

**THE COMPANIES ACTS 1985-1989**

**Company Limited by Guarantee and not having a Share Capital**

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**ARTICLES OF ASSOCIATION**

**of**

**THE PROPERTY OMBUDSMAN LIMITED**

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(As adopted by Special Resolution passed on 6 July 2006)  
(As amended by Special Resolution passed on 1 February 2007)  
(As amended by Special Resolution passed on 10 October 2008)

(Name changed from The Ombudsman For Estate Agents Company Limited by Special Resolution on 24 April 2009)

**DEFINITIONS**

1. In these Articles unless there be something in the subject matter or context inconsistent therewith:-

“**A Member**” has the meaning ascribed by Article 2;

“**Act**” means the Companies Act 1985, including any statutory modifications or re-enactment thereof for the time being in force;

“**Annual Meeting**”, in relation to the Council, has the meaning ascribed by Article 65(a);

“**Articles**” means the Articles of Association of the Company;

“**Auditors**” means the Auditors for the time being of the Company;

“**B Member**” has the meaning ascribed by Article 2;

“**Board**” means the Board of Directors of the Company or the members thereof present at a duly convened meeting at which a quorum is present;

**“Board Member”** means a member of the Board;

**“C Member”** has the meaning ascribed by Article 2;

**“Clear Days”**, in relation to the period of notice, means that period excluding the day on which the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

**“Clerk to the Council”**, includes any person appointed to perform the duties of the Clerk to the Council of the Company whether temporarily or otherwise;

**“Control”** in relation to a body corporate, means the power of a person to secure:-

(a) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate; or

(b) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of the first mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than half the assets, or of more than one half of the income, of the partnership;

**“Code of Practice”** means the code (or codes) of practice published by the Company from time to time;

**“Council”** means the Council of the Company appointed in accordance with Article 64 or the members thereof present at a duly convened meeting thereof at which a quorum is present;

**“Council Chairman”** has the meaning ascribed by Article 64(a);

**“Council Member”** means a member of the Council;

**“Deleted”** means items in the previous adopted Articles which have been deleted in these Articles;

**“Eligible Person”** means a person which is eligible to become an A Member, a B Member or a C Member as the case may require;

**“Estate Agency Work”** has the meaning ascribed from time to time by the Terms of Reference;

**“Group”**, in relation to any body corporate, means any holding company or subsidiary of that body corporate and any other subsidiary of any such holding company;

**“Internal Complaints Procedure”** means a procedure for the resolution of complaints by individuals in relation to acts or omissions which could be the subject of an investigation by the Ombudsman, being a procedure under which the complaint, if not previously settled or withdrawn, is to be considered by the senior management of the relevant member;

**“Member”** has the meaning ascribed by Article 2 and “Membership” shall be construed accordingly;

**“Month”** means calendar month;

**“Notice”** includes all written communications to Members;

**“Ombudsman”** means the Ombudsman appointed in accordance with Article 71;

**“Person”** includes a body corporate, association or partnership, and reference to “it” in relation to a member or applicant for Membership, includes a natural person;

**“Record Date”** has the meaning ascribed by Article 11(b)(viii);

**“Relevant Office”** has the meaning ascribed by Article 11(b)(i);

**“Registered Office”** means the registered office for the time being of the Company;

**“Secretary”** means the Secretary for the time being of the Company and includes any Deputy or Assistant Secretary and any person appointed to perform the duties of the Secretary of the Company whether temporarily or otherwise;

**“Subsidiary”** and **“Holding Company”** have the respective meanings ascribed by section 736 of the Act;

**“Terms of Reference”** means the regulations established from time to time in accordance with Article 19 and constituting and governing the powers and duties of the Ombudsman (and, in particular, the scope of complaints he may consider);

**“In writing”** and **“Written”** include printing, lithography, photography and typewriting and all other forms of representing or reproducing words enduring visible form;

words or expressions which have a special meaning assigned to them in the Act have the same meaning in these articles;

words importing the singular number include the plural and vica versa;

words importing the masculine include feminine;

words importing persons include corporations;

references to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time modified or re-enacted.

## MEMBERS

2. (a) The members shall be the subscribers to the Memorandum of Association and any such other persons as shall from time to time become members in accordance with article 4.

(b) Any person admitted to Membership shall be an A Member, a B Member or a C Member and for this purpose:-

(i) a person shall be eligible to be an A Member if it carries on, or is a member of a Group any of whose members carries on estate agency work, is a member of the Royal Institution of Chartered Surveyors of National Association of Estate Agents and has either the number Relevant Offices or more than the number of Relevant Offices at the Record Date.

