

## Communities Overview & Scrutiny Committee 14 November 2012

### CWLEP Constitution & Governance

#### Recommendation

It is recommended that Communities Overview & Scrutiny Committee consider and comment on the report contained in **Appendix A**, and identify any areas for scrutiny as appropriate.

#### 1.0 Key Issues

- 1.1 The Coventry & Warwickshire Local Enterprise Partnership (CWLEP) has agreed to become incorporated as a company limited by guarantee. Warwickshire County Council have been asked to become a member of this new company, and to nominate two individuals to become Directors of CWLEP Ltd.

#### 2.0 Timescales associated with the decision and next steps

- 3.1 The Chairman and Chief Executive of the Coventry & Warwickshire Local Enterprise Partnership are keen to complete the establishment of the company as quickly as possible following all relevant approvals from the various partners of the CWLEP.

#### 3.0 Background Papers

1. Proposal for Decision by the Leader on or after 2 November on CWLEP Constitution (**Appendix A**)
2. Articles of Association of CWLEP Ltd. (**Appendix B**)

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## Proposed Decision to be taken by the Leader on or after the 2<sup>nd</sup> November 2012

### CWLEP Constitution

#### Recommendation(s)

It is recommended that the Leader of the Council:

1. Agrees that Warwickshire County Council becomes a member of the new Coventry & Warwickshire Local Enterprise Partnership (CWLEP) company (see attached in **Appendix A**), as discussed and agreed at the CWLEP Board meeting on 10th September.
2. Appoints two individuals to be WCC's Directors of the CWLEP company
3. Authorises the Strategic Director for Resources to complete any necessary formalities

#### 1.0 Key Issues

- 1.1 The Coventry & Warwickshire Local Enterprise Partnership (CWLEP) was established late 2010, following a request from Government for local authority and business leaders to establish private and public sector Local Enterprise Partnerships, that cover functional economic geographies and could provide strategic direction to the development and growth of the local economy.
- 1.2 The CWLEP held their first Board meeting in December 2010, and agreed some relatively informal terms of reference and governance structure. After the first 12 months of operation of the CWLEP, a strategic review was undertaken of the partnership and its activities. One of the conclusions of this review was to explore the development of a more formal structure for the CWLEP. A number of options were considered, including establishing it as a Community Interest Company or a Limited Liability Partnership, but following advice from Martineau's (lawyers appointed by the CWLEP to explore these options) it was concluded that incorporating the CWLEP as a Company Limited by Guarantee was the best option.
- 1.3 On their meeting on the 4<sup>th</sup> July 2012, The CWLEP Board agreed to "*Endorse the proposal to incorporate CWLEP as a Company Limited by Guarantee*" and asked for a constitution and structure to be developed and brought to the Board for sign-off at their next meeting (10<sup>th</sup> September 2012).
- 1.4 Martineau's worked on behalf of the CWLEP to develop a constitution, which addressed the principle concerns around; conflicts, loyalty, SME interests and the 'members' of the company – both public and private sector. The result

was the Articles of Association for the formation of CWLEP Ltd. Association (attached in **Appendix A**), which were agreed by the CWLEP Board on 10<sup>th</sup> September 2012.

- 1.5 The liability of each Member is limited to £1, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while a Member or within one year after ceasing to be a Member, for:
- payment of the Company's debts and liabilities contracted before he or she ceases to be a Member;
  - payment of the costs, charges and expenses of winding up; and
  - adjustment of the rights of the contributories among themselves

## **2.0 Options and Proposal**

2.1 Warwickshire County Council have two members on the Board of the CWLEP (Cllr Alan Farnell and Cllr Alan Cockburn), who were present at the 10<sup>th</sup> September 2012 Board Meeting and agreed, in principle, the Articles of Association and constitution for CWLEP Ltd.

2.2 The two options that Warwickshire County Council has are to either formally commit the organisation to the CWLEP Ltd. and nominate two individuals to become CWLEP Directors; or for the Council to reject these Articles of Association, not to nominate individuals to become Directors and to effectively remove the organisation from the CWLEP.

2.3 Warwickshire County Council remains committed to the principles of Local Enterprise Partnerships, and the aims and objectives of the CWLEP. WCC's legal team have reviewed the final Articles of Association, and are comfortable with the document. If WCC becomes a member of the company then it will have the right at all times to have 2 Directors on the Board. It is therefore proposed that Warwickshire County Council:

- Agrees that Warwickshire County Council becomes a member of the new Coventry & Warwickshire Local Enterprise Partnership (CWLEP) company;
- Appoints two individuals to be WCC's Directors of the CWLEP company. It is a matter for the Leader to appoint these individuals directly but it is suggested he may wish to select himself, as Leader of the Council, and the most relevant Portfolio Holder (currently Cabinet Member for Sustainable Communities).

