

Dated

2023

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY GUARANTEE
ARTICLES OF ASSOCIATION

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THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

LEWISHAM HOMES LIMITED (COMPANY NUMBER: 05887410) (the "Company")

(Adopted by special resolution passed on _____ 2023)

Interpretation, objects and limitation of liability

1 Interpretation

1.1 In these Articles, unless the context otherwise requires:

Act: means the Companies Act 2006;

Annual Business Plan: means the business plan which is approved by the Council's Authorised Officer as part of the Council's annual budgeting process in February of each year;

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

bankruptcy: includes insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

Business Day: means any day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business;

Conflict: means a situation in which a director has or can have, a direct or indirect interest that conflicts or possibly may conflict, with the interests of the Company;

Council: means the London Borough of Lewisham, Lewisham Council;

director: means a director of the Company and includes any person occupying the position of director, by whatever name called;

document: includes, unless otherwise specified, any document sent or supplied in electronic form;

electronic form: has the meaning given in section 1168 of the Act;

Eligible Director: means a director who would be entitled to vote on the matter at a meeting of directors (but excluding in relation to the authorisation of a Conflict pursuant to article 12, any director whose vote is not to be counted in respect of the particular matter);

Interested Director: has the meaning given in article 12.1;

Member: means a person whose name is entered in the Register of Members of the Company and **Membership** shall be construed accordingly; and

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

ordinary resolution: has the meaning given in section 282 of the Act;

participate: in relation to a director's meeting, has the meaning given in Model Article 10;

proxy notice: has the meaning given in Model Article 31;

special resolution: has the meaning given in section 283 of the Act;

subsidiary: has the meaning given in section 1159 of the Act;

writing: means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an **article** is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute or statutory provision shall include any subordinate legislation from time to time made under that statute or statutory provision.
- 1.6 Any word following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.
- 1.8 The following Model Articles shall not apply to the Company:
 - 1.8.1 1 (Defined terms);
 - 1.8.2 2 (Liability of Members);
 - 1.8.3 8 (Unanimous decisions);
 - 1.8.4 9(1) and (3) (Calling a directors' meeting);

- 1.8.5 11(2) and (3) (Quorum for directors' meeting);
 - 1.8.6 13 (Casting vote);
 - 1.8.7 14 (1), (2), (3) and (4) (Conflicts of interest);
 - 1.8.8 17(2) (Methods of appointing directors);
 - 1.8.9 21 (Applications for membership);
 - 1.8.10 30(2) (Poll votes);
 - 1.8.11 31(1)(d) (Content of proxy notices);
 - 1.8.12 35 (Company seals);
 - 1.8.13 38 (Indemnity);
 - 1.8.14 39 (Insurance).
- 1.9 Model Article 3 (Directors' general authority) shall be amended by the insertion of the words "in accordance with its objects" after the words "the management of the Company's business".
- 1.10 Model Article 7 (Directors to take decisions collectively) shall be amended by:
- 1.10.1 the insertion of the words "for the time being" at the end of Model Article 7(2)(a); and
 - 1.10.2 the insertion in Model Article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
 - 1.10.3 the insertion of the words at the end of Model Article 7(2) "A sole director shall be entitled to exercise all powers and discretions conferred on the directors by the Act or the Articles and that nothing in these Articles is to be construed as requiring the company to have more than one director".

2 **Object**

The object for which the Company is established is to:

- 2.1 acquire assets and provide, construct, improve or manage accommodation including temporary accommodation and to do anything ancillary to this activity to further support the business of the Company;
- 2.2 provide, manage, maintain, improve, demolish or convert the non-social housing stock owned or managed by the Council or by the Company from time to time together with any other amenities or facilities for the benefit of residents of such non-social housing stock;
- 2.3 provide amenities and services of any description for residents of non-social housing stock owned or managed by the Council or by the Company from time to time either exclusively or together with persons who are not residents of such non-social housing stock;