(ii) a person shall be eligible to be a B Member if it (1) carries on, or is a member of a group any of whose members carries on estate agency work or (2) represents or promotes the interests of any persons carrying on estate agency work and has less than the number of Relevant Offices at the Record Date.

(iii) a person shall be eligible to be a C Member if it is:

(A) The Royal Institution of Chartered Surveyors; or

(B) The National Association of Estate Agents

or, in each case, any successor body approved by the Board.

3. A person shall be eligible to apply to be a Member if, but only if:-

(a) It is an Eligible Person

(b) being a person eligible to be admitted as an A Member or a B Member, and it undertakes in writing to the Company that it will:

(i) submit to any investigation by the Ombudsman pursuant to and in accordance with the Terms of Reference;

(ii) (A) comply with any award which, in accordance with the Terms of Reference, is made by the Ombudsman against it and accepted by the complainant and which is binding upon it under the Terms of Reference and (B) pay the complainant the amount of any such award within the period for payment prescribed by the Terms of Reference;

(iii) maintain and operate an adequate Internal Complaints Procedure;

(iv) comply with the Code of Practice;

(c) It shall have completed and signed an application for Membership giving such particulars as the Board may require.

The Board may suspend or waive the requirements of paragraph (b) above in relation to an Eligible Person falling within sub-paragraph (b)(ii)(2) of Article 2.

4. No person shall be admitted as a Member unless its application is approved by the Board.  
The Board:-

(a) may not approve the admission of a person as a Member unless it has satisfied the requirements of Article 3.

(b) may attach to its approval such other terms and conditions as it may determine

(c) may refuse to approve any application (whether or not the applicant satisfies the requirements of Article 3)

(d) shall, upon admitting a person to Membership, designate that person as an A Member, B Member or C Member as the case may require.

5. (a) Membership shall not be transferable.

(b) No member of a Group may be admitted as a Member while any other member of the same Group remains a Member.

(c) Save in the case within Article 7(b), a B Member which becomes eligible to be an A Member shall be re-designated as an A Member.

(d) Save in the case of Article 7(b), an A Member which cease to be eligible to be an A Member but is eligible to be a B Member shall be re-designated as a B Member.

6. Any Member may withdraw from the Company by giving to the Secretary not less than six months notice to that effect and its Membership shall cease upon expiry of such notice.

7. A Member shall cease to be a Member:-

(a) If it ceases to be an eligible person;

(b) if it comes under the control of a person which (i) is a Member or (ii) has control of a Member;

(c) upon the expiry of notice of withdrawal given in accordance with Article 6;

- (d) deleted;
  - (e) if it is in breach of any undertaking given to the Company in accordance with Article 3(b)(ii)(B) and the Company gives the Member notice (signed by the Chairman of the Board or the Secretary) of cessation of Membership;
  - (f) without prejudice to sub-paragraph (e) above, if, in the opinion of the Board, there has been any material breach of any undertaking given by the Member to the Company in accordance with Articles 3(b) and the Board resolves that the Member shall cease to be a Member;
  - (g) if it has not paid any levy or subscription demanded by the Board pursuant to Article 20 within three months of it becoming due and the Board resolves that the Member shall cease to be a Member;
  - (h) Upon any notice of dismissal issued to the Member in accordance with the Code of Practice.
8. A Member shall also cease to be a Member if, upon recommendation of the Board, the Members in general meeting so resolve by special resolution.
9. Cessation of Membership:-
- (a) shall not entitle the Member to repayment of the whole or any part of any levy or subscription previously paid by it;
  - (b) shall be without prejudice to the Member's liability to pay any levy or subscription which has become due and payable before such cessation; and
  - (c) shall be without prejudice to the Member's undertaking given to the Company in accordance with Article 3(b)(ii) in respect of any complaint referred to the Ombudsman before such cessation;
  - (d) in all cases of cessation of membership (except 7(c) above) the Member must pay any fees which become due and payable within six months after the date of such cessation.
10. Deleted

## **THE BOARD**

11. (a) Unless otherwise determined by the Company in general meeting the number of Board Members shall not be less than two.
- (b) For the purpose of this Article 11:-

(i) “Relevant Office” means an office at which estate agency work is carried on;

(ii) Deleted;

(iii) “Requisite Number” means such number as the Board may from time to time determine;

(iv) Deleted;

(v) Deleted;

(vi) Deleted;

(vii) Deleted;

(viii) “Record Date” means the date one month prior to the last preceding accounting reference date of the Company or such other date as the Board may from time to time determine.

(c) Each A Member may from time to time by written notice given to the Company appoint one Board Member and may remove such appointee from office by written notice given to the Company by such A Member and may in like manner appoint another person as a Board Member in place of any person so removed.

