

THE COMPANIES ACTS 1985 TO 2006

**COMPANY LIMITED BY GUARANTEE AND
NOT HAVING A SHARE CAPITAL**

ARTICLES OF ASSOCIATION

of

NICC STANDARDS LIMITED

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The Companies Acts 1985 to 2006

Company limited by guarantee and not having a share capital

Articles of Association

of NICC Standards Limited

(as amended by special resolutions passed on 23 October 2008 and 23 November 2009)

1 Preliminary

1.1 Definitions

In these Articles, the following words shall have the following meanings:

Act means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force and any provision of the Companies Act 2006 for the time being in force.

Anti-Trust Compliance Policy means the anti-trust compliance policy of the Company as adopted from time to time pursuant to Article 3.5.2.

Applicable Law means any law, legislation, instrument, rule, order, regulation, code, standard, directive, bye-law or decision of any Authority which is applicable to a Member, its business and operations.

Articles means these Articles of Association, as amended from time to time.

Associate Member means a person falling within the category of person who is eligible for admission to membership of the Company as an Associate Member in accordance with Article 2.4 and who has been admitted to membership of the Company as an Associate Member.

Authority means any local, national, multinational, governmental or non-governmental authority, statutory undertaking, agency or public or regulatory body (whether present or future) which has jurisdiction over a Member.

BERR means the Department for Business Enterprise and Regulatory Reform, including any successor Government department.

Board means the board of Directors for the time being of the Company.

Business Day means a day (not being a Saturday or Sunday) on which banks are open for normal banking business in London.

Company means NICC Standards Limited.

Consensus Document Approval Process means the process for approval of an NICC Document by Members in accordance with Article 23.3.

Contribution has the meaning set out in Article 26.6.1.

Critical National Infrastructure has the meaning from time to time assigned by The Centre for the Protection of National Infrastructure, including any successor organisation, comprising those assets, services and systems that support the economic, political and social life of the UK whose importance is such that any loss or compromise would have life-threatening, serious economic or other grave social consequences for the community, or would be of immediate concern to the Government.

Defaulting Member has the meaning set out in Article 6.1.

Director means an individual who is from time to time a member of the Board.

Election Date has the meaning set out in Article 11.1.

Electronic Communications Network has the meaning ascribed to it in Section 32 Communications Act 2003.

Electronic Communications Service has the meaning ascribed to it in Section 32 Communications Act 2003.

Fees means:

(a) the membership fees payable by each Full Member and Associate Member in the amount determined in accordance with Article 26.5; and

(b) the voluntary payment by Observer Members in accordance with Article 26.2.2,

in respect of each Financial Year of the Company (commencing on and from 1 April 2009).

Financial Year means a financial year of the Company being the period of 12 months commencing on 1 April and ending on 31 March unless the Board resolves that the Company's financial year should be a different period, and provided that the first Financial Year shall commence on the date of the Company's incorporation.

First Termination Notice has the meaning set out in Article 6.2.

Full Member means a person falling within the category of person who is eligible for admission to membership of the Company as a Full Member in accordance with Article 2.3 and who has been admitted to membership of the Company as a Full Member.

Group Company in relation to a company means:

(a) a company that is its subsidiary; or

(b) its holding company or a subsidiary of such holding company.

Intellectual Property Rights means any patent, petty patent, copyright, database right, utility model, design right, community design right, semiconductor topography right, registered design, trademark, rights in know-how or any similar right in any part of the world and shall include any applications for the registration of any of the aforementioned in any part of the world.

IPR Policy means the IPR Policy of the Company as adopted from time to time pursuant to Article 25.4.

Member means, subject to Article 2.1, a person admitted to membership of the Company pursuant to, and in one of the three categories of membership set out in, Article 2.

Memorandum means the Memorandum of Association of the Company, as amended from time to time.

Network Interoperability Consultative Committee means the unincorporated industry body under that name which, prior to the Company, carried on the activities of the development, approval, production and publication of Standards.

NICC Document means a document comprising Standards approved from time to time in accordance with Article 23 for publication, including any amendment, supplement or replacement of any such document.

Objects means the objects of the Company set out from time to time in the Memorandum.

Observer has the meaning set out in Article 19.

Observer Member means a person falling within the category of person who is eligible for admission to membership of the Company as an Observer Member in accordance with Article 2.5 and who has been admitted to membership of the Company as an Observer Member.

Ofcom means The Office of Communications, including any successor organisation with responsibility for regulation of the communications sector in the UK under the Communications Act 2003.

Relevant UK Bodies means government and departments and agencies, industry bodies and other organisations in the UK whose responsibilities and functions are relevant to the interconnection and interoperability in the UK of Electronic Communications Networks and Electronic Communications Services including Next Generation Networks UK, The Centre for the Protection of National Infrastructure, the emergency and security services, the BERR and Ofcom (including any successor department, agency, body or organisation of each of them).

Second Termination Notice has the meaning set out in Article 6.4.

Secretariat has the meaning set out in Article 20.1.

Senior Representative means either a bona fide employee or a bona fide consultant, in either case employed or engaged in a senior or managerial capacity, of a Full Member or a Group Company of a Full Member.

Stakeholder Director has the meaning set out in Article 12.1.

Standards means standards, technical specifications, service descriptions, information notes, guidelines, codes of practice and other forms of documentation relating to the interconnection and interoperability in the UK of Electronic Communications Networks and Electronic Communications Services.

United Kingdom or UK means Great Britain and Northern Ireland.

Unpaid Amount has the meaning set out in Article 6.1(a).

Voting Document Approval Process means the process for approval of an NICC Document by a 75% majority of Full Members in accordance with Article 23.4.

Voting Notice has the meaning set out in Article 23.4.1.

Voting Period has the meaning set out in Article 23.4.2.

Working Group means a working group created pursuant to Article 22.

Working Group Representative has the meaning set out in Article 22.2.

Work Programme means the work programme of the Company, to be established, monitored and managed by the Board in accordance with Article 21.

1.2 Interpretation

In these Articles:

- (a) unless inconsistent with the context or subject in which they are used:
 - (i) save as provided in Article 1.1, words or expressions defined in the Act shall have the same meanings in these Articles;

- (ii) words importing the singular number only include the plural number and vice versa;
 - (iii) words importing the masculine gender only include the feminine gender; and
 - (iv) words importing persons include bodies corporate, partnerships and unincorporated associations and whether domiciled in the UK or elsewhere;
- (b) reference to any statute or statutory provision includes a reference to statutory instruments and orders made further to it and includes consolidations, amendments, modifications and re-enactments;
- (c) headings are for ease of reference only and shall not affect the construction of these Articles;
- (d) the words **include, including** and **in particular** shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding words; and
- (e) any preceding words and phrases shall not be construed as being limited to a particular class where a wider interpretation of those words and phrases is possible.

1.3 **Table C shall not apply**

The Regulations referred to in Table C contained in The Companies (Tables A to E) Regulations 1985 shall not apply to the Company.

2 Membership

2.1 **First Members**

The first Members shall be the subscribers to the Memorandum who may resign their membership of the Company at any time by notice in writing to the Company.

2.2 **Categories of membership**

Other than the subscribers to the Memorandum, the Company shall have three categories of membership, namely:

- (a) a Full Member;
- (b) an Associate Member; and
- (c) an Observer Member.

2.3 **Full Members**

The following persons shall be eligible for admission to membership as a Full Member:

- (a) a person who operates an Electronic Communications Network;
- (b) a person who provides an Electronic Communications Service;
- (c) a person who develops or manufactures, or is otherwise involved in the provision of, networks, systems, software or services for Electronic Communications Networks or Electronic Communications Services; and
- (d) other persons at the discretion of the Board.

2.4 **Associate Members**

A person shall be eligible for admission to membership as an Associate Member if it has a legitimate commercial, technical or other interest in the Company's activities.