- 2.4 provide advice and assistance to all tenants, leaseholders, and licensees, of the Council or the Company and applicants for non-social housing advice in respect of the Council's housing;
 - 2.4.1 carry out any activity which contributes to regeneration or development including but not limited to:-
 - (a) securing that land and buildings are brought into effective use;
 - (b) contributing to or encouraging economic development;
 - (c) creating an attractive and safe environment;
 - (d) preventing crime or reducing the fear of crime;
 - (e) providing, constructing, managing, maintaining, demolishing or improving housing or social and recreational facilities for the purpose of encouraging people to live or work in the said area or for the purpose of benefiting people who live there;
 - (f) providing employment for local people;
 - (g) providing or improving training, educational facilities or health services for local people;
 - (h) assisting local people to make use of opportunities for education, training or employment; and
 - (i) meeting the special needs of local people which arise because of disability or because of their sex or the racial group to which they belong.
- 2.5 provide, construct, improve or manage housing (for sale on shared equity or shared ownership or other similar basis) or to be kept available for letting or hostels;
- 2.6 provide, manage, maintain or improve accommodation required from time to time for the benefit of persons who require temporary accommodation;
- 2.7 provide services of any description for the Council;
- 2.8 assess applicants for non-social housing;
- 2.9 assess applications by residents of non-social housing stock owned or managed by the Council to exercise the right to buy under Part V of the Housing Act 1985;
- 2.10 enabling or assisting any residents of the non-social housing stock owned or managed by either the Council or the Company to acquire, or to acquire and enter into occupation of, houses;
- 2.11 carry out any other business that may be carried out from time to time by a private company limited by guarantee that is also an arm's length management organisation, provided always that:

- 2.11.1 its operations shall be carried out primarily within those areas in which the Council owns or manages housing stock; and
- 2.11.2 from the date of adoption of the Articles, it obtains the Council's specific consent to carrying out any further business outside those areas prior to starting such further business.

3 Powers

- 3.1 In pursuance of the objects set out in article 2, the Company has the power to:
 - 3.1.1 buy, lease or otherwise acquire and deal with any property real or personal and any rights or privileges of any kind over or in respect of any property real or personal and to improve, manage, develop, construct, repair, sell, lease, mortgage, charge, surrender or dispose of or otherwise deal with all or any part of such property and any and all rights of the Company;
 - 3.1.2 borrow and raise money in such manner as the directors shall think fit and secure the repayment of any money borrowed, raised or owing by mortgage, charge, lien or other security on the Company's property and assets. The Company should only borrow with the agreement of its Members and within the parameters of the Agreed Business Plan;
 - 3.1.3 invest and deal with the funds of the Company not immediately required for its operations in or upon such investments, securities or property as may be thought fit;
 - 3.1.4 subscribe for, take, buy or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority in any part of the world;
 - 3.1.5 lend and advance money or give credit on such terms as may seem expedient and with or without security to customers and others, to enter into guarantees, contracts of indemnity and suretyships of all kinds to receive money on deposit or loan upon such terms as the Company may approve and to secure or guarantee the payment of any sums of money or the performance of any obligation by any company, firm or person including any holding company or subsidiary;
 - 3.1.6 lobby, advertise, publish, educate, examine, research and survey in respect of all matters of law, regulation, economics, accounting, governance, politics and/or other issues and to hold meetings, events and other procedures and co-operate with or assist any other body or organisation in each case in such way or by such means as may, in the opinion of the directors, affect or advance the principal object in any way;
 - 3.1.7 pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company and to contract with any person, firm or company to pay the same;
 - 3.1.8 enter into contracts to provide services to or on behalf of other bodies;

- 3.1.9 provide and assist in the provision of money, materials or other help;.
- 3.1.10 open and operate bank accounts and other facilities for banking and draw, accept, endorse, issue or execute promissory notes, bills of exchange, cheques and other instruments;
- 3.1.11 incorporate subsidiary companies to carry on any trade; and
- 3.1.12 do all such other lawful things as are incidental or conducive to the pursuit or to the attainment of any of the object set out in article 2.

