

**Co-operative and Community Benefit Societies Act 2014**

**Rules of**

**PEC Homes Limited**

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**NAME**

- 1 The name of the Society shall be PEC Homes Limited.

**REGISTERED OFFICE**

- 2 The registered office of the Society shall be at c/o Low Carbon Team, Plymouth City Council, Ballard House, Plymouth, PL1 3BJ.

**INTERPRETATIONS**

- 3 In these Rules:

- 3.1 The following words and expressions shall, unless the context requires otherwise, respectively have the following meanings:

**"Address"** means a postal address or, for the purposes of electronic communication, an email address or a telephone number for receiving text messages;

**"the Act"** refers to the Co-operative and Community Benefit Societies Act 2014 or any Act or Acts amending or in substitution of it or them for the time being in force;

**"Auditor"** means a person eligible for appointment as a company auditor under Part 42 of the Companies Act 2006;

**"Authorised Attorney"** means a person appointed with authority to act for another person in specified or all legal or financial matters;

**"Board"** means all those persons appointed to perform the duties of directors of the Society;

**"Board Meeting"** includes, except where inconsistent with any legal obligation, a physical meeting, a meeting held by electronic means and a meeting held by telephone;

**"Clear Days"** in relation to the period of notice does not include the day on which the meeting is to be held and the day on which the notice is handed to someone or left at their Address, or the day on which it is sent, is in the process of being sent and is assumed to be delivered;

**"Community Supporting Organisation"** means any organisation established for the benefit of the community served by the Society (and being an asset locked body with a suitable legal structure whose objects complement those of the Society) which the Society agrees to support in furtherance of the Objects. Unless and until determined otherwise by the Board, the Community Supporting Organisation from the date of adoption of these Rules shall be PEC Trust, a company incorporated and registered in England and Wales with company number 11569012 and a charity registered in England and Wales with charity number 1183711;

**"Director"** means a director of the Society and includes any person occupying the position of director, by whatever name called;

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

**"Electronic Means"** shall include, for example, email, video links and secure authenticated website transactions;

**"Employee"** means anyone holding a contract of employment with the Society;

**"Extraordinary Resolution"** means, unless the context requires otherwise, those decisions requiring an extraordinary resolution as detailed under Rules 65 and 66;

**"Founder Member"** means a subscriber to these Rules for the purposes of registration;

**"Member"** has the meaning as detailed under Rules 13, 15 and 16;

**"Objects"** means the objects of the Society as detailed under Rule 4;

**"Office Holder"** means a receiver, administrative receiver, liquidator, provisional liquidator or administrator of a Member of all or substantially all of the Member's assets;

**"Officer"** has the meaning as detailed under Rule 99;

**"Person"** means, unless the context requires otherwise, a natural person, unincorporated body, firm, partnership, corporate body or the nominee of an unincorporated body, firm, partnership or corporate body;

**"Registrar"** means the Financial Conduct Authority (FCA) or any body that succeeds its function;

**"Regulator"** means the Regulator of Social Housing established pursuant to the Housing and Regeneration Act 2008 as amended by the Legislative Reform (Regulator of Social Housing) (England) Order 2018 or any future body or authority (including any statutory successor) carrying on similar regulatory or supervisory functions;

**"Regulations"** has the meaning as detailed under Rule 101;

**"Rules"** means these Rules (as amended from time to time in accordance with Rules 119 to 121 (inclusive)); and a reference in these Rules to a particular numbered Rule is a reference to such numbered Rule in these Rules;

**"Secretary"** means any person appointed by the Board under Rule 99 to perform the duties of the Secretary of the Society;

**"Social Housing"** means low cost rental accommodation and low cost home ownership accommodation as defined in sections 68 to 77 of the Housing and Regeneration Act 2008 or any replacement definition in accordance with relevant legislation and regulatory guidance in England and Wales;

**"Society"** means the above named society;

**"Transferable"** means shares that are transferable to another Person who also qualifies for membership of the Society in accordance with these Rules;

**"Withdrawable"** means shares with the associated right for the Member to withdraw and receive in return the value of their shares from the Society; and

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

- 3.2 The Rule headings are included for convenience only and shall not affect the construction of these Rules.
- 3.3 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa.
- 3.4 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them;
- 3.5 References to the words **include** or **including** (or any similar term) shall not be construed as implying any limitation.

## **OBJECTS**

- 4 The objects of the Society shall be to carry on any business (including development, financing, construction, operation, management, acquisition and letting, sale or other disposition) for the benefit of the community, whether directly or indirectly (including through a subsidiary), for the purposes of:
  - (a) the development of low or zero carbon and energy efficient new-build housing or other commercial or mixed-use properties, including through the provision of Social Housing and associated facilities, amenities and infrastructure; and/or
  - (b) the modification of existing housing, commercial or mixed-use properties and associated facilities, amenities and infrastructure, to improve their energy efficiency, reduce their environmental impact and meet local needs;
  - (c) the management of estates in which any such housing and/or properties are situated (once they have been developed or modified (as applicable)), whether directly or indirectly, including by outsourcing the estate management to a third party;
  - (d) meeting local needs, addressing fuel poverty and promoting a sense of community and local ownership;
  - (e) mitigating the impacts of climate change through reduction in energy use (in development, construction, management and use of housing and properties), promotion of sustainable behaviours and use of clean energy;
  - (f) collaborating and partnering with organisations that share the Society's objectives; and/or
  - (g) any other object which is connected with or incidental to the provision of Social Housing that can be carried out from time to time by a society registered as a provider of Social Housing with the Regulator.
- 5 The Society shall be owned and controlled by its Members on a fair and equitable basis.