(d) Deleted

(e) Deleted

(f) Deleted

(g) Each C Member shall be a Board Member. A C Member may, by notice in writing given to the Secretary, appoint any individual to represent it in its capacity as a Board Member. Any individual so appointed shall be entitled (1) to attend meetings of the Board and any Board committee of which his appointor is a member and (2) to perform the functions of his appointor as a Board Member. Any individual so appointed shall be deemed to be the agent of the appointor.

(h) The Board may appoint any person who is willing to act to be a Board Member to act as Chairman of the Board pursuant to Article 25. Any Board Member so appointed shall hold office so long as he remains Chairman of the Board.

(i) The Board may appoint as Board Members up to six persons who are representatives of B Members such number to be amended as the Board may think fit.

Any person so appointed shall hold office only until the meeting of the Board held immediately after the next following Annual General Meeting but shall be eligible for re-appointment by the Board. For the purpose of this paragraph, a representative is a person who is a director of partner of the B Member.

12. The Board members shall be entitled to be paid such traveling, hotel and other expenses as are reasonably incurred by them in connection with the business of the Company.

13. The remuneration of the Board Members shall from time to time be determined by the Company in General Meeting. Such remuneration shall be deemed to accrue from day to day.

14. The office of a Board Member shall be automatically vacated if:-

(a) he becomes bankrupt or makes an arrangement or composition with his creditors generally or (being a corporation) resolves to be wound up voluntarily or has an order made for it to be wound up or has a receiver appointed of all or any of its assets.

(b) he ceases to be a Board Member by virtue of any provisions of the Act or he becomes prohibited by law from being a director; or

(c) he becomes of unsound mind; or

(d) he resigns his office by notice in writing to the Company; or

(e) he is removed from office pursuant to Article 11(c) above; or

(f) having been appointed pursuant to Article 11(c) to represent an A Member, the A Member ceases to have the requisite number of Relevant Offices; or

(g) he does any act which, in the opinion of the Board is likely to lead him or the Company into disrepute.

15. Subject to the provisions of the Act, and provided that he has disclosed to the Board the nature and extent of any material interest of his, a Board member or an alternate Board Member notwithstanding his office:-

(a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested (save that a Board Member may not hold the office of the Ombudsman);

(b) may be a director or other officer of, or employed by, a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and

(c) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or

arrangement nor shall any transaction or arrangement be liable to be avoided on the ground of any such interest or benefit.

16. For the purpose of Article 15:-

(a) a general notice given to the Board that a Board Member is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person is interested shall be deemed to be a disclosure that the Board Member has an interest in any such transaction of the nature and extent so specified; and

(b) an interest of which a Board Member has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

### **POWERS AND DUTIES OF THE BOARD**

17. Subject to the provisions of the Acts, the Memorandum and the Articles and to any directions given by Special Resolution, the business of the Company shall be managed by the Board who may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been given. The powers given by this article shall not be limited by any special power given to the Board by the Articles and a meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.

18. The Board may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

19. The Board shall establish the First Terms of Reference and may amend them from time to time.

20. (a) The Board may at any time and from time to time obtain money for the purposes of the Company by raising a levy from the Members of an amount and according to such calculations as the Board may determine (for which purposes the Member shall supply to the Board such information and certificates as the Board may require).

(b) The Board shall serve upon each Member a notice requesting payment of the levy giving particulars of the total amount of the levy to be raised and the amounts payable by each Member.

(c) The levy shall be due and payable by each Member within such period as the Board may determine after the notice requesting it has been served by the Board.

21. The Board may procure the establishment and maintenance of, or participate in, or contribute to, any non-contributory or contributory pension or superannuation fund, scheme or arrangement or life assurance scheme or arrangement for the benefit of, and pay, provide for or

procure the grant of donations, gratuities, pensions, allowances, benefits of employment to, any persons (including Board Members and other officers) who are or shall have been at any time in the employment or service of the Company, and their wives, widows, families or dependants and to make any payments for or towards the insurance of any such person.

## **PROCEEDINGS OF THE BOARD**

22. The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Any Board Member may at any time request a meeting of the Board by notice duly served upon the Secretary and the Secretary shall convene such meeting within thirty days of the due service of such notice. Except where, in the opinion of a majority of the Board Members, the circumstances otherwise require, every Board Member shall be given at least seven days notice of a proposed meeting, provided that it shall not be necessary to give notice of a meeting of the Board to any Board Member for the time being absent from the United Kingdom.

