

report

meeting	NOTTINGHAMSHIRE AND CITY OF NOTTINGHAM FIRE & RESCUE AUTHORITY	
date	13 September 2006	agenda item number

REPORT OF THE CHIEF FIRE OFFICER

ESTABLISHMENT OF THE REGIONAL CONTROL CENTRE COMPANY

1. PURPOSE OF REPORT

To seek the approval of Members for the Memorandum of Association and Articles of Association for formation of the Local Authority Company to run the Regional Control Centre.

2. BACKGROUND

2.1 As Members will be aware, the RCC project is one that is designed to replace all the Fire and Rescue Services' control rooms with a national infrastructure that has one control in each of the regions. This project is nationally lead, but delivered through Regional Management Boards (RMBs). The intention is that when the new control centres are up and running they will be under Local Authority control. In order to achieve this local control it has been determined by the Department of Communities and Local Government (DCLG), after consultation, that local authority companies should be formed to run the centres on behalf of the constituent Fire and Rescue Authorities.

2.2 The Fire and Rescue Services Act 2004 Section 21 enables a National Framework, whilst Section 22 gives the Secretary of State intervention powers if a Fire and Rescue Authority is failing, or is likely to fail, to act in accordance with the Framework. The National Framework in Chapter 2 on regional working states in Paragraph 2.13 :

“.....Fire and Rescue Authorities, through Regional Management Boards, must:

- *(2nd Bullet point) ensure that the local authority companies who will run the control centres are established by 1 August 2006 in the South West, East Midlands and North East.....”*

2.3 Consultation on aspects of governance has taken longer than DCLG expected, so the National Framework deadline has not been achieved. This is due to the national process and not due to local delays.

3. REPORT

- 3.1 The RMB held a one day seminar in Derbyshire on 19 May 2006 to discuss this issue. Fire Authority Members from the five Authorities were invited to attend. A large number of this Authority's Members were in attendance.
- 3.2 The Memorandum of Association and Articles of Association for the formation of the Local Authority Company are attached to this report at Appendix A, for approval by the Authority. These documents have been drawn up by solicitors following the seminar with Authority Members, discussions within the RMB Members group and are in line with national guidance. These documents are being presented to all the East Midlands Fire & Rescue Authorities, in order to seek approval for the formation of the company.
- 3.3 In brief, the Articles and Memorandum set out to form a wholly owned public sector company, whose owners are the five Fire & Rescue Authorities of the East Midlands. The purpose of the company is to run the RCC to standards that will need to be agreed in the future. Each Fire & Rescue Authority will be able to appoint two directors to the company.
- 3.4 Under the proposed Articles, each Fire & Rescue Authority has the right to appoint two directors of the company and a decision needs to be made as to whom the first directors of the company shall be. The Regional Management Board recommends to Fire & Rescue Authorities that until the new Control Centre is operational, that the directors should be Elected Members, at which point the composition of the board of directors would be reviewed.
- 3.5 Fire & Rescue Authorities will also need to consider whether and to what extent they wish to agree, via a Members' Agreement, how the Members will operate their rights under the Articles. This requires negotiation and agreement between the Fire & Rescue Authorities, which is not possible prior to the establishment of the company. The Chief Fire Officers, with their legal advisers, will need to conduct those negotiations.

4. FINANCIAL IMPLICATIONS

- 4.1 There are extensive financial implications arising from the formation of this company both in terms of the costs of running the RCC itself and also the implications that arise by virtue of the status of the company and the Members who will become Directors of that company.
- 4.2 This paper however, does not consider the issues surrounding the creation of the RCC in a functional sense, concentrating instead upon the issue of the company formation.
- 4.3 Neither the Memorandum nor the Articles currently contain any information regarding proposals for the apportionment of costs between existing Fire & Rescue Authorities. The methodology adopted may significantly advantage or disadvantage individual Authorities. The documents do make reference to directors' remuneration, pensions etc. which will be additional costs.