### 3.0 Timescales associated with the decision and next steps

- 3.1 Following a decision to endorse this paper and associated recommendations, the Strategic Director of Resources will instruct officers to work with the identified Directors and the CWLEP to complete any necessary paperwork. The Chief Executive of the CWLEP is progressing the establishment of CWLEP Ltd. and it is expected that this will be concluded as quickly as possible.

### Background papers

1. Articles of Association of CWLEP Ltd. (attached in **Appendix A**)

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Strategic Director	Monica Fogarty	
Portfolio Holder	Cllr Farnell	

The Companies Act 2006

Company Limited by Guarantee

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**Articles of Association**

**of**

**The Coventry and Warwickshire Local Enterprise Partnership Limited**

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## **The Companies Act 2006**

### **Articles of Association of**

#### **The Coventry and Warwickshire Local Enterprise Partnership Limited**

#### **INTERPRETATION**

##### **1. DEFINED TERMS**

The interpretation of these Articles is governed by the provisions set out in the Schedule to the Articles.

##### **2. NOT FOR PROFIT**

The Company is not established or conducted for the purpose of private gain. All profits, surpluses and/or assets are to be used and/or applied and/or re-invested principally for the objects of the Company as set out in Article 4.

#### **OBJECTS, POWERS AND LIMITATION OF LIABILITY**

##### **3. ORIGINS**

The Company is established in compliance with the guidance contained in a letter dated 29 June 2010 from the Secretary of State for Communities and Local Government and the Secretary of State for Business, Innovation and Skills to Local Authority Leaders and Business Leaders.

##### **4. OBJECTS**

The objects of the Company are to promote business growth, economic development, inward investment, skills and training development, employment creation and wealth creation across the Area, for the benefit of all who live, work, and study in the Area, and all who visit the Area, including, without limitation, promoting the Strategic Business Sectors.

##### **5. POWERS**

To further its objects the Company may do all such lawful things as may further the Company's objects and, in particular, may borrow or raise and secure the payment of money for any purpose including investment and/or the raising of funds; apply for grant funding for projects; acquire and hold assets; and provide and commission professional, technical and community services on a commercial, fee paying basis.

##### **6. LIABILITY OF MEMBERS**

The liability of each Member is limited to £1, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while a Member or within one year after ceasing to be a Member, for:

- 6.1 payment of the Company's debts and liabilities contracted before he or she ceases to be a Member;
- 6.2 payment of the costs, charges and expenses of winding up; and
- 6.3 adjustment of the rights of the contributories among themselves.

## **DIRECTORS**

### **DIRECTORS' POWERS AND RESPONSIBILITIES**

#### **7. NUMBER OF DIRECTORS**

The Directors shall not be less than twelve and shall be not greater than sixteen in number.

#### **8. DIRECTORS' GENERAL AUTHORITY**

8.1 The Directors are responsible for the management of the Company's business and may exercise all the powers of the Company accordingly.

8.2 In their conduct of the Company's business the Directors shall at all times conduct themselves in a professionally responsible manner; shall have due regard to all obligations as to confidentiality where duly directed; and shall observe the Seven Principles of Public Life as established by The Committee on Standards in Public Life.

#### **9. CHAIR AND VICE CHAIR**

9.1 The Directors shall appoint a chair and Vice Chair of the Directors for such term of office as they may determine and may at any time remove him or her from office. The Chair shall be appointed from the A Directors and any Vice Chair shall be appointed from either the A or B Directors.

9.2 The Chair, if any, or in his or her absence the "A" Vice Chair or in his or her absence an A Director nominated by the Directors present, shall preside as chair of each Directors' meeting.

#### **10. DIRECTORS MAY DELEGATE**

10.1 The Directors may delegate any of their powers and/or any aspect of the day-to-day management of the Company to any person or committee; by any regular means (including by power of attorney); and on such terms and conditions and under such terms of reference (including powers further to delegate and/or on terms that a committee shall report to a particular Director or group of Directors) as they think fit.

10.2 The Directors may revoke any delegation in whole or part, or alter its terms and conditions and/or terms of reference.