23. The quorum necessary for the transaction of any business of the Board may be fixed by the Board, and unless so fixed shall be the greater of (a) two and (b) one-third of the Board Members or, if their number is not three or a multiple of three, then the number nearest to but not exceeding one third of the Board Members. An alternate appointed by a Board Member shall be counted in a quorum at a meeting at which his appointer is not present.

24. Deleted

25. The Board may elect a Chairman and Deputy Chairman of its meetings and determine the period for which they are to hold office. The Chairman of the Board or in his absence the Deputy Chairman of the Board shall take the chair at meetings of the Board but if they are unwilling to preside or are not present within five minutes after the time fixed for the commencement of the meeting the Board Members present shall choose one of their number to preside at the meeting.

26. Questions arising at a Board meeting shall be determined by a majority of votes. In the case of an equality of votes the person presiding shall have a second or casting vote.

27. A resolution in writing, signed by all the Board Members (or their alternates) for the time being entitled to receive notice of a meeting of the Board or of a committee of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board or (as the case may be) by a committee of the Board duly convened and held and may consist of several documents in the like form each signed by one or more Board Members (or their alternates).

28. Any Board Member or member of a committee of the Board (or his alternate) may participate in a meeting of the Board or such committee by means of a conference telephone or other communications equipment whereby all persons participating in the meeting can hear and speak to one another and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting.

29. The Board may delegate any of their powers to any committee consisting of one or more Board Members. Any such delegation may be made subject to any conditions the Board may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more Members shall be governed by these Articles regulating the proceedings of the Board so far as they are capable of applying.

30. All acts done by any meeting of the Board or of any committee of the Board, or by any person acting as a Board Member or member of any such committee, shall, notwithstanding that it be afterward discovered that there was some defect in the appointment of any of the persons comprising the Board, the committee or any person acting as aforesaid, or that they or any of them were disqualified or had vacated office or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified to be a Member thereof and had not vacated office and was entitled to vote.

31. The Board may appoint one or more advisory committees whose members need not be Members of the Company but shall be such persons as the Board may from time to time determine.

32. (a) Save as otherwise provided by these Articles, neither a Board Member nor an alternate Board Member shall vote at a meeting of the Board or of any committee of the Board on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material and which conflicts or may conflict with the interests of the Company.

(b) For the purposes of this Article:-

(i) neither a Board Member nor his alternate shall be treated as interested in any matter solely by reason of his being an officer or employee of, or of his having been nominated by, a Member which is or may be interested in that matter:

(ii) an interest of a person who is, for any purpose of the Act (excluding any statutory modification thereof not in force when this regulation becomes binding on the Company), connected with a Board Member shall be treated as an interest of the Board Member: and

(iii) in relation to an alternate Board Member, an interest of his appointer shall be treated as an interest of the alternate Board Member without prejudice to any interest which the alternate Board Member has otherwise.

(c) A Board member shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.

(d) The Company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the Articles prohibiting a Board Member from voting at a meeting of the Board or of any committee of the Board.

(e) Where proposals are under consideration concerning the appointment of two or more Board Members to offices or employments with the Company or any body corporate in which the Company is interested the proposals may be divided and considered in relation to each Board Member separately (provided they are not for another reason excluded from voting) each of the Board Members concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning their own appointment.

(f) If a question arises at a meeting of the Board or of any committee of the Board as to the right of a Board Member to vote, the question may, before the conclusion of the meeting, be referred to the Chairman of the meeting and his ruling in relation to any Board Member other than himself shall be final and conclusive.

### **ALTERNATES**

33. (a) Any Board Member may appoint any person willing to act to be an alternate Board Member and may at any time remove from office an alternate Board Member so appointed by it.

(b) Any alternate so appointed shall be subject to the provisions of these Articles with regard to Board Members and shall (subject to his giving to the Company an address within the United Kingdom at which notice may be served upon him and making a written request to that effect) be entitled to receive notice of all meetings of the Board (and, if the Board Member for whom he is an alternate (his "appointer") is a member thereof, of any committee thereof) and to attend and vote at any such meetings at which his appointer is not personally present, and generally to perform the functions of his appointer as a Board Member in the absence of such appointer.

(c) An alternate Board Member shall, ipso facto, cease to be an alternate Board Member if his appointer ceases for any reason to be a Board Member.

(d) All appointments and removals of alternate Board Members shall be effected by notice in writing under the hand of the Member or Board Member making or revoking such appointment and a duplicate of such notice shall be served upon the Secretary.

(e) An alternate Board Member shall be deemed to be an officer of the Company and not the agent of his appointer.

### **MINUTES**

34. (a) The Board shall cause minutes to be duly entered in books provided for the purpose:-

(i) of all appointments of officers;

(ii) of the names of the Board Members present at each meeting of the Board, and of the members present at each meeting of any committee of the Board.

