

Company No 6728792

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Articles of Association of Pilkington Investments Germany Unlimited

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Adopted by written resolution passed on 6 November 2013

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COMPANIES HOUSE

THE COMPANIES ACT 2006

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PRIVATE COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

OF

Pilkington Investments Germany Unlimited

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1 **PRELIMINARY**

The model articles of association for private companies limited by shares contained in Schedule 1 to The Companies (Model Articles) Regulations 2008 in force on the date when these Articles become binding on the Company ("Model Articles") (a copy of which is annexed) apply to the Company except in so far as they are excluded or varied by these Articles

2 **INTERPRETATION**

2.1 In these Articles the following expressions have the following meanings unless inconsistent with the context

<b>"2006 Act"</b>	the Companies Act 2006 (as amended from time to time)
<b>"these Articles"</b>	these Articles of Association as amended from time to time
<b>"call"</b>	has the meaning given in <b>Article 17.1</b>
<b>"call notice"</b>	has the meaning given in <b>Article 17.1</b>
<b>"Company's lien"</b>	has the meaning given in <b>Article 15.1</b>
<b>"electronic means"</b>	has the meaning given in section 1168 of the 2006 Act
<b>"eligible directors"</b>	has the meaning given in Model Article 8(3)
<b>"lien enforcement notice"</b>	has the meaning given in <b>Article 16.2</b>
<b>"Majority Shareholder"</b>	a shareholder or shareholders together holding a majority of the voting rights in the Company (within the meaning of section 1159(1) of and

paragraph (2) of Schedule 6 to the 2006 Act)

**“Statutes”**

the Companies Acts as defined in section 2 of the 2006 Act and every other statute, order, regulation or other subordinate legislation for the time being in force relating to companies and affecting the Company

**“United Kingdom”**

Great Britain and Northern Ireland

2 2 Unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Statutes but excluding any statutory modification of the same not in force when these Articles become binding on the Company

2 3 References to any statute or statutory provision include, unless the context otherwise requires, a reference to that statute or statutory provision as modified, replaced, re-enacted or consolidated and in force from time to time and any subordinate legislation made under the relevant statute or statutory provision

3 **LIABILITY OF MEMBERS**

Model Article 2 shall not apply to the Company

4 **UNANIMOUS DECISIONS OF DIRECTORS**

A decision of the directors may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or to which each eligible director has otherwise indicated agreement in writing Model Article 8(2) shall not apply to the Company

5 **PARTICIPATION IN DIRECTORS' MEETINGS**

5 1 Subject to these Articles, directors participate in a directors' meeting, or part of a directors' meeting, when

5 1 1 the meeting has been called and takes place in accordance with these Articles, and

5 1 2 they can each simultaneously communicate with and to the others participating in the meeting any information or opinions they have on any particular item of the business of the meeting

5 2 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or, subject to **Article 5.1.2**, how they communicate with each other

5 3 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is

5 4 Model Article 10 shall not apply to the Company

5 5 Model Article 9(2)(c) shall be amended by the insertion of the word "simultaneously" after the words "how it is proposed that they should" and before the words "communicate with each other during the meeting"

## 6 **QUORUM FOR DIRECTORS' MEETINGS**

6 1 Subject to **Article 6.2**, the quorum for directors' meetings may be fixed from time to time by a decision of the directors and unless otherwise fixed shall be two

6 2 If at any time there is only one director of the Company, the quorum for directors' meetings shall be one

6 3 Model Article 11(2) shall not apply to the Company

6 4 Save for when the Company has only one director, the following shall be added as paragraph (4) to Model Article 11

"(4) If, as a consequence of section 175(6) of the 2006 Act, a director cannot vote or be counted in the quorum at a directors' meeting then the following shall apply

(a) if the eligible directors participating in the meeting do not constitute a quorum then the quorum for the purposes of the meeting shall be reduced by one for each director who cannot vote or be counted in the quorum, and

(b) if despite sub-paragraph (a) the eligible directors participating in the meeting still do not constitute a quorum or there are no eligible directors then the meeting must be adjourned to enable the shareholders to authorise any situation in which a director has a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company "

## 7 **CASTING VOTE**

Model Article 13 shall not apply to the Company

## 8 **DIRECTORS' INTERESTS**

8 1 Subject to these Articles and the 2006 Act, and provided that he has disclosed to the directors the nature and extent of any interest of his, a director

