ADOPTION OF NEW ARTICLES OF ASSOCIATION**

At a general meeting of the members of the above named company, duly convened and held at 1 Abbey Wood Road, Kings Hill, West Malling, Kent, ME19 4YT on 18 February 2016 at 09 30 am

The following Special Resolution was duly passed

That the existing articles of association in their entirety be removed and substituted for the new articles of association attached to this resolution

DATED 18 February 2016

SIGNED



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Karen Short (Company Secretary)

TUESDAY



A15 \*A51DG7ER\* #57  
23/02/2016  
COMPANIES HOUSE

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**COMMERCIAL SERVICES KENT LIMITED**

**1 PRELIMINARY**

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

**2 INTERPRETATION**

2 1 In these Articles the following expressions have the following meanings unless inconsistent with the context

"2006 Act"	the Companies Act 2006
"these Articles"	these articles of association as amended from time to time
"Board"	the Directors or such of them as are present at a duly convened and quorate meeting of the Directors
"Chair"	the non-executive chair of the Board
"Council"	Kent County Council of Sessions House, County Hall, Maidstone, Kent ME14 1XQ
"Council NED"	any non-executive Director who is also an employee or officer of the Council
"Directors"	the directors of the Company
"eligible Directors"	has the meaning given in Model Article 8(3)
"Executive Directors"	the Directors other than the Non-Executive Directors, being the Chief Executive Officer/Managing Director and the Chief Financial Officer, and " <b>Executive Director</b> " means any one of them
"Independent NED"	any non-executive Director who is not an employee, officer or elected member of the Council
"Non-Executive Directors"	the Chair, the Independent NEDs and the Council NEDs and " <b>Non-Executive Director</b> " shall mean any one of them

**"Shareholder Board"**

the Council's group of senior members and officers advising and supporting the relevant decision-making Cabinet Member with portfolio responsibility for the Company, or such other committee or person(s) with authority to exercise the Council's rights as registered holder of the entire issued share capital in the Company which is the holder of the entire issued share capital in the Company, the terms of reference and delegated authority for which shall be determined by the Council in accordance with its constitution from time to time and notified to the Company

**"Shareholder Board Representative"**

the person nominated by the Council from time to time to act as or as the authorised representative of the Shareholder Board which shall be determined by the Council in accordance with its constitution from time to time and notified to the Company

**"Statutes"**

the Companies Acts as defined in section 2 of the 2006 Act and every other statute, order, regulation or other subordinate legislation for the time being in force relating to companies and affecting the Company

**"United Kingdom"**

Great Britain and Northern Ireland

- 2 2 Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the Statutes as they are in force on the date when these Articles become binding on the Company
- 2 3 References to any statute or statutory provision include, unless the context otherwise requires, a reference to that statute or statutory provision as modified, replaced, re-enacted or consolidated and in force from time to time and any subordinate legislation made under the relevant statute or statutory provision
- 2 4 The headings and marginal notes and references to them in these Articles shall be deemed not to be part of these Articles and shall not be taken into consideration in the interpretation of these Articles
- 2 5 Words importing persons shall, where the context so requires or admits, include individuals, firms, partnerships, trusts, corporations, governments, governmental bodies, authorities, agencies, unincorporated bodies or persons or associations and any organisations having legal capacity
- 2 6 Where the context so requires words importing the singular only also include the plural and vice versa and words importing the masculine shall be construed as including the feminine or the neuter or vice versa

**3 OBJECTS**

3 1 The principal objects of the Company are to

- 3 1 1 provide services to the Council pursuant to agreements between the Council and the Company from time to time, and
- 3 1 2 provide services to third parties (other than the Council) pursuant to agreements between those third parties and the Company from time to time,

and consequently the powers of the Company shall be limited to those necessary and appropriate to that purpose