(iii) of all resolutions and proceedings of general meetings and of meetings of the Board and committees of the Board.

(b) Any such minutes of any meetings of the Board or of any committee, or of the Company, if purporting to be signed by the Chairman of such meeting, or by the Chairman of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minutes.

### **SEAL**

35. The Board shall provide for the safe custody of the Seal, and the Seal shall only be used on the authority of the Board or a committee of the Board previously given. The Board may determine who shall sign any instrument to which the Seal is affixed and unless otherwise determined it shall be signed by a Board Member and by the Secretary or by a second Board Member.

### **GENERAL MEETINGS**

36. All general meetings other than Annual General Meetings shall be called Extraordinary General Meetings.

37. The business of an Annual General Meeting shall be:-

(a) To receive and consider the accounts, the balance sheet and the reports of the Board and of the Auditors, and (if not adopted by the Board in its report) the report of the Ombudsman received by the Council at its Annual Meeting last preceding the Annual General Meeting;

(b) To appoint Auditors and fix their remuneration;

(c) To transact any other business which under these presents ought to be transacted at an Annual General Meeting.

All other business transacted at an Annual General Meeting and all business transacted at an Extraordinary General Meeting shall be deemed special business.

38. The Board may call general meetings and on the requisition of Members pursuant to the Act shall convene an Extraordinary General Meeting for a date not later than eight weeks after receipt of the requisition.

39. If there are not within the United Kingdom sufficient Board members capable of acting to form a quorum, any Board Member or any two Members of the Company may convene an

Extraordinary General Meeting in the same manner as nearly as possible as that in which general meetings may be convened by the Board and to be held at a reasonable time and place.

40. An Annual General Meeting and a General Meeting called for the passing of a Special Resolution shall be called by not less than twenty-one clear days notice in writing. All other Extraordinary General Meetings shall be called by not less than fourteen clear days notice in writing. The notice shall specify the place, the day and the hour of the meeting and, in the case of special business, the general nature of that business and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Company in general meeting to the A Members and C Members and such other persons (including the Auditors) as are, under these Articles or the Acts, entitled to receive such notices from the Company. B Members shall not be entitled to receive notice of or attend general meetings.

41. A general meeting shall, notwithstanding that it is called by shorter notice than that specified in these Articles, be deemed to have been duly called if it is so agreed:-

(a) in the case of a general meeting called as the Annual General Meeting, by all the members entitled to attend and vote thereat; and

(b) in the case of any other meeting, by a majority in number of the Members entitled to attend and vote at the general meeting, being a majority, together representing not less than 95 per cent of the total voting rights at that General Meeting of all the Members.

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

### **PROCEEDINGS AT GENERAL MEETINGS**

43. The Chairman of the Board or, in his absence, the Deputy Chairman of the Board shall preside as Chairman of every general meeting but, if there is no such person or they are not present within fifteen minutes after the time appointed for the meeting, the Members present and entitled to attend and vote at the meeting shall elect a Chairman from the Board Members then present or, if none be present, from the such Members.

44. A Board Member shall, notwithstanding that he is not a Member, be entitled to attend and speak at any general meeting.

45. (a) No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three Members present in person and entitled to attend and vote at the meetings shall be a quorum.

(b) For the purposes of these Articles a Member which is a body corporate and entitled to attend and vote at the meeting shall be deemed to be present in person if it is

represented by a duly authorized representative and such representative shall be entitled to exercise the same powers on behalf of that Member as if it were an individual.

46. If within half an hour from the time appointed for a general meeting a quorum is not present, the meeting, if convened upon such requisition as aforesaid, shall be dissolved, but in any other case it shall stand adjourned to the same day in the next week at the same time and place (or such time and place as the Board may determine), and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting those Members who are present and entitled to attend and vote at the meeting shall be a quorum and may transact the business for which the meeting was called.

47. The Chairman may, with the consent of the general meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. If a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting but save as aforesaid it shall not be necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

48. At any General Meeting a resolution put to the vote at the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:-

- (a) by the Chairman; or
- (b) by at least three Members present in person or by proxy and entitled to attend and vote at the meeting; or
- (c) by any Member or Members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the members.

Unless a poll be so demanded a declaration by the Chairman that a resolution has on a show of hands been carried, or carried unanimously or by a particular majority, or lost or not carried by a particular majority and an entry to that effect in the book containing the minutes of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

49. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the Chairman. A demand so withdrawn shall not be taken to have invalidated the result of the show of hands declared before the demand was made.