2.5 **Observer Members**

The following persons shall be eligible for admission to membership as an Observer Member:

- (a) the BERR;
- (b) Ofcom;
- (c) a person appointed from time to time by the Board to carry out the functions of the Secretariat pursuant to Article 20.1; and
- (d) other persons at the discretion of the Board.

3 **Obligations of Members**

3.1 **Compliance**

Subject to Articles 3.2 and 3.3, each Member shall comply at all times with:

- (a) these Articles;
- (b) the IPR Policy; and
- (c) the reasonable and lawful guidelines and policies of the Board from time to time, as made available from time to time to the Members.

3.2 **Exception for Members generally**

No Member shall be required to comply with Article 3.1 to the extent that such compliance would cause that Member to be in breach of any Applicable Law.

3.3 **Exceptions for Observer Members**

3.3.1 Each Observer Member shall be entitled to the benefit of these Articles in accordance with their terms.

3.3.2 Without prejudice to Article 3.3.1, neither these Articles, the IPR Policy, the reasonable guidelines and policies of the Board nor their participation as Observer Members of the Company shall:

- (a) result in any Observer Member having any liability or obligation to either the Company, any other Member or any third party other than:
 - (i) its obligation under the Memorandum to pay the sum of £1 as a contribution to the assets of the Company in the event of the Company being wound up while it is a Member, or within one year after it ceases to be a Member; and
 - (ii) in the case of Ofcom, its obligation to the Company to provide funding in accordance with Article 26.8;
- (b) constrain any Observer Member in the execution of its statutory duties, functions and powers; or
- (c) fetter the discretion of any Observer Member in any way, or create any legitimate expectation, as regards the carrying out of its statutory duties, functions and powers.

3.4 Competition and regulatory compliance

In connection with its activities as a Member, each Member agrees that it will comply with all Applicable Laws.

3.5 Open competition between Members

3.5.1 The Members confirm that they are individually and collectively committed to open competition in the development of products, Intellectual Property Rights, technology, and services, and that no Member is restricted in any way by virtue of its membership of the Company from designing, developing, marketing, and/or procuring any hardware, software, systems, Intellectual Property Rights, technology or services for its own benefit. Notwithstanding any other provision of these Articles, no Member shall be obliged in any manner:

- (a) to disclose any confidential information or Intellectual Property Rights (subject to that Member's obligations under the IPR Policy);
- (b) to share any capacities (technical, operational, roaming, marketing, sales or otherwise); or
- (c) to engage in any behaviour or conduct which may be anti-competitive under, or in violation of, any applicable law, regulation, rule or judicial proceedings of any governmental or regulatory authority in any jurisdiction.

3.5.2 The Board shall adopt and, may from time to time amend, update and replace, the Anti-Trust Compliance Policy, the purpose of which is to provide guidelines for Members to ensure that they comply with relevant anti-trust laws in the conduct of their activities as members of the Company.

3.5.3 The Company shall publish a copy of the Anti-Trust Compliance Policy on its website and shall notify the Members on its adoption and on any amendment, update or replacement to or of the Anti-Trust Compliance Policy from time to time.

4 Application for Membership

4.1 Submission of applications

Every application for membership shall be made in writing to the Secretariat upon an application form to be provided by the Secretariat, duly completed and signed (whether electronically or otherwise) by the applicant in accordance with the instructions on the application form.

4.2 Review of applications

The Secretariat:

- (a) shall review each application form and verify its completeness;
- (b) shall determine whether the applicant is eligible to be appointed as a Member in accordance with these Articles for the membership category for which the application has been made;
- (c) may request additional information or other evidence from the applicant to enable it to determine whether the applicant is eligible for that category; and
- (d) if satisfied that:
 - (i) the application form has been properly completed; and

- (ii) the applicant is eligible for membership in the membership category for which the application has been made,

shall:

- (aa) prepare and send to the applicant an invoice for the Fees for the relevant Financial Year in accordance with Article 4.3; and
- (bb) refer the application to the Board.

4.3 Fees payable by applicants

The Fees for the relevant Financial Year, which must be paid in full prior to membership of the applicant becoming effective, shall be as follows:

- (a) if the application for membership is received by the Company during the first six months of the Financial Year, all of the Fees for that Financial Year shall be payable; or
- (b) if the application for membership is received by the Company during the second six months of the Financial Year, 50% of the Fees for that Financial Year shall be payable.

4.4 Board approval

4.4.1 All applications for membership shall be subject to approval by the Board, provided that the Board shall not unreasonably refuse an application for membership from a person who is otherwise eligible for admission to membership of the Company in accordance with Article 2. In the event of refusal of an application for membership:

- (a) the Secretariat shall notify the applicant of such refusal, including a written explanation from the Board for the refusal, within 14 days immediately following the date of the meeting of the Board at which the Board failed to approve the application; and
- (b) the applicant shall have the right, within 14 days following receipt of the notification under Article 4.4.1(a), to make written representations to the Board as to why its membership application should be accepted.

4.4.2 Following the receipt of representations from an applicant in accordance with Article 4.4.1(b), the Board shall re-consider such applicant's application for membership at the next meeting of the Board. If the Board again refuses the application, the Secretariat shall notify the applicant of such refusal, including a written explanation from the Board for the refusal, within 14 days immediately following the date of the meeting of the Board at which the Board re-considered the application.

4.5 Effective date of Membership

The Secretariat shall, within 7 days immediately following the date of the meeting of the Board at which the Board approved the application, notify the applicant of the Board's approval. Membership shall become effective when the Secretariat notifies the applicant that the application has been approved by the Board or, if later, when the Company receives payment in full of the Fees payable by the applicant. As soon as practicable following the membership becoming effective, the Secretariat shall register the applicant as a Member in the appropriate category in the Company's register of Members.

4.6 **Change of Membership category**

A Member may apply to change its category of membership and Articles 4.1 - 4.5 shall apply to such application as they apply to applications from new Members, with the necessary changes being made.

4.7 **Group Companies**

No company shall be eligible to become a Member of the Company whilst a Group Company of such company is and remains a Member, unless determined otherwise by the Board on a specific case by case basis.

5 **Withdrawal from Membership**

A Member may at any time withdraw from membership of the Company by giving at least 60 days written notice to the Company. Withdrawal from membership shall not:

- (a) affect the accrued obligations and liabilities of the withdrawing Member under these Articles up to and including the date of withdrawal;
- (b) relieve the withdrawing Member from its obligation to pay any Fees or Contribution which have become due and payable but which remain unpaid as at the date of the written notice from the withdrawing Member to the Company; or
- (c) relieve the withdrawing Member from any obligation which is expressed to survive a person ceasing to be a Member.

6 **Termination of Membership**

6.1 **Circumstances giving rise to termination**

Subject to Articles 6.2 - 6.4, the Company may terminate the membership of a Member (the **Defaulting Member**):

- (a) if the Defaulting Member has failed to pay in full for a period of 60 days or more any Fee or Contribution which has become due and payable by it under these Articles (such unpaid Fees or Contribution being the **Unpaid Amount**);
- (b) if the Defaulting Member ceases to be eligible for membership in the category in which it is then registered in the Company's register of Members;
- (c) if the Defaulting Member, being a corporation or partnership, goes into liquidation (other than a voluntary liquidation for the purposes of reconstruction), is dissolved or is struck off;
- (d) if the Defaulting Member, being an individual, becomes bankrupt, enters into any composition with his creditors or dies;
- (e) if the Defaulting Member breaches its obligations under these Articles;
- (f) if, in the reasonable opinion of the Board, the continued membership of the Defaulting Member or the Defaulting Member's conduct would be or has been detrimental to the furtherance of the Objects; or
- (g) if the Defaulting Member becomes a Group Company of another Member who was registered as a Member prior to the Defaulting Member, unless determined otherwise by the Board on a specific case by case basis.

