

The Proposed Company Structure
of Northern Ireland Energy
Holdings Limited
A Consultation Paper

Northern Ireland Authority for Energy
Regulation
July 2005

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Section One: Introduction

Introduction

This paper sets out the issues raised by the proposal to incorporate Moyle Interconnector Limited (MIL¹) into Northern Ireland Energy Holdings Limited (NIEH²). This would create a single holding company for Northern Ireland's UK-linking energy assets following NIEH's successful acquisition of the regulated gas transmission utility, Premier Transmission Limited (PTL³).

The Northern Ireland Authority for Energy Regulation (the Authority) invites the views of all interested parties on the proposal and particularly seeks comments on whether the proposals set out in this paper are adequate to protect the interests of consumers.

This paper is structured as follows. The remainder of this section looks at the background of NIEH and key issues for consideration. Section Two looks at the governance arrangements and current company structure, and then explains the proposals in detail. Section Three examines the potential benefits and risks. Section Four summarises the Authority's position and explains how to respond. The Memorandum of Association, Articles of Association and Membership Policy of NIEH are attached as appendices. *Please note that the items in the appendices are included for reference only and the Authority is not consulting on their content.*

Background

In November 2004 the Authority issued a decision paper on the issues raised by the proposed acquisition of PTL by a subsidiary of NIEH.

One of the key issues addressed by the Authority was a proposal to transfer ownership and control of MIL to NIEH. Reservations about this proposed structure had been expressed in responses following the PTL acquisition consultation paper issued in September 2004. For this reason the Authority stated that no further action would be taken on the matter until the PTL acquisition had been completed and the governance arrangements for NIEH and associated gas transmission companies had been put in place and were deemed to be satisfactory.

The acquisition of PTL was successfully completed in March 2005. The governance arrangements have been agreed with the Authority and implementation is now in progress. Thus the Authority now wishes to consult on the possible incorporation of MIL into NIEH.

¹ MIL own and operate the Moyle Interconnector infrastructure and assets.

² NIEH is a not-for-profit 100% debt financed company limited by guarantee.

³ PTL own and operate the Scotland to Northern Ireland Pipeline (SNIP).

Key Issues for Consideration

The proposed incorporation of MIL into NIEH raises a number of important considerations. These can be summarised as follows:

- Are the benefits of the incorporation of MIL into NIEH sufficient to justify the new company structure?
- Are the corporate governance arrangements of NIEH sufficient to ensure the transparency and accountability of the new company structure?
- Are the corporate governance arrangements of NIEH sufficient to prevent potential conflicts of interest?
- Are there any additional benefits or risks that are not identified and addressed in this paper?

The remainder of this paper looks at the first three considerations mentioned above.

Section Two: The Proposed Company Structure

This section begins by examining the governance arrangements and current structure of NIEH. The proposed new company structure is then considered.

Governance of NIEH

As a company limited by guarantee NIEH has no share capital and therefore no shareholders. Instead NIEH is governed by a group of individuals known as Members. Members do not receive dividends nor do they have any financial interest in NIEH. Accordingly all financial surpluses generated, if any, will be retained for the benefit of its operating companies and, ultimately, energy consumers.

Membership of NIEH

Members are selected on the basis of merit and against objective criteria that ensures the Membership has the necessary skills, expertise, industry experience and capacity to fulfil its obligations. The intention is that NIEH will have at least 30 members and it is expected that this number will be reached by the time of the first Annual General Meeting (AGM) due in September 2005.

The Membership will be wide and varied in its make up, including representatives from the General Consumer Council, the Confederation of British Industry, the Institute of Directors, the Ulster Farmers Union and the Northern Ireland Committee of the Irish Congress of Trade Unions. This will ensure that all stakeholders are adequately represented and in particular that there is adequate representation of consumers. Appointments will be made by a selection panel which comprises two independent Members, two non-executive directors of NIEH and two independent persons nominated by the Authority.

Maximum tenure for members will be three consecutive 3 year terms with renewal requiring approval by the selection panel.

Members will scrutinise the business performance of PTL against commercial and other targets, as well as against energy industry benchmarks for quality of service and cost efficiency. Thus the role of Members is similar to that of shareholders in a public limited company, save that Members have no direct financial interest in NIEH.

The Board of Directors of NIEH

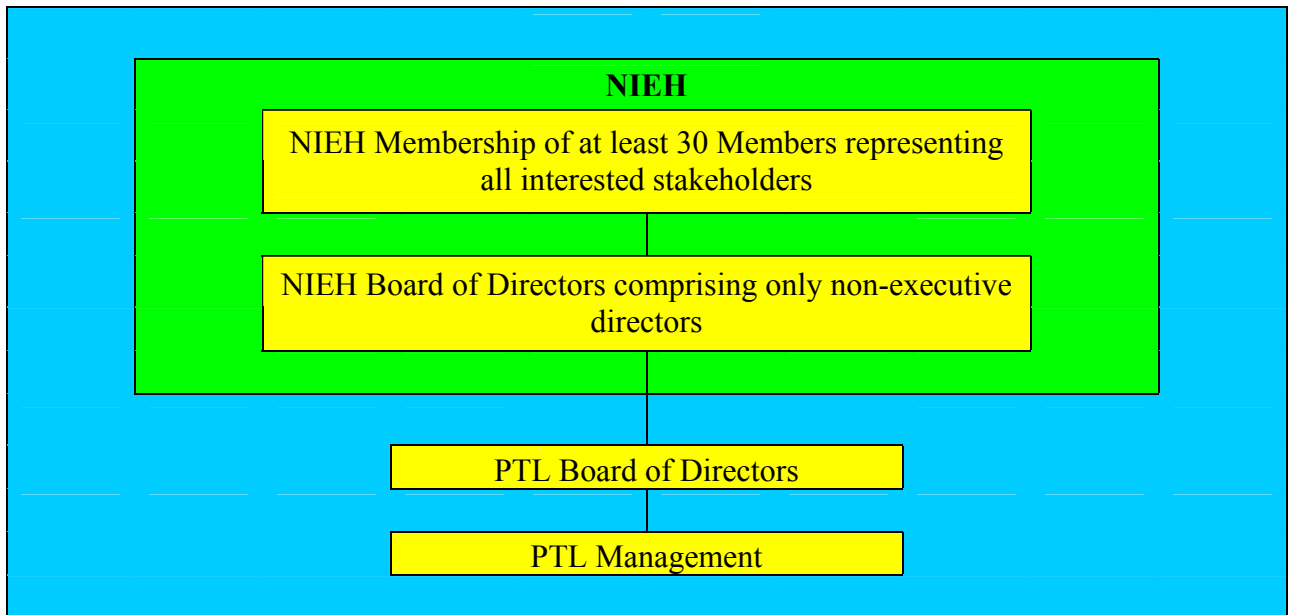
Responsibility for the monitoring and management of NIEH's business lies with the board of directors (the Board).

The Board is comprised solely of non-executive directors. Currently the Board consists of the 5 non-executive directors of Moyle Holdings Limited (MHL).

Maximum tenure for directors of the Board will be two consecutive 3 year terms with appointment and renewal requiring approval by the Membership at AGM. However Members have the power to appoint a new director at any time, either to fill a vacancy or as an addition to the existing Board. The Board has the power to appoint a new director in the event of a vacancy arising from the resignation of another director. Any director appointed in this way will hold office only until the next AGM, at which point reappointment is subject to the approval of the Membership.

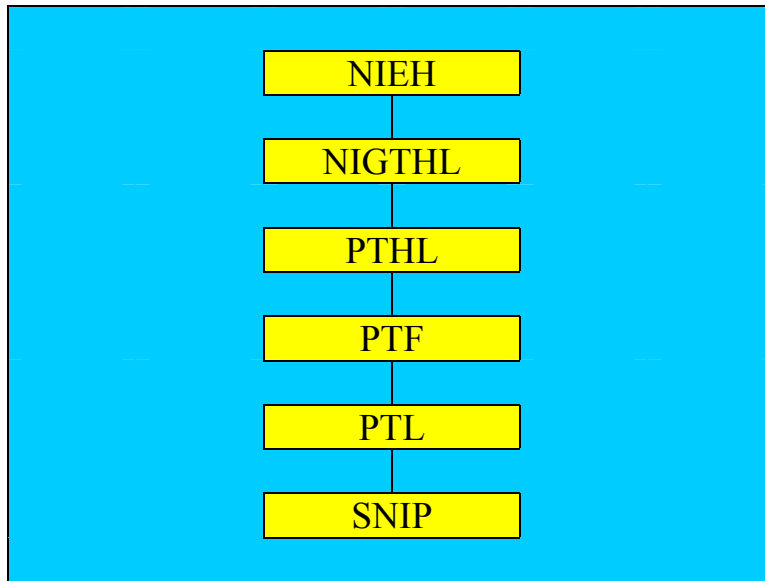
Management of NIEH's Business

The Board monitors and manages the board of directors of PTL, who in turn monitor and manage their professional managers who operate and run SNIP. As all directors on the Board are independent non-executives they will not be eligible for bonuses and earn only a director's emolument. However as the board of PTL comprise executive directors and non-executive directors (with non-executive directors outnumbering executive directors), executive directors are suitably incentivised by way of bonuses for achieving appropriate financial/operational/safety targets etc. This ensures that SNIP is operated in an efficient and effective manner.



Current Structure of NIEH

SNIP is owned and controlled by NIEH through ownership of the whole issued share capital of Northern Ireland Gas Transmission Holdings Limited (NIGTHL), which in turn beneficially own the whole issued share capital of Premier Transmission Holdings Limited (PTHL), which in turn own the whole issued share capital of Premier Transmission Financing plc (PTF), which in turn own the whole issued share capital of PTL, which in turn own and control the SNIP infrastructure and assets. This layered structure was established in order to facilitate the acquisition and mutualisation of PTL.



The Proposed New Company Structure

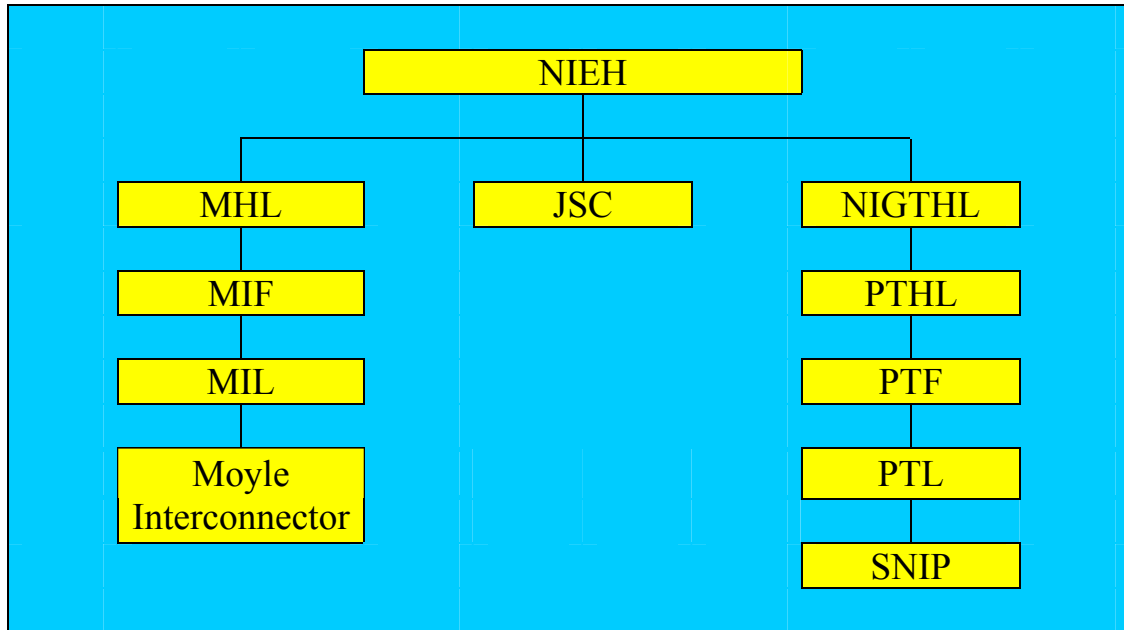
The proposal is for NIEH to become the direct holding company of Moyle Holdings Limited (MHL), which in turn own the whole issued share capital of Moyle Interconnector Financing plc (MIF), which in turn own the whole issued share capital of Moyle Interconnector Limited (MIL), which in turn own and control the Moyle Interconnector infrastructure and assets. Again this layered structure was established as a consequence of the Moyle Interconnector mutualisation process.

If the Moyle group of companies is transferred to NIEH it is proposed that a new joint services company (the JSC) will be incorporated as a direct wholly owned subsidiary of NIEH. The JSC would provide joint management and other services to both the Moyle group of companies and also to the SNIP group of companies.

The Moyle group of companies currently operate under a similar structure to that at NIEH. In fact NIEH's current structure was modelled on Moyle. Existing Members of MHL have already been invited to become Members of NIEH. If the Moyle

incorporation occurs then all Members of MHL will resign and the Membership of NIEH will take over responsibility and control of MHL.

The governance arrangements of NIEH will remain, only the responsibility of the Board would be extended to monitor and manage the Moyle group of companies.



The next section looks at the risks and benefits of this proposal.

