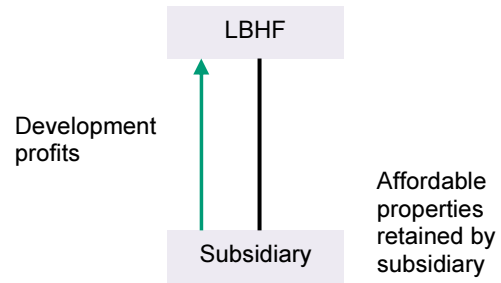


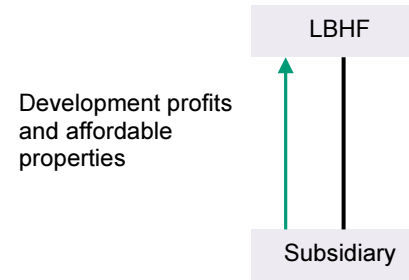
**APPENDIX 1 - DIAGRAM OF DEVELOPMENT  
STRUCTURES**

## DEVELOPMENT STRUCTURES

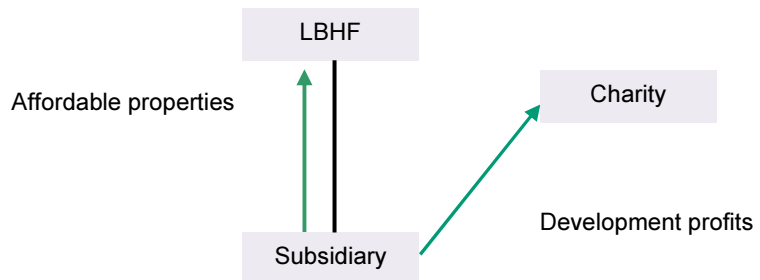
Structure 1 - development company only



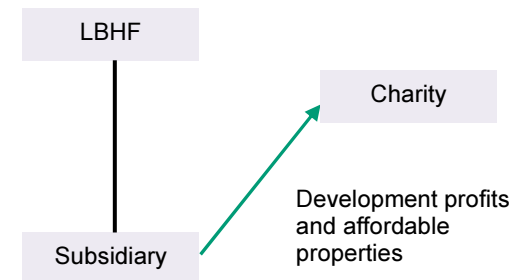
Structure 2 – LBHF takes profits and ownership of affordable properties



Structure 3 – charity takes profits and LBHF takes ownership of affordable properties



Structure 3 – charity takes profits and ownership of affordable properties



**APPENDIX 2 - DRAFT DEVELOPMENT COMPANY  
ARTICLES OF ASSOCIATION**

## DRAFT DEVELOPMENT COMPANY ARTICLES OF ASSOCIATION

### COMPANY HAVING A SHARE CAPITAL ARTICLES OF ASSOCIATION OF H & F DEVELOPMENTS LIMITED

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**Introduction  
Interpretation**

***In these Articles, unless the context otherwise requires:***

**Act:** means the Companies Act 2006;

**Appointor:** has the meaning given in article 9.1;

**Articles:** means the company's articles of association for the time being in force;

**Business day:** means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;

**Conflict:** has the meaning given in article 5.1;

**Eligible Director:** means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter); and

**Model Articles:** means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (S/2008/3229) as amended prior to the date of adoption of these Articles.

***Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.***

***Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.***

***A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise.***

***Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:***

- a) any subordinate legislation from time to time made under it; and
- b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.

***Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.***

***The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.***

***Articles 8, 11(2) and (3), 14(1), (2), (3) and (4), 17(2), 44(2), 52 and 53 of the Model Articles shall not apply to the company.***

***Article 7 of the Model Articles shall be amended by:***

- the insertion of the words "for the time being" at the end of article 7(2)(a); and

- the insertion in article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".

**Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors) and the secretary" before the words "properly incur".**

**In article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".**

**Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to article 10," after the word "But".**

**Article 29 of the Model Articles shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name".**

**Articles 31(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide".**

#### **Directors**

##### **Unanimous decisions**

**A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.**

**Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or has otherwise indicated agreement in writing to it.**

**A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at a meeting at which the subject matter of such decision was to be considered.**

##### **Quorum for directors' meetings**

**Subject to article 3.2, the quorum for the transaction of business at a meeting of directors is two eligible directors.**

**For the purposes of any meeting (or part of a meeting) held pursuant to article 5 to authorise a director's conflict, if there is only one eligible director in office other than the conflicted director, the quorum for such meeting (or part of a meeting) shall be one eligible director.**

**If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision:**

- to appoint further directors; or
- to call a general meeting so as to enable the shareholders to appoint further directors.

**Transactions or other arrangements with the company**

***Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Companies Acts, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the company:***

- may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company is otherwise (directly or indirectly) interested;
- shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;
- shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested;
- may act by himself or his firm in a professional capacity for the company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
- may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the company is otherwise (directly or indirectly) interested; and
- shall not, save as he may otherwise agree, be accountable to the company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

**Directors' conflicts of interest**

***The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director (an Interested Director) breaching his duty under section 175 of the Act to avoid conflicts of interest (Conflict).***

***Any authorisation under this article 5 will be effective only if:***

- the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
- any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and

- the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

***Any authorisation of a Conflict under this article 5 may (whether at the time of giving the authorisation or subsequently):***

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

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

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

***In authorising a Conflict the directors may decide (whether at the time of giving the authorisation or subsequently) that if a director has obtained any information through his involvement in the Conflict otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to another person, the director is under no obligation to:***

- disclose such information to the directors or to any director or other officer or employee of the company; or
- use or apply any such information in performing his duties as a director,



where to do so would amount to a breach of that confidence.

***A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.***

#### **Records of decisions to be kept**

6.1 Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.

#### **Number of directors**

7.1 Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum but shall not be less than one.

#### **Appointment and removal of directors**

***Without prejudice to any other provision of the Articles, the holder or holders from time to time of a majority of the ordinary shares of the Company may either appoint or remove a director at any time by notice in writing delivered to the registered office of the Company.***

***In any case where, as a result of death or bankruptcy, the company has no shareholders and no directors, the transmittee(s) of the last shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person (including a transmittee who is a natural person), who is willing to act and is permitted to do so, to be a director.***

#### **Appointment and removal of alternate directors**

***Any director (appointor) may appoint as an alternate any other director, or any other person approved by resolution of the directors, to:***

- exercise that director's powers; and
- carry out that director's responsibilities,

in relation to the taking of decisions by the directors, in the absence of the alternate's appointor.

***Any appointment or removal of an alternate must be effected by notice in writing to the company signed by the appointor, or in any other manner approved by the directors.***

#### ***The notice must:***

- identify the proposed alternate; and
- in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

## **Rights and responsibilities of alternate directors**

***An alternate director may act as alternate director to more than one director and has the same rights in relation to any decision of the directors as the alternate's appointor.***

***Except as the Articles specify otherwise, alternate directors:***

- are deemed for all purposes to be directors;
- are liable for their own acts and omissions;
- are subject to the same restrictions as their appointors; and
- are not deemed to be agents of or for their appointors

and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member.

***A person who is an alternate director but not a director:***

- may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
- may participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision, but does not participate); and
- shall not be counted as more than one director for the purposes of articles 10.3.(a) and 10.3.(b).

***A director who is also an alternate director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the directors (provided that his appointor is an eligible director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present.***

***An alternate director may be paid expenses and may be indemnified by the company to the same extent as his appointor but shall not be entitled to receive any remuneration from the company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the company.***

## **Termination of alternate directorship**

***An alternate director's appointment as an alternate terminates:***

- when the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate;
- on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
- on the death of the alternate's appointor; or
- when the alternate's appointor's appointment as a director terminates.

## **Secretary**

12.1 The directors may appoint any person who is willing to act as the secretary and may also appoint one or more persons to act as a deputy secretary. Each such appointment shall be for such term, at such remuneration and upon such conditions as the directors may think fit. The directors may from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

## **Decision making by shareholders**

### **Poll votes**

***A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.***

***Article 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that article.***

## **Proxies**

14.1 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that article.

## **Administrative arrangements**

### **Means of communication to be used**

***Any notice, document or other information shall be deemed served on or delivered to the intended recipient:***

- **if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);**
- **if properly addressed and delivered by hand, when it was given or left at the appropriate address;**
- **if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and**
- **if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.**

For the purposes of this article, no account shall be taken of any part of a day that is not a working day.

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

## **Indemnity**

***Subject to article 16.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:***

- each relevant officer shall be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:
- in the actual or purported execution and/or discharge of his duties, or in relation to them; and
- in relation to the company's (or any associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act), including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the company's (or any associated company's) affairs; and
- the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 16.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

***This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.***

***In this article:***

- companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- a "relevant officer" means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act) but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

## **Insurance**

***The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.***

***In this article:***

- a "relevant officer" means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor);
- a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company; and
- companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

## **APPENDIX 3 - DRAFT RULES OF THE CHARITY**

**DRAFT RULES OF THE CHARITY**

**RULES OF  
H & F HOUSING LIMITED  
REGISTER NO: IPxxxxxR**

**Registered under the Industrial and Provident  
Societies Act, 1965**

***Based on the National Housing Federation Model Rules 2005***

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**PART 1****NAME AND OBJECTS**

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**Name**

1.1 The name of the society shall be **H & F Housing Limited** (the “association”).

**Objects**

1.2 The association is formed for the benefit of the community. Its objects shall be to carry on and for the benefit of the community:

- a. the business of provision of social housing and affordable housing, providing and managing housing and matters connected with or incidental to providing housing (including but not limited to the maintenance, improvement or provision of public amenities, the promotion of public safety and prevention of crime and the provision of recreational facilities), in each case for poor people or for the relief of aged, disabled, (whether physically or mentally), or chronically sick people.
- b. any other charitable object that can be carried out from time to time by an Industrial and Provident Society registered as a provider of social housing with the Regulator.

**Non-profit**

1.3 The association shall not trade for profit.

1.4 Nothing shall be paid or transferred by way of profit to shareholders of the association.

**PART 2****POWERS OF ASSOCIATION, BOARD, AND SHAREHOLDERS**

---

**Powers**

2.1 The association shall have power to do anything that a natural or corporate person can lawfully do which is necessary or expedient to achieve its objects, except as expressly prohibited in these rules.

2.2 Without limiting its general powers the association shall have power to:

- a. purchase, take or grant any interest in land, or construct or carry out works to buildings;
- b. help any charity or body not trading for profit in relation to housing;
- c. subject to rule 6.15 borrow money or issue loan stock and enter into swap transactions for the purposes of the association on such terms and on such security including floating charges as the association thinks fit; and
- d. subject to rule 6.20 invest the funds of the association.