10.3 In addition to Directors, a committee may contain persons who are not Directors and external appointees but, as such, shall act in an advisory capacity only.

#### **11. COMMITTEES**

Committees acting under delegated powers must follow procedures which the Directors may make and which shall be generally consistent with the Articles.

#### **12. APPOINTMENT AND REMOVAL OF DIRECTORS**

12.1 Those persons notified to the Registrar of Companies as the first Directors of the Company shall be the first Directors and shall be A Directors.

12.2 The Initial A Directors (if not appointed as the first Directors of the Company) shall be A Directors.

- 12.3
- 12.3.1 Each A Director (other than an A Director appointed pursuant to the provisions of article 12.4) shall hold office for a period of two years and shall cease to be a director at the expiry of such period unless he or she was appointed prior to the expiry of such term. The Initial A Directors listed in Part A of the definition of Initial A Directors shall be deemed to have held office since 10<sup>th</sup> September 2011 and those listed in Part B thereof shall be deemed to also have held office from 10<sup>th</sup> September 2011.
- 12.3.2 Any such re-appointment shall be made by the other A Directors then in office (including those A Directors whose term of office would expire on the same date as the director concerned) and in the event of deadlock the chair shall have a second and casting vote.
- 12.3.3 If any A Director is not re-appointed at the expiry of his term of office the other A Directors shall appoint another person as an A Director in his stead.
- 12.4 Coventry and Warwickshire Chamber of Commerce and the Federation of Small Businesses shall be entitled jointly to appoint one A Director and to remove or replace any A Director so appointed.
- 12.5 The Universities shall each be entitled to appoint one person to be a B Director and to remove or replace any B Director so appointed.
- 12.6 Warwickshire County Council and Coventry City Council shall each be entitled to appoint two persons to be B Directors and to remove or replace any B Directors so appointed.
- 12.7 The LEP District Leaders Board shall be entitled to appoint two persons to be B Directors and to remove or replace any B Directors so appointed.
- 12.8 Any appointment or removal of a Director shall be effected by notice in writing to the Company, signed by or on behalf of the relevant persons or bodies (as the case may be) and served on the Company at its registered office taking effect upon receipt or at such later time as shall be specified in the notice. Any such removal shall be without prejudice to any claim which a Director may have under any contract between him/her and the Company.
- 12.9 Notwithstanding the foregoing, a Director shall cease to hold office if:
- 12.9.1 s/he ceases to be a Director by virtue of any provision of the Companies Acts, or is prohibited from being a Director by law;
- 12.9.2 a bankruptcy order is made against him/her, or an order in a jurisdiction other than England and Wales or Northern Ireland which has a similar effect;
- 12.9.3 a composition is made with creditors generally in satisfaction of his/her debts;
- 12.9.4 the Directors reasonably believe he or she is suffering from mental disorder and/or or is otherwise incapable of acting and they resolve that he or she be removed from office;
- 12.9.5 not less than three months' prior written notice 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 (but only if at least four Directors will remain in office when such resignation has taken effect);



- 12.9.6 the Director fails to attend six consecutive Directors' meetings, having been warned by the Chair after having missed three consecutive meetings, and the Directors resolve to remove him/her for this reason;
- 12.9.7 at a general meeting of the Company, after the Director has had fair opportunity to express his/her views, a unanimous resolution is passed that the Director be removed from office.

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

- 13.1 Any Director may (and the Secretary, if any, must at the request of a Director) call a Directors' meeting.
- 13.2 A Directors' meeting must be called by at least 5 Clear Days' notice unless a majority of the A Directors and a majority of the B Directors otherwise agree.
- 13.3 Notice of Directors' meetings must be given to each Director and such notice shall be in Writing and may be sent by Electronic Means to Addresses provided for this purpose.
- 13.4 Every notice calling a Directors' meeting must specify:
  - 13.4.1 the place, day and time of the meeting;
  - 13.4.2 if not all the Directors are to be present in person, how it is proposed that they should communicate with each other during the meeting; and
  - 13.4.3 the business to be conducted at the meeting, with copies of all relevant documents attached, or otherwise provided to each Director as soon as reasonably practicable prior to the meeting.
- 13.5 Any Director may (on not less than 24 hours prior written notice to the Chair) appoint any other director or any other person approved by the Chair as an alternate to exercise his/her powers and discharge his/her Director's responsibilities at the meeting.
- 13.6 If an alternate director is also a Director, s/he may both exercise his/her vote and vote on behalf of his/her appointor, but shall not count as more than one director for the purposes of establishing a quorum.