8 1 1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested,

- 8 1 2 may hold any other office or employment with the Company (other than the office of auditor),
- 8 1 3 may be a director or other officer of, or employed by, or be a party to any transaction or arrangement with or otherwise interested in any body corporate in which the Company is in any way interested,
- 8 1 4 may, or any firm or company of which he is a member or director may, act in a professional capacity for the Company or any body corporate in which the Company is in any way interested (other than as auditor),
- 8 1 5 shall not be accountable to the Company for any benefit which he receives or profits made as a result of anything permitted by **Articles 8 1 1 to 8.1.4** and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit
- 8 2 Except for a vote under section 175(4) of the 2006 Act authorising any conflict of interest which a director or any other interested director may have or where the terms of authorisation of such conflict provide that a director may not vote in situations prescribed by the directors when granting such authorisation, a director will be entitled to participate in the decision making process for voting and quorum purposes on any of the matters referred to in **Articles 8.1.1 to 8.1.4** and in any of the circumstances set out in Model Articles 14(3) and 14(4)
- 8 3 For the purposes of these Articles references to decision making process includes any directors' meeting or part of a directors meeting
- 8 4 For the purposes of **Article 8.1**
- 8 4 1 a general notice given in accordance with the 2006 Act is to be treated as a sufficient declaration of interest,
- 8 4 2 a director is not required to declare an interest either where he is not aware of such interest or is not aware of the transaction or arrangement in question, and
- 8 4 3 an interest of a director who appoints an alternate director shall be treated as an interest of the alternate director
- 8 5 Model Articles 14(1), 14(2) and 14(5) shall not apply to the Company

## 9 **APPOINTMENT AND REMOVAL OF DIRECTORS**

In addition to the powers granted by Model Article 17(1), the Majority Shareholder may at any time, and from time to time, appoint any person to be a director, either as an additional director or to fill a vacancy and may remove from office any director however appointed Any such appointment or removal shall be effected by notice in writing to the Company signed by the Majority Shareholder or, if the Majority

Shareholder is a body corporate, signed by one of its directors or duly authorised officers or by its duly authorised attorney

## **10      TERMINATION OF DIRECTOR'S APPOINTMENT**

In addition to the circumstances set out in Model Article 18 (a) to (f) (inclusive) a person ceases to be a director as soon as that person is removed from office as a director pursuant to **Article 9**

## **11      DIRECTORS' PENSIONS AND GRATUITIES**

In addition to the provisions of Model Article 19(3)(b), the directors may exercise all the powers of the Company to give and provide pensions, annuities, gratuities or any other benefits whatsoever to or for present or former directors or employees (or their dependants) of the Company or any subsidiary undertaking (as defined in section 1162 of the 2006 Act) or associated undertaking (as defined in section 497(4) of the 2006 Act) of the Company and the directors shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers

## **12      ALTERNATE DIRECTORS**

### **12 1    Appointment and removal of alternates**

12 1 1    Any director (the "appointor") may appoint as an alternate any other director, or any other person approved by the directors, to

12 1 1 1      exercise that director's powers, and

12 1 1 2      carry out that director's responsibilities,

in relation to participation in directors' meetings and the taking of decisions by the directors in the absence of the alternate's appointor

12 1 2    Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors

12 1 3    The notice must

12 1 3 1      identify the proposed alternate, and

12 1 3 2      in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice

## **12 2 Rights and responsibilities of alternate directors**

12 2 1 An alternate director has the same rights, in relation to participation in directors' meetings and the taking of decisions by the directors and in relation to directors' written resolutions, as the alternate's appointor

12 2 2 An alternate director may act as an alternate director for more than one appointor

12 2 3 Except as these Articles specify otherwise, alternate directors

12 2 3 1 are deemed for all purposes to be directors,

12 2 3 2 are liable for their own acts and omissions,

12 2 3 3 are subject to the same restrictions as their appointors, and

12 2 3 4 are not deemed to be agents of or for their appointors

and, each alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member

12 2 4 A person who is an alternate director but not a director

12 2 4 1 may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating), and

12 2 4 2 may participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision, but does not participate)

No alternate may be counted as more than one director for such purposes

12 2 5 A director who is also an alternate director is entitled, in his absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the directors (provided that his appointor is an eligible director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present

12 2 6 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company

## 12 3 Termination of alternate directorship

12 3 1 An alternate director's appointment as alternate terminates

12 3 1 1 when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate,

12 3 1 2 on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director,

12 3 1 3 on the death of the alternate's appointor, or

12 3 1 4 when the alternate's appointor's appointment as a director terminates

## 13 ALTERNATE DIRECTORS' EXPENSES

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

## 14 SHARES

14 1 In accordance with section 567(1) and (2) of the 2006 Act, sections 561(1) and 562 (1) to (5) (inclusive) of that Act shall not apply to the Company