Section Three: Risks and Benefits of the Proposal

Potential Benefits

In light of the information currently available, the Authority's preliminary analysis is that the proposed new company structure will be beneficial for energy consumers of Northern Ireland. Potential benefits include:

- Significant operational efficiency gains through cost savings in relation to the sharing of management and administrative functions, as well as cost savings in relation to joint outsourcing such as the procurement of maintenance and other service contracts;
- The creation of a much more robust structure for the management of the two mutualised energy companies owning and operating similar infrastructure assets which are financed and regulated in similar ways. This would facilitate the provision of mutual support and contingency cover;
- Tax benefits arising out of grouping the two assets which would enable NIEH to avail of group relief on losses in one operating company against profits in another. To that extent, the early year losses expected in relation to PTL can be offset against profits generated at Moyle during that period;
- Combining knowledge and expertise acquired by those involved in the mutualisation of the Moyle Interconnector and SNIP that will facilitate future energy asset acquisitions by NIEH; and
- The creation of a holding company in Northern Ireland owning key mutualised energy assets with sufficient influence and capability to act in the long-term interests of energy consumers, for example in any future all-island energy market negotiations.

The Authority welcomes the views of any interested parties supporting or challenging these potential benefits, or comments on additional benefits which have not been considered.

Potential Risks

The following concerns have been expressed to the Authority:

- There would be a lack of transparency and accountability in the new structure;
- The gas and electricity markets, although interlinked, are different with different risks, and hence require different expertise to operate effectively;

- MIL and PTL are effectively in competition with each other. Conflicts of interest may arise if both are incorporated into NIEH; and
- The Moyle Interconnector and SNIP at present account for all of Northern Ireland's imported energy resources. Ownership and control of such strategically important assets by a single company may increase the potential for systemic energy industry failure.

The Authority is minded to conclude that, given the information currently available, these risks are sufficiently controlled. The reasons are explained below. Again the Authority welcomes all views supporting or challenging this analysis, or comments on additional risks which have not been considered.

Lack of Transparency and Accountability

The constitutional documents⁴ governing NIEH cover in detail the requirements, obligations and responsibilities of the Membership and the Board. The documents also explain how appointments to the Membership and the Board are made. Furthermore the planned diversity of the Membership with adequate representation of consumers ensures that consumer interests are always a primary focus, which in turn ensures that NIEH's ultimate accountability is to consumers.

Members will ensure that the Board's activities are transparent, and the Board will in turn ensure that management are suitably incentivised to work to further consumer interests. In addition the performance of the various boards in the new company structure will be subject to scrutiny by the Board, which in turn will be subject to scrutiny by the Membership. Thus it is clear to whom serving directors are accountable.

The constitutional documents of PTL have been amended so as to be consistent with those of NIEH. It is envisaged that amendments will be made to the constitutional documents of Moyle if it is incorporated into NIEH. This reinforces the Authority's opinion that transparency and accountability in the new structure would not be an issue.

Differences between Gas and Electricity Markets

For clarity the Authority wishes to emphasise that the day-to-day management of the Moyle Interconnector and SNIP would remain in the hands of the existing professional managers. The proposed new company structure does not entail the creation of a single operations unit to run both energy assets. Instead the JSC will only provide administration and management services where overlap exists and joint servicing is feasible and beneficial. This will in no way compromise the operations of either energy asset.

⁴ The constitutional documents are (1) the Membership Policy, (2) the Memorandum of Association (MoA) and (3) the Articles of Association (AoA).

Furthermore the Moyle and SNIP group of companies are protected from inappropriate manipulation by a ‘ring-fencing’ condition in their respective licences. This ‘ring-fencing’ guarantees that the Moyle and SNIP group of companies continue to be run as separate entities. ‘Ring-fencing’ is discussed further below.

By way of example, the merging of the National Grid Group and the Lattice Group creating National Grid Transco in 2002 is evidence that gas and electricity operators can be combined successfully. Ofgem’s analysis of the competition and regulatory issues raised by the merger concluded that the combined group would not be detrimental to energy consumers. To date the ‘ring-fencing’ provisions in the combined group have successfully prevented any conflicts of interest arising.

Also, the Authority will continue to monitor the activities of both Moyle and PTL. This should provide comfort that each energy asset continues to be operated and managed in a prudent manner.

Conflicts of Interest

The Authority is minded to conclude that conflicts of interest are sufficiently controlled, due to the following:

- Only non-executive directors from the Moyle and PTL boards serve as directors on the Board;
- There are no executive directors on the Board;
- Both entities have financial guarantees in place ensuring stability and security. This mitigates the risk of any manipulation of one entity by the other for financial gain;
- Members will comprise representatives of both gas and electricity consumers, who should not tolerate any actions that are harmful to either of these consumer groups; and
- The ‘ring-fencing’ provisions, among other licence conditions, mitigate any conflict of interest.

The Authority acknowledges that there will be a degree of overlap in terms of personnel serving on the various boards in the proposed new company structure. However the corporate governance structures that will be in place will prevent any conflicts of interests arising. Furthermore directors will be aware that they are bound by the Companies (Northern Ireland) Order 1986 which provides that they owe a fiduciary duty to the company on whose board they sit and that company alone, when performing their functions. Any breach of this obligation would be subject to sanctions as a matter of law.

Accordingly the Authority does not foresee any director acting against the best interest of the company on whose particular board they sit. The Authority welcomes the views of interested parties on this issue.

The ‘ring-fencing’ provisions refer to the licence conditions prohibiting Moyle and PTL from engaging in any activities outside their licensed business. As the licensed business of each is clearly defined, there is no scope for manipulation of either energy asset by the Board at the expense of the other. Nor is there any scope for the Board to pursue any agenda other than that which benefits consumers.

Other conditions in the licences require that Moyle and PTL operate their assets in an efficient, economic and non-discriminatory manner. These conditions, together with the ‘ring-fencing’ provisions, provide comfort to the Authority that the new structure will not lead to either entity acting inappropriately.

Another area of potential concern is the licence condition that permits any financial surplus achieved through operational efficiencies to be used at the discretion of the Board for social enhancement projects. It is a valid concern that the Board may direct these funds towards projects in which they have a personal interest. However it is a necessary requirement that all monies used for such purposes receive the approval of the Authority, thereby limiting the discretionary spending powers of the Board.

Potential for Systemic Energy Industry Failure

The Authority reiterates the fact that the Moyle and SNIP group of companies will continue to function as separate entities. Whilst there may be some joint management and other services provided by the JSC, the main operational activities of the Moyle Interconnector and SNIP will remain segregated. In addition the new structure would provide a much more robust structure for the management of the two mutualised energy companies owning and operating similar infrastructure assets which are financed and regulated in similar ways. This would facilitate the provision of mutual support and contingency cover which, if anything, reduces the likelihood of failure of either energy asset.

For this reason the Authority does not see any merit in the idea of possible systemic energy industry failure.

Section Four: Conclusion

The Authority must assess any proposed new company structure against its legal duties as outlined in the Energy (Northern Ireland) Order 2003. The principal objective of the Authority in relation to its gas functions is to promote the development and maintenance of an efficient, economic and coordinated gas industry in Northern Ireland. In relation to its electricity functions the principal objective is to protect the interests of consumers of electricity wherever appropriate by promoting effective competition between relevant industry participants.

Accordingly the Authority must consider if the new company structure will in any way violate these objectives.

The Authority is satisfied that both entities have consumer interests at the core of their objectives and if they are not merged then all the potential benefits described in Section Three would be lost. Furthermore the Authority is minded to conclude that the corporate governance arrangements in place deal with concerns already expressed by respondents.

It may still be possible to create a JSC that would provide joint services to each entity in the event the merger does not occur. However the cost savings would be restricted, the option to avail of group tax relief would be lost and the facilitation of future energy asset mutualisation would be hindered.

The Authority does not believe it would be advantageous to the mutual model to have two mutuals operating separately from one another. In particular the potential cost savings of the Moyle incorporation which could be returned to consumers is reason enough to justify the proposal. However the Authority welcomes the views of interested parties, and in particular any further information supporting or challenging this preliminary analysis. The views of respondents on the issues raised are critical and will inform the Authority's final assessment in due course.

How to Respond

The Authority invites view on any aspect of this paper and in particular on the specific issues put forward for consideration.

The deadline for responses is Tuesday 30 August 2005.

Please state whether you are responding as an individual or representing the view of an organisation, and submit any response to:

Carl Hashim
Gas Unit
Ofreg
Brookmount Buildings
42 Fountain Street
Belfast
BT1 5EE
Tel: 028 9031 1575
Fax: 028 9031 1740
E-mail: carl.hashim@ofregni.gov.uk

Responses sent as e-mail attachments are preferred.

Responses to the consultation will normally be made public unless respondents request that they should remain confidential. Respondents should clearly mark any part of their response (or, if appropriate, the whole response) which is to remain confidential. Where possible any confidential material should be assigned to an appendix.

Appendix I – Memorandum of Association

THE COMPANIES (NORTHERN IRELAND) ORDER 1986

COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

MEMORANDUM of ASSOCIATION

of

NORTHERN IRELAND ENERGY HOLDINGS LIMITED

- 1 The name of the company is "Northern Ireland Energy Holdings Limited" (the "**Company**").
- 2 The Company's registered office is to be situated in Northern Ireland.
- 3 The Company's objects are:
 - 3.1 To carry on the business of a holding company and to co-ordinate, finance and manage all or any part of the businesses and operations of any and all companies controlled directly or indirectly by the Company or in which the Company is interested, whether as a shareholder or otherwise and whether directly or indirectly.
 - 3.2 Either itself or through any subsidiary undertaking or undertakings to:
 - (a) enter into an agreement for the acquisition by the Company of the entire issued share capital of Premier Transmission Limited, an incorporated company registered in Northern Ireland under number NI26421 and to complete such acquisition pursuant to the provisions of such agreement;
 - (b) own, finance, manage, operate, repair and maintain, having regard to the interests of the energy consumers of Northern Ireland, any energy transmission network or energy distribution network within Northern Ireland and/or the Republic of Ireland, and plant in Northern Ireland and/or the Republic of Ireland involved in the generation, production, transmission and distribution of energy and/or to appoint contractors or agents to do any of the foregoing;

- (c) to apply for, obtain and maintain in force any licence, consent, permit or other authorisation which is necessary or desirable for or in connection with any of the Company's objects and to exercise and perform its rights and obligations under any such licence, consent, permit or other authorisation;
 - (d) upgrade, alter, refurbish, reinstate, replace and renew such network from time to time;
 - (e) enter into agreements by which rights to use the capacity of any part of the network are granted to third parties;
 - (f) to enter into agreements with the owner or operator of any transmission or other energy system to which any part of the assets owned or licensed by the company or any subsidiary undertaking or undertakings is or are connected regulating the terms and conditions of such connection and/or making provision for the recovery of revenues from customers of such owner or operator and/or making provision for the auctioning of the capacity of such interconnector in order to facilitate the entering into of the agreements described in (e) above;
- 3.3 To do anything which the Company or any subsidiary undertaking of the Company is or may be authorised to do under or pursuant to any enactment or any licence, consent, permit or other authorisation granted to the Company or any such subsidiary undertaking thereunder or pursuant thereto or which the Company or any such subsidiary undertaking is required or permitted to do under or by virtue of any enactment or such a licence, together with any activities incidental thereto.
- 3.4 To promote the interests of any company which is for the time being a subsidiary, holding company or subsidiary of any holding company of the Company or any undertaking which is for the time being a subsidiary undertaking of the Company or of any holding company of the Company in any manner whatever and, in particular, by paying or discharging the liabilities thereof or giving any undertaking to do so, by giving any indemnity or guarantee in respect of such liabilities and by giving any security or charge for any such indemnity or guarantee or for the payment of money or performance of obligations by any such company or undertaking as aforesaid, either with or without consideration and whether or not any benefit flows to the Company other than the promotion of such interests as aforesaid to the intent that the promotion of the interests of any such company or undertaking as aforesaid shall be an object and not a power of the Company.
- 3.5 To own, or to hold shares in other companies which own, energy infrastructure assets and to manage such investments and/or assets.
- 3.6 To carry on all or any of the businesses of procurers, generators, suppliers, distributors, transformers, converters, transmitters, producers, manufacturers, processors, developers, storers, carriers, importers and exporters of, and dealers in, electricity, gas, and any products derived from or connected with any of these activities, or derived from or connected with any other form of energy, including without limitation heat, solar, wind, hydro, wave, tidal, geothermal, biological and nuclear energy; to plan, locate, design, establish, build, construct, equip, operate, make, use, administer, manage and maintain, improve, enlarge, alter, repair, replace and remove, and carry out works in respect of, any generating station (including, without limitation to the generality of the foregoing, any power station powered by renewable sources of energy), sub-station, transformer station, pumping station, building, plant, equipment, electric main works, gas main

works and any facilities ancillary to the operation or use of the station; to install in any premises or place and to operate, use, inspect, maintain, repair, replace and remove meters or other devices for assessing the quantity and/or quality of supplies of electricity, gas and other substances and forms of energy and for other purposes connected with such supplies; and to do anything that an electricity and/or gas generator, electricity and/or gas distributor, electricity and/or gas supplier or electricity and/or gas transmitter is empowered or required to do under or by virtue of, or under licence granted under, any enactment.