2.3 The association shall not have power to receive money on deposit in any way which would require authorisation under any statute unless it has such authorisation.

## **Powers of the board**

- 2.4 The business of the association shall be directed by the board.
- 2.5 Apart from those powers which must be exercised in general meeting: by statute; or under these rules all the powers of the association may be exercised by the board for and in the name of the association.
- 2.6 The board shall have power to delegate, in writing, the exercise of any of its powers to committees or to an officer or an employee on such terms as it determines. Such delegation may include any of the powers and discretions of the board.

## **Limited powers of shareholders in general meeting**

- 2.7 The association in general meeting can only exercise the powers of the association expressly reserved to it by these rules or by statute.

## **General**

- 2.8 The certificate of an officer of the association that a power has been properly exercised shall be conclusive as between the association and any third party acting in good faith.
- 2.9 A person acting in good faith who does not have actual notice of these rules or any of the association's regulations shall not be concerned to see or enquire if the board's powers are restricted by any of those rules or regulations.
- 2.10 The association shall at all times take into consideration the principles of equality of opportunity irrespective of age, gender, race, nationality, ethnic origin, religion, sexual orientation or disability.

## **PART 3**

## **THE BOARD**

---

### **Functions**

- 3.1 The association shall have a board (in these rules referred to as the "board") which shall direct the affairs of the association in accordance with its objects and rules and ensure that its functions are properly performed. Amongst its functions shall be to:
- a. define and ensure compliance with the values and objectives of the association;
  - b. establish policies and plans to achieve those objectives;
  - c. approve each year's accounts prior to publication and approve each year's budget;
  - d. establish and oversee a framework of delegation and systems of control;
  - e. agree policies and make decisions on all matters that create significant financial risk to the association or which affect material issues of principle;
  - f. monitor the association's performance in relation to these plans, budget, policies, controls and decisions;

- g. appoint (and if necessary remove) the chief executive (if any);
- h. satisfy itself that the association's affairs are conducted in accordance with generally accepted standards of performance and propriety; and
- i. take appropriate advice where necessary.

### Composition of the board

- 3.2 The board shall consist of **[seven]** board members or of such other number of board members as may from time to time be determined by the parent.
- a. Without prejudice to rule 3.4, **four** members of the board shall be parent board members appointed in accordance with rule 3.13.
  - b. Up to **two** members of the board shall be resident board members elected in accordance with rule 3.15 unless there are no residents willing and able to serve as a resident board member in accordance with these rules in which case rule 3.8 shall apply.
  - c. **One** board member shall be an independent board member appointed in accordance with rule 3.17 who shall also be the Chair.
- 3.3 The board shall in its annual report set out the obligations of every board member to the board and to the association. The board shall review and may amend the obligations of board members from time to time.
- 3.4 No board member may act as such until they have signed and delivered to the board a statement, confirming that they will meet their obligations to the board and to the association. The board may vary the form of statement from time to time.
- 3.5 No one can become or remain a board member at any time if:
- a. they are disqualified from acting as a director of a company for any reason; or
  - b. except in respect of parent board members, they have absented themselves from four consecutive meetings of the board without special leave of absence from the board; or
  - c. they are, or may be, suffering from mental disorder and they are 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
  - d. they are, or may be, suffering from mental disorder and an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for their detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to their property or affairs; or
  - e. any performance contract or similar agreement entered into by such member

with any group member is terminated; or

- f. they are a resident and cease to be a resident; or
- g. they are a resident and they are in the opinion of the board in breach of their tenancy agreement, lease or license with the relevant group member and they fail to rectify the breach within 90 days of receiving written notice from the relevant group member informing them of the breach and, at the end of such notice period, the board resolves that they should cease to be a shareholder; or
- h. they are a board member other than a resident board member and they become a resident; or
- i. they are the independent board member and they become a resident or a local authority person; or
- j. they have been convicted of an indictable offence within the last five years; or
- k. they are an employee or elected representative of the parent (in the case of a parent board member) and that employment or office is terminated for any reason; and any board member who at any time ceases to qualify under this rule shall immediately cease to be a board member.

3.6 A board member may resign by giving a written notice of resignation to the secretary.

3.7 Except in the case of a board member appointed by the parent, a member of the board may be removed by a resolution passed at a quorate board meeting by two thirds of those board members present:

- a. at least fourteen days notice of the proposed resolution has been given to all board members, and
- b. the notice sets out in writing the alleged breach(es) of the member's obligations in accordance with rule 3.3, and
- c. the board is satisfied that the allegation(s) is or are true; and
- d. the parent has approved the calling of the meeting.

3.8 Whenever the number of board members is less than permitted by these rules, the board may with the written consent of the parent appoint a further board member (subject to the limits contained in rule 3.2). Any board member so appointed shall retire at the next annual general meeting.

### **Election and Appointment to the board**

3.9 Each board member (with the exception of the parent board members) shall be elected or appointed for a fixed term.

- 3.10 No board member may be appointed for a term which, when aggregated with previous consecutive terms, amounts to a continuous period of office as a board member exceeding 9 years. A board member's performance contract may specify a lower term. At the end of such term the board member shall retire from office.
- 3.11 A board member who, at the expiry of their term of office, has continuously held office for the maximum period stated in rule 3.10 shall not be eligible for re-appointment until the expiry of 12 months from the date they cease to be a board member. Any other board member who retires from office at the expiry of their term of office shall be eligible for re-appointment subject to any restrictions contained in these rules or in any performance contract or similar agreement.
- 3.12 The shareholders shall endeavour to ensure that the board possesses the quality, skills and experience which the association has from time to time determined that it requires.
- 3.13 Without prejudice to rule 3.14, the parent shall have the right to appoint four persons as parent board members. Any vacancies occurring among parent board members shall be filled by the parent. Appointments or withdrawals shall be made in writing to the secretary.
- 3.14 The parent may from time to time by notice to the association remove from office any or all of the members of the board appointed by it pursuant to rule 3.13. Any such notice shall be in writing and may be signed by any authorised representative of the parent and shall take effect on and from the time at which it is received at the registered office of the association or is handed to the chairman of any meeting of the board.
- 3.15 Resident board members shall be elected to the board in accordance with any policy decided by the board from time to time.
- 3.16 The secretary shall announce the results of the elections of resident board members at or before each relevant annual general meeting and the residents so elected shall be duly appointed as resident board members with effect from the end of that annual general meeting and without further formality.
- 3.17 The board shall select and appoint one independent board member in accordance with rules 3.17A to 3.17C. For this purpose an independent board member is a board member who is not:
- a. a resident; or
  - b. a local authority person; or
  - c. a member of or an employee of a group member.
- 3.17A Whenever it is the intention of the board to appoint an independent board member it shall not be permitted to do so unless it has notified the parent of the same in writing. In the event that, within 60 days of such notice the parent provides the association with details of at least three candidates which it considers suitable for the position, then the board must either:
- a. select one of those candidates to be the independent board member; or

- b. if, acting reasonably, the board does not consider any of the candidates suitable for the position, give an additional notice to the parent in writing stating the same.
- 3.17B In the event that a notice has been given in accordance with rule 3.17A(b) and within 60 days of such notice the parent provides the association with details of at least three different candidates which is considers suitable for the position, then the board must select one of those candidates to be the independent board member unless, acting reasonably, the board does not consider any of the candidates suitable for the position, in which case the board may put in place such arrangements for the identification and appointment of the independent board member as they see fit.
- 3.17C If the parent does not give the association notice identifying candidates within the time periods set out in rule 3.17A and 3.17B the board may put in place such arrangements for the identification and appointment of the independent board member as they see fit.

### **Quorum for the board**

- 3.18 A quorum shall be present at a board meeting if at least **four** board members are present but only if more than half of the board members present are parent board members. The board with the written consent of the parent board members may determine a higher number or impose additional requirements.
- 3.19 Up to **31 March 2012**, the board members may act as the board notwithstanding that they are less than the number necessary for a quorum. Thereafter, if the number of the board members falls below the number necessary for a quorum, the remaining board members may continue to act as the board for the maximum continuous period of six months and the provisions in rule 3.18 shall to the extent necessary to give effect to the foregoing be suspended for that time. At the end of that time the only power that the board may exercise shall be to call a general meeting of the association to bring the number of the board members up to that required by these rules.
- 3.20 At any board meeting, if the meeting becomes inquorate the meeting shall be adjourned until a later date, time and place approved by the chair of the meeting. An adjourned board meeting is a continuation of the original board meeting and can only deal with matters adjourned from the original board meeting.

### **Board members' interests**

- 3.21 No board member or member of a committee or officer shall have any financial interest:
- a. personally; or
  - b. as a member of a firm; or
  - c. as a director or other officer of a business trading for profit; or
  - d. in any contract or other transaction with any group member, unless it is expressly permitted by these rules or by law.
  - e. in any other way whatsoever.

- 3.22 Subject to rule 3.28, the association shall not pay or grant any benefit to anyone who is a board member or a member of a committee or an officer, unless it is expressly permitted by these rules and by law.
- 3.23 Any board member or member of a committee, having an interest in any arrangement between the association and someone else shall disclose their interest, before the matter is discussed by the board or any committee. Unless the interest is of a type specified in rule 3.24, the board member shall not remain present unless requested to do so by the board or committee, and they shall not have any vote on the matter in question. Any decision of the board or of a committee shall not be invalid because of the subsequent discovery of an interest which should have been declared.
- 3.24 Provided the interest has been properly disclosed pursuant to rule 3.23, a board member or member of a committee may remain present during the discussion and may vote on the matter under discussion where the interest arises:
- a. because the board member or member of a committee is a resident so long as the matter in question affects all or a substantial group of residents; or
  - b. because the board member or member of a committee is a board member, director or officer of a group member.
- 3.25 Furthermore, a board member or member of a committee shall not be treated as having an interest of which the board member or member of a committee has no knowledge and of which it is unreasonable to expect him to have knowledge or in respect of the establishment of a policy in relation to expenses payable under rule 3.28(a).
- 3.26 If requested by a two thirds majority of the board or members of a committee at a meeting convened specially for the purpose, a board member or member of the committee failing to disclose an interest as required by these rules shall vacate their office either permanently or for a period of time.
- 3.27 Every board member and member of a committee shall ensure that the secretary at all times has a list of all other bodies in which they have an interest as:
- a. director or officer or member; or
  - b. a member of a firm; or
  - c. an official or elected member of any statutory body; or
  - d. the owner or controller of more than two percent of a company the shares in which are publicly quoted or more than ten percent of any other company;
  - e. any property owned or managed by the association which they own or occupy; or
  - f. any other significant or material interest which in each case would or could affect any arrangement with the association or any other group member.
- 3.28 The association may:
- a. pay properly authorised expenses to board members and members of committees when actually incurred on the association's business; and



- b. pay insurance premiums in respect of insurance taken out to insure officers against the cost of a successful defence to a criminal prosecution brought against them as officers or against personal liability incurred in respect of any act or omission which is or is alleged to be a breach of trust or breach of duty;
  - c. pay remuneration, fees, allowances or recompense for loss of earnings to board members and members of committees; and
    - d. grant benefits to board members and members of committees,  
provided that any such payment or benefit is lawful and is made or granted with the written consent of the parent.
- 3.29 A board member appointed by the parent is not obliged to disclose to the association any information regarding or relating to the parent that he obtains in this capacity as an employee, officer or a board member of the parent. Furthermore a board member appointed by the parent may disclose to the parent any information he obtains as a board member of the association provided such disclosure does not conflict with the interests of the association.