### 14. **PARTICIPATION IN DIRECTORS' MEETINGS**

Any decision must be either a simple majority decision at a meeting of Directors (and a decision shall be a simple majority decision if decided by way of a casting vote) or a unanimous decision taken in accordance with Article 17.

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

- 15.1 The quorum for Directors' meetings shall be five Directors and, however many Directors are participating, not less than three A Directors must be present and not less than two B Directors must be present.
- 15.2 If the total number of Directors is less than the quorum, the Directors must not take any decision other than a decision:
  - 15.2.1 to call for the A Directors to appoint further A Directors; and
  - 15.2.2 to call for those entitled to appoint B Directors to appoint further B Directors in accordance with their respective powers.

15.3 No alteration of the articles invalidates anything which the Directors have done which would have been valid had that alteration not been made.

## 16. **VOTING**

16.1 Questions arising at a Directors' meeting shall be decided by simple majority and in the event of deadlock the chair of the meeting shall have a second and casting vote.

16.2 The chair of a meeting at which not all of the Directors are present in person or represented by their duly appointed alternates, may adjourn the meeting to a date and time of his choosing at any time before a vote is taken on any issue with a view to giving the Directors not present the opportunity to attend and vote on that issue. In respect of any issue, this power of adjournment may only be exercised once.

## 17. **DECISIONS WITHOUT A MEETING**

17.1 The Directors may take a unanimous decision without a Directors' meeting by indicating to each other by any written means, in clear and unambiguous terms, including by Electronic Means, that they share a common view on a matter.

17.2 A decision which is made in accordance with Article 17.1 shall be as valid as if passed at a meeting duly convened and held, provided that written approval from each Director must be received by a prior appointed nominee or volunteer from among their number who confirms in writing back to the Directors the date and time and the substance of the decision and who formally and promptly minutes it in accordance with Article 44.

## 18. **CONFLICTS OF LOYALTY**

Any Director who has a situation in which he or she has, or can have, a direct or indirect interest that conflicts, or possibly may conflict with the interests of the Company ("a Conflict of Loyalty") will not, in accordance with the provisions of section 180(4)(b) of the Companies Acts, be in breach of his or her general duties to the Company provided that such Conflict of Loyalty is disclosed to the other Directors and does not involve any direct or indirect benefit of any nature to the Director or any connected person.

## 19. **CONFLICTS OF INTEREST**

19.1 If a proposed decision of the Directors would involve any direct or indirect benefit to a Director or any connected person or is concerned with any actual or proposed transaction or arrangement with the Company in which a Director or any connected person is interested, that Director shall declare the nature and extent of his or her interest in compliance with Sections 177 and 182 of the Companies Acts and that Director shall not participate or vote in the decision making process (which shall include any Directors' meeting or part of a Directors' meeting) or for quorum purposes.

19.2 If a question arises as to whether a Director has a conflict of interest for the purposes of this Article 19, the question shall be decided by a majority of the other Directors.

19.3 Where a Director has a conflict of interest, any Director may request that the Directors by majority vote decide whether the Director concerned should remain in the room during the decision making and voting process on the matter in question.

## 20. **REGISTER OF DIRECTORS' INTERESTS**

A register of Directors' interests shall be kept; and a Director must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed

transaction or arrangement with the Company or in any transaction or arrangement entered into by the Company which has not previously been declared.

21. **DIRECTORS' EXPENSES**

The Company may pay any reasonable expenses which the Directors properly incur in connection with their attendance at meetings of Directors or committees of Directors; general meetings; meetings with holders of investments in the Company; and otherwise in connection with the performance of their duties.

**MEMBERS**

**BECOMING AND CEASING TO BE A MEMBER**

22. **BECOMING A MEMBER**

22.1 The subscribers to the Memorandum are the first Members of the Company.

22.2 The LA Members, the Universities and the A Directors shall be admitted as Members of the Company (if they did not subscribe to the Memorandum).

22.3 The A Directors from time to time shall be Members of the Company.

23. **TERMINATION OF MEMBERSHIP**

23.1 Membership is not transferable.

23.2 Membership is terminated if

23.2.1 the Member dies or ceases to exist;

23.2.2 all of the Members (excluding any Member the subject of such a resolution) so resolve;

23.2.3 the Member, being an A Director ceases to be an A Director; or

23.2.4 otherwise in accordance with the Articles.