- 3.7 To carry on all or any of the businesses of general and gas and electrical engineers, manufacturers, designers, assemblers, installers, maintainers, repairers, hirers, letters on hire, importers, exporters and distributors of, agents for and dealers in, electrical engineering, gas engineering and electronic goods, equipment, devices, appliances, accessories and supplies of every description, and cable jointers, heating, lighting, radio, television, telephone, telecommunication, and mechanical engineers; to undertake consultancy and advisory services in relation to all aspects of the engineering, gas, electrical and electronic industries; to carry on business as owners, proprietors and operators of laboratories and development centres of all kinds, and to undertake the design, development, production, manufacture and sale of specialised instruments and equipment of all descriptions relating to the conservation of energy through the use of solar, sea, wind, electrical, gas, oil or nuclear power or by any other means, and for any other purpose; to undertake the compilation, editing, production and publication of technical data processes and books, magazines, periodicals, trade journals and other literature of all descriptions; to carry on business as dealers in and manufacturers, fitters, maintainers, repairers and merchants of household and domestic appliances, equipment, utensils, furniture, fittings, hardware and ironmongery of all kinds; to carry on all or any of the businesses of general builders and contractors, property repairers and developers, builders' merchants, plant hire specialist, metallurgists, boilermakers, smiths and fitters, wire-drawers, tube-makers, tin-plate workers, sheet-metal manufacturers, workers and dealers, tinnerns, galvanisers, platers, metal founders, converters and moulders, millwrights, annealers and enamellers, plastics workers and moulders, painters and decorators, carpenters, glaziers, proprietors and operators of, and dealers in, barges, oil rig platforms and drilling rigs, shop and office fitters, estate agents, hire purchase financiers and agents, mortgage and insurance brokers, fuel merchants, haulage and transport contractors, commission and general agents, factors, brokers and warehousemen; to enter into any contracts or other arrangements of all kinds with persons having dealings with the Company on such terms and for such periods of time as the Company may from time to time determine; and to act as merchants generally.
- 3.8 To carry on the businesses of management, personnel, industrial and business consultants and advisers and to advise upon the means and methods for extending, developing and improving all types of businesses or industries and all systems or processes relating to the production, storage, distribution, marketing and sale of goods and to the rendering of services; to employ, train and exploit the services of directors, executives, staff and personnel of all kinds; to act as advisers and consultants in efficiency technique, business, office and works management studies, public and personnel advertising, marketing, sales promotion and product design in relation to all types of commercial and manufacturing undertakings and technical, economic and financial matters affecting commerce and industry, and to establish, maintain and operate a market research and advisory service; to collect, compile and circulate information, statistics and data of every description relating to matters of all kinds

affecting any person, body or business engaged in commerce and industry; to perform all duties of a secretarial nature, including direct mail services, typing, shorthand, duplicating, translating, instructing and advising on all matters of office equipment and supplies; to carry on a school or provide training in all branches of secretarial work; to carry on business as office systems specialists, business system organisers, business transfer agents, publicity experts, consultants, agents and contractors, hire purchase financiers and consultants, manufacturers, designers, repairers of and dealers in stationery, office equipment, machinery and appliances, materials and supplies of every description; to act as business managers, business contractors and representatives, rates adjusters, arbitrators, trustees and sureties, commission and general agents, to supply professional and trained staff, and to provide services and generally to assist other firms or companies in the directing and carrying on of the business of such firms or companies; to arrange business and professional partnerships and to enter into, assist, or participate in financial, commercial, mercantile, industrial and other transactions, undertakings and businesses of every description, and to establish, carry on, develop and extend the same or sell, dispose of or otherwise turn the same to account, and to co-ordinate the policy and administration of any companies of which this Company is a member or which are in any manner controlled by, or connected with, this Company; and to act as merchants generally.

- 3.9 To carry on all or any of the businesses of providing management, administrative and financial services of every description to other companies, firms and persons; to act as business and office managers, messengers, telephone operators, forwarding agents and commercial agents, and to provide a telephone answering service for subscribers and others, and to act as consultants and operators in connection with any service or services from time to time provided by the Post Office; to act as a service company and provide accounting, secretarial and office services, staff, equipment, publications, transport and all services as may be required for the running of any office or business or for the conduct of any profession, trade, industry or commercial enterprise; to carry on all or any of the businesses of share registrars, transfer and proxy agents, secretaries, trustees, nominees, executors, administrators of estates and the general business of a trust company; to act as financial and investment consultants and advisers; to carry on all or any of the businesses of financiers for the promotion of the sale for cash or on credit, or the supply under hire purchase agreements, easy payment systems or otherwise, of goods, wares, produce and merchandise of every description, company promoters, bill discounters and fund managers; to give guarantees or supply security for the payment of money or the performance of any obligations or undertakings; to act as a holding company; to carry on all or any of the businesses of mortgage brokers, insurance brokers, finance brokers, commodity brokers and dealers, commission agents and importers and exporters of goods, wares, produce and merchandise of every description; to participate in, undertake, perform, and carry on all kinds of commercial, industrial, trading and financial operations and enterprises; to act as general business consultants and market research specialists, experts and advisers in business, office and other systems and costs analysis, efficiency techniques, marketing and sales promotion; to create, establish and maintain an organisation for the purchase, sale, vending, distribution, advertising or introduction of produce, merchandise, goods, wares and commodities of every description; to carry on all or any of the businesses of haulage and transport contractors, removers, general storekeepers and warehousemen, mail order specialists, and railway, shipping and forwarding agents; to provide leisure, recreation, sport and amusement activities of all kinds and to act as bingo club proprietors, bookmakers, turf accountants and commission agents, betting shop

proprietors, owners and operators of golf clubs and swimming pools, hoteliers, letters on hire of holiday accommodation, restaurant and cafe keepers, refreshment caterers and contractors, licensed victuallers, wine and spirit merchants, tobacconists and confectioners and retailers of other articles likely to be required by persons in connection with the Company's activities, travel agents, theatrical agents, box office keepers, advertising agents and contractors, publishers and printers, taxi-car park and garage proprietors, private and public car hirers and motor and electrical engineers, farmers and owners and breeders of livestock, builders and contractors; and to act as merchants generally.

- 3.10 To enter into any guarantee, bond, contract of indemnity or suretyship and otherwise give security or become responsible for the performance of any obligations or the discharge of any liabilities by any person or company in any manner on any terms and for any purposes whatsoever, whether with or without the Company receiving any consideration or advantage and whether or not in furtherance of the attainment of any other object of the Company and in particular (without derogation from the generality of the foregoing) to guarantee, support or secure, by personal covenant or by mortgaging or charging all or any part of the undertaking, real or personal property, assets and revenues (present and future) and uncalled capital of the Company (or by both such methods) or in any other manner whatsoever, the payment or repayment of any moneys secured by, or payable under or in respect of, any debts, obligations or securities whatsoever and the discharge of any liabilities whatsoever, including not limited to those of any company which is for the time being a holding company, subsidiary or wholly owned subsidiary (as defined in Article 4, Part 1 of the Companies (NI) Order 1986 SI (as amended by Article 62 Part IV of the Companies (No 2) (NI) Order 1990)) of the Company or another subsidiary of the Company's holding company or is otherwise associated with the Company in business anywhere in the world.
- 3.11 To carry on business as advisers and practitioners in administration, analysis and general management for agricultural, horticultural, industrial and business purposes, and to carry on all or any of the businesses of industrial, business and personnel consultants, managers and analysts to examine, consider, advise upon and make recommendations as to the best means or methods for extending and/or developing and/or improving all types of farming and horticultural processes, businesses or industries and all systems or processes relating to the production, storage, distribution, marketing and sale of goods and products and or relating to the rendering of services in a temporary or continuing capacity, and whether as proprietors, partners or otherwise.
- 3.12 To advance the art and science of management distribution, marketing and selling, and to promote good management, distribution, marketing and selling practice and principles, to develop improved management, distribution, marketing and selling procedures, to engage in development and research of and in all and any problems relating to personnel, industrial and business management and distribution, marketing and selling, to collect, prepare and distribute statistics and information relating to any type of business or industry and to promote or propose such methods, procedures and measures as may be considered desirable or beneficial for all or any of the Company's objects and to act as agents or managers in carrying on any business concerns and undertakings and to employ experts to investigate and examine into the condition, management prospects, value and circumstances of any business concerns and undertakings and generally of any assets, property or rights of any kind.

- 3.13 To carry on any other trade or business whether manufacturing, distributing, supplying or otherwise which can, in the opinion of the board of directors be advantageously carried on by the Company.
- 3.14 To purchase or otherwise acquire and undertake all or any part of the business, property, liabilities and transactions of any company, society, partnership or person carrying on any business which the Company is authorised to carry on or possessed of property suitable for any of the purposes of the Company, and to account and carry on, or liquidate and wind up, any such business.
- 3.15 To purchase, take on lease, take in fee farm or in exchange hire or otherwise acquire and hold for any estate or interest whatsoever any real or personal property and any rights or privileges of any kind necessary or convenient for the purposes of or in connection with the Company's business or any branch or department thereof and in particular any land, buildings, easements, concessions, vehicles, ships, machinery, plant and stock-in-trade.
- 3.16 To build, construct, alter, set-up, maintain, enlarge, pull down, remove or replace, and to work, manage and control any buildings, offices, factories, mills, shops, machinery, engines, roads, ways, tramways, railways, branches or sidings, bridges, reservoirs, watercourses, wharves, electric works, gas works and other works and conveniences which may seem calculated directly or indirectly to advance the interests of the Company, and to join with any other person or company in doing any of these things.
- 3.17 To apply for, purchase, or otherwise acquire and protect and renew in any part of the world any patents, patent rights, brevets d'invention, trade marks, designs, licences, concessions, and the like, conferring any exclusive or non-exclusive or limited right to their use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the Company, or the acquisition of which may seem calculated directly or indirectly to benefit the Company, and to use, exercise, develop, or grant licences in respect of, or otherwise turn to account the property, rights or information so acquired and to expend money in experimenting upon, testing or improving any such patents, inventions or rights.
- 3.18 To acquire and undertake the whole or any part of the business, property, and liabilities of any person or company carrying on, or proposing to carry on any business which the Company is authorised to carry on, or possessed of property suitable for the purposes of the Company, or which can be carried on in conjunction therewith or which is capable of being conducted so as directly or indirectly to benefit the Company.
- 3.19 To amalgamate with or enter into any partnership, arrangement, union of interests, joint adventure, reciprocal concession or co-operation or for limiting competition with any company, firm or person carrying on or engaged in or proposing to carry on or engage in any business, trade or transaction within the objects of this Company or which is capable of being carried on so as directly or indirectly to benefit this Company, and to subscribe for, take or otherwise acquire and hold, sell, deal with or dispose of any shares or stock in or debentures or other securities of or other interests in any such company, and to guarantee the contracts or liabilities of, subsidise or otherwise assist, any such company.
- 3.20 To improve, manage, develop, work, lease, mortgage, charge, pledge, grant rights, easements or privileges in respect of or otherwise deal with, all or any part of the property and rights of the Company and also to invest and deal with the moneys of the

Company not immediately required for the purposes of the business of the Company in or upon such investments and in such manner as the Company may approve.

- 3.21 To vest any real or personal property, rights or interest acquired by or belonging to the Company in any person or company on behalf of or for the benefit of the Company, and with or without any declared trust in favour of the Company.
- 3.22 To acquire by original subscription, tender, purchase or otherwise and hold, sell, deal with or dispose of any shares, stocks, debentures, debenture stocks, bonds, obligations, or other securities in or guaranteed by any company constituted or carrying on business in the United Kingdom and/or any part of the world whether or not such company has objects altogether or in part similar to those of the Company and debentures, debenture stock, bonds, obligations or other securities guaranteed by any government or authority, municipal, local or otherwise, whether at home or abroad, and to subscribe for the same either conditionally or otherwise and to guarantee the subscription thereof and to exercise and enforce all rights and powers conferred by the ownership thereof.
- 3.23 To lend and advance money or give credit to customers and others with or without security, and upon such terms as the Company may approve, and to guarantee the liabilities, obligations and contracts of the customers and others, and the dividends, interest and capital of the shares, stocks or securities of any company of or in which this Company is a member or is otherwise interested and generally to give guarantees and indemnities.
- 3.24 To receive money on deposit or loan and borrow or raise money in such manner as the Company shall think fit, and in particular by the issue of bonds, or debentures, or debenture stock (perpetual or otherwise) or any other financial or debt instrument and to secure the repayment of any money borrowed, raised or owing by mortgage, charge or lien upon all or any of the property or assets of the Company (both present and future), including its uncalled capital, and also by a similar mortgage, charge or lien to secure and guarantee the performance by the Company or any other person or company of any obligation undertaken by the Company.
- 3.25 To draw, make, accept, endorse, negotiate, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments.
- 3.26 To apply for, promote and obtain any Act of Parliament, charter, privilege, concession, licence or authorisation of any government, state or municipality, provisional order or licence of any government department or other authority for enabling the Company to carry any of its objects into effect or for extending any of the powers of the Company or for effecting any modification of the constitution of the Company or for any other purpose which may seem expedient, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the interests of the Company.
- 3.27 To enter into any arrangements with any governments or authorities, supreme, municipal, local or otherwise or any person or company that may seem conducive to the objects of the Company, or any of them, and to obtain from any such government, authority, person or company any rights, privileges, charters, contracts, licences and concessions which the Company may think it desirable to obtain and to carry out, exercise and comply therewith.
- 3.28 To take part in the formation, management, supervision or control of the business or operation of any Company or undertaking and for that purpose to appoint and

remunerate any directors, accountants, solicitors or other experts, advisers or agents; and also to employ experts to investigate and examine into the condition, prospects, value, character and circumstances of any business concerns and undertakings and generally of any assets, property or rights.