6.2 **First Termination Notice**

If any of the circumstances in Article 6.1 applies, the Company, acting through the Secretariat, may give written notice to the Defaulting Member (the **First Termination Notice**) stating:

- (a) the relevant circumstance under Article 6.1;
- (b) in the case of Article 6.1(a), the Unpaid Amount;
- (c) in the case of Article 6.1(e), the breach and, if it is capable of remedy, the action of the Defaulting Member which would constitute remedy of such breach; and
- (d) in the case of Article 6.1(f), the grounds giving rise to such circumstance applying.

In the case of Article 6.1(a), the Board may also direct (and, if so, the First Termination Notice shall state) that the Defaulting Member shall cease to be entitled to exercise any rights as a Member (including those rights referred to in Article 6.5(d) – (h)) until the Unpaid Amount has been paid in full.

6.3 **Written representations**

The Defaulting Member may, within the period of 14 Business Days following receipt of the First Termination Notice:

- (a) make written representations to the Board as to why its membership should not be terminated;
- (b) in the case of Article 6.1(a), pay the Unpaid Amount in full; or
- (c) in the case of Article 6.1(e), remedy the breach which the First Termination Notice stated was capable of being remedied to the satisfaction of the Secretariat.

6.4 **Second Termination Notice**

Unless:

- (a) the Board directs that the membership of the Defaulting Party should not be terminated;
- (b) in the case of Article 6.1(a), the Defaulting Member pays the Unpaid Amount in full;
- (c) in the case of Article 6.1(e), the Defaulting Member remedies the breach which the First Termination Notice stated was capable of being remedied to the satisfaction of the Secretariat,

within the 90 day period immediately following the end of the 14 Business Day period referred to in Article 6.3, the Board may, by resolution passed at a meeting of the Board in respect of which the Defaulting Member has received due notice and been given the opportunity to attend and be heard by the Board before the resolution was put to the vote of the Board, instruct the Secretariat to terminate the membership of the Defaulting Member by the Secretariat serving notice in writing on the Defaulting Member to that effect, including a written explanation from the Board for its decision to terminate membership (the **Second Termination Notice**), such notice to take effect forthwith.

6.5 **Effect of termination**

Termination of membership shall not:

- (a) affect the accrued obligations and liabilities of the Defaulting Member under these Articles up to and including the date of termination;

- (b) relieve the Defaulting Member from its obligation to pay any Fees or Contribution which have become due and payable but which remain unpaid as at the date of termination; or
- (c) relieve the Defaulting Member from any obligation which is expressed to survive a person ceasing to be a Member,

and, following the date of the Second Termination Notice, the Defaulting Member shall cease to be entitled to exercise any rights as a Member including (to the extent that it has such rights, depending on the category of membership and also to the extent that the Board has not already directed that such Member's rights shall cease pursuant to Article 6.2):

- (d) the right to vote at general meetings of the Company;
- (e) the right to vote in the formal approval of an NICC Document;
- (f) the right to nominate one of its Senior Representatives for appointment as a Director or for one of its Senior Representatives to continue to act as a Director;
- (g) the right to exercise voting rights in an election of Directors pursuant to Article 11; and
- (h) the right to participate in activities of the Company, including for any of its Working Group Representatives under Article 22 to participate in any Working Group.

7 Transfer of Membership

7.1 General prohibition

The rights and privileges of a Member shall be personal to that Member and shall not be transferable by operation of law. Subject to Article 7.2, no Member may sell, transfer, assign or otherwise dispose of its membership of the Company or all or any of its rights as a Member.

7.2 Transfer to another Group Company

A Member may assign its membership of the Company to a company which is its Group Company provided that:

- (a) at the date of such assignment, the assigning Member has paid all amounts outstanding to the Company pursuant to these Articles;
- (b) the new Member is eligible for membership of the Company in the same category as the assigning Member; and
- (c) the assigning Member serves written notice of such assignment on the Company, in such form as the Company may reasonably require, signed by both the assigning Member and the new Member.

8 General Meetings

8.1 Holding of general meetings

Commencing either in 2008 or 2009 (as the Board may decide), the Company shall hold in each year a general meeting as its Annual General Meeting. All general meetings other than Annual General Meetings shall be called Extraordinary General Meetings.

8.2 Calling

The Board may call an Extraordinary General Meeting when it thinks fit and, on the requisition of at least 5 Members in accordance with the Act, shall forthwith proceed to convene an Extraordinary General Meeting.

8.3 **Location**

Every general meeting shall be held at such time and place in the United Kingdom as the Board may determine.

8.4 **Notice of general meetings**

An Annual General Meeting and (if not the Annual General Meeting, the general meeting referred in Article 26.5.2 at which the proposed Fees for the subsequent Financial Year are first proposed to the Members) shall be called by at least 21 clear days' notice. All other Extraordinary General Meetings shall be called by at least 14 clear days' notice. Such notice shall be given to all Members.

8.5 **Contents of notices**

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

8.6 **Omission to give notice**

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

8.7 **Quorum**

No business shall be transacted at any meeting unless a quorum is present. A quorum for all purposes shall be the lower of:

- (a) five persons entitled to vote upon the business to be transacted, each being a Full Member or a proxy for a Full Member; and
- (b) persons entitled to vote upon the business to be transacted, each being a Full Member or a proxy for a Full Member, comprising one-quarter (rounded up to the nearest whole number) of the total number of Full Members.

A Full Member shall be deemed to be physically present if present in person or by proxy or if there is present its authorised representative.

8.8 **Lack of quorum**

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

8.9 **Authorised representatives**

Any Member may authorise such person as it thinks fit to act as its representative at any general meeting and the person so authorised shall be entitled to exercise the same powers on behalf of the Member as that Member could exercise itself and a Member whose representative is present at any general meeting shall be deemed to be present thereat itself for all purposes.

8.10 **Proxies**

8.10.1 A Member may appoint more than one proxy to attend on the same occasion.

8.10.2 The appointment of a proxy shall be executed by or on behalf of the appointor and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the Directors may approve):

"NICC Standards Limited

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

Signed on ** ** ."

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

"NICC Standards Limited

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

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

Resolution No.1 *for *against

Resolution No.2 *for *against

*Strike out whichever is not desired.

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

Signed this ** day of ** ."

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

- (a) in the case of an instrument in writing be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- (b) in the case of an appointment contained in an electronic communication, where an address has been specified for the purpose of receiving electronic communications:
 - (i) in the notice convening the meeting; or
 - (ii) in any instrument of proxy sent out by the Company in relation to the meeting; or
 - (iii) in any invitation contained in an electronic communication to appoint a proxy issued by the Company in relation to the meeting,

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

- (c) in the case of a poll taken more than 48 hours after it is demanded, be deposited or received as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or
- (d) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any Director,

and an appointment of proxy which is not deposited, delivered or received in a manner so permitted shall be invalid.

8.11 Chairman of meetings

The Chairman shall, if present, preside as chairman of the meeting, and failing him another Director. If neither the Chairman nor such other Director (if any) is present within fifteen minutes after the time appointed for holding the meeting, or every such person is unwilling to act, the meeting shall choose one of their number to be chairman of such general meeting.

8.12 Entitlement to speak

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

8.13 Adjournment

The chairman of the meeting may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting. Otherwise it shall not be necessary to give any such notice.

8.14 Voting

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

- (a) by the chairman of the meeting; or
- (b) by at least five Full Members having the right to vote at the meeting,

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

8.15 Evidence of voting

Unless a poll is duly demanded a declaration by the chairman of the meeting that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

8.16 Time of poll

If a poll is demanded, it shall be taken either forthwith or at such other time and place and in such manner (including by means of posted polling papers) as the chairman of the meeting directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

8.17 Equality of votes

In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall not be entitled to a casting vote in addition to any other vote he may have.