### **Meetings of the board**

- 3.30 The board shall meet at least three times every calendar year. At least three days' written notice of the date and place of every board meeting shall be given by the secretary to all board members. The board may meet on shorter notice where not less than two thirds of the board members so agree.
- 3.31 Meetings of the board may be called by the secretary, or by the chair, or by two board members who give written notice to the secretary specifying the business to be carried out. The secretary shall send a written notice to all board members as soon as possible after receipt of such a request. If the secretary fails to call such a meeting then the chair or two board members, whichever is the case, shall call such a meeting. Any such notice or communication sent by post shall be deemed to have arrived two days after being sent and any sent by fax or electronic communication shall be deemed to have been served when received, provided that, in respect of a fax, it is legible and, in the case of an electronic communication, it is in a readable form.

### **Management and delegation**

- 3.32 The board may delegate any of its powers under written terms of reference to committees or to an officer or employee. Those powers shall be exercised in accordance with any written instructions given by the board.
- 3.33 The membership of any committee shall be determined by the board. Every committee shall include one board member. The board will either appoint the chair of any committee or determine a procedure for the committee to appoint its own chair. The board shall specify the quorum of each committee.
- 3.34 All acts and proceedings of any committee shall be reported to the board.

- 3.35 No committee can incur expenditure on behalf of the association unless at least one board member of the board on the committee has voted in favour of the resolution or the board has previously approved a budget for the relevant expenditure.

### **Miscellaneous provisions**

- 3.36 All decisions taken at a board or any committee meeting in good faith shall be valid even if it is discovered subsequently that there was a defect in the calling of the meeting, or in the appointment of the members at a meeting.
- 3.37 A resolution in writing sent to all board members or all members of a committee and signed by three quarters of the board members or by three quarters of the members of that committee (as the case may be) shall be as valid and effective as if it had been passed at a properly called and constituted meeting of the board or that committee and may consist of documents in the same form and signed by one or more persons and may be evidenced by letter, electronic communication in writing (or by any other means which the board may approve from time to time).
- 3.38 Meetings of the board or a committee can take place in any manner and through any medium which permits those attending to hear and comment on the proceedings and whether or not all are assembled in one place
- *3.42 Notice may be given to board members by post or fax or electric communication at the last address for such communication given to the secretary. The accidental failure to give notice to a board member or the failure of the board member to receive such notice shall not invalidate the proceedings of the board.*

## **PART 4**

## **CHAIR, CHIEF EXECUTIVE, SECRETARY AND OTHER OFFICERS**

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### **The chair**

- 4.1 The association shall have a chair, who shall also chair board meetings, and shall be appointed under rule 4.2. The association may also have a deputy chair who shall, in the chair's absence, chair board meetings and who shall be appointed by the board from the parent board members.
- 4.2 The chair shall be the independent board member appointed pursuant to rule 3.17 and shall hold office until the earlier of:
- a. the date on which the chair resigns as chair;
  - b. the date on which the chair ceases to be a board member; or
  - c. the first board meeting held following the expiry of three years after the chair was elected by the board.
- 4.3 A chair who has held office for a consecutive period of nine years or more shall not be capable of being re-elected as chair.

- 4.4 The first item of business for any board meeting when there is no chair or the chair is not present shall be to elect the chair. In the case of any equality of votes, the chair shall not have a casting vote.
- 4.5 The chair of the association may be removed at a quorate board meeting called for the purpose provided the resolution is passed by at least two thirds of the members of the board present and voting at the meeting.

#### **The chair's responsibilities**

- 4.6 The chair shall seek to ensure that:
- a. the board's business and the association's general meetings are conducted efficiently;
  - b. all board members are given the opportunity to express their views;
  - c. a constructive working relationship is established with, and support provided for, the chief executive (if any).

#### **The chief executive**

- 4.7 The association may have a chief executive appointed by the board. The chief executive shall be appointed on a written contract of employment, which shall include a clear statement of the duties of the chief executive.

#### **The secretary**

- 4.8 The association shall have a secretary who shall be appointed by the board. The secretary shall in particular:
- a. summon and attend all meetings of the association and the board and keep the minutes of those meetings; and
  - b. keep the registers and other books determined by the board; and
  - c. make any returns on behalf of the association to the Financial Services Authority; and
  - d. have charge of the seal of the association; and
  - e. be responsible for ensuring the compliance of the association with these rules.

#### **Miscellaneous**

- 4.9 Every officer shall be indemnified by the association for any amount reasonably incurred in the discharge of their duty.
- 4.10 Except for the consequences of their own dishonesty or negligence or of breach by them of their performance contract or similar agreement with the association no board member or officer shall be liable for any losses suffered by the association.

**Obligations of shareholders**

- 5.1 All shareholders agree to be bound by the obligations on them as set out in these rules. When acting as shareholders they shall act at all times in the interests of the association and, for the benefit of the community, as guardians of the objects of the association.

**Nature of shares**

- 5.2 The association's share capital shall be raised by the issue of shares. Each share has the nominal value of one pound which shall carry no right to interest, dividend or bonus.
- 5.3 Shares shall not be capable of transfer.
- 5.4 When a shareholder ceases to be a shareholder or is expelled from the association, their share shall be cancelled. The amount paid up shall become the property of the association.

**Nature of shareholders**

- 5.5 A shareholder of the association is a person or body whose name and address is entered in the register of shareholders. The shareholders shall be:
- a. the parent; and
  - b. the chair of the board from time to time and
  - c. ***[For Decision]***
- 5.6 The following cannot be or become shareholders:
- a. a minor;
  - b. [any person who is not also a board member other than the parent;]
  - c. an employee of any group member; and
  - d. in the case of a body corporate, a body which is in liquidation or the subject of an administration order or has a receiver and/or manager appointed over all or any of its assets or is subject to an agreement with its creditors generally.
- 5.7 A corporate body who is a shareholder can appoint an individual to exercise its rights at general meetings and may revoke such appointment. Any such appointment or revocation shall be in writing, and shall take effect on being given to the secretary. A representative shall be entitled to speak at the meeting at which they are entitled to vote. For all purposes, including the execution or signature of any appointment of a proxy, resolution in writing, notice or other document (including electronic communications) executed, signed or approved by a corporate body, the signing by an authorised representative of that corporate body shall be deemed to be and shall be accepted as signing by that body corporate.

5.8 No shareholder shall hold more than one share.

5.9 A share cannot be held jointly.

### **Admission of shareholders**

5.10 Subject to rule 5.6, the board shall make such appointments of shareholders as are required from time to time in order to give effect to rule 5.5, and will not appoint any other shareholders.

5.11 An applicant for a share shall apply in writing to the association's registered office enclosing the sum of one pound (which shall be returned to them if the application is not approved).

5.12 Every application to become a shareholder shall be considered by the board in accordance with rule 5.10. The board shall not admit as a shareholder any person other than as stated in rule 5.10. If the application is approved the name of the applicant and the other necessary particulars shall be entered in the register of shareholders.

### **Ending of shareholding**

5.13 A shareholder shall cease to be a shareholder if:

- a. they die; or
- b. they are expelled under rule 5.14; or
- c. they withdraw from the association by giving one month's notice to the secretary; or
- d. except in the case of the parent, they do not participate in, nor deliver written apologies in advance to, a general meeting of the association in the period starting with one annual general meeting up to and including the next annual general meeting; or
- e. except in the case of the parent, the association serves notice on the shareholder asking them to indicate within a period (not being less than 3 months) whether they wish to remain a shareholder and they fail to reply within such period; or
- f. in the case of a body corporate it ceases to be a body corporate; or
- g. they become ineligible to be a shareholder under rule 5.6; or
- h. they are a resident and they are in the opinion of the board in breach of their tenancy agreement, lease or licence with the relevant group member and they fail to rectify the breach within 90 days of receiving written notice from the relevant group member informing them of the breach and, at the end of such notice period, the board resolves that they should cease to be a shareholder; or
- i. in the case of a person who has been the chair of the board and/or a parent board member, that person ceases to hold that position; or

### **Expulsion of a shareholder**

- 5.14 All shareholders except the parent may be expelled. This must be through a special resolution at a special general meeting called by the board.
- a. The board must give the shareholder at least one month's notice in writing of the general meeting. The notice to the shareholders must set out the reasons for the proposed expulsion and must request the shareholder to attend the meeting to respond to the reasons given in the notice.
  - b. At the general meeting called for this purpose the shareholders shall consider the evidence presented by the board and by the shareholder (if any). The meeting may take place even if the shareholder does not attend.
  - c. If the resolution to expel the shareholder is passed in accordance with this rule, the shareholder shall immediately cease to be a shareholder.

### **Annual general meeting**

- 5.15 The association shall hold a general meeting called the annual general meeting within six calendar months after the close of each of its financial years or such later date as may be permitted by law.
- 5.16 The functions of the annual general meeting shall be:
- a. to receive:
    - the revenue accounts and balance sheets for the last accounting period
    - the auditor's report (if one is required by law) on those accounts and balance sheets
    - the board's report on the affairs of the association
  - b. to appoint the auditor (if one is required by law);
  - c. to transact any other general business of the association set out in the notice convening the meeting including any business that requires a special resolution.

### **Special general meetings**

- 5.17 All general meetings other than annual general meetings shall be special general meetings and shall be convened either:
- a. upon an order of the board;
  - b. upon a written requisition signed by an authorised representative of the parent; or
  - c. upon a written requisition signed by 3 of the shareholders stating the business for which the meeting is to be convened.
- 5.18 If within twenty-eight days after delivery of a requisition to the secretary a meeting required under rule 5.17 is not convened, the shareholders who have signed the

requisition may convene a meeting.

- 5.19 A special general meeting shall not transact any business that is not mentioned in the notice convening the meeting.

