



45 and 46 of the Local Government Act 2003 and the Business Improvement Districts (England) Regulations 2004 (SI 2004/2443)

**Local Authority:** means a body of one of the descriptions listed in Section 67(3) Local Government and Housing Act 1989 and includes a group of local authorities as referred to in Section 73(2) of that Act;

**Local Authority Person:** means a person who is associated with a local authority for the purposes of Section 69 Local Government and Housing Act 1989 which includes a member of a local authority or an officer of a local authority or a person who has been a member of a local authority within the proceeding four years or a person who is both an employee of a company under the control of the local authority or a director or officer of that company;

**Member:** means a member of the Company; and

**Model Articles:** means the model articles for private companies limited by guarantee contained in Schedule 2 of the Companies (Model Articles) Regulations 2008 (*SI 2008/3229*) as amended prior to the date of adoption of these Articles and reference to a numbered "**Model Article**" is a reference to that article of the Model Articles.

**Regulated Company:** means a company deemed to be a regulated company for the purposes of the Local Government and Housing Act 1989 and Local Authorities (Companies) Order 1995 and any subsequent amendments thereto;

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an "**article**" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 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.

- 1.6 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.
- 1.7 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.
- 1.8 Model Articles 2, 8, 9(1), 9(3), 11(2), 12, 13, 14(1), (2), (3) and (4), 19, 21, 22 and 26 shall not apply to the Company.
- 1.9 Model Article 7 shall be amended by:
- (a) the insertion of the words "for the time being" at the end of article 7(2)(a);  
and
  - (b) the insertion in article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
- 1.10 Model Article 18 shall be amended by the insertion of the following sub-clauses as new sub-clauses (g) - (j) inclusive after clause (f):
- “(g) that person has been absent from Board meetings for a period of 6 months, without having sent a suitable alternate director, unless by virtue of extenuating circumstances which are approved unanimously by the other Board directors;
- (h) that person has acted in breach of the articles of association of the Company and/or any rules made by the directors;
- (i) that person has brought the Company into disrepute by their actions;
- (j) a declaration of interest form has not been completed or updated within 3 months of appointment or of its issue.”
- 1.11 Model Article 20 shall be amended by the insertion of the words "(including alternate directors) and the secretary" before the words "properly incur".
- 1.12 Model Article 24 shall be amended by the insertion of the words “A quorum is 50% of the total number of Members eligible to vote at a general meeting.”
- 1.13 Model Article 26 shall read: “Non-Members may neither attend nor speak at a general meeting.”
- 1.14 Model Article 30 shall be amended by the insertion of the words: “This may include the use of scrutineers who may or may not be members and the chairman may dictate a future time and place at which the results of the poll are declared.”

## **2. OBJECT**

- 2.1 The object for which the Company is established is to manage the defined Business Improvement District (‘the District’) in accordance with the Business Plan on which the Business Improvement District was elected (‘the Plan’) including:-

- (a) to promote the District as a thriving regional and national business and commercial centre;
- (b) to encourage, promote, operate, manage and own such facilities and services for the benefit of the users of the District including commercial, industrial, customers and visitors to the District;
- (c) to do all things required to introduce, implement and operate a Business Improvement District as detailed in the Local Government Act 2003 and the Business Improvement Districts (England) Regulations 2004 (SI2004/2443) for such area of Weymouth as is deemed appropriate;
- (d) to introduce and organise forums, conferences, discussion groups amongst firms, businesses operating in the District and such other bodies, organisations or other and to promote co-operation between the various sectors operating within, and using the District;
- (e) to collect and circulate statistics and information of all kinds;
- (f) to publish, print, cause to be published and printed such guides, brochures, books, leaflets, handbills, advertising and advertising literature as may be beneficial or advantageous to any or all of the objects of the Company;
- (g) to provide, encourage and promote such facilities and services as may be beneficial to the objects of the company from time to time, in accordance with the Plan,
- (h) to undertake, sponsor or subsidise any cultural, educational, sporting or promotional event, performance or exhibition within the terms of the Plan ;
- (i) to grant donations for public purposes beneficial to the District;
- (j) to undertake any other activity or service which may be considered from time to time beneficial or conducive to all or any of the objects of the Company.