4.4 The largest of the financial implications however, still remain unknown and will emerge as the project nears completion.

5. PERSONNEL IMPLICATIONS

The Local Authority Company will be the employer of fire control staff in the future and will receive staff from the current control rooms via TUPE transfer. The details of these transfers along with the terms and conditions of service for staff cannot be established until the future employing company has been formed. These Articles will allow this to happen.

6. EQUALITY IMPACT ASSESSMENT

An initial equality impact assessment has revealed there are no specific equality issues arising from this report.

7. RISK MANAGEMENT IMPLICATIONS

7.1 There are few risk management implications arising directly from this report, although clearly the risks surrounding the RCC as a function are significant and are being addressed as part of the project.

7.2 Risks do arise however, for Members who take on the role of directors within the new company for two reasons :

- i) Directors take on a range of liabilities both for the company and personally. Some of these can be indemnified, but by no means all. It is possible for this Authority to provide some level of indemnity, but this would not extend to any criminal offence committed under the Companies Act.
- ii) Many individuals will not be familiar with the operation and administration of commercial companies nor the legal framework within which they operate. This lack of familiarity by both Officers and Members is a risk exposure which needs to be carefully managed.

8. RECOMMENDATIONS

It is recommended that Members :

8.1 Approve the Memorandum of Association and Articles of Association for formation of the Local Authority Company to run the Regional Control Centre and authorise the Chief Fire Officer to sign them on the Authority's behalf.

8.2 Agree to appoint two Elected Members to act as directors of the company and to appoint those Members by nomination.

8.3 Authorise the Chief Fire Officer, in consultation with the Chair of the Authority, to negotiate and settle the terms of and to sign a Members' Agreement as to how the Authority will exercise its rights as a member of the company.

9. BACKGROUND PAPERS

- Fire and Rescue Services Act 2004 ;
- The Fire and Rescue National Framework 2006-08.

Paul Woods
CHIEF FIRE OFFICER

The Companies Acts 1985 to 1989

Company limited by guarantee and not having a share capital

Memorandum of Association

of

East Midlands Fire and Rescue Control Centre Limited

- 1 The name of the Company is East Midlands Fire and Rescue Control Centre Limited and in this document it is called the **Company**.
- 2 The registered office of the Company will be situated in England.
- 3 The objects for which the Company is established are:
 - (a) To operate a regional control centre covering the fire and rescue authority areas of Derby and Derbyshire; Leicester, Leicestershire and Rutland; Lincolnshire; Northamptonshire; and Nottingham and Nottinghamshire as part of the English network of regional control centres, which, for the avoidance of doubt may extend to mobilisation of fire and rescue resources from or to anywhere within Great Britain (including any resources that can be used for the purpose of responding to incidents regardless of who the owner is) and to operate as a national co-ordination centre, as required from time to time. In particular, without prejudice to the generality of the foregoing and subject to any statutory guidance in issue from time to time, the Company is established to:
 - (i) enter into arrangements from time to time with any one or more fire and rescue authorities (**FRA**), within the meaning of the Fire and Rescue Services Act 2004 (**FRSA**), in England and any other organisation within the British Islands certified by the Secretary of State;
 - (ii) procure, purchase, manage or operate mobilising or communications systems or services, or technology equipment or infrastructure required for the provision of control services or the operation of the national coordination centre;
 - (iii) have regard to the policy of the Secretary of State in relation to the operation of regional control centres, in particular, but without prejudice to the generality of the foregoing, to the National Framework prepared by the Secretary of State pursuant to section 21 of the FRSA.
 - (b) In furtherance of the foregoing objects but not further or otherwise the Company shall have the following powers:
 - (i) To supply services of all kinds and to carry on any activity, including the employment of staff, normally undertaken by an organisation with these or similar objects.
 - (ii) To provide such office or other business accommodation for national functions and input to contract management on a national basis, as required from time to time.
 - (iii) To purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Company may think necessary or convenient for the furtherance of its objects, and to construct, maintain and alter any buildings or erections necessary or convenient for the work of the Company.