4 Income

- 4.1 The income and property of the Company from wherever derived shall be applied solely in promoting the Company's objects.
- 4.2 No distribution shall be paid or capital otherwise returned to the Members in cash or otherwise. Nothing in these Articles shall prevent any payment in good faith by the Company of:
 - 4.2.1 reasonable and proper remuneration to any Member, officer or servant of the Company for any services rendered to the Company;
 - 4.2.2 any interest on money lent by any Member or any director at a reasonable and proper rate;
 - 4.2.3 reasonable and proper rent for premises demised or let by any Member or director; or
 - 4.2.4 reasonable out-of-pocket expenses properly incurred by any director.

5 Winding up

On the winding-up of the Company, after provision has been made for all its debts and liabilities, any assets or property that remains available to be distributed or paid, shall not be paid or distributed to the Members (except to a Member that qualifies under this Article) but shall be transferred to another body (charitable or otherwise) with objects similar to those of the Company. Such body to be determined by resolution of the Members at or before the time of winding up and, subject to any such resolution of the Members, may be made by resolution of the directors at or before the time of winding up.

6 Guarantee

- 6.1 The liability of each Member is limited to £1.00, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member, for
 - 6.1.1 payment of the Company's debts and liabilities contracted before he ceases to be a Member,
 - 6.1.2 payment of the costs, charges and expenses of the winding up, and
 - 6.1.3 adjustment of the rights of the contributories among themselves.

Directors

7 Appointment of directors:

- 7.1 Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director—
- 7.1.1 by ordinary resolution; or
- 7.1.2 by a decision of the directors provided that the appointment is approved in writing by a simple majority of the Members within 10 Business Days of such decision, if no such approval is received then the decision to appoint shall not take effect.
- 7.2 In any case where, as a result of death, the company has no members and no directors, the personal representatives of the last member to have died have the right, by notice in writing, to appoint a person to be a director.
- 7.3 For the purposes of article 7.2, where two or more members die in circumstances rendering it uncertain who was the last to die, a younger member is deemed to have survived an older member.

8 Unanimous decisions

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

9 Calling a directors' meeting

- 9.1 Any director may call a directors' meeting by giving not less than five Business Days' notice of the meeting (or such lesser notice as all the directors may agree) to the directors to give such notice.
- 9.2 Notice of a directors' meeting shall be given to each director in writing.
- 9.3 The directors must meet at least quarterly.
- 9.4 A director who is absent from the UK and who has no registered address in the UK shall not be entitled to notice of the directors' meeting.

10 Quorum for directors' meetings

- 10.1 Subject to article 10.2, the quorum for the transaction of business at a meeting of directors is any two Eligible Directors, unless the members have resolved pursuant to article 14 that there is to be only one director in office for the time being, then that director shall form a quorum.

- 10.2 For the purposes of any meeting (or part of a meeting) held pursuant to article 12 to authorise a Conflict, if there is only one Eligible Director in office other than the Interested Director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.
- 10.3 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:
 - 10.3.1 to appoint further directors; or
 - 10.3.2 to call a general meeting so as to enable the Members to appoint further directors.

11 **Casting vote**

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

12 **Directors' conflicts of interest**

- 12.1 The directors may, in accordance with the requirements set out in this article, authorise any Conflict proposed to them by any director which would, if not authorised, involve a director (an **Interested Director**) breaching his duty to avoid conflicts of interest under section 175 of the Act.
- 12.2 Any authorisation under this article 12 shall be effective only if:
 - 12.2.1 to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles;
 - 12.2.2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
 - 12.2.3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.
- 12.3 Any authorisation of a Conflict under this article 12 may (whether at the time of giving the authorisation or subsequently):
 - 12.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
 - 12.3.2 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;

- 12.3.3 provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the directors in relation to any resolution related to the Conflict;
 - 12.3.4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
 - 12.3.5 provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he shall not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
 - 12.3.6 permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent they relate to such matters.
- 12.4 Where the directors authorise a Conflict, the Interested Director shall be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.
- 12.5 The directors may revoke or vary such authorisation at any time, but this shall not affect anything done by the Interested Director prior to such revocation or variation in accordance with the terms of such authorisation.
- 12.6 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 in accordance with these Articles 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.
- 12.7 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act, and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:
- 12.7.1 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;
 - 12.7.2 shall be an Eligible Director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
 - 12.7.3 shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;

- 12.7.4 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;
- 12.7.5 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
- 12.7.6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

13 Records of decisions to be kept

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.