50. Except as provided in Article 52, if a poll is duly demanded it shall be taken in such manner as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

51. In the case of an equality of votes the Chairman shall both on a show of hands and on a poll have a casting vote in addition to any other vote he may have.

52. A poll demanded on the election of the Chairman on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

53. A resolution in writing executed by or on behalf of each Member entitled to attend and vote at general meetings shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more such Members.

### **VOTES OF MEMBERS**

54. Subject to Article 55, on a show of hands every A Member and every C Member shall have one vote and, on a poll every A Member shall have one vote for every Relevant Office of that Member at the Record Date as determined by the Board and every C Member shall have one vote. B Members shall not be entitled to vote.

55. No Member shall be entitled to vote at a meeting if any levy due and payable by it before that meeting pursuant to Article 20 has not been paid before that meeting.

56. On a poll votes may be given either personally or by proxy.

57. The instrument appointing a proxy shall be in writing duly executed by the appointer or under the hand of a duly authorized officer or attorney of the appointer.

58. The instrument appointing a proxy and the power of attorney, if any, under which it is signed or a notarially certified copy of the power shall be deposited at the Registered Office or at such other place within the United Kingdom as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

59. An instrument appointing a proxy shall be in the following form or in such other form as the Board may approve:-

### **THE PROPERTY OMBUDSMAN LIMITED**

We,  
of

being an A Member or a C Member of the above-named Company hereby

appoint

of

or failing him

of

as our proxy to vote in our name and on our behalf at the Annual/Extraordinary General Meeting of the Company to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ and at any adjournment thereof.

.....  
Signature of member

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

This form is to be used in respect of the resolutions mentioned as follows:

Resolution No 1 for/against\*

Resolution No 2 for/against\*

\* Strike out whichever is not desired

Unless otherwise instructed the proxy will vote as he thinks fit or abstain from voting

60. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

61. A vote given or poll demanded by a proxy or a duly authorized representative of a body corporate shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of determination was received by the Company at the Registered Office before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded.

62. No objection shall be raised to the validity of any vote except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.

## **SECRETARY**

63. The Secretary shall be appointed by the Board for such term, at such remuneration and upon such conditions as they may think fit, and any Secretary so appointed may be removed by them.

## **THE COUNCIL**

64. (a) The Council shall be entitled to appoint one person (the “Council Chairman”) as a Council Member and the Chairman of the Council provided that the appointment of the first Council Chairman shall not require the approval of the Council.
- (b) (i) The number of Council Members (excluding the Council Chairman) shall be eight.
- (ii) of such number:
- (A) the Council shall be entitled to appoint five (the “Council appointees”)
- (B) the Board shall be entitled (subject to the approval of the Council such approval not to be unreasonably withheld) to appoint three (the “Board appointees”).

Provided that:

- (1) the first Council appointees shall be appointed by the Board; and
- (2) the appointment of the first Board appointees shall not require the approval of the Council.
- (c) The Council shall appoint from amongst the Council appointees one person to act as Council Chairman.
- (d) The Council Chairman shall be appointed to hold that office (subject to Article 68) for such period (not exceeding three years) and on such terms and conditions of engagement as the Council shall think fit. A person holding the office of Council Chairman may be re-appointed at the expiry of his term of office.
- (e) The Board shall have power from time to time and at any time to appoint (subject to the Council’s approval, such approval not to be unreasonably withheld) any person or persons as a Council Member or Council Members either as an addition to the existing Board appointees or to fill any vacancy amongst them (but so that the number of Board appointees determined pursuant to paragraph (b)(ii)(B) of this Article shall not thereby be exceeded) and to remove from office any Council

Member so appointed. Any such appointment or removal shall be effected by an instrument in writing signed by the Chairman or Deputy Chairman of the Board on behalf of the Board.