- (iv) To sell, let, sub-let, lease, dispose of or turn to account all or any of the property or assets of the Company as may be thought expedient and to accept surrenders of leases and tenancies and to make allowances to and arrangements with tenants, as may be deemed expedient in the interests of the Company.
- (v) Subject to such consents as may be required by law, to borrow or raise money for the purposes of the Company on such terms and on such security as may be thought fit.
- (vi) To invest the moneys of the Company not immediately required for its purposes in or upon such investments, securities and property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided.
- (vii) To take any gift of property, whether subject to any special trust or not, for any of the objects of the Company.
- (viii) To create subsidiary companies, enter into joint venture agreements and establish any body necessary or incidental to the carrying out of the objects of the Company.
- (ix) To affiliate or co-operate with any other organised body in the United Kingdom, Europe, or elsewhere, having objects similar to those of the Company, with a view to furthering the objects of the Company, and to amalgamate with any company having objects similar to those of the Company.
- (x) To make such rules and regulations for the management and administration of the Company and for matters connected therewith as the Company in its discretion think fit and from time to time to so add amend vary revoke or replace any such rules and regulations but so that nothing in this sub-clause shall be deemed to authorise any application of any part of the investments and property held by or on behalf of the Company or the income thereof otherwise than in conformity with this Memorandum of Association.
- (xi) To purchase and maintain insurance for or for the benefit of any persons who are or were at any time Directors, officers or auditors of the Company, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to the Company and to such extent as may be permitted by law otherwise to indemnify or to exempt any such person against or from such liability.
- (xii) To appoint and constitute such committees, boards or bodies (whether advisory or not) as the Company may consider desirable for the better management and administration of the Company and to make amend vary revoke and replace rules and regulations for the purpose of defining their functions powers and organisation and also (if the Company shall think fit) to pay an honorarium or fee or salary to and defray expenses incurred by any member of such committee board or body appointed as aforesaid.
- (xiii) To apply for and take out, purchase or otherwise acquire, any patents, patent rights, brevets d'invention, inventions, licences, conversions, trade marks, or secret processes, which may further the objects of the Company, and to grant licences to use the same.
- (xiv) To establish or promote any company for the purpose of acquiring all or any of the property, rights or liabilities of the Company, or for any other purpose which may seem calculated to benefit the Company.
- (xv) To pay all or any expenses incurred in connection with the promotion and incorporation of the Company, to remunerate any person, firms or company

rendering services to the Company, either by cash payment or otherwise, and to recover costs from FRAs, other companies operating regional control centres and other persons as required

- (xvi) To do all such other things as are incidental or conducive to the attainment of the above objects or any of them or as shall seem to be in the best interests of the Company, its members, its subscribers or other users of the Company's services.

PROVIDED THAT:

- (a) In case the Company shall take or hold any property which may be subject to any trust, the Company shall only deal with or invest the same in such manner as allowed by law, having regard to such trust.
- (b) The income and property of the Company wheresoever derived, shall be applied solely towards the promotion of the objects of the Company and no portion thereof shall be paid or transferred directly or indirectly by way of dividend or bonus or otherwise howsoever by way of profit to the members of the Company PROVIDED THAT nothing herein shall prevent any payment in good faith by the Company of:
- (i) Interest on money lent to the Company by any member of the Company at a rate per annum not exceeding a reasonable and proper commercial rate;
 - (ii) Reasonable and proper rent for premises demised or let to the Company by any member of the Company;
 - (iii) Reasonable and proper remuneration to any member, officer or servant of the Company in return for any services actually rendered to the Company;
 - (iv) Any exhibition scholarship, fellowship, or other reward or prize established or paid out of the funds of the Company to any person bona fide holding the same;
 - (v) Fees, remuneration or other benefit in money or money's worth to a company of which a member of the Company may be a member, and such member shall not be bound to account for any share of profits it may receive in respect of any such payment.