### **Calling a general meeting**

- 5.20 All general meetings shall be convened by at least fourteen clear days' written notice (or, with the written consent of all the shareholders, such other period of written notice as the shareholders agree) posted or delivered or sent by fax or electronic communication to every shareholder at the address, fax number or electronic address shown in the share register. The notice shall state whether the meeting is an annual or special general meeting, the time, date and place of the meeting, and the business for which it is convened.
- 5.21 Any accidental failure to get any notice to any shareholder (including any accidental failure to send it), shall not invalidate the proceedings at that general meeting. A notice or communication sent by post to a shareholder at their address shown in the register of shareholders shall be deemed to have arrived two days after being posted and any sent by fax or electronic communication shall be deemed to have been served when received provided, in respect of a fax, it is legible and, in respect of an electronic communication, it is in a readable form.

### **Proceedings at general meetings**

- 5.22 Before any general meeting can start its business there must be a quorum present. A quorum is present if:
- a. at least **two** shareholders are present in person or by an authorised representative or by proxy; and
  - b. the parent is present by an authorised representative or by proxy (and the parent shall count towards the number of shareholders specified in rule 5.22(a)).
- 5.23 A meeting held as a result of a shareholders' requisition will be dissolved if too few shareholders are present half an hour after the meeting should begin.
- 5.24 All other general meetings with too few shareholders will be adjourned to the same day, at the same time in the following week at the association's registered office. If the shareholders present half an hour after the time the adjourned meeting should have started are less than as stated in rule 5.22, those shareholders present shall carry out the business of the meeting.
- 5.25 The chair of any general meeting can:
- a. take the business of the meeting in any order that the chair may decide; and
  - b. adjourn the meeting if the majority of the shareholders present in person or by proxy agree. An adjourned meeting can only deal with matters adjourned from the original meeting. An adjourned meeting is a continuation of the original meeting. The date of all resolutions passed is the date they were passed (as opposed to the date of the original meeting). There is no need to give notice of an adjournment or to give notice of the business to be transacted.

- 5.26 At all general meetings of the association the chair of the board shall preside. If there is no such chair or if the chair is not present or is unwilling to act, the deputy chair (if any) shall chair the meeting, failing which the shareholders present shall elect a shareholder to chair the meeting.

### **Proxies**

- 5.27 Any shareholder entitled to attend and vote at a meeting is entitled to appoint another person (whether or not a shareholder) as their proxy to attend and vote instead of them. A proxy can be appointed by delivering a written appointment to the registered office or such other place as may be selected by the board and stated in the notice calling the meeting at least two days before the date of the meeting at which the proxy is authorised to vote. It must be signed by the shareholder or a duly authorised attorney. Any proxy form delivered late shall be invalid. Any question as to the validity of a proxy shall be determined by the chair of the meeting whose decision shall be final.

### **Voting**

- 5.28 Subject to the provisions of these rules or of any statute, a resolution put to the vote at a general meeting shall, except where a ballot is demanded or directed or is required by these rules, be decided upon a show of hands.
- 5.29 On a show of hands every shareholder present in person and on a ballot every shareholder present in person or by proxy shall have one vote save that the share held by the parent shall entitled it to not less than 40% of the votes capable of being cast on any resolution. In the case of an equality of votes the chair of the meeting shall not have a second or casting vote.
- 5.30 Unless a ballot is demanded (either before or immediately after the vote), a declaration by the chair that a resolution on a show of hands has been carried or lost, unanimously or by a particular majority, is conclusive. An entry made to that effect in the book containing the minutes of the proceedings of the association, shall be conclusive evidence of that fact.
- 5.31 Any question as to the acceptability of any vote whether tendered personally or by proxy, shall be determined by the chair of the meeting, whose decision shall be final.
- 5.32 A ballot on a resolution may be demanded by the parent or any three shareholders at a meeting (in person or by proxy) or directed by the chair (and such demand or direction may be withdrawn). A ballot may be demanded or directed after a vote on the show of hands, and in that case the resolution shall be decided by ballot.
- 5.33 A ballot shall be taken at the meeting at such time and in such manner as the chair shall direct. The result of such a ballot shall be deemed to be the resolution of the association in general meeting.
- 5.34 A resolution in writing signed by every shareholder entitled to attend and vote at general meetings shall be as valid and effective as a resolution passed at such meeting. Such resolution may comprise more than one document in the same form each signed by one or more shareholders.



**Auditor**

- 6.1 The association if required by law shall appoint a firm of auditors to act in each financial year. They must be qualified as provided by Section 7 of the Friendly and Industrial and Provident Societies Act 1968 as amended by the Companies Act 1989.
- 6.2 The following cannot act as auditor:
- a. an officer or employee of the association;
  - b. a person employed by or employer of, or the partner of, an officer or employee of the association.
- 6.3 Subject to rule 6.1 and to rule 6.4, an auditor must be appointed by resolution at a general meeting.
- 6.4 The board may appoint an auditor to fill a casual vacancy.
- 6.5 Where an auditor is appointed to audit the accounts for the preceding year, they shall be re-appointed to audit the current year's as well unless:
- a. a general meeting has appointed someone else to act or has resolved that the auditor shall not act; or
  - b. the auditor does not want to act and has told the association so in writing; or
  - c. the person is not qualified or falls within rule 6.2; or
  - d. the auditor has become incapable of acting; or
  - e. notice under rule 6.5(a) of intention to pass a resolution to appoint another auditor, or that the auditor shall not act, has been given.
- 6.6 Not less than twenty eight days' notice shall be given for a resolution to appoint another person as auditor, or to forbid a retiring auditor being re-appointed.
- 6.7 The association shall send a copy of the resolution to the retiring auditor and also give notice to its shareholders at the same time and in the same manner, if possible.
- 6.8 If it is not possible to give the notice referred to in rule 6.7 as specified in that rule, the association shall give notice by advertising in a local newspaper at least 14 days before the proposed meeting. The retiring auditor can make representations to the association which must be notified to its shareholders under Section 6 of the Friendly and Industrial and Provident Societies Act 1968.

**Auditor's duties**

- 6.9 The findings of the auditor shall be reported to the association, in accordance with Section 9 of the Friendly and Industrial and Provident Societies Act 1968.

- 6.10 The board shall produce the revenue account and balance sheet audited by the auditor, (if required by law) and the auditor's report (if required by law) at each annual general meeting. The board shall also produce its report on the affairs of the association which shall be signed by the person chairing the meeting which adopts the report.

### **Accounting requirements**

- 6.11 The end of the accounting year must be a date allowed by the Financial Services Authority.
- 6.12 The association shall keep proper books of account detailing its transactions, its assets and its liabilities, in accordance with Sections 1 and 2 of the Friendly and Industrial and Provident Societies Act 1968.
- 6.13 The association shall establish and maintain satisfactory systems of control of its books of account, its cash and all its receipts and payments.

### **Annual returns and balance sheets**

- 6.14 Every year, within the time period specified by legislation, the secretary shall send the association's annual return to the Financial Services Authority. The return shall be up-to-date to the time specified in the Act, or such other date allowed by the Financial Services Authority, and shall be lodged within the period allowed by law. The annual return shall be accompanied by the auditor's report (if required by law) for the period of the return and the accounts and balance sheets to which it refers.

### **Borrowing**

- 6.15 The total borrowings of the association at any time shall not exceed £1,000,000,000 (one billion pounds sterling).
- 6.16 In respect of any proposed borrowing, for the purposes of rule 6.15, in relation to the amount remaining un-discharged of any deferred interest or index-linked monies or amounts on any deep discounted security previously borrowed by the association the amount of borrowing shall be deemed to be the amount required to repay such borrowing in full if such pre-existing borrowing became repayable in full at the time of the proposed borrowing; and
- 6.17 For the purposes of rule 6.15 in respect of any proposed borrowing intended to be on deferred interest or index-linked terms or on any deep discounted security the amount of borrowing shall be deemed to be the proceeds of such proposed borrowing receivable by the association at the time of the proposed borrowing; and
- 6.18 No person dealing in good faith shall be concerned to know whether rule 6.15 or this rule have been complied with.

### **Investment**

- 6.19 The funds of the association may be invested by the board in such manner as it determines.

**Registered office and name**

7.1 The association's registered office is:

Hammersmith & Fulham Town Hall Extension  
King Street  
London  
W6 9JU

7.2 The association's registered name must:

- a. be placed prominently outside every office or place of business; and
- b. be engraved on its seal (if any); and
- c. be stated on its business letters, notices, adverts, official publications, cheques and invoices.

**Disputes**

7.3 Any dispute on a matter covered by the rules shall be dealt with in the County Court if the dispute is between:

- a. the association and an officer; or
- b. the association and a shareholder; or
- c. the association and a person claiming to be a shareholder; or
- e. the association and a person who was a shareholder in the last six months.

7.4 Alternatively, such dispute can be resolved by an arbitrator appointed by both parties to the dispute. If the parties do not agree on the choice of arbitration or the arbitrator the dispute shall be dealt with in the County Court.

7.5 The arbitrator's decision is binding. No appeal is allowable. No court of law can alter it, but it can be enforced by a County Court.

7.6 The arbitrator's decision on the costs of the arbitration is binding.

**Minutes, seal, registers and books**

7.7 The minutes of all general meetings, and all board and committee meetings shall be recorded, agreed by the relevant subsequent meeting and signed by whoever chairs the meeting and kept safe.

7.8 The secretary shall keep the seal (if any). It shall not be used except under the board's authority. The affixing of the seal must be attested by the signatures of one board member and the secretary or in such other way as the board resolves. The board may in the alternative authorise the execution of deeds in any other way permitted.

- 7.9 The association must keep at its registered office:
- a. the register of shareholders showing:
    - the names and addresses of all the shareholders; and
    - a statement of all the shares held by each shareholder and the amount paid for them; and
    - a statement of other property in the association held by the shareholder; and
    - the date that each shareholder was entered in the register of shareholders.
  - b. a duplicate register of shareholders showing the names and addresses of shareholders and the date they became shareholders.
  - c. the names and addresses of the officers, their offices and the dates on which they assumed those offices as well as a duplicate.
  - d. a register of holders of any loan.
  - e. a register of mortgages and charges on land.
  - f. a copy of the rules of the association.
- 7.10 The association must display a copy of its balance sheet and auditors report (if required by law) from its latest annual audited accounts at its registered office.
- 7.11 The association shall give to all shareholders on request copies of its last annual return with the auditor's report (if required by law) on the accounts contained in the return, free of charge.
- 7.12 The secretary shall give a copy of the rules of the association to any person on demand who pays such reasonable sum as permitted by law.

### **Statutory applications to the Financial Services Authority**

- 7.13 The parent or [two] other shareholders can apply to the Financial Services Authority to appoint an accountant to inspect the books of the association, provided all of them have been shareholders of the association for a twelve month period immediately before their application.
- 7.14 The shareholders may apply to the Financial Services Authority in order to get the affairs of the association inspected or to call a special general meeting. One hundred shareholders, or one-tenth of the shareholders, whichever is the lesser, must make the application.