## **POWERS**

- 6 The Society may do all such lawful things as may further the Objects and as permitted or not prohibited by Regulator from time to time. In particular, the Society may borrow or raise funds for any purpose that is beneficial to the Society and, at any time when the Society is registered as a provider of Social Housing with the Regulator, the Society shall take account of any obligation imposed upon the Society by the Regulator in exercising its powers.

## **BORROWING**

- 7 The Society shall have the power to borrow money from its Members and others in order to further the Objects, provided that the amount outstanding at any one time shall not exceed £200,000,000 (two hundred million pounds) or such larger sum as the Society determines from time to time in general meeting.
- 8 The Society shall have the power to mortgage or charge any of its property, including the assets and undertakings of the Society, present and future, and to issue loan stock, debentures and other securities for money borrowed or for the performance of any contracts of the Society or its customers or Persons having dealings with the Society.
- 9 The rate of interest on money borrowed, except on money borrowed by way of bank loan or overdraft or from a finance house or on mortgage from a building society or local authority, shall not exceed the minimum rate necessary in the opinion of the Board to obtain and retain the capital required to carry out the Objects.
- 10 The Society may receive from any Person, donations or loans free of interest in order to further the Objects but shall not receive money on deposit.

## **FINANCIAL SERVICES AND MARKETS ACT 2000 ACTIVITY**

- 11 For the avoidance of doubt, the Society shall not engage in any activity by virtue of any of these Rules that would require a permission from the Registrar to carry on that activity without first having applied for and obtained such permission.

## **INVESTMENT OF FUNDS**

- 12 The Society, with the authority of the Board, may invest any part of its funds in the manner set out in section 27 of the Act.

## **MEMBERS**

- 13 The first Members of the Society will be the Founder Members. The Board may at its discretion admit to membership any Person who supports the Objects and who has paid or agreed to pay any subscription or other sum due in respect of membership for the time being in force.
- 14 The Society is not a subsidiary of another organisation and shall not become a subsidiary of another organisation without:
- (a) amending these Rules to state the name of the parent entity; and
  - (b) prior to such amendment, obtaining the consent of the Regulator to such amendment pursuant to section 212 of the Housing and Regeneration Act 2008.

## **Applications for Membership**

- 15 No natural person shall be admitted into membership of the Society unless they have attained the age of 16. All those wishing to become a Member must support the Objects and complete a relevant application form for membership which (i) shall include an application for at least one share in the Society, (ii) may include a requirement to pay a membership fee or such other applicable fee (in each case the amount of which shall be determined by the Board from time to time) and (iii) must be approved by the Directors. For the avoidance of doubt, the Directors must approve each application for membership.
- 16 A corporate body which is a Member shall by resolution of its shareholders or governing body (as applicable) appoint a representative who may during the continuance of her/his appointment be entitled to exercise all such rights and powers as the corporate body would

exercise as a Member if it was a natural person. Each such corporate body Member shall supply notification in Writing to the Society of its choice of representative.

#### **Member Commitment**

- 17 All Members agree to participate in general meetings and take an active interest in the operation and development of the Society, its business and the Objects. Members have a duty to respect the confidential nature of the business decisions and information of the Society.

#### **Termination of Membership**

- 18 A Member shall cease to be a Member of the Society immediately upon their:
- (a) failure to hold the minimum shareholding; or
  - (b) failure to pay the annual subscription (if any) within 3 months of it falling due; or
  - (c) resignation in Writing to the Secretary; or
  - (d) expulsion from membership in accordance with these Rules; or
  - (e) death, bankruptcy, winding up or liquidation; or
  - (f) make any arrangement or composition with creditors generally, have a receiver, manager or administrative receiver appointed over all or part of their assets or undertaking, have an administrator appointed, enter into liquidation or have any equivalent action taken in any jurisdiction (being a body corporate).

#### **Expulsion from Membership**

- 19 A Member may be expelled for conduct prejudicial to the Society by an Extraordinary Resolution, provided that (i) the grounds for expulsion have been specified in the notices calling the meeting and (ii) the Member whose expulsion is to be considered shall be given the opportunity to make representations to the meeting or, at the option of such Member, a natural person who is there to represent them (who need not be a Member of the Society) has been allowed to make representations to the meeting.
- 20 If, with due notice having been served, the Member (or the natural person they have chosen to represent them) fails to attend the meeting at which their expulsion is to be considered, the meeting may proceed in the Member's absence and the condition set out in limb (ii) of Rule 19 shall not apply.
- 21 An expelled Member shall be paid the nominal value of shares held by them at the time of expulsion.
- 22 No Member expelled from membership shall be re-admitted except by an Extraordinary Resolution.

#### **PROCEEDINGS ON DEATH OR BANKRUPTCY OF A MEMBER**

- 23 In accordance with section 37 of the Act and only to the extent of the amount for the time being allowed in section 37 of the Act, a Member may nominate one or more natural persons to whom property which that Member holds in the Society may be transferred on their death. On receiving a satisfactory proof of death of a Member who has made such a nomination, the Society shall, in accordance with the Act, either transfer or pay the full value of the property comprised in the nomination to the natural person(s) entitled under the nomination. Any property held by a Member who dies which is not dealt with by nomination under this Rule 23 shall be dealt with in accordance with Rule 24.

24 Upon a claim being made by:

- (a) the personal representative of a deceased Member; or
- (b) the trustee in bankruptcy of a Member who is bankrupt; or
- (c) the Office Holder to any property in the Society belonging to a Member,

the Society shall transfer or pay property to which the personal representative, trustee in bankruptcy or Office Holder has become entitled as such entitled Person may direct the Society.