- 3.29 To pay out of the funds of the Company all expenses which the Company may lawfully pay with respect to the formation and registration of the Company or the issue of its capital, including brokerage and commissions for obtaining applications for or taking, placing or underwriting or procuring the underwriting of shares, debentures or other securities of the Company.
- 3.30 To pay for any property or rights acquired by the Company and to remunerate any person or company whether by cash payment or by allotment of fully or partly paid-up shares, with or without preferred or deferred or special rights or restrictions in respect of dividend, repayment or capital, voting or otherwise, or by allotment of debentures or any other securities which the company has power to issue, or partly in one mode and partly in another, and generally on such terms as the Company may determine.
- 3.31 To insure the life of any person, who may, in the opinion of the Company, be of value to the Company as having or holding for the Company interests, goodwill or influence or other assets and to pay the premiums on such insurance.
- 3.32 To establish and maintain or procure the establishment and maintenance of any contributory or non-contributory pension or superannuation funds for the benefit of, and give or procure the giving of donations, gratuities, pensions, allowances or emoluments to any persons who are or were at any time in the employment or service of the Company, or of any company which is a subsidiary of the Company, or was taken over or otherwise acquired by the Company or is allied to or associated with the Company or with any such subsidiary company, or who are or were at any time directors or officers of the Company or of any such other company as aforesaid, and the wives, widows, families and dependants of any such persons, and also establish and subsidise and subscribe to any institutions, associations, clubs or funds calculated to be for the benefit of or to advance the interest and well-being of the Company or of any such other company as aforesaid, and make payments to or towards the insurance of any such person as aforesaid and do any of the matters aforesaid, either along or in conjunction with any such other company as aforesaid.
- 3.33 To procure the Company to be registered or recognised in Great Britain, the Republic of Ireland or in any other part of the world.
- 3.34 To establish, or promote or concur in establishing or promoting any company or companies for the purpose of acquiring all or any of the property, rights and liabilities of the Company or for any other purpose which may seem directly or indirectly calculated to benefit the Company and to place or guarantee the placing of, underwrite, subscribe for or otherwise acquire all or any part of the shares, debentures, or other securities of any such other company.
- 3.35 To sell, lease, mortgage, grant in fee farm, exchange or otherwise dispose of the real or personal property, assets or undertakings of the Company or any part thereof for such consideration as the Company may think fit and to accept payment for any real or personal property or rights sold or otherwise disposed of or dealt with by the Company, either in cash, by instalments or otherwise, or in fully or partly paid-up shares or stock of any company or corporation whether or not having objects altogether or in part similar to those of the Company and whether or not such shares or stock shall have

preferred or deferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or in debentures or mortgages or other securities of any company or corporation, or partly in one mode or another, and generally on such terms as the Company may determine, and to hold, dispose of or otherwise deal with any shares, stock or securities so acquired.

- 3.36 To give any financial assistance that may lawfully be given in connection with the acquisition of shares in the Company or any other company.
- 3.37 To act as agents or brokers and as trustees for any person or company and to undertake and perform sub-contracts and to do all or any of the above things in any part of the world, and either as principals, agents, trustees, contractors or otherwise, and either alone or jointly with others, and either by or through agents, sub-contractors, trustees or otherwise.
- 3.38 To appoint any person or persons, firm or firms, company or companies to be the attorney or agent of the Company and to act as agents, managers, secretaries, contractors or in similar capacity.
- 3.39 To take, make, execute, enter into, commence, carry on, prosecute or defend all steps, contracts, agreements, negotiations, legal and other proceedings, compromises, arrangements and schemes, and to do all other acts, matters and things which shall at any time appear conducive or expedient for the advantage or protection of the Company.
- 3.40 To purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers, employees or auditors of the Company, or of any other company in which the Company has any interest whether direct or indirect or which is in any way allied to or associated with the Company or of any subsidiary undertaking of the Company or of any such other company, or who are or were at any time trustees of any pension fund of which any employees of the Company or of any such other company or subsidiary undertaking are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to the Company or any such other company, subsidiary undertaking or pension fund and to such extent as may be permitted by law otherwise to indemnify or to exempt any such person against or from any such liability. For the purpose of this paragraph "subsidiary undertaking" shall have the same meaning as in the Companies (Northern Ireland) Order 1990.
- 3.41 To do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them.

And it is hereby declared that for the purposes of this Clause:-

- (a) the word "company" in this clause, except where used in reference to this Company, shall be deemed to include any partnership or other body or persons, whether corporate or unincorporate and whether domiciled in Northern Ireland, or elsewhere; and
- (b) the objects specified in each of the paragraphs of this clause shall be regarded as independent objects and accordingly shall in no way be limited or restricted (except where otherwise expressed in such paragraphs) by reference to or

inference from the terms of any other paragraph or the name of the Company, but may be carried out in as full and ample a manner and construed in as wide a sense as if each of the said paragraphs defined the objects of a separate and distinct company.

- 4 The income and property of the Company, whenever derived, shall at all times be applied solely towards the promotion of the objects of the Company as set out in this Memorandum of Association. Neither the whole nor any part of the income or property may be paid or transferred, directly or indirectly, to the members of the Company by way of dividend, bonus or in any other way that amounts to a distribution of profit, provided that nothing in this paragraph shall prevent the payment, in good faith, of:
- (a) reasonable and proper remuneration or expenses to any officer, employee or servant of the Company;
 - (b) consideration to any members of the Company in return for any services actually rendered to the Company;
 - (c) a reasonable and proper rate of interest on money lent to the Company; or
 - (d) premiums on the insurance referred to in Clause 3.40.
- 5 If upon the winding up or dissolution of the Company there is any property remaining after the satisfaction of all its debts and liabilities, it shall not be paid to or distributed among the members of the Company, but shall be given or transferred to one or more companies and/or other entities, having objects similar to the objects of the Company and which shall prohibit the distribution of their income and property amongst their members to the same or greater extent as is imposed on the Company under or by virtue of Clause 4 above. Such company and/or entity (or companies and/or entities) shall be determined by the members of the Company at or before the time of dissolution, and if they cannot identify any company and/or other entity with objects similar to those of the Company then they may pay or transfer the surplus to any one or more charities as they shall determine.
- 6 No addition, alteration or amendment shall be made to Clauses 4 or 5 or to this Clause 6.
- 7 The liability of the members is limited.
- 8 Every member of the Company undertakes to contribute to the assets of the Company in the event of its being wound up while he is a member or within one year after he ceases to be a member for payment of the debts and liabilities of the Company contracted before he ceases to be a member and of the costs, charges and expenses of winding up and for the adjustment of the rights of contributories among themselves such amount as may be required, not exceeding one pound.

Appendix II – Articles of Association

THE COMPANIES (NORTHERN IRELAND) ORDER 1986

COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

ARTICLES of ASSOCIATION

of

NORTHERN IRELAND ENERGY HOLDINGS LIMITED

Interpretation

1 Exclusion of Table C

No regulations set out in any enactment concerning companies shall apply as the regulations or articles of the Company.

2 **Definitions**

In these Articles unless the context otherwise requires:-

"Auditors" means the auditors for the time being of the Company or, in the case of joint auditors, any one of them;

"Board" means the board of Directors from time to time of the Company or the Directors present at a meeting of the Directors at which a quorum is present;

"clear days" in relation to the period of a notice means that period excluding the day when the notice is served or deemed to be served and the day for which it is given or on which it is to take effect;

"Companies Orders" means The Companies (Northern Ireland) Order 1986 and every other enactment from time to time in force concerning companies in so far as it applies to the Company;

"Director" means any director of the Company from time to time;

"enactment" means any order in council, statute, statutory instrument or other subordinate legislation (including, without limitation, the Table C set out in the Schedule to the Companies (Tables A to F) Regulations (Northern Ireland) 1986);

"Interim Period" means the period of 6 months expiring on the date of completion of the acquisition by Premier Transmission Financing plc (or any member of the group of which the Company forms part) of the whole issued share capital of Premier Transmission Limited (registered in Northern Ireland under company number NI26421);

"Member" means a member of the Company;

"Membership Policy" means a written policy complying with the requirements of Article 6;

"Membership Selections Committee" has the meaning given in Article 6;

"seal" means any common or official seal that the Company may be permitted to have under the Companies Orders;

"these Articles" means these articles of association as altered from time to time by special resolution and the expression **"this Article"** shall be construed accordingly;

"the Office" means the registered office from time to time of the Company;

"Relevant Authority" means

- (a) The Northern Ireland Authority for Energy Regulation Northern Ireland (the **"Authority"**); or
- (b) any person, department or other entity which from time to time performs any of the functions which are of the date of the adoption of these articles assigned to the Authority.

"Secretary" means the secretary, or (if there are joint secretaries) any one of the joint secretaries, of the Company and (except in Article 70) includes an assistant or deputy secretary and any person appointed by the Board to perform any of the duties of the secretary;

"United Kingdom" means Great Britain and Northern Ireland;

references to a document being **"executed"** include references to its being executed under hand or under seal or by any other method;

references to **"writing"** include references to any method of representing or reproducing words in a legible and non-transitory form; and

words or expressions to which a particular meaning is given by the Companies Orders in force when these Articles or any part of these Articles are adopted bear the same meaning in these Articles or that part (as the case may be) save that the word **"company"** shall include any body corporate.

Headings are included only for convenience and shall not affect interpretation.

3 **Form of Resolution**

A resolution in writing executed by or on behalf of each Member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting properly

convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more of the Members.

Members

4 Number of Members

The number of Members shall not be subject to any maximum. Save with the consent of the Authority, the minimum number of members shall be as set out in the Membership Policy.

5 Admission of Members

5.1 The subscribers to the Memorandum of Association of the Company and, subject to Article 5.5, such other persons as are admitted to membership by the Board in accordance with the provisions of this Article 5 shall be Members, and their names shall be entered in the register of members accordingly. The Board shall have an absolute discretion as to the admission or rejection by them of an application for membership of the Company received from any person otherwise than in accordance with the appointment process set forth in these Articles and the Membership Policy.

5.2 The Board may at any time after the date of adoption of these Articles admit to the membership of the Company any person who has applied to become a member and who has been recommended for membership by the Membership Selections Committee to become a Member.

5.3 To become a Member in accordance with Article 5.2 any person applying shall, as a condition precedent to admission to membership, deliver a signed application in accordance with Article 5.5(c).

5.4 Subject to these Articles, Members shall be admitted to membership for an initial term (the "**Initial Term**") expiring not later than the third anniversary of his admission to membership. A Member shall cease to hold that position when his Initial Term expires unless the Board determines before the expiry of the Initial Term that the Member should continue to hold that position for a further term not exceeding three years. The provisions of the immediately preceding sentence shall apply, mutatis mutandis, on the expiry of such further term as they apply on the expiry of the Initial Term. For the avoidance of doubt, no person shall be entitled to hold the position of Member for more than three consecutive terms of three years.

5.5 No person shall be admitted as a Member:

- (a) otherwise than in accordance with the foregoing provisions of this Article; and
- (b) unless the person has been recommended for membership by the Membership Selections Committee; and
- (c) unless he signs and delivers to the Board an application in writing in such form as shall from time to time be approved by the Board.

5.6 The Board shall at its discretion make available a register of the names of Members for public inspection.

6 Membership Policy

6.1 The Board shall prepare and keep in force a published written policy (the "**Membership Policy**") setting out procedures for the selection and admission of persons as members of the Company. The Membership Policy shall include a provision

by which a committee (the "**Membership Selections Committee**") will be appointed for the purpose of making recommendations to the Board from time to time as to the persons who, in the opinion of the Membership Selections Committee, would be suitable for admission to membership of the Company.

6.2 The Board shall periodically review (including upon the request of a Relevant Authority) the Membership Policy. The Board shall send to the Relevant Authority (a) a report on the outcome of such review and (b) any proposed revisions which (having regard to the outcome of such review) the Board considers ought appropriately to be made to such policy. Following such review, the Board shall be entitled to make such revisions to the Membership Policy from time to time as it considers ought reasonably to be made provided always that no such revisions may be made unless those revisions have previously been approved:-

- (a) by the Members at a general meeting of the Company; and
- (b) by the Relevant Authority, provided always that in the event that the Relevant Authority does not notify the Board in writing within 28 days of receipt of such revisions that it objects to such revisions then such revisions shall be deemed to be approved by the Relevant Authority.

7 **Duties of Members**

Every Member shall be bound to further to the best of his ability the objects of the Company set out in Clause 3 of the Company's Memorandum of Association and shall observe these Articles.

8 **Membership not Transferable**

Membership shall be personal to the Member and shall not be transferable by act of the Member, by operation of law or otherwise.