### **Amendment of rules**

- 7.15 The rules of the association may be rescinded or amended but not so as to stop the association being a charity.

- 7.16 Subject to rules 7.15 and 7.17, the rules of the association may only be amended by a resolution put before a general meeting by the board and where each amendment has previously been approved by at least two thirds of the board members voting on such approval.
- 7.17 Rules 1.2; 1.3; 1.4; 2.1; 2.2; 2.3; 5.2; 5.3; 3.18; 3.30; 7.15 and 7.20 can only be amended or rescinded by three fourths of the votes cast at a general meeting. Any other rule can be rescinded or amended by two thirds of the votes cast at a general meeting.
- 7.18 Amended rules shall be registered with the Financial Services Authority as soon as possible after the amendment has been made. An amended rule is not valid until it is registered.

## **Dissolution**

- 7.19 The association may (but only with the consent of the parent) be dissolved by a three fourths majority of shareholders who sign an instrument of dissolution in the form prescribed by Treasury Regulations; or by winding-up under the Act.
- 7.20 Any property that remains, after the association is wound-up or dissolved and all debts and liabilities dealt with, the shareholders may resolve to give or transfer to a charitable body with objects similar to those of the association who has been approved by the parent.

## **PART 8**

## **INTERPRETATION OF TERMS**

### **Interpretation of terms**

- 8.1 In these rules, including this rule, unless the subject matter or context are inconsistent:-
- 8.1.1 words importing the singular or plural shall include the plural and singular respectively;
- 8.1.2 words importing gender shall include the male and female genders;
- 8.1.3 any reference to an Act shall include any amendment or re-enactment from time to time and references to any provision in any Act shall include reference to such provision (and to any orders or regulations made under such provision) in each case as from time to time amended, varied, replaced, extended or re-enacted. Any reference to the Financial Services Authority or the Central Office includes reference to their statutory successor carrying the relevant functions of any of them;
- 8.1.4 "Act" shall mean the Industrial and Provident Societies Acts 1965 to 2002;
- 8.1.5 "amendment of rules" shall include the making of a new rule and the rescission of a rule, and "amended" in relation to rules shall be construed accordingly;
- 8.1.6 "association" shall mean the association of which these are the registered rules;

- 8.1.7 “authorised representative” means in relation to a corporate body any person who appears to any officer of the association (acting reasonably and in good faith) to have been authorised by that corporate body;
- 8.1.8 “board” shall mean the board appointed in accordance with Part 3 and “board member” or “member of the board” shall mean a member of the board for the time being;
- 8.1.9 “chair” shall, save in rule 4.1, and where applicable, include the deputy chair;
- 8.1.10 “group” means at any time all entities which are at that time group members;
- 8.1.11 “group member” means the association, each subsidiary of the association, any associate of the association, any body corporate of which the association is a subsidiary and any subsidiary of such body corporate; and for this purpose “associate” and “subsidiary” have the meanings given by the Friendly and Industrial and Provident Societies Act 1968 and/or the Housing Act 1996 and/or the Companies Acts 1985 to 2006;
- 8.1.12 “independent board member” means a member of the board appointed by the board in accordance with rule 3.17;
- 8.1.13 “local authority person” means a member, officer or employee of the parent;
- 8.1.14 “officer” shall if the context permits include the chair and secretary of the association and any board member for the time being;
- 8.1.15 “the parent” means Hammersmith & Fulham, a London borough council, its office being at Town Hall Extension, King Street, London W6 9JU
- 8.1.16 “parent board member” means a board member appointed by the parent in accordance with rule 3.13 and “parent board members” shall be construed accordingly;
- 8.1.17 “property” shall include all real and personal estate (including loan stock certificates, books and papers);
- 8.1.18 “register of shareholders” means the register kept in accordance with rule 7.9;
- 8.1.19 “resident” means a person who alone or jointly with others occupy premises owned and/or managed by any group member for residential use;
- 8.1.20 “resident board member” means a board member elected in accordance with rule 3.15 and “resident board members” shall be construed accordingly;

- 8.1.21 "secretary" means the officer appointed by the board to be the secretary of the association;
- 8.1.22 "services agreement" means any agreement to which the managing agents are a party and which relates to any property in respect of which the association has an interest;
- 8.1.23 "shareholder" shall mean one of the persons referred to in rule 5.5 and means "member" as defined by the Act;
- 8.1.24 "special resolution" means a resolution at a general meeting passed by a two thirds majority of all votes capable of being cast at any general meeting in person or by proxy;
- 8.1.25 "swap transaction" has the meaning given in the definition of "swap transaction" appearing in the 2006 ISDA Definitions as amended from time to time but for the avoidance of doubt shall include a retail prices (or other published index) transaction and any contract for differences (as defined in the glossary in The Full Handbook as published by the Financial Services Authority, from time to time)."
- 8.1.26 "these rules" shall mean the registered rules of the association for the time being;
- 8.1.27 "Hammersmith & Fulham" means the administrative area from time to time of the parent.
- 8.1.28 "social housing" has the meaning given to it in sections 68 and 77 of the Housing and Regeneration Act 2008;
- 8.1.29 "Regulator" means the body defined as the Office for Tenants and Social Landlords in, and constituted under, Part 2 of the Housing and Regeneration Act 2008 or any statutory successor to or assignee of any or all of its relevant functions from time to time.

**INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1965**

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**Acknowledgement of Registration of Society**

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Register No. ....

is this day registered under the Industrial and Provident Societies Act 1965.

---

Dated **(Seal of Central Office)**

Copy kept  
**Financial Services Authority  
Central Office**

---

1.....Shareholder

2.....Shareholder

3.....Shareholder

4.....Secretary



## **APPENDIX 4 - DRAFT INTER-GROUP AGREEMENT**

**DRAFT INTER-GROUP AGREEMENT**

**DATED**

**2011**

*THE LONDON BOROUGH OF HAMMERSMITH & FULHAM*

**- and -**

**H & F HOUSING LIMITED**

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*INTRA-GROUP AGREEMENT*

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THIS AGREEMENT is dated the

2011

**BETWEEN:**

- (1) **The London Borough of Hammersmith & Fulham** (the **Parent**); and
- (2) **H & F Housing Limited** an industrial and provident society and an exempt charity (number IP XXXXXX) (the **Charity**).

**RECITALS**

- (1) The Charity has been established with objects *inter alia* of the provision of social housing and affordable housing, providing and managing housing and matters connected with or incidental to providing housing.
- (2) The Parent has agreed to provide substantial financial and other support to the Charity to enable it to deliver on its objects.
- (3) Although the detailed terms of any support to be provided by the Parent to the Charity will be separately documented it is an absolute condition of the Parent that before any financial or other support is provided, the Charity enters into this Agreement.

**IT IS AGREED as follows:**

**1. INTERPRETATION**

***In this Agreement the following words and phrases shall bear the following meanings:***

<b>Anniversary</b>	means an anniversary of the date of this Agreement.
<b>Board</b>	means the Board of the Charity which has responsibility for the direction of the Charity's business (or as it may be renamed from time to time).
<b>Business Day</b>	means a day (other than a Saturday or Sunday) on which the Parent's offices are open for business.
<b>Business Plan</b>	means the business plan (incorporating a budget and financial forecast) of the Charity approved by its Board and by the Parent from time to time.
<b>Management Agreement</b>	means any agreement from time to time between the Charity and the Company who agrees to provide any management services to the Charity.
<b>Competent Authority</b>	means the Financial Services Authority, the Department for Communities and Local Government, the HCA, the Tenant Services Authority (otherwise Office for Tenants and Social Landlords), the Audit Commission, National Audit Office, HM Revenue & Customs and the Charity Commission or any successor body or any other body with statutory or regulatory authority over the Parties or any person whose consent is required under any deed or agreement which is binding on either Party.

<b>Devco</b>	H&F Developments Limited (company number [ ]).
<b>Group</b>	means collectively all of the Group Members.
<b>Group Member</b>	means the Parent, the Charity and Devco together with any other entity which is from time to time a Subsidiary of the Charity or Devco.
<b>HCA</b>	means the Homes and Communities Agency or any successor organisation.
<b>HCA Agreement</b>	means any agreement from time to time between the Charity and the HCA under which the HCA agrees to provide any form of financial assistance to the Charity.
<b>Parent Funding Agreement</b>	means an agreement between the Parent and the Charity from time to time under which the Parent agrees to provide financial assistance to the Charity.
<b>Party</b>	means a body which is from time to time a party to this Agreement.
<b>SLA</b>	means a service level agreement between the Parent and the Charity for the provision of services by the Parent to the Charity.
<b>Subsidiary</b>	means an incorporated or unincorporated body which is from time to time a subsidiary within the meaning of Companies Act 2006 section 1159 (whether or not the relevant body is incorporated under that Act) and/or is a subsidiary within Section 15 of the Friendly and Industrial and Provident Societies Act 1968.

#### *Interpretation*

##### ***In this Agreement where the context so permits:***

Words denoting the singular shall include the plural and vice versa, words denoting the masculine gender shall include the feminine gender and vice versa and words denoting persons shall include corporations.

Reference to any statutory provisions or instruments shall be deemed to include reference to any such provisions or instruments as from time to time amended, varied, replaced, extended or re-enacted and to any orders or regulations under such provisions.

References to a clause or a schedule shall be deemed to be references to a clause or a schedule to this Agreement and references to a sub-clause shall be deemed to be references to a sub-clause of the clause in which the reference appears.

A reference to a person includes its successors, transferees and assigns.

No partnership shall be created by virtue of this Agreement which would result in any Party becoming jointly and severally liable for the obligations of another.

Clause headings are included for ease of reference only and shall not affect this Agreement or the interpretation hereof.

a. *GROUP STRUCTURE*

**Group Member Status**

It is the intention of the Parties that they shall be treated as a group for the purpose of generally accepted accounting principles.

**Obligations of Charity.**

The Charity undertakes to the Parent that it will act at all times in the best interests of the Group except to the extent this might conflict:

1. with charity law and regulations; or
2. with the requirements of any Competent Authority; or
3. directly with the interests of the Charity,

provided that nothing in this Agreement of itself requires the Charity to offer financial assistance to any other Group Member.

Notwithstanding anything contained in this Agreement, the Charity cannot be obliged to take any action or refrain from taking any action which is not permitted by, or otherwise in accordance with, its charitable objects from time to time.