## **SHARE CAPITAL**

25 The shares of the Society shall be of the nominal value of £1. The minimum shareholding required of a Member shall be defined as such number of fully paid shares as the Board may determine subject to the Act, or as may be required by a particular offer of shares, or, failing such determination or requirement, shall be one share.

26 The Society's share capital shall be raised by the issue of shares. The Board may make provision for different classes of shares and assign to such classes different rights, provided that each share shall have a nominal value of £1 and shall not carry rights to interest or application of profits that are different in any way to Rules 103 and 104.

27 A Member may apply for shares in tranches of shares which are smaller in number than the minimum shareholding, provided that any Member who does not achieve the minimum shareholding within 12 months of their first payment shall, unless the Board decides otherwise, cease to be a Member. Any Person ceasing to be a Member under this Rule 27 shall have the value of their shares as at the date on which they ceased to be a Member returned to them and the relevant shares shall be cancelled.

28 Applications for shares shall be made to the Board who shall allot to Members, upon the approval of their application by the Board and their admission, the share(s) for which they have applied, provided that the total number of shares allotted to any Member shall not exceed the maximum shareholding permitted by law. Shares shall be paid for in full on allotment.

29 If a Member who is required to terminate their membership under these Rules is unable to transfer their shares and the right to withdraw shares has been suspended, the nominal value of their share capital:

(a) may be converted into loan stock upon such terms as may be agreed between the Board and the Member, or their personal representative, trustee in bankruptcy, or Office Holder (as applicable), provided that:

- (i) such agreement shall require the repayment of the loan within a period not exceeding 3 years; and
- (ii) if the Member does not execute a loan stock agreement required by the Board, the Member shall be deemed to have irrevocably appointed any person nominated by the Board to be their agent and attorney to execute the loan stock agreement on their behalf; or

(b) be surrendered in full to the Society (with the surrender being made in such form as the Board requires) at which point the shares will be cancelled.

30 Shares shall be Withdrawable only in accordance with the provisions of these Rules. Shares shall be non-Transferable except:

- (a) on the death, bankruptcy, winding up or liquidation of a Member; or

- (b) in the case of an unincorporated organisation or partnership, on a change of nominee(s), but in this case the shares shall only be Transferable to the new nominee(s).

#### **Withdrawal of share capital**

31 Shares may be withdrawn by Members upon giving 3 months' notice to the Society, provided that:

- (a) the Board shall retain sole discretion to return money paid for such shares;
- (b) all withdrawals shall be paid by the Society in the order in which the notices were received by the Society;
- (c) a Member shall not be entitled to withdraw shares which would leave them with less than the minimum shareholding, unless they intend to terminate their membership of the Society;
- (d) the Board may, at its sole discretion, waive or reduce the notice required for a withdrawal and may direct payment to be made by the Society without notice or on such shorter notice as it considers fit;
- (e) the Board may, at its sole discretion, suspend the right for Members to withdraw their shares either wholly or partially, and either indefinitely or for a fixed period. The suspension shall extend and apply to all notices of withdrawal which have been received and remain unpaid at the time the Board suspends the right to withdraw. Where the suspension is for a fixed period, such period may be extended from time to time by the Board;
- (f) during any period when the right of withdrawal has been suspended under Rule 31(e), the shares of deceased Members may, if the Board agree, be withdrawn by their personal representatives upon giving such notice as the Board may require;
- (g) the amount to be paid to a Member on withdrawal shall be the amount paid up or credited on the shares to be withdrawn, except where the shares are subject to a reduction in their value in accordance with the provisions of these Rules; and
- (h) interest shall be payable by the Society on any share in respect of which a notice of repayment has been given to the Member who is withdrawing their shares from the date of the notice of repayment until the date of repayment. Such interest shall accrue daily and be at a rate of 5% per annum or 2% above the Co-operative Bank's base rate at the date of the notice of repayment, whichever is the lesser.

32 Any share withdrawn in accordance with these Rules shall be cancelled.

33 Members may withdraw from the Society by withdrawing all their shares in the Society in accordance with these Rules or, if the right to withdraw has been suspended, by surrendering all their shares to the Society. Upon such surrender the Board may, at its sole discretion, direct the Society pay to the withdrawing Member the amount paid up or credited on the shares surrendered.

34 The Society may deduct such reasonable sum to cover any administrative and/or professional costs of withdrawal from the monies payable to a Member on the withdrawal of shares in the Society.

#### **Reduction in Share Values**

35 If the Society's Auditor (or any independent qualified accountants appointed for this purpose by the Board) certifies at any time that the aggregate of the Society's liabilities plus the amount of its issued share capital exceeds its assets, then (unless in the meantime the

excess has been removed) the Board may determine that the amount of this excess, or part of it, shall be apportioned among the Members in proportion to (but not beyond) the amount of the nominal value of the shares paid up and held by each Member. This apportionment shall be based on the value of the shares paid up and held by each Member at the close of business on the date of such determination. The value of shares held by each Member shall be reduced accordingly for the purposes of withdrawal of shares, provided that the value of shares held by any Member shall not be reduced below the nominal value of the minimum shareholding as specified in these Rules.

#### **Lien on Shares and Right of Offset**

- 36 The Society shall have a lien on the shares of a Member for any debt due to it by the Member and may offset any sum standing to the Member's credit with the Society in or towards payment of such debt.

#### **GENERAL MEETINGS**

- 37 The Society shall, within 6 months of the end of the financial year, hold a general meeting of the Members as its annual general meeting and shall specify the meeting as such in the notice calling it.
- 38 The business of an annual general meeting shall comprise, where appropriate:
- (a) the receipt of the accounts and balance sheet of the Society and of the reports of the Board and the Society's Auditor (if any);
  - (b) the appointment of an Auditor, if required;
  - (c) the election of the Board or the results of the election if held previously by ballot;
  - (d) the application of profits; and
  - (e) the transaction of any other business included in the notice convening the meeting.