#### **4 THE BOARD**

- 4 1 Subject to these Articles, the Board is responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company. The Shareholder Board may, by notice in writing or otherwise by special resolution, direct the Board to take, or refrain from taking, specified action. No such notice in writing or special resolution invalidates anything which the Board has done before the giving of the notice or the passing of the special resolution. Model Articles 3 and 4 shall not apply.
- 4 2 The Chair shall be nominated and approved in writing by the Shareholder Board and appointed to that office by the Board, but the Chair shall not be an employee, officer or elected member of the Council, except in exceptional circumstances.
- 4 3 At least two Council NEDs shall be nominated and approved by the Shareholder Board and appointed to that office by the Company.
- 4 4 Any Independent NED shall be nominated and approved by the Shareholder Board and appointed by the Company.
- 4 5 The Executive Directors shall be nominated and approved by the Shareholder Board and appointed to that office by the Company.
- 4 6 No person shall be appointed or removed as a Non-Executive Director or an Executive Director unless the appointment or removal of that person has been approved in writing beforehand by the Shareholder Board Representative after agreement with the Shareholder Board.
- 4 7 If the Shareholder Board Representative notifies the Company in writing that the Council desires one or more individuals specified in the notice to be appointed or removed as Director(s), then such person shall be appointed or removed (as the case may be) as Director(s) on and from the date specified in the notice or, in the case of appointment of an Executive Director or an Independent NED, on and from the date of that individual's service agreement or terms of appointment (subject also to the service agreement or terms of appointment being approved by the Shareholder Board). Any removal under this Article shall be without prejudice to the terms of any agreement between the Director being removed and the Company.
- 4 8 The Terms of Reference for the Board shall be approved by the Shareholder Board.

#### **5 THE SHAREHOLDER BOARD**

Any notice to or from the Shareholder Board shall be sent to or from the Shareholder Board Representative. Where a consent or approval is expressed in these Articles to be required of the Shareholder Board, it shall be given by the Shareholder Board Representative. Such consent or approval shall be given in writing in advance of the decision or matter requiring consent or approval.

#### **6 PARTICIPATION IN DIRECTORS' MEETINGS**

Model Article 9(2)(c) shall be amended by the insertion of the word "simultaneously" after the words "how it is proposed that they should" and before the words "communicate with each other during the meeting".

#### **7 QUORUM FOR DIRECTORS' MEETINGS**

- 7 1 The quorum for Board meetings may be fixed from time to time by a decision of the Shareholder Board, but it must never be less than two, and unless fixed (or Article 7 2 or Article 7 3 applies), the quorum shall be two, one of whom must (subject to Articles 7 2 and 7 3) be a Council NED.
- 7 2 The following shall be added as paragraph (4) to Model Article 11

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

- (a) if the eligible Directors participating in the meeting do not constitute a quorum, then the quorum for the purposes of the meeting shall be reduced by one for each Director who cannot vote or be counted in the quorum provided that one of the participating eligible Directors is a Council NED, and
- (b) if despite sub-paragraph (a) the eligible Directors participating in the meeting still do not constitute a quorum or there are no eligible Directors, then the meeting must be adjourned to enable the shareholders to authorise any situation in which a Director has a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company "

7 3 The quorum for any meeting of the Directors whilst one or more Directors absent themselves from decision-making pursuant to Article 9 3 2 shall be reduced by the number of "absent" Directors, subject always to a minimum quorum of one Director

## 8 VOTING

8 1 If the number of votes for and against a proposal at a meeting of Directors are equal the Chair (or other person chairing the Directors' meeting in the Chair's absence) shall not have a second or casting vote

8 2 If at a meeting of the Directors (or any committee of Directors) at which a quorum is present

8 2 1 the Council NEDs present cast their votes unanimously in one way on any decision put to a vote, and

8 2 2 the Executive Directors and Independent NEDs present, whether unanimously or otherwise, cast votes in the opposite way such that the Executive Directors would have a majority of the votes in relation to that decision,

then, in these circumstances only, the Council NEDs present shall collectively have such number of additional votes as are necessary for the Board to decide the matter in favour of the Council NEDs

8 3 In relation to any matter which is to be decided by the Board, any Director may at any time (but prior to any votes being cast in relation to that matter) refer the matter to the Shareholder Board for determination. Any matter so referred to the Shareholder Board shall not be decided (and no action shall be taken in respect of it by the Board or the Company) until the Shareholder Board has determined the matter