14 2 No shares in the Company shall be allotted and no rights to subscribe for or convert any security into shares in the Company shall be granted without the prior consent in writing of the Majority Shareholder nor shall any share be issued at a discount or issued in breach of these Articles or the 2006 Act

14 3 Subject to the Statutes and without prejudice to the rights attached to any other existing shares, the Company may by ordinary resolution re-classify any issued share or share not yet in issue

14 4 Model Article 21 shall not apply to the Company

## 15 COMPANY'S LIEN OVER SHARES

15 1 The Company has a lien (the **Company's lien**) over every share, whether or not fully paid, which is registered in the name of any person indebted or under any liability to the Company, whether he is the sole registered holder of the share or one of several joint holders, for all monies payable by him (either alone or jointly with any other person) to the Company, whether payable immediately or at some time in the future

15 2 The Company's lien over a share



- 15 2 1 takes priority over any third party's interest in that share, and
- 15 2 2 extends to any dividend or other money payable by the Company in respect of that share and (if the lien is enforced and the share is sold by the Company) the proceeds of sale of that share
- 15 3 The directors may at any time decide that a share which is or would otherwise be subject to the Company's lien shall not be subject to it, either wholly or in part
- 16 **ENFORCEMENT OF THE COMPANY'S LIEN**
- 16 1 Subject to the provisions of this **Article 16**, if
  - 16 1 1 a lien enforcement notice has been given in respect of a share, and
  - 16 1 2 the person to whom the notice was given has failed to comply with it,the Company may sell that share in such manner as the directors decide
- 16 2 A lien enforcement notice
  - 16 2 1 may only be given in respect of a share which is subject to the Company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed,
  - 16 2 2 must specify the share concerned,
  - 16 2 3 must require payment of the sum within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires),
  - 16 2 4 must be addressed either to the holder of the share or to a transmittee of that holder, and
  - 16 2 5 must state the Company's intention to sell the share if the notice is not complied with
- 16 3 Where shares are sold under this **Article 16**
  - 16 3 1 the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or to a person nominated by the purchaser, and
  - 16 3 2 the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale
- 16 4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied

- 16 4 1 first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice, and
- 16 4 2 second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the Company for cancellation, or an indemnity in a form reasonably satisfactory to the directors has been given for any lost certificates, and subject to a lien equivalent to the Company's lien for any money payable (whether payable immediately or at some time in the future) as existed upon the shares before the sale in respect of all shares registered in the name of such person (whether as the sole registered holder or as one of several joint holders) after the date of the lien enforcement notice
- 16 5 A statutory declaration by a director that the declarant is a director and that a share has been sold to satisfy the Company's lien on a specified date
  - 16 5 1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
  - 16 5 2 subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the share
- 17 **CALL NOTICES**
  - 17 1 Subject to these Articles and the terms on which shares are allotted, the directors may send a notice (a **call notice**) to a shareholder requiring the shareholder to pay the Company a specified sum of money (a **call**) which is payable to the Company at the date when the directors decide to send the call notice
  - 17 2 A call notice
    - 17 2 1 may not require a shareholder to pay a call which exceeds the total amount of his indebtedness or liability to the Company,
    - 17 2 2 must state when and how any call to which it relates is to be paid, and
    - 17 2 3 may permit or require the call to be made in instalments
  - 17 3 A shareholder must comply with the requirements of a call notice, but no shareholder is obliged to pay any call before 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) have passed since the notice was sent
  - 17 4 Before the Company has received any call due under a call notice the directors may
    - 17 4 1 revoke it wholly or in part, or
    - 17 4 2 specify a later time for payment than is specified in the notice,

by a further notice in writing to the shareholder in respect of whose shares the call is made

## **18 LIABILITY TO PAY CALLS**

18 1 Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid

18 2 Joint holders of a share are jointly and severally liable to pay all calls in respect of that share

18 3 Subject to the terms on which shares are allotted, the directors may, when issuing shares, provide that call notices sent to the holders of those shares may require them

18 3 1 to pay calls which are not the same, or

18 3 2 to pay calls at different times

## **19 WHEN CALL NOTICE NEED NOT BE ISSUED**

19 1 A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the Company in respect of that share

19 1 1 on allotment,

19 1 2 on the occurrence of a particular event, or

19 1 3 on a date fixed by or in accordance with the terms of issue

19 2 But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture

## **20 FAILURE TO COMPLY WITH CALL NOTICE: AUTOMATIC CONSEQUENCES**

20 1 If a person is liable to pay a call and fails to do so by the call payment date

20 1 1 the directors may issue a notice of intended forfeiture to that person, and

20 1 2 until the call is paid, that person must pay the Company interest on the call from the call payment date at the relevant rate