#### **Calling a General Meeting**

- 39 At the request of the Board, the Secretary may convene a general meeting of the Society. The purpose of the general meeting shall be stated in the notice of the meeting.
- 40 The Board upon an application signed by one-tenth of the total number of Members, or 100 Members, whichever is the lesser, delivered to the registered office of the Society, shall convene a general meeting. The purpose of the general meeting shall be stated in the application for and notice of the meeting.
- 41 If within one month from the date of the receipt of the application, the Board has not convened a general meeting to be held within 6 weeks of the application, any 3 Members of the Society acting on behalf of the signatories to the application may convene a general meeting, and shall be reimbursed by the Society for any costs incurred in convening such a meeting.

#### **Notices of General Meetings**

- 42 The Directors shall call the annual general meeting giving 14 Clear Days' notice to all Members. All other general meetings shall be convened with at least 14 Clear Days' notice, but may be held at shorter notice if so agreed in advance and in Writing by 90% of the Members.
- 43 Notices of meetings shall either be given to Members personally or sent to them at their Address or alternatively, if so agreed by the Society in a previous general meeting, notices of meetings may be displayed in a prominent place at the registered office and/or displayed on



the Society's website and in all other places of business of the Society to which Members have access.

44 All notices shall specify:

- (a) the date, time and place at which the meeting is to be held;
- (b) the general nature of the business to be transacted at the meeting; and
- (c) the text of any proposed resolutions to be passed at the meeting.

A meeting shall not transact any business other than that specified in the notice(s) calling the meeting.

45 A notice sent to a Member's Address shall be deemed to have been duly served 48 hours after its posting. The accidental omission to send any notice to or the non-receipt of any notice by any Member or other Person entitled to receive notice shall not invalidate the proceedings at the meeting.

46 If the Society has appointed an Auditor in accordance with these Rules, they shall be entitled to attend general meetings of the Society and to receive all notices of and communications relating to any general meeting which any Member of the Society is entitled to receive. The Auditor shall be entitled to be heard at any meeting on any part of the business of the meeting which is of reasonable or proper concern to an Auditor.

#### **Quorum**

47 No business shall be transacted at a general meeting unless a quorum of Members is present (in person or by their representative, if applicable). Unless amended by Extraordinary Resolution, a quorum shall be at least 50% of the total number of Members (including those not present) or 10 Members, whichever is the lesser.

#### **Chairing General Meetings**

48 The chairperson of the Society shall facilitate general meetings. If the chairperson is absent or unwilling to act at the time any meeting proceeds to business, the Members present shall choose one of their number to be the chairperson for that meeting.

#### **Attendance and Speaking at General Meetings**

49 A Member is able to exercise the right to speak at a general meeting and is deemed to be in attendance when that Member (or their representative) is in a position to communicate to all those attending the meeting. The Directors may make any arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at the meeting, including by Electronic Means. In determining attendance at a general meeting, it is immaterial whether any 2 or more Members attending are in the same place as each other, provided that they are able to communicate with each other.

50 The chairperson of the general meeting may permit other persons who are not Members of the Society to attend and speak at general meetings, without granting any voting rights.

#### **Adjournment**

51 If a quorum is not present within half an hour of the time the general meeting was due to commence, or if during a meeting a quorum ceases to be present, the chairperson must adjourn the meeting. If within half an hour of the time the adjourned meeting was due to commence a quorum is not present, the Members present shall constitute a quorum.

52 The chairperson of a general meeting may adjourn the meeting whilst a quorum is present if:

- (a) the meeting consents to that adjournment; or
- (b) it appears to the chairperson (in their sole discretion) that an adjournment is necessary to protect the safety of any persons attending the meeting or to ensure that the business of the meeting is conducted in an orderly manner.

- 53 The chairperson must adjourn the meeting if directed to do so by the meeting.
- 54 When adjourning a meeting, the chairperson must specify the date, time and place to which it will stand adjourned or that the meeting is to continue at a date, time and place to be fixed by the Directors.
- 55 If a general meeting is adjourned for 14 days or more, at least 7 Clear Days' notice of the adjourned meeting shall be given in the same manner as the notice of the original meeting.
- 56 No business shall be transacted at an adjourned meeting other than business which could properly have been transacted at the original meeting if the adjournment had not taken place.

### **Voting**

- 57 A resolution put to the vote at a general meeting shall be decided on a show of hands, with each Member having one vote, unless a paper ballot is demanded in accordance with these Rules. A declaration by the chairperson that a resolution has on a show of hands been carried or lost with an entry to that effect recorded in the minutes of the general meeting shall be conclusive evidence of the result. Proportions or numbers of votes in favour for or against need not be recorded.
- 58 In the case of an equality of votes, whether on a show of hands or a poll, the chairperson shall not have a second or casting vote and the resolution shall be deemed to have been lost.
- 59 On a written resolution, each Member shall have one vote.

### **Paper Ballot**

- 60 A paper ballot on a resolution may be demanded by not less than 3 Members at a general meeting before or on the declaration of the result of the show of hands.
- 61 If a paper ballot is duly demanded it shall be taken in such a manner as the chairperson directs, provided that no Member shall have more than one vote, and the result of the ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded.
- 62 The demand for a paper ballot shall not prevent the continuance of a meeting for the transaction of any other business than the question upon which a ballot has been demanded. The demand for a paper ballot may be withdrawn.
- 63 The Board may permit decisions to be taken at general meetings by a combination of postal voting, by secure electronic voting procedures, voting in person or by proxy, provided that each Member has only one vote in any case.