8.18 Meeting to continue despite poll

The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded and it may be withdrawn at any time before the poll is taken.

9 Votes of Members

9.1 Voting rights generally

Save as provided otherwise in these Articles, on a show of hands every Full Member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative, not being himself a Member entitled to vote, shall have one vote. Save as provided otherwise in these Articles, on a poll every Full Member who is present in person or by proxy shall have one vote. Associate Members and Observer Members shall not be entitled to vote at general meetings, either on a show of hands or on a poll.

9.2 Disentitlement to vote

No Member shall vote at any general meeting either in person or by proxy if, at the date of the meeting, it shall have been served with a First Termination Notice as a result of the Member having an Unpaid Amount and has not paid such Unpaid Amount in full prior to the date of the meeting.

9.3 Objections to voting

No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.

9.4 Validity of authorised representative or proxy

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

10 The Board

10.1 Composition

Subject to Article 10.2, the Board shall comprise:

- (a) not less than 3 and no more than 15 Directors provided that, if the Board has appointed a person as a Director and Chairman who is not a Senior Representative in accordance with Article 13.2, the Board shall comprise up to 16 Directors; and
- (b) solely of individuals each of whom is a Senior Representative or a Chairman appointed in accordance with Article 13.2.

At no time shall the Board comprise more than one Senior Representative of a single Full Member unless the Board shall have determined pursuant to Article 4.7 to allow two Group Companies to each be a Member.

10.2 Interim Board

10.2.1 Until the first election of Directors held pursuant to Article 11, the first Board shall be an interim Board and shall comprise the following individuals:

John O'Reilly

David Davies

Justin Orde

Nicholas Sampson

10.2.2 In the event that any person named in Article 10.2.1 shall not become a Director on incorporation of the Company, he may at any time thereafter be appointed as a Director to the interim Board by notice in writing signed by any other member of the interim Board.

10.2.3 Any member of the interim Board may be removed by resolution of the interim Board and vacancies on the interim Board may be filled by resolution of the interim Board. All members of the interim Board shall, unless re-elected as Directors, resign upon the appointment of Directors following the first election held pursuant to Article 11.

10.2.4 The primary tasks of the interim Board shall be:

- (a) to advertise the incorporation of the Company and its role widely in the communications sector in the UK;
- (b) to seek applications for membership of the Company and arrange for applications to be received and processed;
- (c) to decide whether to exercise the Board's powers under Article 12.1 to hold an election for one or more Stakeholder Directors at the time that the first election is held under Article 11;
- (d) to organise the first election under Article 11; and
- (e) to ensure that the Work Programme continues without undue disruption, including the work programme previously being undertaken by the Network Interoperability Consultative Committee.

10.3 Election of Directors

With the exception of the first Directors listed in Article 10.2.1 and subject to Articles 12, 13.2 and 14.4, all Directors shall be appointed by election in accordance with Article 11.

11 Board elections

11.1 Timing of elections

The first election of Directors shall take place so that the effective date of the election (the **Election Date**) shall be not later than six months following the date of incorporation of the Company. Subsequent elections shall take place each calendar year, but so that no Election Date is less than 9 months nor more than 15 months following the immediately preceding Election Date.

11.2 Vacancies to be filled

11.2.1 With effect from the first Election Date, all of the Directors on the interim Board shall retire from office. With effect from every subsequent Election Date, one third of the Directors who are subject to retirement by rotation or, if their number is not three or a multiple of three, the number nearest to one third shall retire from office, but if there is only one Director who is subject to retirement by rotation, he shall retire.

11.2.2 Subject to Article 11.2.5, the Directors to retire by rotation shall be those who have been longest in office since their last appointment or reappointment, but as between individuals who became or were last reappointed directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

11.2.3 If the Company, on the Election Date on which a Director retires by rotation, does not fill the vacancy the retiring Director shall, if willing to act, be deemed to have been reappointed.

11.2.4 No individual other than a Director retiring by rotation shall be appointed or reappointed as a Director unless he has been nominated for appointment or reappointment, as the case may be, pursuant to the procedure in Article 11.3.

11.2.5 An individual who has been appointed as a Director and Chairman who is not a Senior Representative in accordance with Article 13.2 shall not be subject to retirement by rotation.

11.3 Nomination procedure

11.3.1 The Secretariat shall forward a nomination paper to each Full Member not later than 70 days prior to the Election Date, stating:

- (a) the number of Directors who will be subject to retirement by rotation with effect from that Election Date; and
- (b) the number (if any) of other vacancies on the Board (excluding any vacancy which the Board has resolved in accordance with Article 12 to fill with a Stakeholder Director), including any vacancy caused by an individual ceasing to hold office who was himself appointed by the Board to fill a vacancy pursuant to Article 14.4.

11.3.2 Save as provided in the next sentence, each Full Member shall be entitled to nominate for election a single individual, who must be a Senior Representative of that Full Member. If a Senior Representative nominated by that Full Member is already currently a Director who is not subject to retirement by rotation with effect from that Election Date, that Full Member may not nominate an individual for election at that forthcoming election.

11.3.3 No nomination shall be effective unless received by the Secretariat within 28 days of the receipt by Full Members of nomination papers and accompanied by the signed consent of the individual nominated to the effect that he consents to his nomination as a Director. Any nomination paper which does not comply with this Article 11.3.3 shall be void.

11.3.4 Provided that the nominee specified in a returned nomination paper (which is not otherwise void under Article 11.3.3) is not, in the opinion of the Board, prohibited from being a Director by virtue of not being a Senior Representative, the nomination of such candidate shall be

deemed to be valid and, subject as provided in Article 11.4, shall be included in the ballot paper to be sent to each Full Member in accordance with Article 11.5.

11.4 **No election necessary**

If, following the procedure in Article 11.3, the number of vacancies in the Board shall be more than or equal to the number of nominees validly nominated for such vacancies, the nominees so nominated (if any) shall be elected to the Board with effect from the Election Date in that year.

11.5 **Ballot papers**

Not less than 35 days prior to the Election Date, the Secretariat shall send a ballot paper to each Full Member. The ballot paper shall provide that it must be returned so as to reach the Company within a period not exceeding 21 days from the date on which it is sent out and shall include a list of nominees for election and the number of vacancies to be filled.

11.6 **Board election voting**

Each Full Member shall be entitled to exercise as many votes as there are vacancies on the basis of one vote per nominee. The nominees with the most number of votes cast by all Full Members, equal to the number of vacancies to be filled, shall be elected as Directors with effect from the Election Date. The results of the ballot shall be announced and notified by the Secretariat to all Members no later than 14 days following the Election Date.

12 **Stakeholder Directors**

12.1 **75% Board resolution**

Having regard to the desirability of ensuring that the Board reflects the range of interests of Full Members, the Board may resolve, acting by resolution passed by not less than 75% of the total number of Directors, to reserve one or more places on the Board for Directors who are Senior Representatives of a particular group of Full Members (any such group to be as determined by the Board in its absolute discretion). Any such Director shall be a **Stakeholder Director** for the purpose of these Articles.

12.2 **Appointment of Stakeholder Director**

The resolution passed by the Board referred to in Article 12.1 shall specify:

- (a) the group of Full Members entitled to vote on the election of such Stakeholder Director and the method of such election (including the size of the majority of the Full Members within the particular group who must vote in favour of the appointment and whether such election should take place simultaneously with or separate from the elections held under Article 11);
- (b) the period of appointment of such Stakeholder Director and whether or not he shall be subject to retirement by rotation; and
- (c) whether or not a replacement for such Stakeholder Director shall be appointed by election among the same group of Full Members and/or whether or not any such replacement shall first be subject to a further vote of the Board passed in the manner referred to in Article 12.1 prior to any subsequent election being held.