### **3. POWERS**

3.1 In pursuance of the object set out in article 2, the Company has the power to:

- (a) purchase, take on lease or in exchange, hire or otherwise acquire real or personal property and rights or privileges and to construct, maintain and alter buildings or erections;
- (b) sell, set, mortgage, dispose or turn to account all or any of the property and assets of the Company;
- (c) undertake and execute any charitable trust which may be lawfully undertaken by the Company;
- (d) invest the moneys of the Company not immediately required for its purposes in or upon such investments, securities or property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as

may from time to time being imposed or required by law and subject also as hereinafter provided;

- (e) borrow or raise money in such manner and to such extent as the Company shall think fit;
- (f) remunerate any person, firm or company rendering service to the Company whether by cash payment or by allotment to him or them of securities of the Company credited as paid up in full or in part or otherwise;
- (g) pay out of the funds of the Company all expenses which the Company may lawfully pay of or incidental to the formation, registration or raising money for the Company;
- (h) enter into any arrangement or contract with any government or authority supreme, municipal, local or otherwise and to obtain from any such government or authority any rights, concessions or privileges that may seem conducive to the attainment of the Company's objects or any of them;
- (i) engage such specialists, tradesmen, advisers and consultants in pursuance of the Company's objects;
- (j) do all such other things as are incidental or conducive to the attainment of the object stated in article 2.

3.2 Each of the sub-clauses in article 3.1 shall be construed independently of and shall be in no way limited by reference to any other sub-clause and the matters set out in each sub-clause are independent objects of the Company.

#### **4. INCOME**

4.1 The income and property of the Company shall be applied solely in promoting the object of the Company as set out in Article 2.

4.2 No dividends or bonus may be paid or capital otherwise returned to the Members, provided that nothing in these Articles shall prevent any payment in good faith by the Company of reasonable out-of-pocket expenses properly incurred by any director.

#### **5. WINDING UP**

On the winding-up or dissolution of the Company, any asset or property that remains available to be distributed or paid, shall not be paid or distributed to the Members but shall be transferred to another body (whether or not it is a Member) which has objects similar to those of the Company, or to another body the objects of which are charitable and to be applied for its purposes within the Weymouth & Portland Borough Council administrative area.

## **6. GUARANTEE**

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 the winding up, and
- (c) adjustment of the rights of the contributories among themselves.

## **DIRECTORS**

### **7. UNANIMOUS DECISIONS**

- 7.1 A decision of the directors is taken in accordance with this article when all Eligible Directors indicate to each other by any means that they share a common view on a matter.
- 7.2 Such a decision may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing.
- 7.3 A decision may not be taken in accordance with this article if the Eligible Directors would not have formed a quorum at such a meeting.

### **8. CALLING A DIRECTORS' MEETING**

- 8.1 Any director may call a directors' meeting by giving not less than 14 Business Days' notice of the meeting (or such lesser notice as all the directors may agree) to the directors or by authorising the company secretary (if any) to give such notice.
- 8.2 Notice of a directors' meeting shall be given to each director in writing by sending it to each director's business contact address or email address as supplied to the Company by the director.

### **9. QUORUM FOR DIRECTORS' MEETINGS**

- 9.1 The quorum for the transaction of business at a meeting of directors is any five Class B directors who are also Eligible Directors.
- 9.2 Only the requisite number of Class B directors can form a quorum and a quorum cannot be formed or partly formed by any directors who are not Class B directors.

## **10. CHAIRING OF DIRECTORS' MEETINGS**

- 10.1 The Chairperson of the Company will chair directors' meetings.
- 10.2 In the absence of the Chairperson within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.
- 10.3 The person so appointed for the time being is known as the chairman.
- 10.4 If article 10.2 applies, the directors may terminate the chairman's appointment at any time.

## **11. CASTING VOTE**

- 11.1 If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other director chairing the meeting has a casting vote.
- 11.2 Article 11.1 shall not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the Articles, the chairman or other director is not an Eligible Director for the purposes of that meeting (or part of a meeting).

## **12. DIRECTORS' CONFLICTS OF INTEREST**

- 12.1 The directors may, in accordance with the requirements set out in this article, authorise any Conflict proposed to them by any director which would, if not authorised, involve a director (an **Interested Director**) breaching his duty under section 175 of the Act to avoid conflicts of interest.
- 12.2 Any authorisation under this article 12 shall be effective only if:
  - (a) to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
  - (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
  - (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.
- 12.3 Any authorisation of a Conflict under this article 12 may (whether at the time of giving the authorisation or subsequently):
  - (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;

- (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;
- (c) provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the directors in relation to any resolution related to the Conflict;
- (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
- (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he shall not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
- (f) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent they relate to such matters.