4 The liability of the members is limited.

5 Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up while it is a member, or within one year after it ceases to be a member, for payment of the debts and liabilities of the Company contracted before it ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one pound.

6 If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall be paid to or distributed among the then current members of the Company on a pro rata basis by reference to the amount of expenditure incurred by such member.

WE the several persons whose names and addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names, addresses and descriptions of subscribers

Names	Addresses	Authorised Signatory
Derbyshire Fire Authority	Headquarters, The Old Hall, Littleover, Derby	

Witnessed by:

Leicester, Leicestershire and Rutland Combined Fire Authority	Headquarters, Anstey Frith, Leicester Road, Glenfield, Leicester LE3 8HD.	
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Witnessed by:

Lincolnshire County Council	Headquarters, South Park Avenue, Lincoln Lincolnshire LN5 8EL	
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Witnessed by:

Northamptonshire County Council	Headquarters, Moulton Way Northampton NN3 6XJ	
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Witnessed by:

Nottinghamshire and City of Nottingham Fire Authority	Headquarters, Bestwood Lodge, Arnold, Nottingham, NG5 8PD.	
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Witnessed by:

Dated the day of

The Companies Acts 1985 and 1989

Company limited by Guarantee

Articles of Association

of

East Midlands Fire and Rescue Control Centre Limited

Interpretation

1 In these regulations:

the **Act** means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force.

Applicable Law means any applicable law (whether criminal, civil or administrative), whether common law, judgment, court order, statute, statutory instrument, regulation, directive, European Community decision (insofar as legally binding) by-law or treaty.

these **articles** means these articles of association of the company whether as originally adopted or as altered from time to time by the requisite resolution of the members.

clear days in relation to the period of a notice means that period excluding the day when 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.

communication means the same as in the Electronic Communications Act 2000.

the **Company** means the East Midlands Fire and Rescue Control Centre Limited.

electronic communication means the same as in the Electronic Communications Act 2000.

executed includes any mode of execution.

Local Authorities Order means the Local Authorities (Companies) Order 1995.

Local Government Act means the Local Government Act 1972.

Fire and Rescue Authority Directors means the directors appointed by the Fire and Rescue Authority Members and reference to **Fire and Rescue Authority Director** shall be to any of them.

Fire and Rescue Authority Members means Derbyshire Fire Authority, Leicester, Leicestershire and Rutland Combined Fire Authority, Lincolnshire County Council, Nottinghamshire and City of Nottingham Fire Authority, and Northamptonshire County Council and reference to **Fire and Rescue Authority Member** shall be to any of them.

Observer means any person authorised to attend a general meeting or a meeting of the Board pursuant to regulation 8.

office the registered office of the Company.

the **seal** means the common seal of the Company.

secretary means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary.

the **United Kingdom** means Great Britain and Northern Ireland.

Unless the context otherwise requires, words or expressions contained in these regulations bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these regulations become binding on the Company.

The appendix forms part of these articles and shall have the same force and effect as if set out in the body of these articles and reference to these articles shall include the appendix.

Members

- 2 The subscribers to the Memorandum of Association of the Company and such other persons as are admitted to membership in accordance with the regulation 3 shall be the members of the Company.
- 3 A person may be admitted to membership of the Company by the requisite resolution of the members.
- 4 A person shall automatically cease to be a member immediately on the happening of any of the following events:
- (a) if by at least seven clear days' notice in writing to the Company that member resigns its membership; or
 - (b) if that member:
 - (i) ceases to carry on its business or substantially the whole of its business; or
 - (ii) becomes or is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors or if a liquidator, receiver, administrator, trustee, manager or similar officer is appointed in relation to the whole or any part of the assets or undertaking of that member or any analogous step is taken in connection with that member's insolvency or dissolution.
- 5 The rights and privileges of a member shall not be transferable or transmissible by operation of law to any person who is not a member.