- (f) The Council shall ensure that the Council appointees shall be natural persons independent of the industry subject to the Ombudsman's decisions whom the Council shall reasonably consider to be at the time of their respective appointments or reappointments representative of public or consumer interests concerned with any aspect of the Company's activities.
  - (g) Subject to the provisions hereof and as hereinafter provided, the Council may appoint a person who is willing to act to be a Council Member, either to fill a vacancy among the Council appointees or as an additional Council appointee provided that (i) the appointment does not cause the number of Council appointees to exceed the number of Council appointees determined pursuant to paragraph (b) of this Article and (ii) in making such appointment the Council shall ensure paragraph (f) of this Article is complied with.
  - (h) At each Annual Meeting every Council appointee who was last appointed or re-appointed to that office more than two years before that Annual Meeting shall retire.
  - (i) A Council appointee who retires at an Annual Meeting may, if willing to act, be re-appointed. If he is not re-appointed, he shall retain office until the meeting appoints someone in his place or, if it does not do so, until the end of the meeting.
- 65.
- (a) The Council may meet together for the dispatch of business, adjourn and otherwise regulate their meetings, as they think fit, provided that the period intervening between meetings of the Council shall not exceed six months. The meeting of the Council last held before the date fixed for the holding of an Annual General Meeting of the Company shall be the Annual Meeting of the Council for that calendar year.
  - (b) If the number of Council Members (excluding the Council Chairman) is less than the number determined pursuant to Article 64(b) the continuing Council Members may only act for the purpose of filling vacancies in accordance with Article 64(g) or requesting the Board to fill vacancies in accordance with Article 64(e).
  - (c) The quorum necessary for the transaction of the business of the Council shall be three with a majority of Council appointees. No business may be transacted if the number of Board appointees present exceeds the number of Council appointees present.
  - (d) The Council may appoint any person (not being the Secretary) to act as Clerk to the Council for such term, at such remuneration (being not more than the amount thereof included in the financial budget from time to time approved by the Board)

and upon such conditions as it may think fit, and any Clerk so appointed may be removed by it.

- (e) The Council Chairman or any two Council Members may at any time summon a meeting of the Council by giving not less than fourteen days notice thereof to each other Council Member, to the Clerk to the Council and to the Ombudsman.
  - (f) The Council Chairman shall take the chair at all meetings of the Council but if he is unwilling to preside or is not present within five minutes after the time fixed for the commencement of any such meeting the Council Members present shall choose one of their number to be Chairman of the meeting (who shall be a Council appointee so long as at least one Council appointee is present).
  - (g) Questions arising at any meeting of the Council shall be decided by a majority of votes. In the case of an equality of votes the Chairman of the meeting shall have a second casting vote.
  - (h) The last Council appointee's retirement cannot be effective until another is appointed in their place.
  - (i) All Members of the Council shall make a full declaration of interests at least once annually.
66. (a) Save as otherwise provide by these Articles, a Council Member shall not vote at a meeting of the Council on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material and which conflicts or may conflict with the interests of the Company
- (b) For the purposes of this Article an interest of any person who is, for any purpose of the Act (excluding any statutory modification thereof not in force when this regulation becomes binding on the Company), connected with a Council Member shall be treated as an interest of the Council Member.
  - (c) A Council Member shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.
  - (d) The Council may by ordinary resolution suspend or relax to any extent, either generally, or in respect of any particular matter, any provision of the Articles prohibiting a Council Member from voting at a meeting of the Council.
  - (e) If a question arises at a meeting of the Council as to the right of a Council Member to vote, the question may, before the conclusion of the meeting, be referred to the Chairman of the meeting and his ruling in relation to any Council Member other than himself shall be final and conclusive.
67. (a) Council Members shall be entitled to be paid such travelling, hotel and other

expenses as are reasonably and properly incurred by them in connection with the business of the Company.

- (b) The remuneration of the Council Members shall from time to time be determined by a committee of Board and Council members convened for that specific purpose. Such remuneration shall accrue from day to day.
68. The office of Council Members (including Council Chairman) shall automatically be vacated if:
- (a) he becomes bankrupt or makes an arrangement or composition with his creditors generally or resolves to be wound up voluntarily or has an order made for him to be wound up or has a receiver appointed of all or any of his assets;
  - (b) he becomes of unsound mind;
  - (c) he resigns his office in writing; or
  - (d) he does any act which in the opinion of Council is likely to lead him or the Company into disrepute.
69. A Council Member appointed under Article 64(b)(ii)(A) may hold no office or place of profit under the Company, nor may he, either himself or by his firm, act in a professional capacity for the Company.
70. The powers and duties of the Council shall be:
- (a) to appoint the Ombudsman in accordance with the provisions of Article 71;
  - (b) in the event that the Ombudsman shall be indisposed or otherwise prevented from carrying out his duties to appoint any person to act as deputy or substitute for the Ombudsman for such period of time and (subject as aforesaid) on such terms and conditions as it shall think fit (and so that whilst such deputy or substitute shall hold office, these Articles shall apply to him, mutatis mutandis in every respect as if he were the Ombudsman);
  - (c) to set up appropriate committees as it thinks fit whose recommendations or decisions must be approved by the Council;
  - (d) subject to these Articles, to give such assistance and guidance to the Ombudsman concerning the performance of his duties as to the Council shall seem expedient;
  - (e) to monitor the Terms of Reference and from time to time to recommend to the Board such amendments to the Terms of Reference as the Council thinks fit;