**DECISION-MAKING BY MEMBERS**

**ORGANISATION OF GENERAL MEETINGS**

24. **MEMBERS' MEETINGS**

24.1 The Directors may call a general meeting at any time.

24.2 The Directors must call a general meeting if required to do so by the Members under the Companies Acts.

25. **LENGTH OF NOTICE**

All general meetings must be called on at least 14 Clear Days' notice, or shorter notice if agreed by a majority of the Members representing at least 90% of the total voting rights at that meeting of those Members eligible to attend and vote.

26. **CONTENTS OF NOTICE**

26.1 Every notice calling a general meeting must specify the place, date and time of the meeting, whether it is a general or an annual general meeting, and the nature of the business to be transacted.

26.2 If a special resolution is to be proposed, the notice must include the proposed resolution and specify that it is proposed as a special resolution.

26.3 In every notice calling a meeting of the Company there must appear with reasonable prominence a statement informing the Member of his or her rights to appoint another person as his or her proxy at a general meeting.

## 27. **SERVICE OF NOTICE**

Notice of general meetings must be given to every Member, to the Directors and to the auditors of the Company.

## 28. **ATTENDANCE AND SPEAKING AT GENERAL MEETINGS**

Members who are in locations other than the place of the meeting may participate in a General Meeting, may communicate their views and may vote on resolutions that are put to the meeting, provided that the Directors are able to arrange for whatever systems of communication they consider are appropriate to ensure adequate supply and exchange of relevant information, to allow for airing of Members' views and opinions, and to govern the taking and registering of votes; and for the purpose of determining attendance and a quorum, provided that the said conditions are met, it will not be necessary for members to be personally present at the meeting.

## 29. **QUORUM FOR GENERAL MEETINGS**

29.1 No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

29.2 The quorum for a general meeting shall be five persons entitled to vote on the business to be transacted (each being a Member, a proxy for a Member or a duly authorised representative of a Member) or 10% of the total Membership (represented in person or by proxy) whichever is greater.

29.3 If a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting those present and entitled to vote shall be a quorum.

## 30. **CHAIRING GENERAL MEETINGS**

30.1 The Chair (if any) or in his or her absence an A Director nominated by the Directors will preside as chair of every general meeting.

30.2 If neither the Chair nor such other Director nominated in accordance with Article 30.1 (if any) is present within fifteen minutes after the time appointed for holding the meeting and willing to act, the Directors present shall elect one of their number to chair the meeting and, if there is only one Director present and willing to act, he or she shall be chair of the meeting.

30.3 If no Director is willing to act as chair of the meeting, or if no Director is present within fifteen minutes after the time appointed for holding the meeting, the Members present in person or by proxy and entitled to vote must choose one of their number to be chair

of the meeting, save that a proxy holder who is not a Member entitled to vote shall not be entitled to be appointed chair of the meeting.

**31. ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-MEMBERS**

31.1 Directors may attend and speak at general meetings, whether or not they are Members.

31.2 The Chair of the meeting may permit other persons who are not Members of the Company to attend and speak at a general meeting.

**32. ADJOURNMENT**

32.1 The chairman of the meeting may adjourn a general meeting at which a quorum is present if the meeting so consents; or if the chairman reasonably considers that an adjournment is necessary to protect the safety of any person or to ensure its orderly conduct.

32.2 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.

32.3 When adjourning a general meeting, the chairman of the meeting must:

32.3.1 either specify the time and place to which it is adjourned or state that it is to resume at a time and place to be fixed by the Directors; and

32.3.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.

32.4 If an adjourned meeting is to be resumed more than 14 days after it was adjourned, the Company must give at least 7 Clear Days' notice to those persons to whom notice of the Company's general meetings is required to be given; and containing the information which such notice is required to contain.

32.5 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

**VOTING AT GENERAL MEETINGS**

**33. VOTING: GENERAL**

33.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

33.2 A person who is not a Member of the Company shall not have any right to vote at a general meeting of the Company.

33.3 Article 33.2 shall not prevent a person who is a proxy for a Member or a duly Authorised Representative from voting at a general meeting of the Company.

33.4 On a vote on a resolution on a show of hands at a meeting every person present in person (whether a Member, proxy or Authorised Representative of a Member) and entitled to vote shall have a maximum of one vote.

33.5 On a vote on a resolution on a poll at a meeting every Member present in person or by proxy or Authorised Representative shall have one vote.