## 9 INHERENT CONFLICT OF INTERESTS

9 1 An "**Inherent Conflict of Interest**" is a situation where a Director has, or can have, a direct or indirect interest or duty that conflicts, or possibly may conflict, with the interests of and/or duties to the Company, which arises as a result of

9 1 1 that Director being an employee, officer or elected Member of the Council, and/or

9 1 2 that Director also being a director of another company which itself is wholly-owned, directly or indirectly, by the Council

9 2 A Director who has an Inherent Conflict of Interest

9 2 1 is not required to declare that Inherent Conflict of Interest,

9 2 2 is authorised to have that Inherent Conflict of Interest, and

9 2 3 may vote as a Director (and be counted in the quorum) on a decision concerning that Inherent Conflict of Interest and attend a meeting, or participate in any discussion, relating to that Inherent Conflict of Interest and receive information or advice received by the Company on that Inherent Conflict of Interest

9 3 A Director who has an Inherent Conflict of Interest

9 3 1 is not obliged to disclose to the Company information that is confidential to a third party obtained by him (other than in his capacity as a Director or as its employee or agent or, if the Directors so decide, in any other capacity that would otherwise oblige him to disclose it to the Company) in any situation to which the Inherent Conflict of Interest applies, nor to use any such information directly or indirectly for the benefit of the Company or in performing his duties as a Director, in circumstances where to do so would amount to a breach of a duty of confidence owed to that third party, and

9 3 2 may (but shall be under no obligation to)

(a) absent himself from the discussions of, and/or the making of decisions,

(b) make arrangements not to receive documents and information,

relating to the Inherent Conflict of Interest,

and the Company will not treat anything done (or omitted to be done) by the Director pursuant to this Article 9 3 as a breach by him of his duties under sections 172 to 174 of the 2006 Act

## 10 DIRECTORS' REMUNERATION AND EXPENSES

10 1 No Executive Director or Independent NED shall receive any remuneration, expenses or other monies except and to the extent that the same is within that Director's (or alternate Director's) contract of employment, service agreement or terms of appointment, which shall be approved in advance in writing by the Shareholder Board

10 2 A Council NED shall not receive any remuneration, expenses or other monies from the Company

10 3 Model Article 20 shall not apply

## 11 ALTERNATE DIRECTORS

11 1 Any Council NED (the "**appointor**") may appoint as an alternate any other Council NED or other person (not already being a Director of the Company) who is approved by the Shareholder Board Representative to

11 1 1 exercise that Director's powers, and

11 1 2 carry out that Director's responsibilities,

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

11 2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor and countersigned by the Shareholder Board Representative

11 3 The notice must

11 3 1 identify the proposed alternate, and

11 3 2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice

11 4 An alternate Director has the same rights, in relation to participation in Directors' meetings and the taking of decisions by the Directors and in relation to Directors' written resolutions, as the alternate's appointor

11 5 An alternate Director may not act as an alternate Director for more than one appointor

11 6 Except as these Articles specify otherwise, alternate Directors

11 6 1 are deemed for all purposes to be Directors,

11 6 2 are liable for their own acts and omissions,

11 6 3 are subject to the same restrictions as their appointors, and

11 6 4 are not deemed to be agents of or for their appointors

and each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member

11 7 A person who is an alternate Director but not a Director

11 7 1 may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating), and

11 7 2 may participate in a unanimous decision of the Directors (but only if his appointor is an eligible Director in relation to that decision, but does not participate)

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

11 8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company

11 9 An alternate Director's appointment as alternate terminates

11 9 1 when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate,

11 9 2 on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a Director,

11 9 3 on the death of the alternate's appointor,

11 9 4 when the alternate's appointor's appointment as a Director terminates, or

11 9 5 on notification given by the Shareholder Board Representative to the Company that the appointment of the alternate Director is no longer approved

## 12 TRANSFER OF SHARES

Model Article 26(5) shall be replaced with the following words "The Directors may not refuse to register the transfer of a share made with the prior written approval of the Shareholder Board. The Directors shall refuse to register the transfer of a share where the prior written approval of the Shareholder Board has not been given."