### **Proxy Voting**

- 64 Any Member entitled to attend and vote at a general meeting may appoint another person, who may but need not be a Member, as their proxy to attend and vote on their behalf. A proxy shall be appointed by delivering an appointment in Writing to the registered office of the Society or such other place as may be selected by the Board and stated in the meeting notice at least 2 days before the date of the meeting at which the proxy is authorised to vote. It must be signed or approved and sent by the Member or a duly Authorised Attorney. Any

proxy form delivered late shall be invalid. Any question as to the validity of a proxy shall be determined by the chairperson of the general meeting whose decision shall be final.

### **Resolutions**

65 Decisions at general meetings shall be made by passing resolutions. The following decisions must be made by Extraordinary Resolution:

- (a) any decision to expel Members;
- (b) any amendment to these Rules; and
- (c) the decision to wind up the Society.

Decisions set out in these Rules required to be passed by special resolution must be passed in the way required by the Act. All other decisions shall be made by ordinary resolution.

66 An Extraordinary Resolution is one passed by a majority of not less than 75% of votes cast at a general meeting and an ordinary resolution is one passed by a simple majority (51 %) of votes cast.

67 Unless the Act or these Rules specifically requires a special resolution to be passed at a general meeting, a resolution may be passed as a written resolution. A written resolution may consist of several identical Documents signed by one or more Members.

### **DIRECTORS**

68 The initial Directors of the Society from registration until the first annual general meeting shall be appointed by the Founder Members.

69 The Society shall have a Board comprising not less than 3 and not more than 12 Directors and shall include:

- (a) up to 5 Directors elected by way of an ordinary resolution from the Members, provided that if the number of Directors for the time being is less than 2 and the Director in office is a Director appointed under this Rule 69(a) then such Director must not take any decision other than a decision to appoint or facilitate the appointment of additional Directors under Rule 69(b);
- (b) up to 2 Directors appointed by the Community Supporting Organisation (for so long as it is a Member);
- (c) up to 1 Director appointed by Plymouth City Council (or any successor body in name, title and function); and
- (d) up to 4 Directors appointed by co-option under Rule 72.

70 Only natural persons who are aged 18 years or more may serve on the Board.

### **Retirement Cycle**

71 At the first annual general meeting all elected Directors shall retire from office. At every subsequent annual general meeting one third of the elected Directors, or if their number is not divisible by 3 then the number nearest to one third, shall retire from office. The Directors to retire shall be the Directors who have been longest in office since their last election. Where Directors have held office for the same amount of time the Directors to retire shall be decided by lot. A retiring Director shall be eligible for re- election.

### **Co-option of Directors**

- 72 The Board may co-opt up to 4 external independent Directors who are selected for their particular skills and/or experience. Such external independent Directors:
- (a) subject to Rule 72(b), shall hold office as a Director for a fixed period determined by the Board at the time of the co-option, subject to a review at least every 12 months;
  - (b) may be co-opted to fill a casual vacancy on the Board, in which case they shall hold office as a Director only until the next annual general meeting; and
  - (c) may be removed from office at any time by a resolution of the Board.

#### **Powers and Duties of the Board**

- 73 The business of the Society shall be managed by the Board who may exercise all such powers of the Society as may be exercised and done by the Society and as are not by statute or by these Rules required to be exercised or done by the Society in general meeting (or written resolution).
- 74 All decisions made by a meeting of the Board or by any person acting as a Director shall remain valid even if it is later discovered that there was some defect in the Director's appointment or that the Director had previously been disqualified from acting as a Director.
- 75 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for monies paid to the Society shall be signed, drawn, accepted, endorsed, or otherwise executed in such manner as the Board shall from time to time direct.
- 76 Without prejudice to its general powers, the Board may exercise all the powers of the Society to borrow money and to mortgage or charge its undertaking and property or any part of it and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the Society or of any third party.
- 77 No Regulation made by the Society in general meeting shall invalidate any prior act of the Board which would have been valid had that Regulation not been made.
- 78 No Director (including any Director appointed by co-option under Rule 72) or member of a committee shall have a financial interest in any contract or other transaction with the Society or be granted a benefit of the Society, unless such interest or benefit:
- (a) is expressly permitted by these Rules; or
  - (b) would not be in breach of, and would not be inconsistent with, any guidance, standard or code published by the Regulator, section 122 of the Housing and Regeneration Act 2008 or any code of conduct and/or governance adopted by the Board.
- 79 Any ultra vires action by the Board may be ratified by the Society by a special resolution passed in accordance with section 44 of the Act. A separate special resolution must be passed in the same manner should the Society wish to relieve a Director from any liability incurred as a result of a breach of duty arising from the Society acting outside its powers.

#### **Delegation**

- 80 Subject to these Rules, the Directors may delegate any of the powers which are conferred on them under these Rules to any Person or committee consisting of Members of the Society, by such means, to such an extent, in relation to such matters and on such terms and conditions as the Directors think fit.
- 81 The Directors may specify that any such delegation may authorise further delegation of the powers by any Person or committee to whom they are delegated.

- 82 The Directors may revoke any delegation in whole or in part or alter any terms and conditions.

#### **Sub-Committees**

- 83 A sub-committee 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 Rules which govern the taking of decisions by Directors.
- 84 The Directors may make Regulations for all or any sub-committees, provided that such Regulations are not inconsistent with these Rules.
- 85 All acts and proceedings of any sub-committee must be fully and promptly reported to the Board.

#### **PROCEEDINGS OF THE BOARD**

##### **Calling a Meeting of the Board**

- 86 Any Director may, and the Secretary on the requisition of a Director shall, call a meeting of the Board by giving reasonable notice of the meeting to all Directors. Notice of any meeting of the Board must indicate the date, time and place of the meeting and, if the Directors participating in the meeting will not be in the same place, how they will communicate with each other.