9 **Cessation of Membership**

A Member shall cease to hold that position:-

- (a) if he becomes of unsound mind or permanently incapable of acting; or
- (b) if he is convicted of any arrestable criminal offence (other than an offence under road traffic legislation in Northern Ireland or elsewhere for which a fine or non-custodial penalty is imposed); or
- (c) is guilty of conduct tending to bring himself or the Company or any of its subsidiaries into disrepute; or
- (d) if, being an individual, he becomes bankrupt or makes any arrangement with his creditors; or
- (e) if he sends to the Company notice in writing of his retirement.

10 **Expenses**

No Member shall be entitled to receive any fees or other payment from the Company for acting as a Member. The Board may, however, determine at its discretion to reimburse reasonable expenses incurred by Members in fulfilling their duties as Members.

General Meetings

11 **Extraordinary General Meetings**

Any general meeting of the Company other than an Annual General Meeting shall be called an Extraordinary General Meeting.

12 **Annual General Meetings**

The Board shall convene and the Company shall hold general meetings as Annual General Meetings in accordance with the requirements of the Companies Orders. In the event that the Board shall fail to convene any general meeting in accordance with the requirements of the Companies Orders then, without prejudice to the provisions of the Companies Orders, not less than 10% of the Members may convene such a meeting.

13 **Convening of Extraordinary General Meetings**

The Board may convene an Extraordinary General Meeting whenever it thinks fit and shall convene on Extraordinary General Meeting on the requisition of not less than 10% of the Members. If the Board defaults in convening an Extraordinary General Meeting at the requisition of not less than 10% of the Members, such Members shall be entitled to convene the meeting.

Notice of General Meetings

14 **Length of Notice**

An Annual General Meeting and an Extraordinary General Meeting convened for the passing of a special resolution or a resolution appointing a person as a Director shall be convened by not less than twenty-one clear days' notice in writing. All other Extraordinary General Meetings shall be convened by not less than fourteen clear days' notice in writing. The notice shall specify the place, day and time of the meeting, and the general nature of the business to be transacted. Notice of every general meeting shall be given to all Members and to the Auditors.

15 **Meetings on Short Notice**

Notwithstanding that a meeting of the Company is convened by shorter notice than that specified in this Article, it shall be deemed to have been properly convened if it is so agreed:-

- (a) in the case of an Annual General Meeting, by all the Members entitled to attend and vote at the meeting; and
- (b) in the case of any other meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together representing not less than 95 per cent. of the total voting rights at that meeting of all the Members.

16 **Non-Receipt of Notice**

The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send an instrument of proxy to, or the non-receipt of either or both by, any person entitled to receive the notice shall not invalidate the proceedings at that meeting.

17 **Postponement of General Meetings**

If the Board, in its absolute discretion, considers that it is impractical or unreasonable for any reason to hold a general meeting on the date or at the time or place specified in the notice calling the general meeting, it may postpone the general meeting to another date, time and place by giving notice of such postponement not less than three clear days before the date previously specified for that meeting. Such notice shall specify the

date, time and place of the postponed meeting. Notice of the business to be transacted at such postponed meeting shall not be required.

Proceedings at General Meetings

18 **Quorum**

No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the choice or appointment of a chairman which shall not be treated as part of the business of the meeting. Save as otherwise provided by these Articles, during the Interim Period four Members present in person or by proxy and entitled to vote shall be a quorum for all purposes and, following the Interim Period, ten Members present in person or by proxy and entitled to vote shall be a quorum for all purposes.

19 **Procedure If Quorum Not Present**

If within five minutes (or such longer time not exceeding one hour as the chairman of the meeting may decide to wait) after the time appointed for the commencement of the general meeting a quorum is not present, the meeting shall stand adjourned to such other day (being not less than three nor more than twenty-eight days later) and at such other time or place as may have been specified for the purpose in the notice convening the meeting. Where no such arrangements have been so specified, the meeting shall stand adjourned to such other day (being not less than ten nor more than twenty-eight days later) and at such other time or place as the chairman of the meeting may decide and, in this case, the Company shall give not less than seven clear days' notice in writing of the adjourned meeting. At any adjourned meeting two Members present in person or by proxy and entitled to vote shall be a quorum.

20 **Security Arrangements**

The Board may direct that persons wishing to attend any general meeting should submit to such searches or other security arrangements or restrictions as the Board shall consider appropriate in the circumstances and shall be entitled in its absolute discretion to, or to authorise some one or more persons who shall include a Director or the Secretary or the chairman of the meeting to, refuse entry to, or to eject from, such general meeting any person who fails to submit to such searches or otherwise to comply with such security arrangements or restrictions.

21 **Chairman of General Meeting**

The chairman (if any) of the Board shall preside as chairman at every general meeting. If there is no chairman, or if at any meeting the chairman is not present within five minutes after the time appointed for the commencement of the meeting, or if the chairman is not willing to act as chairman, another Director shall preside as chairman if present and willing to act. If no Director is present, or if each of the Directors present declines to take the chair, the persons present and entitled to vote shall appoint one of their number to be chairman.

22 **Orderly Conduct**

The chairman shall take such action as he thinks fit to promote the orderly conduct of the business of the meeting as laid down in the notice of the meeting and the chairman's decision on matters of procedure or arising incidentally from the business of the meeting shall be final as shall be his determination as to whether any matter is of such a nature.

23 **Rights to Attend and Speak**

Each Director shall be entitled to attend and speak at any general meeting of the Company. The chairman may invite any person whom the chairman considers is, by virtue of his knowledge and experience of the Company's business, able to assist in the deliberations of the meeting to attend and speak at any general meeting of the Company.

24 **Adjournments**

The chairman may at any time without the consent of the meeting adjourn any meeting (whether or not it has commenced or a quorum is present) either sine die or to another time or place where it appears to him that (a) the Members wishing to attend cannot be conveniently accommodated in the place appointed for the meeting (b) the conduct of persons present prevents or is likely to prevent the orderly continuation of business or (c) an adjournment is otherwise necessary so that the business of the meeting may be properly conducted. In addition, the chairman may at any time with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting either sine die or to another time or place. When a meeting is adjourned sine die the time and place for the adjourned meeting shall be fixed by the Board. No business shall be transacted at any adjourned meeting except business which might properly have been transacted at the meeting had the adjournment not taken place.

25 **Notice of Adjournment**

When a meeting is adjourned for three months or more, or sine die, notice of the adjourned meeting shall be given as in the case of an original meeting. Except where these Articles otherwise require, it shall not be necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting.

26 **Resolutions**

Subject to the Companies Orders, where for any purpose an ordinary resolution of the Company is required, a special or extraordinary resolution shall also be effective and where for any purpose an extraordinary resolution is required a special resolution shall also be effective.

27 **Amendments to Resolutions**

In the case of a resolution duly proposed as a special or extraordinary resolution no amendment thereto (other than an amendment to correct a patent error) may be considered or voted upon. In the case of a resolution duly proposed as an ordinary resolution no amendment thereto (other than an amendment to correct a patent error) may be considered or voted upon unless the chairman in his absolute discretion decides that it may be considered or voted upon.

Voting at General Meetings

28 **Method of Voting**

At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless (before or on the declaration of the result of the show of hands or on the withdrawal of any other demand for a poll) a poll is properly demanded. Subject to the Companies Orders, a poll may be demanded by:-

- (a) the chairman of the meeting; or

- (b) at least two Members present in person or by proxy or by the duly authorised representative of a corporation and entitled to vote.

29 **Chairman's Declaration Conclusive**

Unless a poll is so demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.

30 **Procedure if Poll Demanded**

If a poll is properly demanded it shall be taken in such manner as the chairman shall direct and he may appoint scrutineers who need not be Members. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

31 **When Poll to be Taken**

A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or on such date being not later than thirty days after the date of the demand) and at such time and place as the chairman shall direct. It shall not be necessary (unless the chairman otherwise directs) for notice to be given of a poll.

32 **Continuance of Other Business after Poll Demand**

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 with the consent of the chairman at any time before the close of the meeting or the taking of the poll, whichever is the earlier, and in that event shall not invalidate the result of a show of hands declared before the demand was made.

33 **Votes of Members**

Every Member shall have one vote.

34 **Votes on a Poll**

On a poll votes may be given either personally or by proxy.

35 **Casting Vote of Chairman**

In the case of an equality of votes at a general meeting, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to an additional or casting vote.

36 **Objections or Errors in Voting**

If:-

- (a) any objection shall be raised to the qualification of any voter; or
- (b) any votes have been counted which ought not to have been counted or which might have been rejected; or
- (c) any votes are not counted which ought to have been counted.

the objection or error shall not vitiate the decision of the meeting or adjourned meeting on any resolution unless it is raised or pointed out at the meeting or, as the case may be, the adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and

shall only vitiate the decision of the meeting on any resolution if the chairman decides that the same may have affected the decision of the meeting. The decision of the chairman on such matters shall be conclusive.

Proxies

37 Execution of Proxies

An instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney authorised in writing or, if the appointor is a corporation, either under its seal or under the hand of an officer, attorney or other person authorised to sign it,

38 Delivery of Proxies

The instrument appointing a proxy and (if required by the Board) any authority under which it is executed or a certified copy of the authority may be delivered to the Office (or to such other place in Northern Ireland as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case, in any accompanying document) not less than twenty-four hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of the meeting or adjourned meeting, not less than twenty-four hours before the time appointed for the taking of the poll and an instrument of proxy which is not so delivered shall be invalid. When two or more valid but differing instruments of proxy are delivered in respect of the same Member for use at the same meeting, the one which is last delivered (regardless of its date or of the date of its execution) shall be treated as replacing and revoking the others as regards that Member. If the Company is unable to determine which was last delivered, none of them shall be treated as valid in respect of that Member. Delivery of an instrument appointing a proxy shall not preclude a Member from attending and voting in person at the meeting or poll concerned.

39 Maximum Validity of Proxy

No instrument appointing a proxy shall be valid after twelve months have elapsed from the date named in it as the date of its execution.

40 Form of Proxy

Instruments of proxy shall be in any usual form or in such other form as the Board may approve and the Board may, if it thinks fit, but subject to the provisions of the Companies Orders, send out with the notice of any meeting forms of instrument of proxy for use at the meeting. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll and to vote on any amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy shall, unless the contrary is stated in it, be valid for any adjournment of the meeting as well as for the meeting to which it relates.

41 Cancellation of Proxy's Authority

A vote given or poll demanded by a proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll or the previous death or insanity of the Member who appointed the proxy, unless notice in writing of the determination, death or insanity was received by the Company at the Office or such other place in Northern Ireland as was specified for the delivery of instruments of proxy in the notice convening the meeting (or other accompanying document) not later than the last time at which an

instrument of proxy should have been delivered in order to be valid for use at the meeting or on the holding of the poll at which the vote was given or the poll demanded.

Appointment, Retirement and Removal of Directors

42 Number of Directors and Maximum Term of Office

42.1 Unless otherwise determined by ordinary resolution of the Company, the Board shall consist only of non-executive Directors, the minimum number of Directors shall be one and there shall be no maximum number of Directors.

42.2 Without prejudice to article 42.3 below, in the event that a Director is appointed other than at a general meeting of the Company, the term of appointment of that Director shall not be for a period which expires at a date after the date of the next annual general meeting of the Company, but may be for a period shorter than that.

42.3 Any Director's term of office may be renewed or extended, provided always that:-

- (a) any such renewal or extension is approved by the Members in general meeting;
- (b) any such renewal or extension may not be for a period of more than the period expiring on the date of the third annual general meeting of the Company falling after the date of the general meeting at which such Director's appointment is renewed or extended (but, for the avoidance of doubt, may be for a lesser period); and
- (c) no such renewal or extension may be made if the period of that renewal or extension would, when aggregated with immediately preceding consecutive periods of office, result in that Director holding office for a period of more than the period ending on the date of the sixth annual general meeting of the Company falling after the date of the general meeting at which such Director's appointment is first renewed or extended.

43 Age of Directors

No person shall be disqualified from being appointed a Director, and no Director shall be required to vacate that office, by reason only of the fact that he has attained the age of seventy years or any other age, nor shall it be necessary by reason of his age to give special notice under the Companies Orders of any resolution.

44 Power of Company to Appoint Directors

Subject to the provisions of these Articles, the Company may by ordinary resolution appoint any person who is willing to act to be a Director, either to fill a vacancy or as an addition to the existing Board.

45 Power of Board to Appoint Directors

Without prejudice to the power of the Company in general meeting pursuant to any of the provisions of these Articles to appoint any person to be a Director, the Board may, without prejudice to Article 61, appoint any person who is willing to act to be a Director to fill a vacancy arising on the resignation of a Director. Any Director so appointed shall hold office only until the next following Annual General Meeting. At such Annual General Meeting, and without prejudice to Article 42, any Director who was appointed to fill a casual vacancy shall be eligible for reappointment.

46 Power of Removal by Special Resolution

In addition to any power of removal conferred by the Companies Orders, the Company may by special resolution remove any Director before the expiration of his period of office and may (subject to these Articles) by ordinary resolution appoint another person who is willing to act to be a Director in his place.

47 **Persons Eligible as Directors**

No person shall be appointed a Director at any general meeting unless:-

- (a) he is recommended by the Board; or
- (b) not less than seven nor more than forty-two days before the day appointed for the meeting, notice executed by one-sixth in number of the Members qualified to vote at the meeting has been given to the Secretary of the intention to propose that person for appointment or reappointment together with notice executed by that person of his willingness to be appointed or reappointed.