13 **Chairman**

13.1 **Existing Director to act as Chairman**

Subject to Article 13.2, the Chairman shall be one of the existing Directors appointed as Chairman by resolution of the Board.

13.2 **Independent Chairman**

The Board may elect an individual to act as Director and Chairman who is not a Senior Representative as Chairman but who the Board considers to be suitably qualified to act as Chairman.

13.3 **Term of office**

Unless removed from the office of Chairman (and Director) by resolution of the Board, the Chairman shall be appointed for a term not exceeding 12 months, following which he may be re-appointed (on one or more occasions) as Chairman by the Board.

13.4 **Chairman of Board meetings**

Unless he is unwilling to do so, the individual appointed as Chairman shall preside at every meeting of the Board at which he is present. If there is no Director holding the office of Chairman, or if the Director holding the office is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the Directors present may appoint one of their number to be chairman of the meeting.

14 **Directors generally**

14.1 **Resignation**

A Director may at any time resign by giving notice in writing to the Company and thereupon his office shall be vacated. A Director who shall resign under this Article 14.1 shall not thereby be disqualified from being re-elected or re-appointed at any time thereafter.

14.2 **Disqualification**

A Director shall vacate his office:

- (a) upon becoming bankrupt or suspending payments to, or compounding with, his creditors; or
- (b) if he is convicted of a criminal offence which the Board resolves renders him unfit to continue in office; or
- (c) if he ceases to be a Director by virtue of any provision of the Act or he becomes prohibited by law from being a Director; or
- (d) (other than an individual appointed as Chairman under Article 13.2) if he becomes prohibited from being a Director under Article 10.1(b) as a result of his ceasing to be a Senior Representative (either as a result of his ceasing to be a bona fide employee or consultant engaged in a senior capacity of a Full Member or as a result of his employer ceasing to be a Full Member); or
- (e) if he is, or may be, suffering from mental disorder and either:
 - (i) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
 - (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
 - (iii) he is otherwise of unsound mind; or

- (f) if he shall become by virtue of ill health, accident or injury physically incapable or otherwise incapacitated; or
- (g) if he shall for nine consecutive months have been absent without permission from the Board from meetings of the Board held during that period and the Directors resolve that his office be vacated; or
- (h) in the case of a Chairman appointed by the Board pursuant to Article 13.2, he is removed by resolution of the Board pursuant to Article 13.3.

14.3 Vacancies

The Board may act and exercise all its powers notwithstanding any vacancies in the number of Directors, including if the number of Directors is less than the minimum number set out in Article 10.1(a).

14.4 Casual Vacancies

The Directors may appoint any person who is willing to act to be a Director to fill a vacancy, provided that the appointment does not cause the maximum number of Directors to exceed the number stated in Article 10.1(a). A Director so appointed shall hold office only until the next following Election Date and shall not be taken into account in determining the Directors who are to retire by rotation with effect from that Election Date. If not reappointed on that Election Date, he shall vacate office on that Election Date.

14.5 Validity of acts

All acts done by the Board, or of a committee of the Board, or by a person acting as a Director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

15 Alternate Directors

15.1 Appointment

A Director (other than the Chairman) may, by notice in writing to the Company to be received no later than 3 days prior to the relevant meeting of the Board, appoint a named alternate who is a Senior Representative of the same Full Member as that Director to attend at Board meetings in his absence. Each Director shall have the right to change the named alternate by notice in writing as aforesaid. An alternate so appointed shall be entitled to attend, speak at and vote at meetings of the Board at which the Director who appointed him is not personally present.

15.2 Restriction on number of meetings attended by alternate

An alternate for a Director may not attend Board meetings more than twice in any calendar year without the prior approval of the Board.

15.3 Termination of appointment

An alternate for a Director shall cease to be an alternate if his appointor ceases to be a Director; but, if a Director retires by rotation or otherwise but is reappointed or deemed to have been reappointed on the Election Date on which he retires, any appointment of an alternate made by him which was in force immediately prior to his retirement shall continue after his reappointment.

16 Remuneration, fees and expenses of Directors

16.1 No remuneration or fees and expenses

Subject to Article 16.2, no Director shall be entitled to receive any remuneration, fee or other compensation for acting as a Director or to be reimbursed for any travelling, hotel, and other expenses properly incurred by him in connection with his attendance at meetings of Directors or committees of Directors or general meetings or separate meetings of the Company or otherwise in connection with the discharge of his duties as a Director.

16.2 Exception for Independent Chairman

An independent chairman appointed pursuant to Article 13.2 shall be entitled to receive an amount by way of remuneration or fee as approved by the Board from time to time and to be paid all reasonable travelling, hotel, and other expenses properly incurred by him in connection with his attendance at meetings of Directors or committees of Directors or general meetings or separate meetings of the Company or otherwise in connection with the discharge of his duties.

17 Powers of Directors

17.1 Powers generally

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

17.2 Appointment of agents

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

17.3 Delegation of directors' powers

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

17.4 Directors' interests

Subject to the provisions of the Act, and provided that he has disclosed to the Board the nature and extent of any material interest of his, a Director notwithstanding his office:

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

- (c) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

17.5 Notice of Director's interest

For the purposes of Article 17.4:

- (a) a general notice given to the Board that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and to the extent so specified; and
- (b) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

18 Proceedings of Directors

18.1 Proceedings generally

Subject to the provisions of the Articles, the Directors may regulate their proceedings as they think fit.

18.2 Convening of Board meetings and notice

The Secretariat may, and any two Directors may, call a meeting of the Directors. Other than in the case of an emergency (when as much notice as is practicable in the circumstances shall be given), not less than 14 days' notice shall be given of all meetings of the Board.

18.3 Quorum

The quorum for the transaction of the business of the Directors shall be 3 Directors. A person who is appointed as an alternate shall, if his appointor is not present, be counted in the quorum.

18.4 Voting

Each Director shall have one vote, including an alternate if his appointor is not present. Save as otherwise provided in these Articles, questions arising at a meeting shall be decided by a two-thirds majority of those Directors present, including by alternate. The Chairman shall not have a second or casting vote.

18.5 Written resolutions

A resolution in writing signed by all the Directors (including by an alternate) or of a committee of Directors shall be as valid and effectual as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors.

18.6 Voting when interested

Save as otherwise provided by the Articles, a Director shall not vote at a meeting of Directors or of a committee of Directors on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Company. For the purposes of this Article:

- (a) a person shall not be treated as being interested in a matter purely by reason of his being a Senior Representative of a Member unless:
 - (i) the matter relates to the membership of that Member specifically; or
 - (ii) the matter relates to actual or potential legal proceedings between or involving the Company and that Member or a Group Company of that Member;
- (b) an interest of a person who is, for any purpose of the Act (excluding any statutory modification thereof not in force when this regulation becomes binding on the Company), connected with a Director shall be treated as an interest of the Director; and
- (c) in relation to an alternate, an interest of his appointor shall be treated as an interest of the alternate without prejudice to any interest which the alternate has otherwise.

18.7 **Counting of quorum**

A Director shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.

18.8 **Entitlement to vote**

If a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any Director other than himself shall be final and conclusive.

18.9 **Attendance**

In addition to Observers under Article 19, the Board may permit other individuals to attend and speak at one or more meetings of the Board (or any part thereof as determined by the Board), including a representative of a Member, the representative of the Secretariat and other guests. For the avoidance of doubt, no such individual shall have any voting rights at any meeting of the Board or shall be counted in the quorum.

18.10 **Minutes of meetings**

The Directors shall cause minutes to be kept of all proceedings at meetings of the Company and of the Directors, and of committees of Directors, including the names of the Directors present at each such meeting. The Directors shall cause minutes of meetings of the Board to be published on the Company's website, unless the Board specifically resolves otherwise.