12.4 Where the directors authorise a Conflict, the Interested Director shall be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.

12.5 The directors may revoke or vary such authorisation at any time, but this shall not affect anything done by the Interested Director prior to such revocation or variation in accordance with the terms of such authorisation.

12.6 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act, and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement 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 an Eligible Director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
- (c) 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 such existing or proposed transaction or arrangement in which he is interested;



- (d) 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;
- (e) 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; and
- (f) shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

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

- 13.1 Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.
- 13.2 The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded or proceedings, as appropriate, of:
  - 13.2.1. every unanimous or majority decision taken by the directors;
  - 13.2.2. all appointments made by the directors;
  - 13.2.3. all proceedings at meetings of the Members, of the directors and of the committee(s) of directors, which shall include the names of each director present at each such meeting.

### **APPOINTMENT OF DIRECTORS**

#### **14. DOCUMENTATION ON APPOINTMENT OF DIRECTOR**

- 14.1 All directors shall be required to complete, sign and return to the Chairperson within 15 days of their appointment as a director, or by the date of the next Board meeting following their appointment, whichever is the earlier:
  - 14.1.1. a confidentiality agreement in an agreed form;

14.1.2. an agreement to abide by any code of conduct and/or rules of the directors together with these articles and an acknowledgment that they understand the roles and responsibilities of directors of a company;

14.1.3. a declaration of interest form which cites any other business, person or group with which or whom a director has an association by way of directorship, personal or business relationship or if holding a post which could cause a potential Conflict. If there is any doubt, the director should include that relationship in order that the Board be aware of any potential Conflict;

AND a director will not be allowed to attend Board meetings until such time as he or she has complied with the provisions of this article 14.1.

14.2 These forms are to be updated annually by each director on 1<sup>st</sup> September.

14.3 Confirmation of receipt of these forms for a newly appointed director should be entered into the minutes of the Board Meeting following receipt by the Chairperson and an official welcome of that director to the Board should be minuted.

## **15. NUMBER OF DIRECTORS AND CONSTITUTION OF BOARD**

15.1 The number of directors (other than alternate directors) shall be subject to any maximum of 10 and not less than 5 constituted as follows:

15.1.1.subject to clause 15.2 and the approval of the directors, Class A Members shall have the right to appoint two non-voting observers to the board.

15.1.2.subject to the approval of the directors, Class B Members shall have the right to appoint a maximum of 10 directors, each of whom must be a representative of a Class B Member and from whom the Board shall appoint a Chairperson, and Treasurer.

15.2 No Local Authority Person shall be appointed as a director of the Company.

15.3 No Local Authority director may be appointed as alternate.

15.4 Each director of the Company must be a Member or the duly appointed representative of a Member.

## **16. NO REMUNERATION FOR DIRECTORS**

Directors may undertake any services for the company that the directors decide but, without prejudice to Model Article 20, directors shall not be entitled to any remuneration for those services.

## **17. ALTERNATE DIRECTORS**

17.1 Subject to article 17.2, Any director (other than an alternate director) (**Appointor**) may appoint as an alternate any other director, or any other person approved by

resolution of the directors, to exercise that director's powers and carry out that director's responsibilities, in relation to the taking of decisions by the directors, in the absence of the alternate's Appointor.

- 17.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the directors.
- 17.3 The notice must identify the proposed alternate and, in the case of a notice of appointment, contain a statement signed by the proposed alternate that he is willing to act as the alternate of the director giving the notice.
- 17.4 Except as the 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

and, in particular (without limitation), 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.

- 17.5 A person who is an alternate director but not a director may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's Appointor is not participating) and 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).
- 17.6 A director who is also an alternate director is entitled, in the absence of his Appointor(s), to a separate vote on behalf of each Appointor, in addition to his own vote on any decision of the directors (provided that an Appointor for whom he exercises a separate vote is an Eligible Director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present.
- 17.7 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as if he were a director but shall not be entitled to receive any remuneration from the Company for serving as an alternate director.
- 17.8 An alternate director's appointment as an alternate (in respect of a particular Appointor) 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 director's Appointor ceases to be a director for whatever reason.