- 33.6 In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting shall not be entitled to a casting vote in addition to any other vote he or she may have.
- 33.7 No Member shall be entitled to vote at any general meeting unless all monies presently payable by him, her or it to the Company have been paid.
- 33.8 The following provisions apply to any organisation that is a Member ("a Member Organisation"):
- 33.8.1 a Member Organisation may nominate any individual to act as its representative ("an Authorised Representative") at any meeting of the Company;
- 33.8.2 the Member Organisation must give notice in Writing to the Company of the name of its Authorised Representative; the Authorised Representative will not be entitled to represent the Member Organisation at any meeting of the Company unless such notice has been received by the Company; and the Authorised Representative may continue to represent the Member Organisation until notice in Writing is received by the Company to the contrary;
- 33.8.3 a Member Organisation may appoint an Authorised Representative to represent it at a particular meeting of the Company or at all meetings of the Company until notice in Writing to the contrary is received by the Company;
- 33.8.4 any notice in Writing received by the Company shall be conclusive evidence of the Authorised Representative's authority to represent the Member Organisation or that his or her authority has been revoked; and the Company shall not be required to look behind such notice;
- 33.8.5 an individual appointed by a Member Organisation to act as its Authorised Representative may exercise (on behalf of the Member Organisation) the same powers as an individual Member;
- 33.8.6 on a vote on a resolution at a meeting of the Company, the Authorised Representative has the same voting rights as the Member Organisation would have if it were an individual Member present in person at the meeting; and
- 33.8.7 the power to appoint an Authorised Representative under this Article 33.8 is without prejudice to any rights which the Member Organisation has under the Companies Acts and the Articles to appoint a proxy or a corporate representative.

34. **POLL VOTES**

- 34.1 A poll on a resolution may be demanded:
- 34.1.1 in advance of the general meeting where it is to be put to the vote; or
- 34.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 34.2 A poll may be demanded by:
- 34.2.1 the chairman of the meeting;
- 34.2.2 the Directors;
- 34.2.3 two or more persons having the right to vote on the resolution;

- 34.2.4 any person, who, by virtue of being appointed proxy for one or more Member having the right to vote at the meeting, holds two or more votes; or
- 34.2.5 a person or persons representing not less than one tenth of the total voting rights of all the Members having the right to vote on the resolution.
- 34.3 A demand for a poll may be withdrawn if:
  - 34.3.1 the poll has not yet been taken; and
  - 34.3.2 the chairman of the meeting consents to the withdrawal.
- 34.4 Polls must be taken immediately and in such manner as the chairman of the meeting directs.

### 35. **ERRORS AND DISPUTES**

- 35.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 35.2 Any such objection must be referred to the chairman of the meeting, whose decision is final.

### 36. **CONTENT OF PROXY NOTICES**

- 36.1 Proxies may only validly be appointed by a notice in Writing (a "Proxy Notice") which:
  - 36.1.1 states the name and Address of the Member appointing the proxy;
  - 36.1.2 identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
  - 36.1.3 is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the Directors may determine; and
  - 36.1.4 is delivered to the Company in accordance with the Articles and any instructions contained in the notice of the general meeting to which they relate.
- 36.2 The Company may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.
- 36.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 36.4 Unless a Proxy Notice indicates otherwise, it must be treated as:
  - 36.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - 36.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

### 37. **DELIVERY OF PROXY NOTICES**

- 37.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any

adjournment of it, even though a valid Proxy Notice has been delivered to the Company by or on behalf of that person.

- 37.2 An appointment under a Proxy Notice may be revoked by delivering to the Company a notice in Writing given to the Company by or on behalf of the Proxy's appointor.
- 37.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 37.4 If a Proxy Notice is not executed by the appointor of the Proxy, it must be accompanied by written evidence of the authority of the person who executed it to do so on the appointor's behalf.

## 38. **AMENDMENTS TO RESOLUTIONS**

- 38.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
  - 38.1.1 Not less than 48 hours' prior notice of the proposed amendment is given to the Company in Writing by a person entitled to vote at the relevant general meeting (or such later time as the chairman of the meeting may determine); and
  - 38.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- 38.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
  - 38.2.1 the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
  - 38.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 38.3 If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

## **WRITTEN RESOLUTIONS**

### 39. **WRITTEN RESOLUTIONS**

- 39.1 Subject to Article 39.3, a written resolution of the Company passed in accordance with this Article 39 shall have effect as if passed by the Company in general meeting:
  - 39.1.1 A written resolution is passed as an ordinary resolution if it is passed by a simple majority of the total voting rights of eligible Members.
  - 39.1.2 A written resolution is passed as a special resolution if it is passed by Members representing not less than 75% of the total voting rights of eligible Members. A written resolution is not a special resolution unless it states that it was proposed as a special resolution.
- 39.2 In relation to a resolution proposed as a written resolution of the Company the eligible Members are the Members who would have been entitled to vote on the resolution on the Circulation Date of the resolution.