19 **Observers**

19.1 **Right to appoint Observer**

Each of the BERR and Ofcom shall have the right to appoint an individual to act as an **Observer**, and from time to time to remove and replace any individual so appointed. Such rights shall be exercisable by notice in writing on the Company.

19.2 **Observer rights**

An Observer shall:

- (a) not be a Director;
- (b) be entitled to receive notice of, attend and speak at each meeting of the Board; and
- (c) subject to Article 26.8 not be entitled to vote at any meeting of the Board.

20 Secretariat

20.1 Appointment

The Board shall appoint from time to time a person or persons to carry on the functions of the **Secretariat**, being the functions which the Board considers necessary and/or appropriate for the operation of the Company from time to time, including secretary, treasurer or work programme manager. The Board may terminate the appointment of any such person(s) at any time and appoint another person(s) in their place. If there is no person appointed as Secretariat at any time, the Company itself shall fulfil such role. The first Secretariat shall be the Institution of Engineering and Technology who shall fulfil the roles as agreed in writing between the Company and the Institution of Engineering and Technology.

20.2 Role

The role of the Secretariat shall be as determined from time to time by the Board and, in addition to specific matters referred to elsewhere in the Articles, may include all or any of the following:

- (a) responsibility for the day-to-day running of the operations of the Company;
- (b) monitoring and supporting the activities of the Board and ensuring they are consistent with the Objects;
- (c) monitoring and supporting the activities of Working Groups and ensuring they are consistent with the Objects;
- (d) managing the collection of Fees and Contributions from Members;
- (e) acting as treasurer and organising the Company's finances, including the payment of creditors;
- (f) arranging insurance liability cover in relation to the Company's activities, assets and liabilities, including directors' and officers' liability insurance;
- (g) hosting, managing and updating the Company's website and intranet;
- (h) acting as the custodian of the Company's books, records, documents and other information, including the maintenance of:
 - (i) a record of the Members, showing each Member's name, appointed representative, contact details and particulars of membership;
 - (ii) minutes of all Board meetings;
 - (iii) proposals, reports and other documents submitted by the Working Groups to the Board; and
 - (iv) statutory registers and accounting records.

20.3 Secretariat remuneration

The Secretariat shall be remunerated by the Company such amount as agreed in writing from time to time and as approved by the Board. The Secretariat shall also be entitled to be reimbursed by the Company for all reasonable travel, hotel and other expenses incurred by the Secretariat in connection with their representative(s) attendance at any meeting or otherwise incurred in connection with the activities of the Company.

20.4 **Referral to the Board**

Subject to these Articles, the Secretariat shall refer all material matters relating to these Articles and arising out of the performance of its functions to the Board for determination.

21 Work Programme

21.1 **Work Programme generally**

The Board shall (either itself or through a technical steering group created in accordance with Article 22) establish, monitor and manage the Work Programme, taking into account the commercial and other requirements of Members and Relevant UK Bodies.

21.2 **Right to propose work items**

New work items for inclusion in the Work Programme may be proposed by the Board or by a Member (who may be either a Full Member, an Associate Member or an Observer Member).

21.3 **Acceptance of work items**

A new work item proposed by a Member shall be accepted by the Board for inclusion in the Work Programme provided:

- (a) it is supported by 3 Full Members in addition to the proposing Member (whether the proposing Member is a Full Member, an Associate Member or an Observer Member);
- (b) the proposing Member and supporting Full Members commit to contribute what the Board considers to be sufficient time, personnel, financial, technical and administrative resources to the study and progression of the proposed new work item in the relevant Working Group; and
- (c) the proposed new work item identifies the technical work to be undertaken, the deliverables to be produced and the timescale for their completion and any relationship with commercial, technical or other requirements defined by other Relevant UK Bodies.

21.4 **Prioritisation of work items**

The Board shall prioritise work items taking account of, in particular, the relationship of work items with the commercial, technical or other requirements defined by other Relevant UK Bodies.

22 Working Groups

22.1 **General**

22.1.1 The Board may create Working Groups to undertake a particular element or elements of the Work Programme. The scope, objectives, timescales and (save as expressly provided for in these Articles) procedures for each Working Group (including any variation, addition, suspension or termination of its activities) will be as determined by the Board from time to time.

22.1.2 The Board may also, at its discretion, create additional steering or supervisory groups or committees to manage the day-to-day activities of some or all of the Work Programmes. Such groups and committees shall, for the purpose of these Articles, be treated as Working Groups, so that the provisions of these Articles which apply to Working Groups shall apply to such groups and committees.

22.2 Working Group Representatives

Each Working Group will be open to each Full Member, Associate Member and Observer Member who wishes to participate in such Working Group by nominating one or more individuals as its representative on the Working Group (each such individual being a **Working Group Representative**).

22.3 Working Group Chairman, Vice-Chairman and Secretary

22.3.1 Each Working Group shall nominate a chairman and secretary, and may also choose to nominate a vice-chairman, each being a representative of a different Member. The nominations will be subject to approval by the Board.

22.3.2 If there are no nominations for the post of secretary or chairman of a particular Working Group or the Working Group is unable to agree a nominee, the Board shall approve the appointment of one of the Working Group Representatives to act as secretary or chairman (as the case may be) for such Working Group.

22.3.3 If the post of secretary is not filled or the secretary is unable to attend a meeting of a Working Group, a secretary may be appointed from the meeting participants at the start of the meeting on a rotating basis and will act as secretary for that meeting.

22.3.4 If the post of chairman is not filled or the chairman is unable to attend a meeting of a Working Group, the vice-chairman (if any) of such Working Group shall act as chairman of that meeting. If the Working Group does not have a vice-chairman, the meeting shall appoint a person from the meeting participants at the start of the meeting to act as chairman for that meeting.

22.4 Working group meetings

22.4.1 Meetings of each Working Group shall be hosted by, and at the expense of, each Member who has nominated a Working Group Representative to that Working Group, on a rotating basis as determined by the Working Group chairman. The frequency of meetings of the Working Group shall be set by the Working Group chairman. If such Working Group does not have a Working Group chairman, such matters shall be determined by the Working Group secretary and, in the absence of a Working Group secretary, by decision of the other Working Group Representatives.

22.4.2 Notice of each meeting of a Working Group shall be made available to each Member via the Company's intranet.

22.4.3 The chairman of a Working Group may exceptionally invite one or more experts who are not Working Group Representatives to contribute to specific work items of a Working Group and to attend meetings of the Working Group.

22.5 Working Group Activities

22.5.1 Each Working Group shall, and each Member who has nominated a Working Group Representative to that Working Group shall ensure that such individual shall, at all times operate in accordance with these Articles and the reasonable directions of the Board.

22.5.2 Each Working Group shall be accountable to the Board and responsible for reporting its progress to the Board and/or to supervisory groups or committees as specified by the Board.

22.5.3 Each Working Group shall be responsible for the generation of documentation relating to the activities being pursued by that Working Group and for making the information available on the Company's intranet for access by each Member unless, at the request of any Relevant UK Body, the Board may resolve to withhold or otherwise restrict the availability of the working documents of any Working Group to all Members.

22.5.4 In undertaking its activities, each Working Group shall:

- (a) monitor the work programmes of key international standards bodies in order to understand dependencies and risks;
- (b) take account of existing and developing relevant international standards in the production of any deliverable;
- (c) through the membership of the Working Group Representatives on and/or interaction with UK International Standards Coordination bodies, attempt to influence the development of international standards in order to further UK interests; and
- (d) act in accordance with the IPR Policy concerning confidentiality.

22.6 Working Group results

22.6.1 Upon completion of a Working Group's activity, or a specified part of such activity, the Working Group shall submit the results in writing to the Board for consideration and approval by the Board. Generally, the results will consist of draft Standards.

22.6.2 If there has been a dissenting view within a Working Group on the results produced by that Working Group, the Working Group should specify this in writing when submitting the results to the Board.