General meetings

- 6 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 15 months shall elapse between the date of one annual general meeting of the Company and that of the next. The Company shall hold its first annual general meeting within 18 months of its incorporation. All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 7 The directors may call general meetings and, on the requisition of members pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after receipt of the requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member of the Company may call a general meeting.
- 8 The directors shall be entitled to invite any one or more persons (each an **Observer**) other than the directors to attend, in observer capacity, any general meeting of the Company.

Notice of general meetings

- 9 An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty-one clear days' notice. All other extraordinary general meetings shall be called 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 at that meeting; and
 - (b) in the case of any other meeting by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety-five per cent of the total voting rights at the meeting of all the members.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such.

The notice shall be given to all the members and to the directors and auditors.

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

Proceedings at general meetings

- 11 Each member, for so long as it remains a member of the Company, shall be entitled to appoint an authorised representative to attend, speak and vote on their behalf at general meetings and reference to the "members" in these regulations shall be construed accordingly.

- 12 No business shall be transacted at any meeting unless a quorum is present. Subject to regulation 13, such number of members as represents not less than 75% of all Fire and Rescue Authority Members entitled to vote upon the business to be transacted, or a proxy for such member, shall be a quorum.

- 13 If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine.

- 14 Any member may participate in a general meeting by means of a conference telephone or similar communications system whereby all persons participating in the meeting can hear and address each other and participation in a general meeting in this manner shall be deemed to constitute presence at such meeting for all purposes including that of establishing a quorum. A general meeting held by such means shall be deemed to take place where the largest group of participants in number is assembled. In the absence of such a majority the location of the chairman of the meeting shall be deemed to be the place of the general meeting.

- 15 The chairman, if any, of the board of directors or in his or her absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he or she shall be chairman.

- 16 If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.

- 17 A director shall, notwithstanding that he or she is not a member, be entitled to attend and speak at any general meeting.

- 18 The chairman may, with the consent of a 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 an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

- 19 A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:

- (a) by the chairman; or
- (b) by at least two members having the right to vote at the meeting; or
- (c) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting;

and a demand by a person as proxy for a member shall be the same as a demand by the member.

- 20 Unless a poll is duly demanded a declaration by the chairman that a resolution has 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 minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 21 The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- 22 A poll shall be taken as the chairman directs and he or she may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 23 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall be entitled to a casting vote in addition to any other vote he or she may have.
- 24 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- 25 No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
- 26 A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present 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 members.

Votes of members

- 27 On a show of hands every member present in person shall have one vote. On a poll every member present in person or by proxy shall have one vote.
- 28 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
- 29 The appointment of a proxy shall be executed by or on behalf of the appointor and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve) -

"East Midlands Fire and Rescue Control Centre Limited

I/We, ** , of ** , being a member/members of the above-named company, hereby appoint ** of ** , or failing him, ** of ** , as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the company to be held on ** , and at any adjournment thereof.

Signed on ** ."

- 30 Where it is desired to afford members an opportunity of instructing the proxy how he or she shall act the appointment of a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve) -

"East Midlands Fire and Rescue Control Centre Limited

I/We, ** , of ** , being a member/members of the above-named company, hereby appoint ** of ** , or failing him, ** of ** , as

my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the company, to be held on ** , and at any adjournment thereof.

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

Resolution No.1 *for *against

Resolution No.2 *for *against.

*Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he or she thinks fit or abstain from voting.

Signed this ** day of ** ."

31 The appointment of a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the directors may-

(a) in the case of an instrument in writing, be deposited at the office, or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to 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;

(b) in the case of an appointment contained in an electronic communication, where an address has been specified for the purpose of receiving electronic communications:

(i) in the notice convening the meeting, or

(ii) in any instrument of proxy sent out by the Company in relation to the meeting, or

(iii) in any invitation contained in an electronic communication to appoint a proxy issued by the Company in relation to the meeting,

be received at such address not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote;

(c) in the case of a poll taken more than 48 hours after it is demanded, be deposited or received as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or

(d) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director;

and an appointment of proxy which is not deposited, delivered or received in a manner so permitted shall be invalid. In this regulation and the next, "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.