##### **Proceedings of a Meeting of the Board**

- 87 The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 88 A Director is able to exercise the right to speak at a meeting of the Board and is deemed to be in attendance when that Director is in a position to communicate to all those attending the meeting. The Directors may make whatever arrangements they consider appropriate to enable those attending a meeting of the Board to exercise their rights to speak or vote at the meeting including by Electronic Means. In determining attendance at a meeting of the Board, it is immaterial whether any 2 or more Directors attending are in the same place as each other.
- 89 Questions arising at any meetings of the Board shall be decided by a majority of votes. In the case of an equality of votes, the status quo shall be maintained and the Board may choose to refer the matter to a general meeting of the Society.
- 90 A written resolution, circulated to all Directors and signed by a simple majority (51%) of Directors, shall be valid and effective as if it had been passed at a Board meeting duly convened and held. A written resolution may consist of several identical Documents signed by one or more Directors.
- 91 The Board may, at its discretion, invite other persons to attend its meetings with or without speaking rights and without voting rights. Such attendees will not count towards the quorum.

##### **Quorum**

- 92 The quorum necessary for the transaction of business at a meeting of the Board shall be at least 50% of the total number of Directors then in office (including those not present) or 3 Directors, whichever is the lesser.
- 93 If at any time the total number of Directors in office is less than the quorum required, the Directors are unable to take any decisions other than to appoint further Directors or to call a general meeting so as to enable the Members to appoint further Directors.

### **Chairing Board Meetings**

- 94 The chairperson (elected under Rule 99) shall facilitate meetings of the Board. If the chairperson is absent or unwilling to act at the time any meeting proceeds to business then the Directors present shall choose one of their number to be the chairperson for that meeting.

### **Declaration of Interest**

- 95 A Director shall declare an interest in any contract or matter in which they have a personal, material or financial interest, whether directly or indirectly, and shall not vote in respect of such contract or matter, provided that nothing shall prevent a Director voting in respect of their terms and conditions of employment or any associated matter.

### **Expenses and remuneration**

- 96 The Society may pay any reasonable expenses which the Directors properly incur in connection with their attendance at meetings or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Society.
- 97 The Society may remunerate a Director appointed by co-option under Rule 72 with a salary at such a level and on such terms as the Board, acting reasonably, thinks fit.

### **Termination of a Director's Appointment**

- 98 A person ceases to be a Director of the Society as soon as:
- (a) that person resigns from office in Writing to the Secretary, and such resignation has taken effect in accordance with its terms;
  - (b) that person is removed from office by an ordinary resolution of the Society in general meeting or by written resolution, provided that, if passed at a general meeting, the notice for the meeting specified that the question of the Director's removal was to be considered;
  - (c) that person is removed from office by a resolution of the Board of Directors, where the person is a co-opted Director appointed for their particular skills and/or experience under Rule 72;
  - (d) Plymouth City Council (or any successor body in name, title and function) notifies the Board that the Director it appointed should be removed from office, and such removal has taken effect in accordance with the terms of Plymouth City Council's (or its successor body's) notice;
  - (e) that person is prohibited from being a Director by law;
  - (f) a bankruptcy order is made against that person;
  - (g) a registered medical practitioner who is treating that person gives a written opinion to the Society stating that the person has become mentally incapable of acting as a Director and may remain so for more than 3 months; or
  - (h) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have.

### **OFFICERS**

- 99 The Board shall elect from their own number a chairperson and a Secretary and such other Officers as they may from time to time decide. These Officers shall have such duties and

rights as may be bestowed on them by the Board or by law and any Officer appointed may be removed by the Board. A serving Officer who is not re-elected to the Board at the annual general meeting shall nevertheless continue in office until the first Board meeting following the annual general meeting.

## **DISPUTES**

- 100 In the event of a dispute between the Society or its Board and a Member of the Society or a former Member, such dispute shall be referred to an independent arbitrator whose appointment is acceptable to both parties to the dispute or, in the absence of agreement, to be nominated by the Secretary General of Co-operatives UK (or any role or body that succeeds to its function). The decision of such an arbitrator shall be final and binding (save for in the event of fraud). In the event that a dispute cannot, for whatever reason, be concluded by reference to an arbitrator, the matter may be referred to the county court (or in Scotland, to the sheriff). Any Person bringing a dispute must, if so required, deposit with the Society a reasonable sum (not exceeding £100) to be determined by the Board. The arbitrator will decide how the costs of the arbitration will be paid and what should be done with the deposit.

## **REGULATIONS**

- 101 The Society in a general meeting, or the Board, may from time to time make, adopt and amend such Regulations in the form of bye-laws, standing orders, secondary rules or otherwise as they think fit for the management, conduct and regulation of the affairs of the Society and the proceedings and powers of the Board and sub-committees. Such Regulations (if any) shall be made available to Members. No Regulation shall be made which is inconsistent with these Rules or the Act. All Members of the Society and the Board shall be bound by such Regulations whether or not they have received a copy of them.

## **LIABILITY OF MEMBERS**

- 102 The liability of a Member is limited to the amount of their shareholding.

## **PAYMENT OF INTEREST ON SHARE CAPITAL**

- 103 In order to meet its obligation to carry on its business for the benefit of the community, the Society may raise share capital as required to carry out the Objects and may pay interest on its issued share capital at such rate or rates as may be determined by the Board (in its sole discretion) from time to time, provided that the rate of interest paid shall not exceed the minimum rate necessary in the opinion of the Board to obtain and retain the capital required to carry out the Objects.