23 Approval of NICC Documents

23.1 Board to manage process

The Board shall manage the process for the approval of NICC Documents prior to their publication.

23.2 Methodology

23.2.1 The Board shall use reasonable endeavours to achieve approval of each NICC Document by consensus and shall therefore use the Consensus Document Approval Process in the first instance.

23.2.2 In the event that a draft version of an NICC Document is not approved using the Consensus Document Approval Process, the Board shall decide how to proceed, taking into account (amongst other matters) the commercial requirements for the Work Programme defined by other Relevant UK Bodies. The Board may decide, by resolution of the Board, to take one or more of the following actions (either simultaneously or consecutively and on one or more occasion for any such action):

- (a) refer the relevant draft NICC Document back to the relevant Working Group for further consideration and amendment;
- (b) stop or suspend the particular element of the Work Programme;
- (c) use the Consensus Document Approval Process to seek approval to publish the draft NICC Document as the current 'state of the art' (being the most advanced level of development of such NICC Document at that particular time) with all dissenting views received from Members included and with a clear indication on the front page that the NICC Document is not unanimously agreed by Members; or
- (d) put the draft version of the NICC Document as approved by the Board to vote by Full Members using the Voting Document Approval Process.

23.3 Consensus Document Approval Process

- 23.3.1 The Board shall send a notice (such notice to be given using electronic communications to an e-mail address for the time being notified for that purpose to the person giving the notice) containing the draft relevant NICC Document to all Members for comment together with a statement of the time period within which comments must be received by the Company. Such period shall be 28 days from the date of receipt of the notice unless the Board specifies a different period.
- 23.3.2 Each Member may respond in writing to the Company with comments on the relevant draft NICC Document, so that such response is received by the Company on or prior to the date which is the end of the specified period. If a Member fails to respond in writing to the Company or if its response is received by the Company after the end of the specified period, that Member shall be deemed to have approved such NICC Document in the form sent by the Board.
- 23.3.3 If a Member responds in writing to the Company with comments on the relevant draft NICC Document so that such response is received by the Company on or prior to the date which is the end of the specified period, it shall indicate in such response whether such comments are sufficiently important to prevent consensus agreement of such draft NICC Document. All such responses by the Company will be made available to the Members via the intranet. If a Member indicates in such response that its comments are sufficiently important to prevent consensus agreement of such draft NICC Document, the draft NICC Document (in the form sent to all Members) shall not have been approved using the Consensus Document Approval Process and Article 23.2.2 shall apply.
- 23.3.4 If the Company does not receive a response from any Member under Article 23.3.3 in which the Member has indicated in such response that its comments are sufficiently important to prevent consensus agreement of such draft NICC Document, that draft NICC Document shall become an NICC Document approved for publication.

23.4 Voting Document Approval Process

- 23.4.1 If the Board resolves pursuant to Article 23.2.2 to put the draft version of the NICC Document out to vote by Full Members using the Voting Document Approval Process, the Board will circulate a notice to all Members using electronic communications to an e-mail address for the time being notified for that purpose to the person giving the notice (a **Voting Notice**). The Voting Notice shall:
- (a) include a copy of the relevant draft NICC Document, including:
 - (i) details of any amendments (as approved by the Board) to any previously circulated versions of that draft NICC Document that failed to secure consensus approval using the Consensus Document Approval Process;
 - (ii) references to comments submitted by any Member during an earlier Consensus Document Approval Process; and
 - (iii) explanatory notes and recommendations provided by the Board and/or the relevant Working Group; and
 - (b) include details of how each Full Member may exercise its voting right (as specified in Article 23.4.2) and a voting slip for such purpose.
- 23.4.2 The Voting Notice shall specify the period (the **Voting Period**), being not less than 28 days from the date of receipt of the Voting Notice unless the Board specifies a different period in the Voting Notice, within which each Full Member may exercise its voting right (on the basis of 1 vote for each Full Member) either in favour of or against the approval of such draft NICC Document by completing and returning to the Company the voting slip which accompanied the Voting Notice.

- 23.4.3 At the end of the Voting Period, the draft NICC Document shall be an approved NICC Document for publication if at least 75% of the Full Members who have exercised their voting rights voted in favour of the approval of such draft NICC Document.
- 23.4.4 The Board shall promptly notify the Members of the outcome of the Voting Document Approval Process.

24 Publication of NICC Documents

24.1 General

Subject to Article 24.2, the Company shall publish all NICC Documents on its website so that they are generally available for access and downloading by the public.

24.2 Exception to publication

At the request of any Relevant UK Body, the Board may resolve to withhold or otherwise restrict the publication of any NICC Document under Article 24.1.

25 Intellectual Property Rights

25.1 Network Interoperability Consultative Committee activities

The Company acknowledges that all existing copyright relating to the activities of the Network Interoperability Consultative Committee shall remain as previously vested in either Ofcom or the Crown, as appropriate, and shall not be assigned or otherwise transferred to the Company.

25.2 Company activities

25.2.1 All copyright in any NICC Document shall be vested in the Company with the exception of any such copyright owned by third parties that is identifiable in an NICC Document, for which the Company shall give due acknowledgement to the relevant third parties.

25.2.2 Subject to Article 25.2.3, the publication of an NICC Document shall contain the grant by the Company to all Members and to third parties of a non-exclusive right:

- (a) to use and copy and distribute any NICC Document within their own organisations; and
- (b) to use any trade mark of the Company for the purpose of design, manufacture and implementation of equipment to the specification contained in an NICC Document.

25.2.3 At the request of any Relevant UK Body, the Board may resolve to withhold or otherwise restrict the grant by the Company of the rights pursuant to Article 25.2.2.

25.2.4 The Board may resolve to grant to other organisations rights to use, copy and distribute NICC Documents, where it considers this to be consistent with the Objects.

25.2.5 Subject to Article 25.2.6, the Company shall not transfer ownership or control of any of its Intellectual Property Rights other than to a wholly-owned subsidiary of the Company.

25.2.6 From time to time, the Company shall grant to Ofcom an irrevocable, perpetual, royalty-free and non-exclusive licence to use any Intellectual Property Rights of the Company (including copyright in any NICC Document or in the working papers of any Working Group) for any purpose (including the right to sue for infringement of such Intellectual Property Rights and the ability to grant one or more sub-licences of all or any of such Intellectual Property Rights on such terms that Ofcom may deem fit). Such licence (and any sub-licence) shall survive the winding-up or dissolution of NICC.

25.3 **Member Intellectual Property Rights**

The Company acknowledges that, other than copyright in any NICC Document as referred to in Article 25.2.1, the Company shall not become the owner of any Intellectual Property Rights created, owned or controlled by any Member.

25.4 **IPR Policy**

25.4.1 The Board shall adopt and, may from time to time amend, update and replace, the IPR Policy, the purpose of which is to reduce the risk that investment by the Company, Members and others in the preparation, adoption and application of NICC Documents could be wasted as a result of an essential Intellectual Property Right being unavailable.

25.4.2 The Company shall publish a copy of the IPR Policy on its website and shall notify the Members on its adoption and on any amendment, update or replacement to or of the IPR Policy from time to time.

26 **Funding**

26.1 **Funding requirements**

The Company shall require funding for its activities and for the purpose of achieving the Objects, including for the following matters:

- (a) administrative support provided by the Secretariat;
- (b) programme management support provided by the Secretariat for the Board and Working Groups;
- (c) expenses incurred by the Secretariat whilst performing Secretariat functions;
- (d) subject to prior agreement by the Board, remuneration and expenses for the Chairman if an independent Chairman is appointed pursuant to Article 13.2;
- (e) accommodation and catering costs associated with Board meetings (but not for meetings of Working Groups which will be hosted at no cost to the Company in accordance with Article 22.4.1);
- (f) hosting of the Company's website and extranet;
- (g) insurance in relation to the Company's activities, assets and liabilities; and
- (h) organisation, accommodation and catering costs of any Members events organised from time to time by the Company.