14 Number of directors

Unless otherwise determined by ordinary resolution, the number of directors shall not be subject to any maximum but shall not be less than two.

15 Disqualification and removal of directors:

In addition to any power of removal conferred by the Act, the Company may by special resolution, or by ordinary resolution of which special notice has been given in accordance with section 312 of the Act, remove a director before the expiry of their period of office (without prejudice to a claim for damages for breach of contract or otherwise) and may (subject to these Articles) by ordinary resolution appoint another person who is willing to act to be a director in their place.

16 Termination of directorship

16.1 A person ceases to be a director as soon as:

- 16.1.1 that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
- 16.1.2 a bankruptcy order is made against that person;
- 16.1.3 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 16.1.4 a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become

physically or mentally incapable of acting as a director and may remain so for more than three months;

16.1.5 notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms; and/or

16.1.6 an ordinary resolution has been passed by the Company's Members terminating the director's directorship.

17 **Appointment and removal of alternate directors**

No director shall be entitled to appoint an alternate director to the board.

18 **Secretary**

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

19 **Change of company name**

19.1 The name of the Company may be changed by:

19.1.1 a decision of the directors, or

19.1.2 a special resolution of the Members,

or otherwise in accordance with the Act.

Members: becoming and ceasing to be a member

20 **Membership**

20.1 The Company shall admit to Membership an individual or organisation which:

20.1.1 applies to the Company using the application process approved by the directors; and

20.1.2 is approved by the directors and the Council in its capacity as a member of the Company.

A letter shall be sent to each successful applicant confirming their Membership of the Company and the details of each successful applicant shall be entered into the Register of Members by any director.

20.2 An applicant for Membership must be proposed by a director and such proposal must be seconded by another director.

20.3 The directors may in their absolute discretion decline to accept any application for Membership and need not give reasons for doing so.

20.4 The directors may prescribe criteria for Membership of the Company but shall not be obliged to accept persons fulfilling those criteria as Members.

21 Termination of membership:

- 21.1 A member may withdraw from membership of the Company by giving 7 days' notice to the Company in writing.
- 21.2 Membership is not transferable
- 21.3 A person's membership terminates when that person dies or ceases to exist.

Decision making by members

22 Votes of members

- 22.1 Subject to the Act, at any general meeting:
 - 22.1.1 every Member who is present in person (or by proxy) shall on a show of hands have one vote; and
 - 22.1.2 every Member present in person (or by proxy) shall on a poll have one vote.

23 Poll votes

- 23.1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318(3) of the Act) present and entitled to vote at the meeting.
- 23.2 Model Article 30(3) 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.

24 Proxies

- 24.1 Model Article 31(1)(d) shall be deleted and replaced with the words "is delivered to the company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".
- 24.2 Model Article 31(1) 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

25 Means of communication to be used

- 25.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
 - 25.1.1 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);

- 25.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;
- 25.1.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
- 25.1.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

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

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

26 Indemnity and insurance

- 26.1 Subject to article 26.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- 26.1.1 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:

- (a) in the actual or purported execution and/or discharge of his duties, or in relation to them;

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

- 26.1.2 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 26.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

- 26.2 This article does not authorise any indemnity to the extent that such indemnity would be prohibited or rendered void by any provision of the Act or by any other provision of law and any such indemnity is limited accordingly.

- 26.3 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.
- 26.4 In this article:
- 26.4.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
 - 26.4.2 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
 - 26.4.3 a **relevant officer** means any director or other officer or former director or other officer of the Company , but excluding 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).