**3. BUSINESS PLANNING**

- 3.1 In each calendar year, the Parent shall prepare a revised draft Business Plan in consultation with the Charity and will consider any reasonable revisions requested by the Charity. Promptly after the Business Plan has been prepared, the Charity will arrange for its Board to consider its approval and adoption (such approval and adoption not to be unreasonably withheld or delayed) and adopt it. Each draft Business Plan will be accompanied by a commentary on any significant variations from the last approved Business Plan.
- 3.2 Any Business Plan must demonstrate that, amongst other things, the Charity can meet all of its obligations to the Parent and other Group Members and to funders and its other contractual commitments from its own resources and must comply with all relevant legislation and regulations.
- 3.3 Until a new Business Plan is adopted by the Charity, the Charity shall continue to comply with the latest Business Plan approved by the Parent and the Charity.
- 3.4 The Charity shall use all reasonable endeavours to implement its Business Plan and shall not take any action not anticipated or incorporated in the Business Plan without the prior consent of the Parent.

**4. GENERAL INFORMATION**

- 4.1 The Charity will:
  - a) provide such relevant information as may be requested by the Parent as to the performance of the Charity in relation to strategic policy, delivery and performance, financial matters and generally;

- b) provide promptly all information upon any aspect of its affairs requested from time to time by the Parent including, without limitation, any information relevant to the preparation and audit of its accounts and, if applicable, the consolidation of its accounts with those of other Group Members as applicable;
- c) co-operate fully with any investigations into its affairs initiated by the Parent or by any Competent Authority from time to time;
- d) consult the Parent and keep the Parent informed, in respect of the housing needs of the area(s) of operation of the Charity so as to enable the Parent to submit bids for financial assistance to public sector bodies; and
- e) co-operate with the Parent in relation to the preparation of all applications and bids to public sector bodies for financial assistance for the Charity and information required by any of these bodies in respect of delivery of the Charity's programmes, in accordance with the Parent's timetable and as approved by the Parent.

## 5. RESOLUTION OF DISPUTES

- 5.1 All matters of disagreement under this Agreement should be resolved by negotiation and discussion between the Parties. The procedure set out in clause 5.3 should only be applied in exceptional circumstances.
- 5.2 Each Party shall use its best endeavours to apply the terms of this Agreement without the necessity for recourse to the following provisions of this clause 5.
- 5.3 In the event that any dispute or other failure to agree shall arise between the Parties which cannot be resolved by negotiation and discussion within 30 days, the Parent and the Charity shall observe the following procedure for the resolution of the dispute:
  - a) A representative acting under the authority of either Party may serve on the other Party (a **Receiving Party**) a dispute notice (a **Dispute Notice**). Any Dispute Notice shall state the subject matter of the dispute and shall specify the proposals of the Party serving the notice for the resolution of the dispute.
  - b) Within 14 days after the date of service of a Dispute Notice, and if the proposals for resolution set out in the Dispute Notice are not acceptable to the Receiving Party, the Receiving Party shall serve a counter notice or the first Party specifying its proposals for the resolution of the dispute and specifying a date (which shall be not less than 14 nor more than 28 days after the service of the counter notice) for a meeting to resolve the dispute (a **Dispute Counternotice**).
  - c) The meeting referred to in clause 5.3(b) shall be attended by one senior representative of each Party and shall be held at the office of the Parent or at some other place to be agreed between the Parties.
  - d) Those persons present at such meeting shall use their best endeavours in a reasonable manner to resolve the dispute between the parties.

## 6. CONFIDENTIALITY

- 6.1 ***Subject to clauses 6.2 or 6.3, the Parent and the Charity shall not, and each shall use all reasonable endeavours to ensure that none of their respective employees, agents, contractors or consultants will make any public statement or disclosure about the specific terms of this Agreement without the prior written consent of the other parties.***

**6.2 Clause 6.1 will not apply to any statement or disclosure which:**

- a) is required in order to comply with any law or the requirements of any court or tax authority or Competent Authority; or
- b) is made to bankers, funders and professional advisers of the disclosing Party who are subject to an equivalent obligation of confidentiality; or
- c) relates to information which is already in the public domain otherwise than through a breach of this Agreement.

**6.3 The Parent is authorised by the Charity, in carrying out its functions under this Agreement and in fulfilling its role as Parent of the Group, to discuss matters relating to the Charity with any Competent Authority and any other third parties.**

**7. REVIEW AND VARIATIONS**

- 7.1 It is anticipated by the Parent and the Charity that it is their overall aim and intention to co-operate for the benefit of the Group as a whole and that, in order to do so, the provisions of this Agreement may from time to time require amendment.
- 7.2 The Parent and the Charity agree that the Director of Housing of the Parent, or some other person duly authorised by the Parent, shall formally review the operation of this Agreement at intervals of not more than 12 months, and shall report on it to the Parent and to the Board of the Charity. The Parent and/or the Charity may thereupon propose to the other that a variation be made to this Agreement. In such an event the Parent and the Charity shall negotiate in good faith with a view to reaching agreement upon the variation proposed.
- 7.3 In the event of a variation being agreed, it shall be recorded in writing in a supplemental agreement to this Agreement.

**8. ASSIGNMENT**

- 8.1 The Parent may assign any of its rights and obligations under this Agreement in such manner as it deems fit subject to it complying with its legal obligations in relation to confidentiality provided that prior to doing so it shall consult with the Charity.
- 8.2 The Charity may not assign its rights or obligations under this Agreement without the prior written consent of the Parent.

**9. SEVERANCE**

- 9.1 If any provision of this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid, unlawful or unenforceable this shall not in any way impair or affect the validity, lawfulness or enforceability of any other provision of this Agreement which shall remain in full force and effect.

**10. WAIVER**

- 10.1 Failure by any Party at any time to enforce the provisions of this Agreement or to require performance by the other Party of any of the provisions of this Agreement shall not be construed as a waiver of any such provision and shall not affect the validity of the Agreement or any part thereof or the right of either Party to enforce any provision in accordance with its terms.



## **11. NOTICES**

11.1 Every notice, request or other communication shall:

- a) be in writing delivered personally or by prepaid first-class letter or any other written communication;
- b) be deemed to have been received, in the case of a letter, when delivered personally or 48 hours after it has been sent by first-class post or, in the case of a fax or e-mail, on receipt of a legible copy by the recipient provided that any letter sent by fax, e-mail or personally which arrives after business hours or on a day which is not a Business Day shall be deemed to have been served at opening of business on the next Business Day; and
- c) be sent: to the other Party in accordance with its respective details stated at the end of this Agreement or to such other address or fax number and/or marked for the attention of such other person in England as may be notified in writing by the relevant Party to the other Party by not less than 15 days' notice.

## **12. TERM OF AGREEMENT**

12.1 This Agreement will remain in force for a term of 100 years or, if earlier, until the Charity ceases to be a Subsidiary of the Parent. Before this agreement ends the Parent may produce a new agreement and request the Charity to enter into it under clause 16.1

## **13. COUNTERPARTS**

13.1 This Agreement may be executed in any number of counterparts, and on the same shall have the same effect as if the various signatures on the counterparts were on a single copy.

## **14. AGREEMENT TO PREVAIL**

14.1 If there is an inconsistency between any of the provisions of this Agreement and the provisions of any Parent Funding Agreement or any other agreement entered into between the Charity and the Parent, the provisions of this Agreement shall prevail.

## **15. LAW**

15.1 This Agreement shall be governed by, and construed in accordance with, English law.

## **16. COVENANTS**

### **16.1 Positive covenants**

The Charity covenants with the Parent that subject to clause 2.2 it will:

- a) **Comply with all best practice recommendations in regard to housing, financial or similar matters and comply with all advice of Competent Authorities;**
- b) **Give all due consideration to the entry by the Charity into any agreement or arrangement which the Parent determines is necessary or expedient to give effect to and implement the Charity's strategic objectives, policies and Business Plan, in each case in a form provided or approved by the Parent, unless the Charity (acting reasonably) has obtained independent**

**advice to the effect that the agreement or arrangement cannot lawfully be entered into or implemented;**

- c) Comply with all laws, regulations and regulatory standards and expectations applicable to it;**
- i) Comply with all agreements, covenants, restrictions, deeds and documents to which it is party or which bind it or any of its assets;**
- j) Use its reasonable endeavours to achieve any objectives set out in the Business Plan;**
- k) Set and may from time to time revise a procedure setting out the processes to be followed and factors to be taken into account when recruiting and appointing resident board members and the independent board member to the Board of the Charity (the Appointment Process). The adoption of and each amendment to the Appointment Process must be agreed by the Parent; and**
- l) Comply with the Appointment Process when identifying the skills, qualities and experience which it requires from its Board Members and when filling any vacancy.**

#### **16.2 Permitted activities**

The Charity covenants with the Parent that its activities will be limited to:

- a) The acquisition, construction, development, refurbishment, holding, management and maintenance of properties in the City of Westminster for use as homes for people who are charitable beneficiaries;**
- b) The provision of services and activities which benefit the people referred to in clause 16.2(a) (and which may also benefit third parties) provided that such provision is a charitable activity;**
- c) Any activity which in the reasonable opinion of the Charity is ancillary or incidental to the activities referred to in clauses 16.2(a) and 16.2(b) and is charitable; and**
- d) Any other charitable activity which is agreed by the Parent and is permitted by the Charity's rules.**

#### **16.3 Negative Covenants**

The Charity covenants with the Parent that it will not, in each case unless (a) the Parent has given its specific consent or (b) the relevant matter is included in or specifically anticipated by the latest Business Plan of the Charity which has been approved by the Parent:

- a) Acquire or form any Subsidiary, associate, affiliate or related company or enter into any merger, amalgamation or consolidation or joint venture or partnership;**
- b) Cease or threaten to cease to carry on all or a material part of its business or make any substantial change in the scope or nature of its business or operations or any material disposal of its assets or any gift or donation exceeding £25,000 in any year;**

- c) Enter into any loan or any transaction having the commercial effect of a borrowing (whether as lender or borrower) or any derivative or contract for differences or investment;
- d) Enter in to any transaction (including any agreement) which is outside the ordinary course of the Charity's business under which the amount payable or receivable (when aggregated with the amount payable or receivable under other related transactions) exceeds £[50,000];
- e) Consider at its Board any report which has not been approved by a duly authorised representative of the Parent;
- f) Change the Charity's accounting reference date, registered office, auditors, secretary or bankers;
- g) Pay remuneration to its Board members. This will not prevent reimbursement of costs and expenses incurred by its Board or committee members to the extent permitted by its rules and by charity law;
- h) Appoint any employees or consultants;
- i) Enter into any development agency agreement or building contract or other documents relating to developments, refurbishment, repair management or maintenance;
- j) Delegate any of its powers or functions to any committee or officer otherwise than in accordance with the standing orders and/or terms of reference previously approved by the Parent;
- k) Appoint any contractors, advisers or consultants other than from a panel approved by the Parent from time to time;
- l) Take any action which could bring it or any Group Member into disrepute;
- m) Terminate, vary or waive its rights under any Management Agreement, HCA Agreement, Parent Funding Agreement, SLA or any other key contracts or any agreement or document entered into under them;
- n) Adopt or implement any strategic objectives and policies (including without limitation policies for management of housing stock);
- o) Make amendments to its strategic objectives, policies, standing orders, procedures and terms of reference; or
- p) Appoint or remove auditors.