32 A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Company at the office or at such other place at which the instrument of proxy was duly deposited or, where the appointment of the proxy was contained in an electronic communication, at the address at which such appointment was duly received before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

Conduct of the Company's affairs

33 The Fire and Rescue Authority Members shall exercise all voting rights held by them in relation to the Company so as to procure (insofar as they are able by the exercise of such rights) that:

1. the Company fully complies with any obligations which it may from time to time have pursuant to Applicable Law, including the Local Government Act, Local Authorities Order and the Act, including but not limited to:
2. the requirement to state in all relevant documents that the Company is controlled by the relevant Fire Rescue Authority, as required by the Local Authorities Order;
3. the requirement to obtain the Audit Commission's consent to the appointment of the Company's auditor as required by the Local Authorities Order; and
4. the requirement to, until the expiry of the period of four years beginning with the date of the meeting, to make available for inspection by any member of the public, a copy of the minutes of any General Meeting of the Company as required by the Local Authorities Order. In accordance with the Local Authorities Order, no copies of minutes are to be made available which include any matter the disclosure of which would be in breach of any enactment, or of an obligation owed to any person;
5. the activities of the Company are at all times consistent with the functions which may be performed by the Fire and Rescue Authority Members in their respective capacities as public sector bodies.

Number of directors

- 34 Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum.
- 35 Each Fire and Rescue Authority Member shall be entitled for so long as it is a member of the Company to appoint two directors and may at any time remove such person and appoint another person in his or her place. Any other director shall be appointed and removed by ordinary resolution of the members, provided that the directors will be entitled to make recommendations to the members regarding the appointment of any person as a director.
- 36 Removal of a Director shall be deemed to take place in any of the circumstances specified in regulation 47.

Alternate directors

- 37 Any director (other than an alternate director) may appoint any other director, or any other person willing to act, to be an alternate director and may remove from office an alternate director so appointed by him.
- 38 An alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his or her appointor is a member, to attend and vote at any such meeting at which the director appointing him is not personally present, and generally to perform all the functions of his or her appointor as a director in his or her absence but shall not be entitled to receive any remuneration from the Company for his or her services as an alternate director. But it shall not be necessary to give notice of such a meeting to an alternate director who is absent from the United Kingdom.
- 39 An alternate director shall cease to be an alternate director if his or her appointor ceases to be a director; but, if a director retires by rotation or otherwise but is reappointed or deemed to have been reappointed at the meeting at which he or she retires, any appointment of an alternate director made by him which was in force immediately prior to his or her retirement shall continue after his or her reappointment.
- 40 Any appointment or removal of an alternate director shall be by notice to the Company signed by the director making or revoking the appointment or in any other manner approved by the directors.
- 41 Save as otherwise provided in these articles, an alternate director shall be deemed for all purposes to be a director and shall alone be responsible for his or her own acts and defaults and he or she shall not be deemed to be the agent of the director appointing him.

Powers of directors

- 42 Subject to the provisions of the Act, the memorandum and these articles (including, without limitation to the generality of the foregoing, regulation 43) and to any directions given by special resolution, the

business of the Company shall be managed by the directors 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 directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the directors by these articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.

- 43 No decision relating to the matters listed in Part 1 of the Appendix may be taken or implemented by the Company unless such matter has been unanimously approved by all of the directors entitled to receive notice of a meeting of directors. No decision relating to the matters listed in Part 2 of the Appendix may be taken or implemented by the company unless the Company has received the prior written consent of all of the members to such matter.
- 44 The directors 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 its powers.

Delegation of directors' powers

- 45 The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors 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 the articles regulating the proceedings of directors so far as they are capable of applying.

Retirement of directors

- 46 The directors shall not be required to retire by rotation.