48 **Vacation of Office by Directors**

The office of a Director shall be vacated if:-

- (a) he resigns his office by notice in writing delivered to the Office or tendered at a meeting of the Board; or
- (b) he is or has been suffering from mental ill health or becomes a patient for any purpose of any statute relating to mental health and the Board resolves that his office is vacated; or
- (c) he is absent without the permission of the Board from meetings of the Board for twelve consecutive months and the Board resolves that his office is vacated; or
- (d) he becomes bankrupt or compounds with his creditors generally; or
- (e) he is prohibited by law from being a Director; or
- (f) he ceases to be a Director by virtue of the Companies Orders or is removed from office pursuant to these Articles.

49 **Membership of Committees**

If the office of a Director is vacated for any reason, he shall cease to be a member of any committee or sub-committee of the Board.

Additional Remuneration, Expenses and Pensions

50 **Directors' Fees**

Each of the Directors shall be paid a fee at such rate as may from time to time be determined by the Board or any committee authorised by the Board provided that the aggregate of all fees so paid to Directors (excluding amounts payable under any other provision of these Articles) shall not exceed such amount as may from time to time be decided by ordinary resolution of the Company.

51 **Additional Remuneration**

Any Director who goes or resides abroad for any purposes of the Company or who performs services which in the opinion of the Board or any committee authorised by the Board go beyond the ordinary duties of a Director may be paid such extra remuneration (whether by way of salary, commission or otherwise) as the Board or any committee

authorised by the Board may in its discretion decide in addition to any remuneration provided for by or pursuant to any other Article.

52 **Expenses**

Each Director may be paid his reasonable travelling, hotel and incidental expenses of attending and returning from meetings of the Board or committees of the Board or general meetings of the Company or any other meeting which as a Director he is entitled to attend and shall be paid all other costs and expenses properly and reasonably incurred by him in the conduct of the Company's business or in the discharge of his duties as a Director.

53 **Permitted Interests and Voting**

53.1 Subject to the provisions of the Companies Orders and of Article 53.10, no Director or proposed or intending Director shall be disqualified by his office from contracting with the Company, either with regard to his tenure of any office or place of profit or as vendor, purchaser or in any other manner whatever, nor shall any contract in which any Director is in any way interested be liable to be avoided, nor shall any Director who is so interested be liable to account to the Company or the Members for any remuneration, profit or other benefit realised by the contract by reason of the Director holding that office or of the fiduciary relationship thereby established, provided always that:-

- (a) in the event that the consideration payable to or by the Director under such contract is less than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to the date of the relevant contract, the Company shall first be required to notify Members that it is proposed that the contract be entered into; and
- (b) in the event that the consideration which would be payable to or by the Director under such contract is greater than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to the date of the relevant contract, the Company shall first be required (1) to go through an appropriate tendering or price testing process in relation to the proposed contract and (2) seek the approval of the Members to the entering into of the contract.

53.2 A Director may hold any other office or place of profit with the Company (except that of Auditor) in conjunction with his office of Director for such period (subject to the provisions of the Companies Orders) and upon such other terms as the Board may decide, and may be paid such extra remuneration for so doing (whether by way of salary, commission or otherwise) as the Board or any committee authorised by the Board may decide, and either in addition to or in lieu of any remuneration provided for by or pursuant to any other Article, provided always that:-

- (a) in the event that the consideration payable to the Director in respect of that other office or place of profit is less than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to, as appropriate, the date of commencement of that other office or the date of commencement of the relevant arrangements in respect of that place of profit, the Company shall first be required to notify Members that it is proposed that the arrangement be entered into; and
- (b) in the event that the consideration which would be payable to the Director under any such arrangement is greater than an amount which is equal to

£35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to, as appropriate, the date of commencement of that other office or the date of commencement of the relevant arrangements in respect of that place of profit, the Company shall first be required (1) to go through an appropriate tendering or price testing process in relation to the proposed arrangement and (2) seek the approval of the Members to the entering into of the arrangement.

- 53.3 A Director may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested or as regards which it has any power of appointment, and shall not be liable to account to the Company or the Members for any remuneration, profit or other benefit received by him as a director or officer of or from his interest in the other company. The Board may also cause any voting power conferred by the shares in any other company held or owned by the Company or any power of appointment to be exercised in such manner in all respects as it thinks fit, including the exercise of the voting power or power of appointment in favour of the appointment of the Directors or any of them as directors or officers of the other company, or in favour of the payment of remuneration to the directors or officers of the other company.
- 53.4 A Director may act by himself or his firm in a professional capacity for the Company (otherwise than as Auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided always that:-
- (a) in the event that the consideration payable to the Director or his firm in respect of those services is less than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to the date of commencement of provision of the relevant services, the Company shall first be required to notify Members that it is proposed that the arrangement be entered into; and
 - (b) in the event that the consideration which would be payable to or by the Director or his firm in respect of those services is greater than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to the date of commencement of provision of the relevant services, the Company shall first be required (1) to go through an appropriate tendering or price testing process in relation to the proposed arrangement and (2) seek the approval of the Members to the entering into of the arrangement.
- 53.5 A Director shall not vote on or be counted in the quorum in relation to any resolution of the Board concerning his own appointment, or the settlement or variation of the terms or the termination of his own appointment, as the holder of any office or place of profit with the Company or any other company in which the Company is interested but, where proposals are under consideration concerning the appointment, or the settlement or variation of the terms or the termination of the appointment, of each of the Directors to offices or places of profit with the Company or any other company in which the Company is interested, a separate resolution may be put in relation to each Director and in that case each of the Directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution unless it concerns his own appointment or the settlement or variation of the terms or the termination of his own appointment or the appointment of another Director to an office or place of profit with a company in which

the Company is interested and the Director seeking to vote or be counted in the quorum owns one per cent. or more of it.

- 53.6 Save as otherwise provided by these Articles, a Director shall not vote on, or be counted in the quorum in relation to, any resolution of the Board in respect of any contract in which he has an interest which is to his knowledge a material interest and, if he shall do so, his vote shall not be counted, but this prohibition shall not apply to any resolution where that material interest arises only from one or more of the following matters:
- (a) the giving to him of any guarantee, indemnity or security in respect of money lent or obligations undertaken by him or by any other person at the request of or for the benefit of the Company or any of its subsidiary undertakings; or
 - (b) the giving to a third party of any guarantee, indemnity or security in respect of a debt or obligation of the Company or any of its subsidiary undertakings for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security; or
 - (c) any contract concerning the adoption, modification or operation of a pension fund or retirement death or disability benefits scheme which relates to Directors of the Company or to directors and employees of any of its subsidiary undertakings and does not provide in respect of any Director as such any privilege or advantage not accorded to the employees to which the fund or scheme relates; or
 - (d) any contract for the benefit of employees of any of the Company's subsidiary undertakings under which he benefits in a similar manner to the employees and which does not accord to any Director as such any privilege or advantage not accorded to the employees to whom the contract relates; or
 - (e) any contract for the purchase or maintenance for any Director or Directors of insurance against any liability.
- 53.7 A company shall be deemed to be one in which a Director owns one per cent. or more if and so long as (but only if and so long as) he, taken together with any person connected with him, is to his knowledge (either directly or indirectly) the holder of or beneficially interested in one per cent. or more of any class of the equity share capital of that company or of the voting rights available to members of that company. For the purpose of this Article 53.7 there shall be disregarded any shares held by the Director or any such person as bare or custodian trustee and in which he has no beneficial interest, any shares comprised in a trust in which his, or any such person's, interest is in reversion or remainder if and so long as some other person is entitled to receive the income of the trust and any shares comprised in an authorised unit trust scheme in which he, or any such person, is interested only as a unit holder.
- 53.8 Where a company in which a Director owns one per cent. or more is materially interested in a contract, he also shall be deemed materially interested in that contract.
- 53.9 If any question shall arise at any meeting of the Board as to the materiality of the interest of the Director who is not the chairman of the meeting or as to the entitlement of the Director who is not the chairman of the meeting to vote or be counted in the quorum and the question is not resolved by his voluntarily agreeing to abstain from voting or not to be counted in the quorum, the question shall be referred to the chairman of the meeting and his ruling in relation to the Director concerned shall be conclusive except in a case where the nature or extent of his interest (so far as it is known to him)

has not been fairly disclosed to the Board. If a quorum cannot be formed as a result of the chairman's ruling, the item(s) of business which the inquorate meeting of the Board had been convened to consider shall be decided by the Members in general meeting. If any question shall arise in respect of the chairman of the meeting, the question shall be decided by a resolution of the Board (for which purpose the chairman shall be counted in the quorum but shall not vote on the matter) and the resolution shall be conclusive except in a case where the nature or extent of the interest of the chairman (so far as it is known to him) has not been fairly disclosed to the Board. If a quorum cannot be formed as a result of the resolution, the item(s) of business which the inquorate meeting of the Board had been convened to consider shall be decided by the Members in general meeting.

- 53.10 A Director who to his knowledge is in any way, whether directly or indirectly, interested in a contract with the Company shall declare the nature of his interest at the meeting of the Board at which the question of entering into the contract is first taken into consideration, if he knows his interest then exists, or in any other case at the first meeting of the Board after he knows that he is or has become so interested. For the purposes of this Article, a general notice to the Board by a Director to the effect that (a) he is a member of a specified company or firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm or (b) he is to be regarded as interested in any contract which may after the date of the notice be made with a specified person who is connected with him, shall be deemed to be a sufficient declaration of interest under this Article in relation to any such contract; provided that no such notice shall be effective unless either it is given at a meeting of the Board or the Director takes reasonable steps to secure that it is brought up and read at the next Board meeting after it is given.
- 53.11 References in this Article to a contract include references to any proposed contract and to any transaction or arrangement whether or not constituting a contract.
- 53.12 Subject to the provisions of the Companies Orders, the Company may by ordinary resolution suspend or relax the provisions of this Article to any extent or ratify any contract not properly authorised by reason of a contravention of this Article.
- 53.13 For the purpose of this Article 53, an interest of a person who is, for any purpose of the Companies Orders, connected with a Director shall be treated as an interest of the Director.

Powers and Duties of the Board

54 General Powers of Company Vested in Board

Subject to the provisions of the Companies Orders, the Memorandum of Association of the Company and these Articles and to any directions given by the Company in general meeting by special resolution, the business of the Company shall be managed by the Board which may exercise all the powers of the Company whether relating to the management of the business of the Company or not. No alteration of the Memorandum of Association or these Articles and no special resolution shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that resolution had not been passed. The powers given by this Article shall not be limited by any special power given to the Board by any other Article.

55 Agents

The Board may, by power of attorney or otherwise, appoint any person to be the agent of the Company upon such terms (including terms as to remuneration) as it may decide and may (with the exception of those powers, authorities and discretions conferred on the Board under Articles 5 (*Admission of Members*), 6 (*Membership Policy*) and 45 (*Power of Board to Appoint Directors*) (which powers, authorities and discretions shall be exercisable only by the Board)) delegate to any person so appointed any of its powers, authorities and discretions (with power to sub-delegate). The Board may remove any person appointed under this Article and may revoke or vary the delegation but no person dealing in good faith and without notice of the revocation or variation shall be affected by it. The power to delegate contained in this Article shall (save as expressly provided herein) be effective in relation to the powers, authorities and discretions of the Board generally and shall not be limited by the fact that in certain Articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the Board or by a committee authorised by the Board.

56 **Delegation to Individual Directors**

The Board may entrust to and confer upon either Director any of its powers, authorities and discretions (with power to sub-delegate) upon such terms and conditions and with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions and may from time to time revoke or vary all or any of them but no person dealing in good faith and without notice of the revocation or variation shall be affected by it. The power to delegate contained in this Article shall be effective in relation to the powers, authorities and discretions of the Board generally and shall not be limited by the fact that in certain Articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the Board or by a committee authorised by the Board.

57 **Provision for Employees**

The Board may exercise any power conferred by the Companies Orders to make provision for the benefit of persons employed or formerly employed by any of the Company's subsidiaries in connection with the cessation or the transfer to any person of the whole or part of the undertaking of that subsidiary.

Proceedings of the Board

58 **Board Meetings**

The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. A Director at any time may, and the Secretary on the requisition of a Director at any time shall, summon a meeting of the Board.

59 **Notice of Board Meetings**

Notice of a Board meeting shall be deemed to be properly given to a Director if it is given to him personally or sent in writing to him at his last known address or any other address given by him to the Company for this purpose. A Director absent or intending to be absent from the United Kingdom may request the Board that notices of Board meetings shall during his absence be sent in writing to him at an address given by him to the Company for this purpose, but such notices need not be given any earlier than notices given to Directors not so absent and if no request is made to the Board it shall not be necessary to give notice of a Board meeting to any Director who is for the time being absent from the United Kingdom. A Director may waive notice of any meeting either prospectively or retrospectively.

60 **Quorum**

The quorum necessary for the transaction of the business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be two. Subject to the provisions of these Articles, any Director who ceases to be a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of the meeting if the other Director does not object. Where a Director is disqualified from being counted in a quorum in relation to the consideration of any matter by the Board, such matter shall be considered instead by the Members in general meeting.