26.2 **Funding by Members**

26.2.1 As an industry-owned body, the Company will be funded by its Members, with the primary source of funding for the Company being Fees and any Contributions levied from Full Members, Associate Members and (subject to Article 26.2.2) Observer Members in accordance with Articles 26.5 and 26.6.

26.2.2 No Observer Member shall be obliged to pay any Fee or Contribution. However, in demonstration of their support to the operation and objectives of the Company, Observer Members may voluntarily give funds to the Company.

26.3 **Supplemental income**

It is anticipated that the funds available to the Company may be supplemented by income from publications and events organised by the Company.

26.4 **Budget**

The Company's budget for each Financial Year will be developed by the Board in cooperation with the Secretariat and will require approval by the Board.

26.5 **Full Member and Associate Member Fees**

26.5.1 There will be no Fees payable by Members in respect of the first Financial Year.

26.5.2 The Board will propose for approval by the Members in general meeting the level of Fees to be payable by Full Members and Associate Members in respect of each subsequent Financial Year and the Board shall serve a notice of general meeting, setting out the proposed Fees, no later than 90 days prior to the commencement of the Financial Year to which they relate.

26.5.3 If the Members do not approve the proposed Fees at the general meeting referred to in Article 26.5.2 the Board may revise the proposed Fees and shall convene a further general meeting (or general meetings) as required until the Members have approved the Fees proposed by the Board (including any revisions to the Board's proposals).

26.5.4 No earlier than 7 days following their approval by the Members in general meeting, the Company shall invoice Members for the Fees, which shall be due and payable in full on or prior to the first day of the relevant Financial Year to which they relate (or, if later, 60 days after the date of invoice). For the avoidance of doubt, no Fees (or any amount thereof) shall be refundable if a Member serves notice of withdrawal from membership under Article 5, or if the membership of any Member terminates, either prior to the commencement of or during a Financial Year to which the Fees relate.

26.5.5 In proposing the level of Fees for a subsequent Financial Year, the Board shall take into account any unused surplus Fees, Contributions or other income received by the Company in the previous Financial Year.

26.5.6 The Fees payable by Full Members and Associate Members may vary according to the category of membership and, unless approved otherwise by special resolution of Members, shall be the same for all Members within each category. The Company's intention is that the level of Fees should not present a barrier to participation in the Company's activities, particularly for small organisations or organisations that have an interest in a particular field of the Company's activities rather than the generality of the Company's activities.

26.6 **Contributions**

26.6.1 The Board may exceptionally levy ad-hoc contributions from Full Members and Associate Members to cover any extraordinary, unusual or unanticipated operating expenses or operating deficits of the Company (**Contributions**).

26.6.2 For the avoidance of doubt, Observer Members shall not be obliged to pay Contributions.

26.6.3 Any Contribution:

- (a) shall be levied upon each Full Member and Associate Member as determined by the Board provided always that any proposed Contribution in excess of 25% of any Full Member's or Associate Member's Fees for that Financial Year shall require the prior approval of Members by special resolution; and
- (b) shall be due and payable 30 days from the date of invoice.

26.7 **Members' expenses**

Save as expressly provided otherwise in these Articles, including under Article 26.1, all time, travel, hotel and other expenses incurred by Full Members, Associate Members and Observer

Members in connection with the activities of the Company shall in all cases be borne by the relevant Member, including:

- (a) attending at meetings of the Board; and
- (b) attending at meetings of any Working Group.

26.8 Ofcom funding

The Fees shall take into account funding which Ofcom has agreed to provide to the Company during the period from the Company's incorporation up to and including at least 31 March 2009, on the understanding between the Company and Ofcom that the Company should become self-funding as soon as practicable.

26.9 Nature of Fees and Contribution

For the avoidance of doubt, the Fees and any Contribution payable by a Member from time to time shall be a debt payable by the Member to the Company but shall not comprise an obligation to contribute to the assets of the Company of the nature contained in paragraph 5 of the Memorandum.

26.10 Late Payment

If any Member fails to make any payment of any Fees or Contribution by the due date for payment, without prejudice to Article 6, the defaulting Member shall (unless determined otherwise by the Board at its discretion) pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base lending rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment in full of the overdue amount and accrued interest, whether before or after judgment. This Article 26.10 shall not apply to payments that a defaulting Member is contesting in good faith.

26.11 Member notification of certain matters

26.11.1 The Company shall notify the Members as soon as reasonably practicable:

- (a) (subject to Article 26.11.2) after the Company has received notice of any litigation, arbitration or administrative proceedings which are current, threatened or pending against the Company and which, if adversely determined, are reasonably likely to involve a liability to the Company exceeding £10,000 (or its equivalent in other currencies); or
- (b) if the Board reasonably believes that the Company's aggregate expenditure in any Financial Year will or is likely to exceed the aggregate budgeted expenditure for that Financial Year by more than 25% of the aggregate budgeted expenditure.

26.11.2 The requirement to notify the Members under Article 26.11.1(a) shall not apply if and to the extent that the Board (acting reasonably) determines that notification of the relevant proceedings would be materially prejudicial to the Company's interests and/or in breach of any obligation of confidentiality which is binding on the Company.

27 Annual Report

27.1 Preparation

In accordance with the Act, the Board shall procure that, in co-operation with the Secretariat, the Company shall prepare and send to each Member the Company's annual accounts for each Financial Year and the Directors' report for that Financial Year.

27.2 **Publication**

The Company may publish a copy of its annual accounts and the Directors' report on the Company's website.

28 **Notices**

28.1 **Method of Service**

28.1.1 Any notice to be given to or by any person pursuant to the Articles shall be in writing or with the relevant Member's consent shall be given using electronic communications to an address for the time being notified for that purpose to the person giving the notice. In this Article 28, "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.

28.1.2 The Company may give any notice to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at its registered address or by leaving it at that address or where consent has been received in writing from the relevant Member by giving it using electronic communications to an address for the time being notified to the Company by the Member. A Member whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, shall be entitled to have notices given to him at that address, but otherwise no such Member shall be entitled to receive any notice from the Company.

28.1.3 A Member present, either in person or by authorised representative, at any meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

28.2 **Proof of service**

Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given.

28.3 **Deemed service**

A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

29 **Indemnity and Insurance**

29.1 **Indemnity**

29.1.1 Subject to the provisions of, and so far as may be consistent with, the Act, every Director shall be indemnified by the Company out of its own funds against:

- (a) any liability incurred by or attaching to him in connection with any negligence, default, breach of duty or breach of trust by him in relation to the Company other than:
 - (i) any liability to the Company or any associated company (as defined in Section 256(b) of the Act); and
 - (ii) any liability of the kind referred to in Section 234(3) of the Act; and

- (b) any other liability incurred by or attaching to him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office.

Where any Director is indemnified against a liability in accordance with this Article 29.1, the indemnity shall extend to all costs, charges, losses, expenses and liabilities incurred by him.

29.1.2 Subject to the provisions of and so far as may be permitted by the Act, the Company may:

- (a) provide a Director with funds to meet expenditure incurred or to be incurred by him in defending any criminal or civil proceedings or in connection with any application under the provisions mentioned in Section 205(5) of the Act; and
- (b) may do anything to enable that person to avoid incurring that expenditure,

but so that the terms set out in Section 205(2) of the Act shall apply to the provision of funds or other things done.

29.2 **Insurance**

The Directors may exercise all the powers of the Company to purchase and maintain insurance for the benefit of any person who is or was an officer or employee of the Company, indemnifying him against liability for negligence, default, breach of duty, breach of trust or another liability which may lawfully be insured against by the Company.