Disqualification and removal of directors

- 47 The office of a director shall be vacated if:
- (a) he or she ceases to be a director by virtue of any provision of the Act or he or she becomes prohibited by law from being a director; or
 - (b) he or she becomes bankrupt or makes any arrangement or composition with his or her creditors generally; or
 - (c) he or she is, or may be, suffering from mental disorder and either:
 - (i) he or she is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960, or
 - (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his or her detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his or her property or affairs; or
 - (d) he or she resigns the office by notice to the Company; or
 - (e) he or she shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that the office be vacated; or
 - (f) he or she is directly or indirectly interested in any contract with the Company and, in the opinion of the directors (acting reasonably) (including on recommendation by the secretary) has failed to declare his or her interest in manner required by the Act and these regulations; or

- (g) the member, of which the director is an employee, officer or member, ceases to be a member of the Company; or
- (h) he or she ceases to be an employee, officer or member of a member; or
- (i) in the case of a Fire and Rescue Authority Director who is an elected member of a Fire and Rescue Authority Member, he or she ceases to be an elected member or is disqualified from such membership; or
- (j) he or she is validly removed from office by the members pursuant to regulation 35 or, in the case of a Fire and Rescue Authority Director, by the Fire and Rescue Authority Member who appointed him pursuant to regulation 35.

Remuneration of directors

- 48 Subject to the Local Authorities Order the directors shall be entitled to such remuneration as the Company may by ordinary resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

Directors' expenses

- 49 Subject to the Local Authorities Order and to such general rules and limitations as the Company may by ordinary resolution determine from time to time, the directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or otherwise in connection with the discharge of their duties. Save as the members may otherwise agree in writing, no payment shall be made to any Observer.

Directors' appointments and interests

- 50 Subject to the provisions of the Act, the directors may appoint one or more of their number to the office of managing director or to any other executive office under the Company and may enter into an agreement or arrangement with any director for his or her employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such director for his or her services as they think fit. Any appointment of a director to an executive office shall terminate if he or she ceases to be a director but without prejudice to any claim to damages for breach of the contract of service between the director and the Company. A managing director and a director holding any other executive office shall not be subject to retirement by rotation.
- 51 Save as otherwise provided by these regulations and subject to regulation 52, a director shall not vote in respect of any contract or arrangement in which he or she is directly or indirectly interested or any matter arising out of such contract or arrangement or any matter which conflicts or may conflict with the interests of the Company and if he or she does so vote his or her vote shall not be counted. A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he or she is not entitled to vote. A director shall not be deemed to be interested in a contract or arrangement with any Fire and Rescue Authority Member (or any other fire and rescue authority for the purposes of the Fire and Rescue Services Act 2004 or equivalent authorities in Scotland) merely by reason that he or she or his or her spouse or registered civil partner is a member, officer or employee of any Fire and Rescue Authority Member (or any other fire and rescue authority for the purposes of the Fire and Rescue Services Act 2004 or equivalent authorities in Scotland).
- 52 Subject to regulation 51, all directors who are members, officers or employees of any Fire and Rescue Authority Member shall comply with the requirements of any codes of conduct of such Fire and Rescue Authority Member for the time being in force in respect of members, officers and/or employees of such Fire and Rescue Authority Member relating to the declaration of personal and prejudicial interests including for the avoidance of doubt the Model of Code of Conduct for Local Authorities. Those directors shall respectively declare personal interests as defined in such codes at any meeting of the directors or committee at which the matter giving rise to the interest is considered and, in the case of prejudicial interests as defined in such codes, shall not participate in any decisions to be made by the Company and shall withdraw from any meeting of the directors or committee at which such matter is considered.

- 53 Subject always to compliance with any of the Codes referred to in regulation 52 above the Company may by unanimous resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of these articles prohibiting a director from voting at a meeting of directors or of a committee of directors.
- 54 Where proposals are under consideration concerning the appointment of two or more directors 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 director separately and (provided he or she is not for another reason precluded from voting) each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his or her own appointment.
- 55 If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his or her ruling in relation to any director other than himself shall be final and conclusive.