**13 TRANSMITTEES BOUND BY PRIOR NOTICES**

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

**14 DIVIDENDS AND OTHER DISTRIBUTIONS**

The Company shall not declare, make or pay any distribution in respect of profits, assets or reserves of the Company without the prior written consent of the Shareholder Board

**15 PROCEEDINGS AT GENERAL MEETINGS**

15 1 The Shareholder Board shall from time to time nominate the chairman of general meetings of the Company (for the avoidance of doubt, such person will not be an Executive Director)

15 2 If a quorum is not present within half an hour of the time at which a general meeting is due to start or if, during a general meeting, a quorum ceases to be present the chairman of the meeting must adjourn it

15 3 When adjourning the general meeting the chairman of the meeting must specify that the meeting is adjourned either

15 3 1 to the same day, place and time the following week, or

15 3 2 to another day, place and time to be decided by the Directors

15 4 If a quorum is not present within half an hour of the time at which the adjourned meeting is due to start the shareholder or shareholders present in person or by proxy or by corporate representative and who are entitled to vote shall

15 4 1 constitute a quorum, and

15 4 2 have power to decide on all matters which could have been transacted at the meeting which was adjourned

15 5 Model Article 41 shall not apply to the Company

**16 COMPANY COMMUNICATION PROVISIONS**

16 1 Where

16 1 1 a document or information is sent by post (whether in hard copy or electronic form) to an address in the United Kingdom, and

16 1 2 the Company is able to show that it was properly addressed, prepaid and posted,

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

16 2 Where

16 2 1 a document or information is sent or supplied by electronic means, and

16 2 2 the Company is able to show that it was properly addressed,

that document or information is deemed to have been received by the intended recipient immediately after it was sent



16 3 Where a document or information is sent or supplied by means of a website, it is deemed to have been received by the intended recipient

16 3 1 when the material was first made available on the website, or

16 3 2 if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website

16 4 Pursuant to section 1147(6) of the 2006 Act, subsections (2) (3) and (4) of that section shall be deemed modified by the preceding paragraphs of this Article 16

16 5 Subject to any requirements of the 2006 Act, documents and notices may be sent to the Company in electronic form to the address specified by the Company for that purpose and such documents or notices sent to the Company are sufficiently authenticated if the identity of the sender is confirmed in the way the Company has specified

## **17 DIRECTORS' INDEMNITY AND INSURANCE**

17 1 Subject to, and so far as may be permitted by, the 2006 Act and without prejudice to any indemnity to which the person concerned may be otherwise entitled, the Company may indemnify every Director, former Director, alternate Director, secretary or other officer of the Company or of any associated company (as defined in section 256 of the 2006 Act) against any liabilities incurred by him in the execution and discharge of his duties or the exercise of his powers or otherwise in relation to or in connection with his duties, powers or office, including any liability which may attach to him in respect of any negligence, default, breach of duty or breach of trust in relation to anything done or omitted to be done or alleged to have been done or omitted to be done by him as a Director, former Director, alternate Director, secretary or other officer of the Company or of any such associated company and against any such liability incurred by him in connection with the Company's activities as trustee of an occupational pension scheme as defined in section 235(b) of the 2006 Act

17 2 Subject to the 2006 Act the Directors may purchase and maintain at the cost of the Company insurance cover for or for the benefit of every Director, former Director, alternate Director, secretary or other officer of the Company or of any associated company (as defined in section 256 of the 2006 Act) against any liability which may attach to him in respect of any negligence, default, breach of duty or breach of trust by him in relation to the Company (or such associated company), including anything done or omitted to be done or alleged to have been done or omitted to be done by him as a Director, former Director, alternate Director, secretary or other officer of the Company or associated company

17 3 Subject to, and so far as may be permitted by, the 2006 Act, the Company shall be entitled to fund the expenditure of every Director, former Director, alternate Director, secretary, or other officer of the Company incurred or to be incurred

17 3 1 in defending any criminal or civil proceedings, or

17 3 2 in connection with any application under sections 661(3), 661(4) or section 1157 of the 2006 Act