61 **Directors below Minimum through vacancies**

The continuing Directors or a sole continuing Director may act notwithstanding any vacancy in their number but, if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with these Articles or is below the number fixed by or in accordance with these Articles as the quorum or there is only one continuing Director, the continuing Director may act for the purpose of filling vacancies or of summoning general meetings of the Company but not for any other purpose.

62 **Appointment of Chairman**

The Board may appoint a Director to be the chairman of the Board, and may at any time remove him from that office. Unless he is unwilling to do so, the chairman shall act as chairman at every meeting of the Board. If no chairman is appointed, the Directors may choose one of their number to be chairman of the meeting.

63 **Competence of Meetings**

A meeting of the Board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Board.

64 **Voting**

Subject to any other provisions of these Articles requiring a different majority, questions arising at any meeting of the Board shall be determined by a majority of votes. In the case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

65 **Delegation to Committees**

65.1 With the exception of the powers, authorities and discretions conferred on the Board under Articles 5 (*Admission of Members*), 6 (*Membership Policy*) and 45 (*Power of Board to Appoint Directors*) (which powers, authorities and discretions shall be exercisable only by the Board), the Board may delegate any of its powers, authorities and discretions (with power to subdelegate) to any committee, consisting of such person or persons (whether Directors or not) as it thinks fit. Any committee so formed may exercise its power to sub-delegate by sub-delegating to any person or persons (whether or not a member or members of the Board or of the committee).

65.2 Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, conform to any regulations which may be imposed on it by the Board. The meetings and proceedings of any committee consisting of two or more persons shall be governed by the provisions contained in these Articles for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any regulations imposed by the Board.

65.3 The power to delegate contained in this Article shall, save as expressly provided herein, be effective in relation to the powers, authorities and discretions of the Board generally and shall not be limited by the fact that in certain Articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the Board or by a committee authorised by the Board.

66 **Participation in Meetings by Telephone**

All or any of the members of the Board or any committee of the Board may participate in a meeting of the Board or that committee by means of a conference telephone or any communication equipment which allows all persons participating in the meeting to hear each other. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the chairman of the meeting then is.

67 **Resolution in Writing**

A resolution in writing executed by all the Directors for the time being entitled to receive notice of a meeting of the Board (if that number is sufficient to constitute a quorum) or by all the members of a committee for the time being shall be as valid and effectual as a resolution passed at a meeting of the Board or, as the case may be, of the committee properly called and constituted. The resolution may be contained in one document or in several documents in like form each executed by one or more of the Directors or members of the committee concerned and may be in any form, including facsimile transmission.

68 **Validity of Acts of Board or Committee**

All acts done by the Board or by any committee or by any person acting as a Director or member of a committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or committee or person so acting or that they or any of them were disqualified or had vacated office, be as valid as if each such member or person had been properly appointed and was qualified and had continued to be a Director or member of the committee.

Secretary

69 **Appointment and Removal of the Company Secretary**

Subject to the provisions of the Companies Orders, the Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.

Seals

70 **Use of Seals**

The Board shall provide for the custody of every seal of the Company. A seal shall only be used by the authority of the Board or of a committee of the Board authorised by the Board on their behalf. Subject as otherwise provided in these Articles, any instrument to which the common seal is applied shall be signed by a Director and shall be countersigned by the Secretary or by the second Director or by some other person appointed by the Board for this purpose.

Accounting Records and Summary Financial Statements

71 **Records to be Kept**

The Board shall cause to be kept accounting records sufficient to show and explain the Company's transactions, and such as to disclose with reasonable accuracy at any time the financial position of the Company at that time, and which accord with the Companies Orders.

72 **Inspection of Records**

No Member in his capacity as such shall have any right of inspecting any accounting record or book or document of the Company except as conferred by law or authorised by the Board or by ordinary resolution of the Company.

Service of Notices and Other Documents

73 **Service of Notices**

Any notice or other document may be served on or delivered to any Member by the Company either personally or by sending it through the post addressed to the Member at his registered address or by leaving it at that address addressed to the Member or by any other means authorised in writing by the Member concerned.

74 **Members Resident Abroad**

Any 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 served upon him shall be entitled to have notices served upon him at that address but, unless he does so, shall not be entitled to receive any notice from the Company.

75 **When Notice Deemed Served**

Any notice or other document, if sent by the Company by post, shall be deemed to have been served or delivered on the day following that on which it was put in the post and, in proving service or delivery, it shall be sufficient to prove that the notice or document was properly addressed, prepaid and put in the post. Any notice or other document not sent by post but left by the Company at a registered address shall be deemed to have been served or delivered on the day it was so left. Any notice or other document served or delivered by the Company by any other means authorised in writing by the Member concerned shall be deemed to have been served when the Company has carried out the action it has been authorised to take for that purpose.

76 **Electronic communication**

Any Member may notify the Company of an address for the purpose of his receiving electronic communications from the Company, and having done so shall be deemed (unless and until he subsequently revokes that notification) to have agreed to receive by electronic communication notices and other documents from the Company of the kind to which the address relates. In addition, if a Member notifies the Company of his e-mail address, the Company may (unless and until he subsequently revokes that notification) satisfy its obligation to send him any notice or other document by:

- (a) publishing such notice or other document on a web site; and
- (b) notifying him by e-mail to that e-mail address that such notice or document has been so published, specifying the address of the web site on which it has been published, the place on the web site where the notice may be accessed, how it may be accessed and (if the notice relates to a Member's meeting) stating (i) that the notice concerns a notice of a Company meeting served in accordance with the Companies Acts, (ii) the place, date and time of the

meeting and (iii) whether the meeting is to be an annual or extraordinary general meeting.

Any amendment or revocation of a notification given to the Company under this Article shall only take effect if in writing signed, by the Member and on actual receipt by the Company thereof.

An electronic communication shall not be treated as received by the Company if it is rejected by computer virus protection arrangements.

77 **Winding Up**

The provisions of clause 8 of the Company's Memorandum of Association relating to the winding up and dissolution of the Company shall apply and have effect as if that clause were repeated in these Articles.

78 **Indemnity of Officers**

78.1 Subject to the provisions of and so far as may be consistent with the Companies Orders and any other applicable law, every Director, Secretary or other officer of the Company shall be indemnified by the Company out its own funds and/or exempted by the Company from all costs, charges, losses, expenses and liabilities incurred by 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 discharge of his duties and/or the exercise or purported exercise of his power and/or otherwise in relation to or in connection with his duties, powers or office including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgement is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court.

78.2 With prejudice to Article 78.1 above the Directors shall have the power to purchase and maintain insurance for or for the benefit of any person who is or was at any time a Director or officer of any Relevant Company (as defined in Article 78.3 below) or who is or was at any time a trustee of any pension fund or employees' incentive scheme in which employees of any Relevant Company are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by him in respect of any act or omission in the actual or purported execution and/or discharge of his duties and/or in the exercise or purported exercise of his powers and/or otherwise in relation to this duties, powers or offices in relation to any Relevant Company, or any such pension fund or employees' incentive scheme.

78.3 For the purpose of Article 78.2 above, "**Relevant Company**" shall mean the Company, or any other body, whether or not incorporated, in which the Company has or had any interest whether direct or indirect or which is in any way allied to or associated with the Company, or any subsidiary undertaking of the Company or of such other body.

Appendix III – Membership Policy

1 INTRODUCTION

- 1.1 Members of Northern Ireland Energy Holdings Limited (the "**Company**") will be selected and appointed in accordance with the policy and procedures set out in this document (the "**Membership Policy**"). Save as otherwise defined herein or the context otherwise requires, words and expressions defined in the Company's Articles of Association shall bear the same meanings where used in this Membership Policy.
- 1.2 It is accepted that it will not be practicable to have all of the arrangements set out in this Membership Policy in place immediately and, in particular, in place prior to the acquisition of Premier Transmission Limited ("**PTL**") (see below) and the grant to PTL of its regulatory licence. Accordingly, interim arrangements will be required. These interim arrangements are set out later in this Membership Policy.
- 1.3 The Membership Policy is a public document, available for inspection at the registered office of the Company. The Membership Policy will be reviewed by the board of directors of the Company (the "**Board**") from time to time, including upon the request of the Northern Ireland Authority for Energy Regulation or any successor thereto (the "**Authority**"). The Board shall send to the Authority (a) a report on the outcome of such review and (b) any proposed revisions which (having regard to the outcome of such review) the Board considers ought appropriately to be made to such policy. Following such review, the Board shall be entitled to make such revisions to the Membership Policy from time to time as it considers ought reasonably to be made, provided always that no such revisions may be made unless those revisions have previously been approved:-
- (a) by the Members at a general meeting of the Company; and
 - (b) by the Authority, provided always that in the event that the Authority does not notify the Board in writing within 28 days of receipt of such revisions that it objects to such revisions then such revisions shall be deemed to be approved by the Authority.

The first review will take place not later than by 31 December 2007 and thereafter at intervals of not more than three years.

2 COMPANY LIMITED BY GUARANTEE

- 2.1 The Company is a "company limited by guarantee", registered in Northern Ireland under The Companies (Northern Ireland) Order 1986. It was formed on 31 January 2005. It is intended that the Company will serve several purposes as follows:-
- (a) As an immediate goal, it is intended that the Company will be the ultimate holding company of a group of companies which will own the Scotland to Northern Ireland Pipeline ("**SNIP**"). More particularly, the Company will own the whole issued share capital of Northern Ireland Gas Transmission Holdings Limited ("**NIGTHL**"), which will in turn beneficially own the whole issued share capital of Premier Transmission Holdings Limited ("**PTHL**"), which will in turn own the whole issued share capital of Premier Transmission Financing plc ("**PTF**") which will in turn own the whole issued share capital of PTL. PTF will be a vehicle which, through the issue of bonds,

will finance the acquisition of PTL, PTL being the company which owns the SNIP infrastructure assets.

- (b) As a longer term goal, and subject to a consultation process being gone through (expected to take place in early 2005) and to the outcome of that process being that it is appropriate, the Company would also become the direct holding company of Moyle Holdings Limited ("**MHL**"). MHL in turn owns the whole issued share capital of Moyle Interconnector (Financing) plc ("**MIF**") which in turn owns the whole issued share capital of Moyle Interconnector Limited ("**MIL**"). MIL in turn owns the Moyle Interconnector infrastructure and assets.
- (c) In the event that the Moyle group of companies is indeed in due course transferred so as to be owned by the Company, a new joint services company (the "**JSC**") may be incorporated as a direct wholly owned subsidiary of the Company. The intention behind the creation of the JSC is that the JSC would provide joint management and other services to both the Moyle group of companies and also to the SNIP group of companies in a more cost efficient manner than each of those groups could have sourced those services independently.
- (d) As a longer term possibility the Company may also be used as a vehicle for acquiring and holding other energy assets, such as (without limitation) the Phoenix pipeline.
- (e) As a company limited by guarantee, the Company has no share capital and therefore no shareholders. Individuals appointed as members of the Company ("**Members**") do not receive dividends nor do they have any other financial interest in the Company and, accordingly, all financial surpluses generated, if any, will be retained by the Company for the benefit of its operating companies and, ultimately, energy consumers.

2.2 Membership is personal and cannot be transferred.

3 MEMBERS OF THE COMPANY

3.1 Role of and selection of Members

3.1.1 The Board is accountable to Members for its management of the Company's business. Members will therefore play a role in scrutinising PTL's performance against commercial and other targets, as well as against energy industry benchmarks for quality of service and cost efficiency. Similarly, if in due course the Moyle group of companies or any other energy asset owning companies are brought within the Company's group, Members will play a role in scrutinising the performance of those companies against their commercial and other targets, as well as against energy industry benchmarks for quality of service and cost efficiency. Accordingly, the role of Members is similar to that of shareholders in a public limited company, save that Members have no financial interest in the Company. Members will perform this corporate governance role by receiving regular reports on the Company's performance and by participating in Members' conferences and in general meetings of the Company.

3.1.2 In addition, Members will have a role in:

- (a) approving certain changes to the Company's constitution;
- (b) approving the appointment, re-appointment and removal of directors;

- (c) approving the Company's annual report and accounts;
- (d) approving the report of the Company's remuneration committee; and
- (e) approving the appointment, re-appointment and removal of the Company's auditors.

3.1.3 Members will be selected on merit and against objective criteria, the intention being that the Company has a membership which has the necessary skills, expertise, industry experience and/or capacity to contribute to these key governance roles and, in particular, to represent effectively energy consumer interests.

3.2 **Number of Members**

Unless otherwise agreed by the Authority, and subject always to the interim arrangements referred to below, the Company will have not less than thirty Members. The membership should be large enough and sufficiently diverse as to ensure that all stakeholders are adequately represented and, in particular, that there is adequate representation of consumers. Members should be motivated to ensure that the Board and management of the Company and associated companies operate on a sound commercial footing in energy consumers' interests. Whilst the minimum number of Members should (subject as aforesaid) be thirty, the number of Members should be sufficiently restricted as to ensure that each Member takes sufficient interest in and responsibility for monitoring the Company and ensuring that it and its Board and management are accountable. The number of Members should not be so large as to impede the Board from being able to manage effectively.

3.3 **Term of appointment**

It is the Board's intention that Members' appointments will be for periods of three years. Membership may be renewed by the Board beyond the initial period of three years. Membership may be renewed, provided that:-

- (a) the maximum tenure for members will be three consecutive three year terms;
- (b) for the avoidance of doubt, any renewal may not be made for more than a three year term; and
- (c) any renewal will require the approval of the Membership Selections Committee.