Process for amending Lewisham Homes Limited (LHL) articles of association:

Formalities to change the articles of association:

1. In order to amend its articles of association, LHL must obtain member approval. The Companies Act 2006 (**CA06**) specifies that amending the articles of association requires a special resolution to be passed. In other words, the resolution must be supported by at least 75% of the members. This can be done via a special resolution at a general meeting or by a written resolution. As LHL is a sole member company, only one “qualifying person” is required to attend a general meeting for it to be quorate or vote on any written resolution for this to be resolved.
2. A qualifying person includes any person authorised under section 323 of the CA06 to act “as the representative of a corporation at a meeting”. Section 323 CA06 confirms that if a corporation is a member of a company, it may “by resolution of its directors or other governing body authorise a person or persons to act as its representative or representatives at any meeting of the company”. Therefore, the Council can authorise for an individual to act as its representative to approve any matters at a general meeting of LHL to amend the articles.
3. Alternatively, as stated above, LHL can pass a written resolution which has the same effect if passed in a general meeting. This is a practical and convenient alternative to passing a resolution at an in person general meeting. If LHL were to proceed with a written resolution, the form of resolution must state that it is a special resolution otherwise it will not be valid to approve the amendments to the articles of association (due to the CA06 requiring a special resolution to amend the articles of association).

Practicalities to pass the resolution:

4. As stated above, as LHL is a sole member company, a special resolution can be passed by one qualifying person voting on the resolution at a general meeting by way of a show of hands or poll. Companies House does not refer to a need to print a record of a sole member’s resolution however, as this is the equivalent to a resolution which has been agreed by a company that has more than one member, we recommend a copy of the special resolution be filed in any event (if the Council chooses general meeting approach).
5. Alternatively, a written resolution can be passed which would need to be signed by an authorised representative on behalf of the Council. The process for passing a written resolution is slightly different depending on whether the written resolution is proposed by the board of directors of LHL, or by the Council.
6. If the board of directors propose the written resolution, this must be sent to the Council in hard copy, electric form or through a website and must be accompanied by a statement confirming:
 - a. the details of the proposed resolution;
 - b. that it is a special resolution;
 - c. how to signify agreement to the resolution;
 - d. the date on which the resolution must be passed if it is not to lapse;

-
- e. the deadline for casting votes; and
 - f. clear instructions on how to cast votes.
7. The directors of LHL should also pass a board resolution approving the circulation of the written resolution and evidencing its decision to circulate this.
 8. Alternatively, the Council can propose a written resolution. The request for the written resolution can be in hard copy or electric form and must identify the resolution, provide any accompanying statement and be authenticated by those demanding circulation. If the Council propose the written resolution, it is good practice to have board minutes to evidence LHL's board of directors, consideration of the resolution and to approve its circulation.

Suggested approach:

9. As LHL is a sole member company, the decisions at any general meeting should be recorded. For this reason, we suggest that the Council proceed with the written resolution route as this covers all bases and ensures there is a written record of the resolution passed. In terms of the two approaches for proposing a written resolution, these are not too dissimilar given LHL is a sole member company. We would advise that a written resolution be proposed by the board of LHL for expediency, and the process in paragraph 6 and 7 is followed.

Filings with the Registrar of Companies

10. Once the resolution has been passed LHL must file a copy of the resolution and amended articles to the Registrar of Companies within 15 days after the amendment takes effect. As there will be a change in LHL's objects (what it does as a business) and this will be reflected in the amended articles of association, LHL must also file a statement of company objects using form CC04 with the Registrar of Companies. This must be filed at the same time as the resolution and articles. The amendment to the objects is not effective until entry of this form on the register with the Registrar of Companies.

Other points:

11. As the Council also proposes to make changes to the board of directors, the appointment and resignation of any directors will need to be approved at a meeting of the board of directors and forms AP01 and AP02 will need to be filed with the Registrar of Companies within 14 days of the changes made.