## **APPLICATION OF PROFITS**

- 104 Any profits of the Society shall be applied in the following order in such proportions and in such manner as may be decided by the Society at the annual general meeting:
- (a) to a general reserve for the continuation and development of the Society; and then
  - (b) to making payment for social or community purposes within the community served by the Society, including, for the avoidance of doubt, any payment to the Community Supporting Organisation for application in fulfilment of its charitable purposes.

## **VOLUNTARY ASSET LOCK**

- 105 By way of voluntary asset lock, the Society must not use or deal with its assets except:
- (a) where the use or dealing is, directly or indirectly, for a purpose that is for the benefit of the community or in connection with the fulfilment of the Objects;

- (b) to pay a Member of the Society the value of their Withdrawable share capital or interest on such capital;
- (c) to make a payment pursuant to sections 36 (payments in respect of persons lacking capacity), 37 (nomination by member of entitlement to property in society on member's death) or 40 (death of member: distribution of property not exceeding £5,000) of the Act;
- (d) to make a payment in accordance with these Rules to trustees of the property of bankrupt Members or, in Scotland, Members whose estate has been sequestrated;
- (e) where the Society is to be dissolved or wound up, to pay its creditors; or
- (f) to transfer its assets to one or more of the following:
  - (i) a prescribed community benefit society whose assets have been made subject to a restriction on use and which will apply that restriction to any assets so transferred;
  - (ii) a community interest company;
  - (iii) a registered social landlord whose assets have been made subject to a restriction on use and which will apply that restriction to any assets so transferred;
  - (iv) a charity (including a community benefit society that is a charity); or
  - (v) a body, established in Northern Ireland or a State other than the United Kingdom, that is equivalent to any of the Persons described in this Rule 105(f).

106 For the avoidance of doubt, the Society may, by Extraordinary Resolution and from time to time, amend the restrictions on the use of its assets set out in Rule 105 and Rule 105 shall not be treated as a statutory asset lock for the purposes of section 1 of the Co-operatives and Community Benefit Societies Act 2003 or otherwise.

#### **AMALGAMATION, TRANSFER OF ENGAGEMENTS AND CONVERSION**

107 The Society may, by special resolution passed in accordance with section 111 of the Act, amalgamate with, or transfer its engagements to another registered society subject to at least the same degree of restriction on the distribution of profits and assets as imposed on this Society by virtue of these Rules, provided that in the case of amalgamation the other society has also passed a special resolution in accordance with section 111 of the Act. The Society may also accept a transfer of engagements and assets to it by a resolution of the Board or an ordinary resolution of the Society.

108 The Society may, by a special resolution (at a general meeting only) passed in accordance with section 113 of the Act, amalgamate with, or transfer its engagements to, or convert to a company, subject to at least the same degree of restriction on the distribution of profits and assets as imposed on this Society by virtue of these Rules. In relation to calling a general meeting for the purpose of such resolution, the following provisions shall apply:

- (a) the Society shall give to Members not less than 2 months' notice of the meeting;
- (b) notice of the meeting shall be displayed in a prominent place at the registered office and at all trading premises of the Society to which Members have access; and
- (c) the notice shall be accompanied by a separate statement setting out for Members;



- (i) the reasons for the proposal;
  - (ii) whether the proposal has the support of the Board;
  - (iii) any alternative proposals that have been considered, and whether they are viable;
  - (iv) details of the number of shares in the Society held by Members of the Board, and Persons connected with them; and
  - (v) a recommendation by reputable independent financial advisers that the Members should support the proposal rather than any alternative proposal.
- (d) Where such separate statement is contained in another Document, information shall be provided in the notice specifying where Members can obtain a copy of the Document.

## **DISSOLUTION**

109 The Society may be dissolved:

- (a) in accordance with section 119 of the Act by an instrument of dissolution;
- (b) in accordance with section 123 of the Act in pursuance of a winding up order or by a resolution made or passed as directed in regard to companies by the insolvency Act 1986; or
- (c) in accordance with section 125 of the Act, after administration and the administrator issues a notice to dissolve the Society without prior winding-up.

110 If on the winding up or dissolution of the Society any of its assets remain to be disposed of after its liabilities are satisfied, these assets shall not be distributed among the Members, but shall be transferred or given to the Community Supporting Organisation (irrespective of whether or not it is a Member) or some other non-profit body or bodies subject to at least the same degree of restriction on the distribution of profits and assets as is imposed on this Society by virtue of these Rules, as may be decided by the Members at the time of or prior to the dissolution.

111 If the Society is registered as a provider of Social Housing with the Regulator, any transfer or gift pursuant to Rule 110 must be in compliance with the Housing and Regeneration Act 2008 or any other relevant legal and regulatory provisions which exist from time to time.

## **ADMINISTRATIVE ARRANGEMENTS**

### **Means of Communication**

112 A Member may provide their consent to receive communications from the Society by Electronic Means.

113 A notice sent to a Director's Address shall be deemed to have been duly served 48 hours after its posting. A Director may agree with the Society that notices or Documents sent to them 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.

### **Seal**

114 If the Society has a seal, it shall only be used by the authority of the Board acting on behalf of the Society. Every instrument to which the seal shall be attached shall be signed by a Director and countersigned by a second Director or the Secretary.

## **Registers**

- 115 The Board shall ensure accurate registers are maintained which shall include a register of Members, a register of Directors, a register of Officers and a register of nominations. Such registers may be kept in hard copy or in electronic form.

### **Register of Members**

- 116 The Board shall ensure that the register is maintained in accordance with the Act and that the particulars required by the Act are available for inspection and accessible without the need to disclose other particulars contained in the register.