## **18. SECRETARY**

The directors may appoint any person who is willing to act as the secretary for such term and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

## **MEMBERS**

### **19. APPLICATION FOR MEMBERSHIP**

19.1 No person, incorporated or unincorporated body, society organisation or company shall become a Member unless:

19.1.1. they have completed and returned to the Company Secretary an application for membership in a form approved by the directors from time to time including

- (a) a declaration as to whether or not they are a Local Authority Person and that they will advise the Company of any change in such status; and
- (b) an undertaking that the applicant will not do anything or omit to do anything which the applicant knows or could reasonably anticipate would cause the Company to become a Regulated Company as defined in the Local Authorities (Companies) Order 1995; and
- (c) an undertaking, should their application be successful, to be bound by the Articles; and

19.1.2. the directors have approved the application.

19.2 A letter shall be sent to each successful applicant confirming their membership of the Company and the details of each successful applicant shall be entered into the Register of Members by an officer of the Company.

19.3 All Levy Payers are entitled to submit an application for membership.

19.4 The directors may establish different classes of Members and set out their respective rights and obligations. Membership shall fall into two distinct classes, as follows:

19.4.1. **Class A Members:** subject to article 19.5, shall consist of Council representatives or nominees; and

19.4.2. **Class B members:** shall consist of the Levy Payers.

19.5 No Local Authority Person may be admitted to membership of the Company without the consent of each Local Authority Member if, by virtue of such admission, 20% or more of the total voting rights of all the Members having the right to vote at a general meeting of the Company will be held by Members who are Local Authority Persons and cause the Company to be deemed a Regulated Company.

## **20. TERMINATION OF MEMBERSHIP**

20.1 A member may withdraw from membership of the company by giving 28 days' notice to the company in writing.

20.2 Membership is not transferable.

20.3 No refund shall be made of any annual or other subscription or entrance fee or BID Levy on the termination of membership for any reason.

20.4 A person's membership terminates automatically when that person:

20.4.1. dies, ceases to exist, moves out of the BID district and no longer pays the BID Levy or the BID ceases to exist;

20.4.2. has not paid an annual or other subscription or entrance fee or BID Levy for six months after it has become due;

20.5 The directors may terminate the membership of any Member without his consent by giving him written notice if, in the reasonable opinion of the directors:

(a) he is guilty of conduct which has or is likely to have a serious adverse effect on the Company or bring the Company or any or all of the Members and directors into disrepute; or

(b) he has acted or has threatened to act in a manner which is contrary to the interests of the Company as a whole; or

(c) he has failed to observe the terms of these Articles and the Rules.

Following such termination, the Member shall be removed from the Register of Members by the Company Secretary.

20.6 The notice to the Member must give the Member the opportunity to be heard in writing or in person as to why his membership should not be terminated. The directors must consider any representations made by the Member and inform the

Member of their decision following such consideration. There shall be no right to appeal from a decision of the directors to terminate the membership of a Member.

## **21. GENERAL MEETINGS**

21.1 The Company shall hold an annual general meeting each year in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it. Not more than fifteen months shall elapse between one annual general meeting of the Company and the next. The annual general meeting shall be held at such times and places as the directors shall appoint.

21.2 All general meetings other than annual general meetings shall be called extraordinary general meetings.

21.3 The directors may call general meetings by a majority vote by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed:

(a) in the case of an annual general meeting, by all the Members entitled to attend and vote; and

(b) in the case of any other meeting by a majority of not less than 95% of the total votes of Members entitled to attend and vote at the meeting.

21.4 The notice for any general meeting shall be given to all the Members and to the directors, secretary and auditors detailing the time, place and general nature of the business. If an annual General Meeting it should be noted as such.

21.5 The accidental omission to give notice of a meeting to any person entitled to receive it, or the non-receipt of notice by such person, shall not invalidate any proceedings at that meeting.

## **ADMINISTRATIVE ARRANGEMENTS**

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

22.1 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;
- (c) if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
- (d) 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 not a Business Day.

22.2 In proving that any notice, document or other information was properly addressed, it shall suffice to show that the notice, document or other information was addressed to an address permitted for the purpose by the Act.

**23. RULES**

The directors may establish rules governing matters relating to Company administration that are required from time to time for the effective operation of the Company (for example, the provisions relating to classes of members, membership fees and subscriptions and the admission criteria for members, the conduct of members of the Company in relation to one another and to the Company’s servants and the procedure at general meetings and meetings of the directors and committees of the directors in so far as such procedure is not regulated by the Articles). If there is a conflict between the terms of these Articles and any rules established under this Article, the terms of these Articles shall prevail.



Proposed and Agreed by Weymouth BID Ltd	11th May 2016
Approved by Members Weymouth BID Ltd	29th June 2016