3.4 **Liability of Members**

In the event that the Company were ever "wound up", then every Member would be required to contribute £1 to the assets of the Company. This is the maximum liability of any Member and this liability would only arise at all if the Company were to be wound up in circumstances where the Company was unable to meet all its debts in full.

3.5 **Members' right to receive expenses**

No portion of the income or property of the Company may be distributed to Members, whether by dividend, bonus or other form of profit. Members will, however, be reimbursed all reasonable expenses incurred in respect of their attendance at the annual general meeting, Members' conference(s) or similar events.

3.6 **Standard of conduct**

Members must at all times observe the highest standards of propriety in relation to their membership. Members must:

- (a) take decisions as Members in the interests of the Company, having regard to the interests of the energy consumers of Northern Ireland, and not to gain any financial or other material benefits for themselves, their family, their friends or any particular organisation or other interest group;
- (b) exercise their rights and powers as Members to further the objects of the Company as set out in the Company's Memorandum of Association;
- (c) not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties;
- (d) make their choices on merit in carrying out Company business, including where making appointments to the Board, recommending individuals for rewards and benefits and approving transactions to be entered into by the Company;
- (e) be as open as possible about all the decisions and actions that they take, giving reasons for their decisions and restricting information only when the wider public interest clearly demands;
- (f) be accountable for their decisions and actions and submit themselves to a level of scrutiny which is appropriate to their membership of the Company;
- (g) not use their position as a Member, or information received by virtue of their position as a Member, to further private interests or to frustrate or influence policy, decisions or actions of the Company in an improper manner;
- (h) declare to the Board any private interests relevant to their membership or the activities of the Company; and
- (i) conduct themselves in a manner which will maintain and strengthen the public's trust and confidence in the Company and avoid any action which would, or could, bring the Company's name and reputation into disrepute.

4 **SELECTION OF MEMBERS**

4.1 Members will be appointed by the Board on the recommendation of a selection committee (the "**Membership Selections Committee**"). The Membership Selections Committee will be comprised of the following:-

- (a) two Members who are not also directors of the Company;
- (b) two non-executive directors of the Company; and
- (c) two independent representatives of the Authority,

provided always that in the event that from time to time any person referred to in any of (a) to (c) above has not been appointed to the Membership Selections Committee such that the Membership Selections Committee is less than six, the Membership Selections Committee shall comprise such person as have at the relevant time been appointed to it.

4.2 The two Members referred to in paragraph 4.1(a) above shall be selected by the Board and, to this end, the Board shall be entitled to seek applications from Members. Any

such Member shall cease to be a member of the Membership Selections Committee if he/she:-

- (a) ceases to be a Member; or
- (b) resigns his/her membership of the committee; or
- (c) is or has been suffering from mental ill health or becomes a patient for any purpose of any statute relating to mental health and the Board resolves that his/her office is vacated; or
- (d) is absent without the permission of the committee from meetings of the committee for twelve consecutive months and the Board resolves that his/her office is vacated; or
- (e) becomes bankrupt or compounds with creditors generally; or
- (f) joins the Board.

4.3 The two directors referred to in paragraph 4.1(b) above shall be selected by the Board from amongst its number and any person so selected shall cease to be a member of the Membership Selections Committee:-

- (a) in any of the circumstances referred to at paragraph 4.2(b) to (e) above apply; or
- (b) if the Board so resolves.

5 **HOW MEMBERS MAY BE SOUGHT**

As noted earlier (see paragraph 3.2 above) the membership should be large enough and sufficiently diverse as to ensure, inter alios, that all stakeholders are adequately represented and in particular that there is adequate representation of energy consumers. As also previously noted (see paragraph 3.1.3 above)) Members should have the necessary skills, expertise, industry experience and/or capacity to contribute to the membership's key governance roles and, in particular, to represent effectively the interests of consumers. To ensure that this is the case the Membership Selections Committee will be required to select candidates through two routes:-

- (a) key stakeholders and consumer groups determined by the Membership Selections Committee will be asked to put forward candidates for consideration; and
- (b) in addition, it is intended that these should be an open and transparent recruitment process similar to that used for public appointments.

The split between stakeholder members and other members is expected to be roughly 60:40. For the avoidance of doubt, however, this ratio is not intended to be prescriptive or binding.

The Membership Selections Committee will issue an invitation for candidates to apply for membership which will include the following information:

- (a) the date by which a response to the invitation should be given;
- (b) background information on the Company and on the group's business;
- (c) details of the requirements, responsibilities and rights of Members;
- (d) a copy of the constitutional documents of the Company; and

(e) such other information as the Board considers appropriate.

In all cases potential Members must submit a written application to the Company Secretary.

6 THE APPOINTMENT PROCESS

6.1 The Membership Selections Committee will assess applications from potential Members and make its recommendation to the Board.

6.2 The assessment process will comprise three stages.

Stage 1: On receipt of applications, the Company Secretary will review them to ensure that they have been properly completed. The Company Secretary will then compile a list giving brief details of each potential Member, and will pass this to the Membership Selections Committee for initial review.

Stage 2: The Membership Selections Committee will carry out an initial review of the list of potential Members. If there are any potential Members that the Membership Selections Committee deems to be unsuitable or inappropriate, then a member of the Membership Selections Committee will write to such individuals advising them of the Membership Selections Committee's decision. The Company Secretary will record and keep appropriate details in the Register of Applications for Membership.

Stage 3: For those which proceed beyond the initial review, the Membership Selections Committee will assess applications against the Company's published criteria for membership, particularly as regards the qualities and industry experience (whether specific or general) of the potential Member, his or her independence and personal integrity, his or her ability to contribute to the Company and the need to ensure a balanced membership.

6.3 In carrying out this assessment it may be necessary to contact the potential Member to seek further clarification of his or her application. If this is necessary, all such communication will be in writing. If, in exceptional circumstances, it is necessary to meet the potential Member, then the Chairman of the Membership Selections Committee and at least one other member of the Membership Selections Committee will be present and a record of the meeting will be prepared.

6.4 The Membership Selections Committee will submit a report to the Board on the potential Members considered by it together with a clear recommendation as to which should be invited to become a Member. Having made its decision the Board will issue an invitation to membership as appropriate.

6.5 The Board can reject potential Members recommended by the Membership Selections Committee where the appointment process set out in this Membership Policy has not been properly observed. Only potential Members recommended by the Membership Selections Committee can be appointed as Members.

6.6 The Board will confirm in writing to the potential Member whether or not their application for membership has been successful and the Company Secretary will record the new Member's details in the Register of Members.

- 6.7 Those responsible for the selection and approval of Members will be required to be able to show that objectivity and probity have been exercised throughout the selection process.

7 INTERIM ARRANGEMENTS

As noted earlier, it is accepted that it will not be practicable to have all of the arrangements set out in this Membership Policy in place immediately and, in particular, in place prior to the acquisition of PTL and the grant to PTL of its regulatory licence. Accordingly, the following arrangements will apply for an interim period, the interim period to run until the date of the first Annual General Meeting of the Company, the first AGM of the Company to take place within 6 months of the acquisition of PTL:-

- (a) The Board will initially comprise those 5 persons who are currently non-executive directors of MHL (subject, of course, to those persons agreeing to become non-executive directors of the Company, although it is noted that each of them has informally and in principle agreed to join the Board);
- (b) Following the acquisition of PTL, at least a further 2 persons will be appointed as non-executive directors of the Company;
- (c) Each of the current members of MHL will be invited to become a member of the Company, provided always that the initial term of appointment (which shall, for the avoidance of doubt, be subject to extension or renewal in accordance with the Articles of Association of the Company) shall be restricted to 2 years rather than 3;
- (d) During the interim period, the process of appointing new Members (in accordance with the criteria and processes referred to above) will take place, the intention being that by the date of the first AGM the number of Members will be at least at the minimum level of 30 Members; and
- (e) During the interim period, any decision which would otherwise have required the approval of Members in general meeting will require consultation with the Authority.

8 CORPORATE GOVERNANCE

8.1 Combined Code

Only those companies whose shares are listed on the London Stock Exchange are required to comply with the Combined Code on Corporate Governance (the "**Combined Code**") set out in the Listing Rules published by the UK Listing Authority. Notwithstanding this, and subject always to recognition being given to the differences between the structure of a conventional listed company and the structure and aims of the Company, the Company shall be seen to be adopting best practice, by endeavouring to adhere to the Combined Code where appropriate. In particular, the Combined Code's key principles of accountability, transparency and effectiveness should be key guiding principles for the corporate governance of the Company. Without prejudice to the foregoing generality, the Board shall appoint a committee relative to the appointment of members to the Board (the "**Board Nominations Committee**"), an audit committee (the "**Audit Committee**") and a remuneration committee (the "**Remuneration Committee**").

8.2 Appointments to the Board

- 8.2.1 Whilst the current directors of MHL will be asked to become non-executive directors of the Company, subsequent appointments should be made by the Board Nominations Committee to be established.
- 8.2.2 The Board Nominations Committee would comprise three non-executive directors (including the Chairman of the Board).
- 8.2.3 The Board Nominations Committee would make its terms of reference available.
- 8.2.4 The Board Nominations Committee would make its recommendations based upon merit and objective criteria. The criteria would outline the skills, knowledge and experience required. In light of this, for each casual vacancy a candidate specification will be prepared outlining the role and the skills required.
- 8.3 **Audit Committee**
- 8.3.1 The Board should appoint a three person Audit Committee. At least one member of the Committee should be financially literate.
- 8.3.2 The main role and responsibilities of the Audit Committee should be set out in written terms of reference and should include:
- (a) to monitor the integrity of the financial statements of the group, and any formal announcements relating to the group's financial performance, reviewing significant financial reporting judgements contained in them;
 - (b) to review the group's internal financial controls and, unless expressly addressed by a separate risk committee composed of independent directors, or by the Board itself, to review the group's internal control and risk management systems; and
 - (c) to make recommendations to the Board, for it to put the shareholders for their approval in general meeting, in relation to the appointment, re-appointment and removal of the external auditor and to approve the remuneration and terms of engagement of the external auditor.
- 8.4 **Remuneration Committee**
- 8.4.1 The Board should appoint a Remuneration Committee comprised of non-executive directors.
- 8.4.2 As all directors of the Company will be independent non-executives they will not be eligible for bonuses. They will earn only a directors emolument. That emolument will be set by the Remuneration Committee and externally benchmarked.
- 8.4.3 It is anticipated that PTL will have an executive director. The remuneration of that director (and any other executive director of PTL from time to time) will be considered and set by a remuneration committee of PTL (the "**PTL Remuneration Committee**"), subject to the Remuneration Committee (i.e. of the Company) having a right of veto in respect thereof.
- 8.4.4 The Remuneration Committee and the PTL Remuneration Committee (as appropriate) should judge where to position remuneration relative to other companies. The performance related element of an executive's package should, to the extent possible, align the interest of that executive with those of the stakeholders.
- 9 **PROVISION OF INFORMATION TO MEMBERS**

The Company will keep the Members informed of the Company's activities, progress and performance:

- (a) by the issue of an annual report and financial statements;
- (b) at an Annual General Meeting which will include presentations on the group's general and financial performance, including specifically (1) the performance of the SNIP, its maintenance programme, compliance with the terms of PTL's licence, an analysis of expenditure as compared with budget, details of PTL's compliance with financial ratios and customer service and (2) similar presentations in relation to other key assets (e.g. the Moyle Interconnector, in the event that the Moyle group of companies come to be owned by the Company); and
- (c) at any other Members' conferences which from time to time the Board may consider necessary or desirable.

10 GENERAL

10.1 Termination of membership

Membership may only be terminated in accordance with the relevant provisions of the Company's Articles of Association. A Member can resign at any time by serving written notice on the Company Secretary and it will be effective from the time such resignation is recorded in the Register of Members.

10.2 Applicability of the Membership Policy

The Membership Policy is to be followed in respect of the selection and appointment of all Members without exception.

10.3 Communication with Members

10.3.1 All communication between the Company, potential Members and Members relating to the selection process should normally be in writing through the Chairman of the Board, the Chairman of the Membership Selections Committee, or the Company Secretary.

10.3.2 Where this is not possible full details of oral communication with potential Members should be recorded by or on behalf of the Membership Selections Committee. Any information disclosed to a potential Member during the selection process must, to the extent it is relevant, be disclosed to all other potential Members.

10.4 Withdrawing an application

If a potential Member wishes to withdraw at any time during the selection process, then written confirmation of the decision must be submitted to the Company Secretary.

10.5 Retention of correspondence

10.5.1 The Company Secretary will be responsible for maintaining all correspondence in relation to Members or potential Members in an appropriate filing system. All correspondence relating to unsuccessful applications will be retained for a period of five years.

10.5.2 Information held by the Company about potential Members and Members will be used only for the administration of the membership and, if relevant, for the proper conduct of the Company's affairs.

10.6 **Public register of Members**

In line with the policy of openness and transparency on which the Company has been founded, the Register of Members (giving the names of Members but no other details) will be published on the Company's website. This is required of all Members and consent for this is given by submission of an application for membership.

10.7 **Copies of this Membership Policy**

Copies of this policy document are available for inspection at the registered office of the Company or on written request from the Company Secretary.