### **Register of Directors and Officers**

- 117 The Society shall maintain a register of Directors and Officers which shall include the following particulars:
- (a) name of the Director/ Officer;
  - (b) address of the Director/ Officer;
  - (c) the date on which they assumed office;
  - (d) the date on which they vacated office;
  - (e) the position held by the Officer; and
  - (f) the position held by a Director if they are also an Officer and the date on which the Director assumed and vacated their Officer position.

### **Register of Nominations**

- 118 The Society shall maintain a register of nominations which shall record the names of all Persons entitled to a Member's property in the event of their death and any revocation or variation of the nomination.

## **Amendments to Rules**

- 119 Any of these Rules may, with the prior consent of the Regulator (where such consent is required under the Housing and Regeneration Act 2008 or any other relevant legal and regulatory provisions which exist from time to time), be rescinded or amended or a new rule made by Extraordinary Resolution at a general meeting of which 14 Clear Days' notice has been given, such notice to include details of the change(s) to be proposed at that meeting, provided that where the consent of the Regulator is not required, the Society has obtained appropriate independent advice that such consent is not required.
- 120 No amendment of these Rules is valid until registered by the Registrar. When submitting any amendment to these Rules for registration, the Secretary may at their sole discretion accept any alterations required or suggested by the Registrar without reference back to a further general meeting of the Society.
- 121 A copy of the amended Rules shall be sent to the Regulator as soon as possible after registration by the Registrar.

## **Copies of the Society's Rules**

- 122 A copy of these Rules and any amendments made to them shall be given free of charge to every Member upon admission to membership and shall be provided to any other Person on demand and on payment of the statutory fee chargeable for the time being in force.

## **Minutes**

- 123 The Society shall ensure that minutes are kept of all proceedings at:
- (a) general meetings of the Society; and
  - (b) meetings of the Board and its sub-committees which include names of the Directors present, names of any other Persons in attendance, decisions made and the reasons for those decisions.

## **Annual Return**

- 124 Every year and within the period prescribed by the Act, the Secretary shall send the annual return in the prescribed form to the Registrar. The annual return shall be accompanied by a copy of:
- (a) the Auditor's report on the Society's accounts for the period covered by the annual return or a copy of such other report (if any) as is required by statute for such a period; and
  - (b) each balance sheet made during that period and report of the Auditor or other appropriate person as required by statute on that balance sheet.
- 125 The Society shall on demand supply free of charge to any Member or any Person with an interest in the funds of the Society a copy of the latest annual return, together with a copy of the Auditor's report on the accounts and the report of the Auditor (if any) on the balance sheet contained in the annual return.
- 126 The Society shall at all times keep a copy of the latest balance sheet of the Society together with a copy of the corresponding Auditor's report (if any) displayed in a prominent place at the registered office and displayed on the Society's website (if any).

## **Audit**

- 127 Unless the Society meets the criteria set out in section 83(2) of the Act, or may disapply the audit requirement in accordance with section 84 of the Act, the Board shall in each financial year appoint an Auditor as required by section 83(1) of the Act, to audit the Society's accounts and balance sheet for the year. This provision also applies if the Society is in its first financial year.
- 128 The following persons shall not be appointed as Auditor of the Society:
- (a) an Officer or Employee of the Society; or
  - (b) a person who is a partner or employee of, or who employs an, Officer of the Society.
- 129 The Board may appoint an Auditor to fill a casual vacancy occurring between general meetings.
- 130 An Auditor for the preceding financial year shall be re-appointed as Auditor of the Society for the current financial year unless:
- (a) a decision has been made by the Board to appoint a different Auditor or expressly decided that the existing Auditor shall not be re-appointed; or
  - (b) the existing Auditor has given notice in writing to the Secretary of their unwillingness to be re-appointed; or

- (c) the existing Auditor is ineligible for appointment as Auditor of the Society for the current financial year; or
- (d) the existing Auditor has ceased to act as Auditor of the Society by reason of incapacity; or
- (e) an ordinary resolution is passed under section 93(2) of the Act.

131 Any ordinary resolution of a general meeting of the Society either to remove an Auditor from office or to appoint another person as Auditor shall not be effective unless notice of the proposed resolution has been given to the Society at least 28 days prior to the meeting at which the resolution is to be considered. At least 14 days' notice of such resolution must then be given to Members of the Society in the manner prescribed in these Rules and in Writing to the Auditor(s).

### **Social Accounting and Reporting**

132 In addition to any financial accounts required by the Act, the Members may resolve to undertake an account of the activities of the Society which will endeavour to measure its social and environmental performance using whatever methodology the Members deem appropriate. Following the completion of such an account the Society shall report any findings to its Members and other stakeholders.


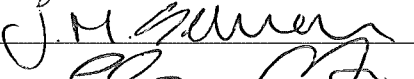


### **Indemnity and Insurance**

133 Subject to Rule 134, any Director or former Director of the Society may be indemnified out of the Society'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 Society;
- (b) any liability incurred by that Director in connection with the activities of the Society in its capacity as a trustee of an occupational pension scheme; and/or
- (c) any other liability incurred by that Director as an Officer of the Society.

134 Rule 133 does not authorise any indemnity which would be prohibited or rendered void by any provision of law.

135 The Board may decide to purchase and maintain insurance, at the expense of the Society, for the benefit of any Director or former Director of the Society in respect of any loss or liability which has been or may be incurred by such a Director in connection with their duties or powers in relation to the Society or any pension fund or employees' share scheme of the Society.

<b>Signatures of Founder Members</b>	<b>Full names of Founder Members in BLOCK CAPITALS (no initials)</b>
	JUSTIN BEAR
	JON SEYMOUR
	CLARE MAINS
<b>Signatures of Secretary</b>	<b>Full names of Secretary in BLOCK CAPITALS (no initials)</b>
	KAREN MARY PILKINGTON