#### **16.4 Mergers etc**

***The Charity covenants with the Parent that, unless an authorised representative of the Parent agrees otherwise and unless a Competent Authority so requires unless it is required by law, it shall not and shall take such steps as are open to it to endeavour to ensure that none of its shareholders or Board members will:***

- a) Requisition or join in any requisition for any general meeting or otherwise convene a general meeting for the purpose (with or without other purposes) of passing a resolution (i) for the transfer of engagements of the Charity to another body or (ii) for the amalgamation

**of the Charity with another body or (iii) for the winding up of the Charity or (iv) for its conversion to a company or (v) to amend its rules or (vi) which would have the effect that the Charity ceases to be a Subsidiary of the Parent; or**

- b) Vote in favour of any such resolution at any general meeting of the Charity; or**
- c) Execute any instrument of dissolution in respect of the Charity**

**IN WITNESS** whereof this Agreement has been duly signed by or on behalf of the Parties hereto and is hereby delivered on the date hereof.

**SIGNATORIES**

**SIGNED** by \_\_\_\_\_ )

For and on behalf of \_\_\_\_\_ )

**THE LONDON BOROUGH OF HAMMERSMITH & FULHAM** \_\_\_\_\_ )

Address for notices: [3<sup>rd</sup> Floor, Town Hall, Extension, King Street, London W6 9JU ]

E-mail address:

Fax number:

Notices for attention of: [ ]

**SIGNED** by \_\_\_\_\_ )

For and on behalf of \_\_\_\_\_ )

**H & F HOUSING LIMITED** \_\_\_\_\_ )

Address for notices: [3<sup>rd</sup> Floor, Town Hall Extension, King Street, London W6 9JU]

E-mail address:

Fax number:

Notices for attention of: [ ]

**APPENDIX 5 - DRAFT BOARD MEMBER  
UNDERTAKINGS**

## DRAFT BOARD MEMBER UNDERTAKINGS

To: **H & F Housing Limited** of Town Hall Extension, King Street London W6 9JU  
(Industrial and provident society and exempt charity, Number: IPxxxxxx) (the  
**Charity**)

I, [name of board member] of [address] hereby undertake to the Charity as follows:

### 1. Definitions

In this undertaking

**Associated Corporation** means any company, corporation, industrial and provident society, partnership, or other entity, which is directly or indirectly controlled by, or directly or indirectly controls the Charity together with any other bodies to which I may have been nominated or appointed by the Charity.

**Board** means the Board of management from time to time of the Charity and Board Member means a member of the Board.

**Code of Conduct** means the Charity's code of conduct for directors as varied from time to time by the Charity, a copy of which may be obtained from the Charity's human resources department.

**Devco** H&F Developments Limited (company number [ ])

**Group** means the Parent, the Charity and Devco together with any other entity which is from time to time a Subsidiary of the Charity or Devco (each a **Group Member**).

**Intra Group Agreement** Means the intra group agreement between the Parent and the Charity dated # 2011 as amended or restated from time to time.

**Parent** means The London Borough of Hammersmith & Fulham

**Rules** means the rules adopted by the Charity from time to time.

### 2. Appointment

2.1 I will serve as a Board Member of the Charity until my appointment as a Board Member comes to an end in accordance with the Rules.

### 3. Time commitment

3.1 I will allocate sufficient time to meet the requirements of my role. I will obtain the agreement of the Board before I accept additional commitments that might affect the time I am able to devote to my role as a member of the Board.

**4. Role/duties**

4.1 I acknowledge that I have the same general legal responsibilities to the Charity as any other Board Member (whether executive or non-executive).

4.2 I acknowledge that the Board as a whole is collectively responsible for ensuring the success of the Charity and ensuring its compliance with all legal and regulatory obligations and best practice and that it upholds its reputation, values and objectives by directing and supervising the Charity's affairs and carrying out the further functions set out in Rule 3.1.

a. In addition to contributing to the Board meeting these responsibilities I agree that, together with the other non-executive members of the Board, I will:

i. **Risk:** satisfy myself that financial controls and systems of risk management for the Charity are in place and are robust and defensible; and

ii. **Performance:** support the performance of the Charity in meeting the objectives set in accordance with the Intra Group Agreement, and monitor that performance and the reporting of it and

iii. **Strategy:** constructively contribute to the setting, adoption and achievement of the Charity's strategy and

iv. **Support Services:** satisfy myself that appropriate levels of internal and external support services are in place to effectively manage the Charity's business, agree appropriate levels of payments for these services and participate in decisions relating to the appointment and where necessary replacement of staff (if applicable) and such service providers.

4.3 I understand that it is a condition of the continued support by the Parent for the Charity that I give the undertaking contained within this clause and I therefore further undertake as a Board Member to comply with and act in a manner consistent with the terms of the Intra Group Agreement and not act or vote in a



way which would conflict with the Intra Group Agreement, the terms of which will prevail in the event of any conflict with this Agreement.

4.4 I further undertake:

- a. to participate in agreeing, and to comply with and uphold, the Charity's policies, procedures, standing orders and terms of reference in force from time to time;
- b. to act within and comply with the Rules;
- c. to contribute to, abide by and share responsibility for decisions of the Board and/or any committee of the Board of which I am from time to time a member;
- d. to attend induction, training and performance review sessions and other such sessions or events as are reasonably required by the Charity;
- e. to regularly attend meetings of the Board and other relevant committees;
- f. to read Board and/or committee papers (as applicable) before meetings;
- g. to represent the Charity when requested;
- h. to comply with and uphold the Charity's Code of Conduct, Equal Opportunities Policy and the National Housing Federation's Code for Members;
- i. not to take any action that would bring any Group Member into disrepute, or would undermine its work;
- j. to ensure that decisions taken by the Board are in the Charity's best interests and not to take any action which would constitute a breach by the Charity with its legal, moral and contractual obligations;
- k. to receive and consider reports prepared by staff of any Group member and by agents, consultants and advisers and to question these to ensure that recommendations are well founded; and
- l. to comply with any other obligations set by the Charity from time to time in writing.

**5. Outside interests**

5.1 I will declare any relevant direct or indirect interests or conflicts of interest whenever required by the Rules or the Code of Conduct.

**6. Confidentiality**

6.1 I will treat all information acquired during my appointment as confidential to the Charity and will not release it either during my appointment or following termination (by whatever means) to third parties without prior clearance from the Board.

**7. Review process**

7.1 I will participate in an annual appraisal review of my performance as an individual Board member.

**8. Position on Termination**

8.1 Upon the termination of my appointment as a Board Member:

- a. I will at the request of the Charity immediately resign from all offices that I hold by virtue of being a Board Member, including any office in any Associated Corporation where the Charity requests this. In this event, I will if relevant, take all steps necessary to transfer ownership of any shareholding in the Charity and/or any Associated Corporation without claim for compensation. In the event of my failure to comply with this clause, I hereby irrevocably authorise the Charity to appoint someone in my name and on my behalf to sign and deliver such resignations or transfers to the Charity and to each relevant Associated Corporations; and
- b. I shall not represent myself as being in any way connected with the Charity or any Associated Corporation.

**9. Declaration**

9.1 I am not aware of any reasons that would or would be likely to make me ineligible to serve as a Board Member of the Charity.

**Signed**

**Board member**

**Date**

**APPENDIX 6 - DRAFT CHAIR'S AGREEMENT FOR  
SERVICES**

**DRAFT CHAIR'S AGREEMENT FOR SERVICES**

*Dated*

*[2011]*

**H & F HOUSING LIMITED**

**and**

**[NAME OF CHAIR]**

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**Draft 22.02.2011**

**Chair of the Board: Agreement for Services**

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Dated this [                    ]                    day of                    [                    ]                    2011.

## Parties

- (A) **H & F Housing Limited** of Town Hall Extension, King Street London W6 9JU (I&P Number: IPxxxxxx)  
(the **Charity**)
- (B) **[Insert name and address of Chair of the Board]**  
(**you**)

## Definitions

It is agreed as follows.

<b>Agreement</b>	<b>means this Agreement as may be amended, modified or supplemented from time to time in accordance with its provisions.</b>
<b>Associated Corporation</b>	means any company, corporation, industrial and provident society, partnership, or other entity, which is directly or indirectly controlled by, or directly or indirectly controls the Charity together with any other bodies to which you may have been nominated or appointed by the Charity. <b>Associated Corporations</b> shall be construed accordingly.
<b>AGM</b>	<b>means an annual general meeting of the Charity.</b>
<b>Board</b>	means the Board of directors from time to time of the Charity.
<b>Board Member</b>	means a member of the Board.
<b>Business</b>	means the business of the Charity from time to time.
<b>Code of Conduct</b>	means the Charity's code of conduct for directors as varied from time to time by the Charity a copy of which may be obtained from the Charity's human resources department.
<b>Devco</b>	H&F Developments Limited (company number [                    ])
<b>Group</b>	means collectively all of the Group Members.
<b>Group Member</b>	means the Parent, the Charity and Devco together with any other entity which is from time to time a Subsidiary of the Charity or Devco.
<b>Intra Group Agreement</b>	Means the intra group agreement between the

	Parent and the Charity dated # 2011 as amended or restated from time to time.
<b>Members</b>	means the members of the Charity from time to time.
<b>Parent</b>	means The London Borough of Hammersmith & Fulham.
<b>Rules</b>	means the rules or articles and memorandum of association or such other governing instrument which governs the Charity (as the case may be) adopted by the Charity from time to time.
<b>Services</b>	means the services supplied by you hereunder.

## Appointment

### 3.1 Appointment and Renewal of Appointment as Board Member

Your appointment on the terms of this Agreement was approved at the meeting of the Board held on [date] and will commence [forthwith] [from [insert date]] (the Board Member Appointment Date).

Your appointment will be for an initial term [**of 3 years**] commencing on the Appointment Date and expiring on [date] unless otherwise terminated earlier as provided for by the terms of this Agreement or in accordance with the Rules (the Board Member Expiry Date).

Your appointment as Board Member may be renewed for successive terms of up to **3 years** at the discretion of the Board subject to a maximum of **9 years** from the original Board Member Appointment Date and in accordance with the Rules.