- (f) at its Annual Meeting to receive and if thought fit to approve the Report of the Ombudsman for a period co-extensive with the financial year of the Company last ended;
- (g) to publish either in whole or in part any Report of the Ombudsman approved under paragraph (f) above;
- (h) from time to time, and not less frequently than once in each year, to consider and if thought fit to approve a draft financial budget for recommendation to the Board, each such budget to be prepared in respect of a period co-extensive with a financial year of the Company;
- (i) to submit each financial budget approved as aforesaid pursuant to paragraph (h) of this Article to the next following meeting of the Board for the Board's approval (subject to such amendments as the Board shall think fit);
- (j) (without prejudice to the relevant provisions of the Act) in relation to each financial year of the Company to prepare or procure the preparation of every document required to be comprised in the accounts of the Company in respect of that period, and to submit the same to the Board;
- (k) to give such assistance as the Board may reasonably require in connection with the commencement, conduct, settlement or termination of legal proceedings by or against the Company or its officers or employees or otherwise concerning the affairs of the Company;
- (l) to consider appeals from the Disciplinary and Standards Committee;
- (m) to consider those cases brought to its attention by the Ombudsman, acting within his Terms of Reference, where he considers there has been any single flagrant breach and / or any persistent breaches of the Code of Practice by any Member and will either take no action against the Member concerned or will:
  - (i) Issue an informal warning
  - (ii) Issue a formal written warning
  - (iii) Issue a fine
  - (iv) Issue a notice of dismissal from the Company in writing

Any Member who is subject to disciplinary action as described in (m) (i), (ii) or (iii) above shall have the right to have the matter reviewed by the Board if such appeal is made within four weeks of the issue of the decision.

- (n) To monitor the effectiveness and financial performance of the office of the Ombudsman.

## **OMBUDSMAN**

71. (a) The Ombudsman shall be appointed by the Council to hold office with the Company (subject to paragraph (b) of this Article) for such period (being not less than three or more than five years) and on such terms and conditions of engagement as the Council shall think fit. The person holding the office of Ombudsman may be re-appointed at the expiry of any period of office.
- (b) The Ombudsman shall immediately vacate his office if:
- (i) he becomes bankrupt or makes an arrangement or composition with his creditors general or resolves to be wound up voluntarily or has an order receiving order made against him for all or any of his assets;
  - (ii) he becomes of unsound mind;
  - (iii) he resigns his office in writing;
  - (iv) he does any act which in the opinion of Council is likely to lead him or the Company into disrepute.
- (c) The Ombudsman shall neither be, nor be an employee of, nor hold any office or place of profit under, a Member, a Board Member or a Council Member of the Company, nor a member of any group of which any Member, Board Member or Council Member is also a member; nor shall he hold any other office or place of profit under the Company; nor shall he, either by himself or by his firm, act in a professional capacity for the Company. He shall be impartial, free from bias, independent of the industry and shall not during a period of three years immediately prior to his appointment have held an appointment in the industry to be regulated.
- (d) The Ombudsman shall be entitled to be paid such travelling, hotel and other expenses as are reasonably and properly incurred by him in connection with the business of the Company.
72. The powers and duties of the Ombudsman shall be set out in the Terms of Reference.

## **GENERAL**

73. A notice may be given by the Company to any Member either personally or by sending it by post to him at his registered address. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, preparing and posting a letter containing the notice and to have effect in the case of a notice of a general meeting at the expiration of twenty-four hours after the letter is put into the post as a prepaid letter.

74. A Member having a registered address outside the United Kingdom shall not be entitled to any notices from the Company unless he gives the Company an address for service within the United Kingdom.

75. Any notice required to be given by the Company to the Members or any of them and not expressly provided for by these presents shall be sufficiently given if advertised once in one London morning newspaper.

76. Subject to the provisions of the Act but without prejudice to any indemnity to which he may otherwise be entitled, every Board Member, alternate Board Member and Council Member, the Ombudsman and every other officer of the Company shall be indemnified out of the assets of the Company against any liability reasonably and properly incurred by him in connection with the performance of his duties and obligations to the Company and the exercise of any powers conferred upon him by the Company.

77. If and whenever any differences shall arise between the Company and any of the Members touching the construction of any of these Articles, or any act, matter, or thing made or done or to be made or done or omitted or in regard to the rights and liabilities arising hereunder or arising out of the relation existing between the parties by reason of these Articles or of the Acts or either of them, such differences shall be forthwith referred to two Arbitrators, one to be appointed by each party in difference, or to an Umpire to be chosen by the Arbitrators before entering on the consideration of the matters referred to them, and every such reference shall be conducted in accordance with the provisions of the Arbitration Act 1996 or any enactment modifying or replacing the same.