- 39.3 A Members' resolution under the Companies Acts removing a Director or an auditor before the expiration of his or her term of office may not be passed as a written resolution.
- 39.4 A copy of the written resolution must be sent to every Member together with a statement informing the Member how to signify their agreement to the resolution and the date by which the resolution must be passed if it is not to lapse. Communications in relation to written notices shall be sent to the Company's auditors in accordance with the Companies Acts.
- 39.5 A Member signifies their agreement to a proposed written resolution when the Company receives from him or her an authenticated Document identifying the resolution to which it relates and indicating his or her agreement to the resolution.
- 39.5.1 If the Document is sent to the Company in Hard Copy Form, it is authenticated if it bears the Member's signature.
- 39.5.2 If the Document is sent to the Company by Electronic Means, it is authenticated if it bears the Member's signature or if the identity of the Member is confirmed in a manner agreed by the Directors or if it is accompanied by a statement of the identity of the Member and the Company has no reason to doubt the truth of that statement or if it is from an email Address notified by the Member to the Company for the purposes of receiving Documents or information by Electronic Means.
- 39.6 A written resolution is passed when the required majority of eligible Members have signified their agreement to it.
- 39.7 A proposed written resolution lapses if it is not passed within 28 days beginning with the Circulation Date.

## **ADMINISTRATIVE ARRANGEMENTS AND MISCELLANEOUS**

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

- 40.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for Documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- 40.2 Subject to the Articles, any notice or Document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or Documents for the time being.
- 40.3 A Director may agree with the Company that notices or Documents sent to that Director in a particular way are to be deemed to have been received within an agreed time of their being sent, and for the agreed time to be less than 48 hours.

### **41. IRREGULARITIES**

The proceedings at any meeting or on the taking of any poll or the passing of a written resolution or the making of any decision shall not be invalidated by reason of any accidental informality or irregularity (including any accidental omission to give or any non-receipt of notice) or any want of qualification in any of the persons present or voting or by reason of any business being considered which is not referred to in the notice unless a provision of the Companies Acts specifies that such informality, irregularity or want of qualification shall invalidate it.

42. **MINUTES**

42.1 The Directors must cause minutes to be made in books kept for the purpose:

42.1.1 of all appointments of officers made by the Directors;

42.1.2 of all resolutions of the Company and of the Directors (including, without limitation, decisions of the Directors made without a meeting); and

42.1.3 of all proceedings at meetings of the Company and of the Directors, and of committees of Directors, including the names of the Directors present at each such meeting;

and any such minute, if purported to be signed (or in the case of minutes of Directors' meetings signed or authenticated) by the chair of the meeting at which the proceedings were held, or by the chair of the next succeeding meeting, shall, as against any Member or Director of the Company, be sufficient evidence of the proceedings.

42.2 The minutes must be kept for at least ten years from the date of the meeting, resolution or decision.

43. **RECORDS AND ACCOUNTS**

The Directors shall comply with the requirements of the Companies Acts as to maintaining a Members' register, keeping financial records, the audit or examination of accounts and the preparation and transmission to the Registrar of Companies and the Regulator of annual reports, annual returns and annual statements of account.

43.1 Except as provided by law or authorised by the Directors or an ordinary resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or Documents merely by virtue of being a Member.

44. **INDEMNITY**

44.1 Subject to Article 44.2, a relevant Director of the Company or an associated Company may be indemnified out of the Company's assets against:

44.1.1 any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated Company;

44.1.2 any liability incurred by that Director in connection with the activities of the Company or an associated Company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006);

44.1.3 any other liability incurred by that Director as an officer of the Company or an associated Company.

44.2 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.

44.3 In this Article:

44.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

44.3.2 a "relevant Director" means any Director or former Director of the Company or an associated Company.

45. **INSURANCE**

45.1 The Directors shall purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant Director in respect of any relevant loss.