### 3.2 Appointment and Renewal of Appointment as Chair

a) The Board has appointed you to act as Chair of the Board on the terms of this Agreement and your appointment as Chair will commence [forthwith] [from [insert date]] (the Chair Appointment Date).

b) Your appointment as Chair will be for an initial term [**of 3 years**] commencing on the Chair Appointment Date and expiring on [date] unless otherwise terminated earlier as provided for by the terms of this Agreement or in accordance with the Rules (Chair Expiry Date).

c) Your appointment as Chair may be renewed for successive terms of up to **9 years** at the discretion of the Board subject to a maximum of **6 years** from the original Chair Appointment Date and in accordance with the Rules.

3.3 Nothing contained in this Agreement shall be construed or have effect as constituting any relationship of employer and employee between the Charity and you.

## 4 Termination

#### 4.1 Termination as a Board Member

4.1.1 Your appointment both as Board Member and as Chair will terminate forthwith without any entitlement to compensation on the earliest of:

- a) the Board Member Expiry Date in accordance with clause 3.1; or
- b) if you are removed as a member of the Board by special resolution passed at a general meeting of the Charity held in accordance with the Rules and in particular subject to the provisions contained within rules 3.8 and 5.22; or
- c) if you cease to be a member of the Board whether by reason of your vacating office or otherwise pursuant to any provision of the Rules; or
- d) if a body with the statutory authority to regulate the activities of the Charity requires or orders your removal; or
- e) if the Board (with the agreement of the Parent) notifies you that they consider there has been a material underperformance at any time in the performance of your duties under this Agreement or that you have been in breach of Clause 8 of this Agreement or the Code of Conduct.

#### 4.2 Termination as Chair only

4.2.1 Your appointment as Chair of the Board will terminate forthwith without any entitlement to compensation on the earliest of:

- a) the Chair Expiry Date in accordance with clause 3.2;
- b) the date of your resignation as Chair of the board;
- c) the date of a Board meeting (called for the purpose) at which a resolution for your removal as Chair of the Board is passed by at least two thirds of the members of the Board who are present and voting under Rule 4.5(a) of the Rules;
- d) the date of termination of your appointment as Board Member as provided for at clause 4.1 above.

### 5 Time commitment

5.1 You will perform those duties normally attendant on the office of Board Member and Chair including, without limitation, those duties set out at clause 0. You are expected to work with and through the Board; you are not expected to undertake executive duties or to assume executive responsibilities. In addition, you will be a member of the following committees of the Board, namely [insert as appropriate].

5.2 By entering into this Agreement you confirm that you are able to allocate sufficient time to meet the requirements of your role. The agreement of the Board should be sought before you accept additional commitments that might affect the time you are able to devote to your role both as a member of the Board and Chair.

## 6 Role/duties

- 6.1 You acknowledge that you have the same general legal responsibilities to the Charity as any other Board Member (whether executive or non-executive).
- 6.2 The Board as a whole is collectively responsible for ensuring the success of the Charity and ensuring its compliance with all legal and regulatory obligations and best practice and upholds its reputation, values and objectives by directing and supervising the Charity's affairs and carrying out the further functions set out in Rule 3.1.
- 6.3 In addition to these responsibilities of the Board your role, together with the other non-executive members of the Board, has the following key elements:
  - a) **Strategy:** You should constructively contribute to the setting, adoption and achievement of the Charity's strategy;
  - b) **Performance:** You should support the performance of the Charity in meeting the objectives set in accordance with the Intra Group Agreement, and monitor that performance and the reporting of it;
  - c) **Risk:** You should satisfy yourself that financial controls and systems of risk management for the Charity are in place and are robust and defensible; and
  - d) **Support Services:** You should satisfy yourself that appropriate levels of internal and external support services are in place to effectively manage the Charity's business, agree appropriate levels of payments for these services and participate in decisions relating to the appointment and (where necessary) replacement of staff (if necessary) and such service providers.
- 6.4 You understand that it is a condition of the continued support by the Parent to the Charity that you give the undertaking contained in this clause and therefore you further undertake as a Board Member of the Charity, to comply with and act in a manner consistent with the terms of the Intra Group Agreement and not act or vote in a way which would conflict with the Intra Group Agreement, the terms of which will prevail in the event of any conflict with this Agreement.
- 6.5 You undertake:
  - a) to participate in agreeing, and comply with and uphold, the Charity's policies, procedures, standing orders and terms of reference in force from time to time;
  - b) to act within and comply with the Rules;
  - c) to contribute to, abide by and share responsibility for decisions of the Board and/or any committee of the Board of which you are from time to time a member;
  - d) to attend induction, training and performance review sessions and other such sessions or events as are reasonably required by the Charity;
  - e) to regularly attend meetings of the Board and other relevant committees



as referred to at clause 5.1.

- f) to read Board and/or committee papers (as applicable) before meetings;
- g) to represent the Charity when requested;
- h) to comply with and uphold the Charity's Code of Conduct, Equal Opportunities Policy and the National Housing Federation's Code for Members;
- i) not to take any action which would bring any Group Member into disrepute or would undermine its work,
- j) to ensure that decisions taken by the Board are in the Charity's best interests and not to take any action which would constitute a breach by the Charity with its legal, moral and contractual obligations;
- k) to receive and consider reports prepared by staff of any Group member and by agents, consultants and advisers and to question these to ensure that recommendations are well founded; and
- l) to comply with any other obligations set by the Charity from time to time in writing.

6.6 As Chair of the Board and in addition to your roles and duties as set out in clauses 6.1 to 6.5 above you further undertake such other duties as are set out in the Rules.

## **7 Fees**

- 7.1 You will be paid a fee of £xx,xxx gross per annum (**Fee**) in respect of your role as Chair which will be paid six monthly in arrears. You will be solely responsible for deduction of any applicable PAYE and Class 1 national insurance deductions in respect of your Fee and will indemnify the Charity against any liability in respect of these. The Fee will be subject to an annual review by the Board. In the event that your position as Chair (but not as Board Member) is terminated for whatever reason you acknowledge and agree that you will only be entitled to the appropriate pro rata Fee for the period you served as Chair and that in respect of your position as Board Member you will not be entitled to any Fee. The Charity will reimburse you for all reasonable and properly documented expenses you incur in performing the duties of your office subject to such deductions as are lawfully required.
- 7.2 In the event that you fail to attend 2 board meetings (including any meetings of sub-committees of the Board) within a period of 6 months and or fail to properly undertake your duties hereunder both as Chair and as Board Member the fee will be reduced by such amount as the Board in its absolute discretion determines, and such reduction shall be deducted from any subsequent fees owed. Further such failure will constitute a material breach of this Agreement.
- 7.3 You may choose to decline payment or pay it to a charity of your choice. However you must be aware that where you have done either you may face tax liabilities and/or loss of entitlement to state benefits. This is a matter that has to be resolved between you and the relevant authorities and the Charity is not able to give any guarantee in relation to this.

## **8 Outside interests**

- 8.1 You undertake that you will declare any relevant direct or indirect interests whenever required by the Rules or the Code of Conduct.
- 8.2 It is accepted and acknowledged that you have business interests other than those of the Charity. You agree that you have declared any conflicts that are apparent at present. In the event that you become aware of any actual or potential conflicts of interest, you agree that these will be disclosed to the Board as soon as one becomes apparent.

## **9 Confidentiality**

- 9.1 All information acquired during your appointment is confidential to the Charity and should not be released, either during your appointment or following termination (by whatever means), to third parties without prior clearance from the Board.

## **10 Review process**

- 10.1 Your performance as an individual board member and as Chair through the Board appraisal review the performance of the whole Board and its committees will be evaluated annually. If, in the interim, there are any matters which cause you concern about your role you should discuss them with the Board as soon as is appropriate. You are required to attend and participate in all performance reviews related to your individual performance as a member of Board, as Chair and the performance of the Board as a whole.

## **11 Insurance**

- 11.1 The Charity has officers' liability insurance in place and it is intended to maintain such cover for the full term of your appointment. The current indemnity limit is £5m; a copy of the policy document is available upon request.

## **12 Position on Termination**

- 12.1 Upon the termination of your appointment as a Board Member under this Agreement by whatever means:
  - a) You shall at the request of the Charity immediately resign from all offices that you hold pursuant to the terms of this Agreement, including any office in any Associated Corporation where we request this. In this event, if relevant, you will surrender, and undertake to take all steps that are necessary to transfer ownership of any shareholding in the Charity and/or any Associated Corporation. In each case you agree to do so without claim for compensation. In the event of your failure to comply with this clause 12.1, you hereby irrevocably authorise the Charity to appoint someone in your name and on your behalf to sign and deliver such resignation or resignations or surrenders or transfers (as the case may be) to the Charity and to each of its Associated Corporations of which you are at that time an officer or (as the case may be) shareholder; and
  - b) You shall not represent yourself as being in any way connected with the Charity or any Associated Corporation.

### **13 General**

- 13.1 This Agreement and any documents referred to in it embody and set out the entire agreement and understanding of the parties and supersedes all prior oral or written agreements understandings or arrangements relating to the subject matter of this Agreement. Neither party shall be entitled to rely on any agreement, understanding or arrangement which is not expressly set out in this Agreement.
- 13.2 This Agreement shall not be amended, modified, varied or supplemented except in writing signed by a duly authorised representative of the Charity.
- 13.3 No failure or delay on the part of either party hereto to exercise any right or remedy under this Agreement shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.

### **14 Notices**

- 14.1 Any notice to be given hereunder shall be in writing and be sufficiently served:
- a) in your case by being delivered either personally to you or sent by registered post addressed to you at your usual or last known place of abode; or
  - b) in the case of the Charity by being delivered at or sent by registered post or recorded delivery addressed to its registered office marked for the attention of the Board, and any such notice if so posted shall be deemed to be served on the second day following that on which it was posted.

### **15 Declaration**

- 15.1 By signing this document you are agreeing and declaring that you are not aware of any reasons that would or would be likely to make you ineligible to serve as a Board Member and as Chair of the Charity and in particular that:
- a) you are not bankrupt or subject to any agreement with your creditors;
  - b) you are not disqualified for any reason from acting as a company director or charity trustee;
  - c) you have not been convicted of any indictable offence that would be likely to bring the Charity into disrepute; and
  - d) you have made a full declaration to the Charity of any actual or potential conflicts of interest affecting you, members of your family and businesses or other companies with which you are associated.

### **16 Jurisdiction**

- 16.1 The terms of this Agreement shall be governed by the Laws of England and the parties agree to submit to this jurisdiction in the case of dispute.

**IN WITNESS** whereof the hands of the parties have executed this Agreement the day and year above written

**SIGNED** by )  
duly authorised on behalf of )  
**H & F HOUSING LIMITED** )  
in the presence of:- )

**SIGNED** by the )  
**[NAME OF CHAIR]** )  
in the presence of:- )