Directors' gratuities and pensions

- 56 The directors may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any director who has held but no longer holds any executive office or employment with the Company or with any body corporate which is or has been a subsidiary of the Company and for any member of his or her family (including a spouse or registered civil partner and a former spouse or former registered civil partner) or any person who is or was dependent on him, and may (as well before as after he or she ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

Proceedings of directors

- 57 Subject to the provisions of the articles, the directors may regulate their proceedings as they think fit.
- 58 A director may, and the secretary at the request of a director shall, call a meeting of the directors at any time. Any such notice shall include an agenda of the matters to be discussed at such meeting. Each director shall have one vote.
- 59 The quorum for the transaction of the business of the directors shall be such number of directors as represents not less than 75% of all duly appointed director. A person who holds office only as an alternate director shall, if his or her appointor is not present, be counted in the quorum.
- 60 If such a quorum is not present within half an hour from the time appointed for the meeting or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day the next week at the same time and place or to such time and place as the directors may determine. If a quorum is not present at such reconvened meeting, the meeting shall be dissolved.
- 61 The continuing directors may act notwithstanding any vacancies in their number, but, if the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
- 62 The directors may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office. Unless he or she is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he or she is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.
- 63 All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, 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 and had continued to be a director and had been entitled to vote.
- 64 A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist

of several documents in the like form each signed by one or more directors; but a resolution signed by an alternate director need not also be signed by his or her appointor and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity.

- 65 Any director may participate in a meeting of the directors by means of a conference telephone or similar communications system whereby all persons participating in the meeting can hear and address each other and participation in a meeting of the directors in this manner shall be deemed to constitute presence at such meeting for all purposes including that of establishing a quorum. A meeting of the directors held by such means shall be deemed to take place where the largest group of participants in number is assembled. In the absence of such a majority the location of the chairman shall be deemed to be the place of the meeting of the directors.

Secretary

- 66 Subject to the provisions of the Act, the secretary shall be appointed by the directors 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.

Minutes

- 67 The directors shall cause minutes to be made in books kept for the purpose -
- (a) of all appointments of officers made by the directors; and
 - (b) of all proceedings at meetings of the Company and of the directors, and of committees of directors, including the names of the directors present at each such meeting.

The seal

- 68 The seal shall be entrusted to the Company Secretary and shall be kept at the registered office with the Statutory Books of the Company and shall only be used by the authority of the directors or of a committee of directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or by a second director.

Accounts

- 69 Any Member and/or their auditors shall have the right to inspect any accounting records or other book or document of the Company except as restricted by statute.

Notices

- 70 Any notice to be given to or by any person pursuant to the articles (other than a notice calling a meeting of the directors) shall be in writing or shall be given using electronic communications to an address for the time being notified for that purpose to the person giving the notice. In this regulation and the next, "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.
- 71 The Company may give any notice to a member or director either personally, or by sending it by post in a prepaid envelope addressed to the member or director at the address within the United Kingdom that he, she or it has notified to the Company, or by leaving it at that address, or by giving it using electronic communications to an address for the time being notified to the Company by the member or director.
- 72 A member present, either in person or by proxy, at any meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 73 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted

or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

Indemnity

- 74 Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

APPENDIX

Part 1 – Unanimous consent of the directors

- 1 The taking of any loan, borrowing or credit by the company (whether a single transaction, a series of transactions or transactions in aggregate during the lifetime of the company) above a threshold of £100,000.

Part 2 – Unanimous consent of the members

- 2 The making of any variation to the Memorandum or these articles.
- 3 The amalgamation or merger of the company with any other company, business or undertaking or the acquisition of any shares in any company or any business or undertaking of any person or the participation by the company in any legal partnership or joint venture (whether incorporated or not).
- 4 The making any petition or resolution to wind-up the company or any application for administration or giving any notice of intention to an administrator unless in any case the company is at the relevant time insolvent and the directors reasonably consider (taking into account their fiduciary duties) that the company ought to be wound-up.

Part 3 – Unanimous consent of the Fire and Rescue Authority Members

- 5 The admission of any person as a new member of the company.