45.2 In this Article:

45.2.1 a "relevant Director" means any Director or former Director of the Company or an associated Company;

45.2.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant Director in connection with that Director'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

45.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

46. **EXCLUSION OF MODEL ARTICLES**

The relevant model articles for a Company limited by guarantee are hereby expressly excluded.

**SCHEDULE**  
**INTERPRETATION**

1. In the Articles, unless the context requires otherwise, the following terms shall have the following meanings:

<b>Term</b>	<b>Meaning</b>
<b>"A Director"</b> (Private Sector)	any Director appointed pursuant to the provisions of Article 12.2 or 12.3;
<b>"Address"</b>	includes a number or address used for the purposes of sending or receiving Documents by Electronic Means;
<b>"Area"</b>	the combined area of the City of Coventry and the County of Warwickshire
<b>"Articles"</b>	means the Company's articles of association;
<b>"Authorised Representative"</b>	means any individual nominated by a Member Organisation to act as its representative at any meeting of the Company in accordance with Article 33.8;
<b>"bankruptcy"</b>	includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
<b>"B Director"</b> (Public Sector)	any Director appointed to the Company pursuant to the provisions of Articles 12.5, Article 12.6 or 12.7;
<b>"Borough and District Councils"</b>	means:  Stratford-upon-Avon District Council Warwick District Council Nuneaton & Bedworth Borough Council Rugby Borough Council North Warwickshire Borough Council;
<b>"Chair" and "Vice Chair"</b>	have the meanings given in Article 9;
<b>"chairman of the meeting"</b>	has the meaning given in Article 29;
<b>"Clear Days"</b>	in relation to the period of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;
<b>"Companies Acts"</b>	means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the Company;

<b>"Company"</b>	The Coventry and Warwickshire Local Enterprise Partnership Limited;
<b>"Connected person"</b>	shall have the meaning attributed by section 252 of the Companies Act 2006 and, in addition any B Director shall be deemed to be connected with the Member or Members appointing him;
<b>"Director"</b>	means a Director of the Company, and includes any person occupying the position of Director, by whatever name called;
<b>"Document"</b>	includes, unless otherwise indicated, any document sent or supplied in Electronic Form;
<b>"Electronic Form" and "Electronic Means"</b>	have the meanings respectively given to them in section 1168 of the Companies Act 2006;
<b>"Hard Copy Form"</b>	has the meaning given in section 1168 of the Companies Act 2006;
<b>"Initial A Directors"</b>	means; Part A:  Sir Peter Rigby, Daniel Gidney, Amrik Bhabra, Martyn Hollingsworth.  Part B:  George Gillespie Michael Woodhead
<b>"instrument"</b>	means a document in Hard Copy Form;
<b>"LA Members"</b>	means:  Coventry City Council Warwickshire County Council The LEP District Leaders Board
<b>"LEP District Leaders Board"</b>	means the board representing the Borough and District Councils;
<b>"Member" or "Members"</b>	means the members of the Company from time to time;
<b>"Memorandum"</b>	the Company's memorandum of association;
<b>"participate"</b>	in relation to a Directors' meeting, has the meaning given in Article 14;

<b>“Proxy Notice”</b>	has the meaning given in Article 36;
<b>“Secretary”</b>	the secretary of the Company (if any);
<b>“specified”</b>	means specified in the memorandum or articles of association of the Company for the purposes of this paragraph;
<b>“Special Majority”</b>	a majority of not less than 75 per cent of votes in any elective process
<b>“Strategic Business Sector”</b>	means any one of the following types of business and economic activity (as decided from time to time by the Directors): <ul style="list-style-type: none"> <li>• Advanced manufacturing and precision engineering</li> <li>• Digital technologies</li> <li>• Low carbon vehicles and transportation</li> <li>• Intelligent transport</li> </ul>
<b>“subsidiary”</b>	has the meaning given in section 1159 of the Companies Act 2006;
<b>“transfer”</b>	includes every description of disposition, payment, release or distribution, and the creation or extinction of an estate or interest in, or right over, any property;
<b>“Universities”</b>	the University of Warwick and Coventry University
<b>“Writing”</b>	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.

2. Subject to clause 3 of this Schedule, any reference in the Articles to an enactment includes a reference to that enactment as re-enacted or amended from time to time and to any subordinate legislation made under it.
3. Unless the context otherwise requires, other word or expression contained in these Articles bear the same meaning as in the Companies Acts as in force on the date when these Articles become binding on the Company.