20 2 For the purposes of this **Article 20**

20 2 1 the "call payment date" is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date, and

20 2 2 the "relevant rate" is

20 2 2 1 the rate fixed by the terms on which the share in respect of which the call is due was allotted,

20 2 2 2 such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors, or

20 2 2 3 if no rate is fixed in either of these ways, 5 per cent per annum

20 3 The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998

20 4 The directors may waive any obligation to pay interest on a call wholly or in part

## 21 NOTICE OF INTENDED FORFEITURE

A notice of intended forfeiture

21 1 1 may be sent in respect of any share in respect of which a call has not been paid as required by a call notice,

21 1 2 must be sent to the holder of that share (or all the joint holders of that share) or to a transmittee of that holder,

21 1 3 must require payment of the call and any accrued interest and all expenses that may have been incurred by the Company by reason of such non-payment by a date which is not less than 14 clear days after the date of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires),

21 1 4 must state how the payment is to be made, and

21 1 5 must state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited

## 22 DIRECTORS' POWER TO FORFEIT SHARES

If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the directors may decide that any share in respect of which it was given is forfeited, and the forfeiture

is to include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture

## **23 EFFECT OF FORFEITURE**

23 1 Subject to these Articles, the forfeiture of a share extinguishes

23 1 1 all interests in that share, and all claims and demands against the Company in respect of it, and

23 1 2 all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the Company

23 2 Any share which is forfeited in accordance with these Articles

23 2 1 is deemed to have been forfeited when the directors decide that it is forfeited,

23 2 2 is deemed to be the property of the Company, and

23 2 3 may be sold, re-allotted or otherwise disposed of as the directors think fit

23 3 If a person's shares have been forfeited

23 3 1 the Company must send that person notice that forfeiture has occurred and record it in the register of shareholders,

23 3 2 that person ceases to be a shareholder in respect of those shares,

23 3 3 that person must surrender the certificate for the shares forfeited to the Company for cancellation,

23 3 4 that person remains liable to the Company for all sums payable by that person under these Articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture), and

23 3 5 the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal

23 4 At any time before the Company disposes of a forfeited share, the directors may decide to cancel the forfeiture on payment of all calls, interest and expenses due in respect of it and on such other terms as they think fit

## **24 PROCEDURE FOLLOWING FORFEITURE**

24 1 If a forfeited share is to be disposed of by being transferred, the Company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer

24 2 A statutory declaration by a director that the declarant is a director and that a share has been forfeited on a specified date

24 2 1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and

24 2 2 subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the share

24 3 A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share

24 4 If the Company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the Company the proceeds of such sale, net of any commission, and excluding any amount which

24 4 1 was, or would have become, payable, and

24 4 2 had not, when that share was forfeited, been paid by that person in respect of that share,

but no interest is payable to such a person in respect of such proceeds and the Company is not required to account for any money earned on them

## **25 SURRENDER OF SHARES**

25 1 A shareholder may surrender any share

25 1 1 in respect of which the directors may issue a notice of intended forfeiture,

25 1 2 which the directors may forfeit, or

25 1 3 which has been forfeited

25 2 The directors may accept the surrender of any such share

25 3 The effect of surrender on a share is the same as the effect of forfeiture on that share

25 4 A share which has been surrendered may be dealt with in the same way as a share which has been forfeited

26      **SHARE CERTIFICATES**

Model Article 24(2)(c) shall not apply to the Company

27      **TRANSFER OF SHARES**

Model Article 26(5) shall be amended by the addition of the following words "The directors may not refuse to register the transfer of a share made with the prior written approval of the Majority Shareholder In any other case" before the words "the directors may refuse to register"

28      **CONSOLIDATION, CANCELLATION AND SUB-DIVISION OF CAPITAL**

The Company may, with the prior consent in writing of the Majority Shareholder

28 1      consolidate and divide all or any of its share capital into shares of a larger nominal value than its existing shares, or

28 2      subdivide its existing shares, or any of them, into shares of a smaller nominal value than is fixed by its constitution or was fixed by the resolution creating the shares In any subdivision the proportion between the amount paid and the amount, if any, unpaid on each share of a smaller amount shall be the same as it was in the case of the share from which the share of a smaller amount was derived The consent of the Majority Shareholder may determine that as between the holders of the resulting shares (but subject and without prejudice to any rights for the time being attached to the shares of any special class) one or more of such shares may be given a preference, advantage, restriction or disadvantage as regards dividend, capital, voting or otherwise over the others or any other of such shares

29      **FRACTIONS OF SHARES**

If as a result of any consolidation and division or sub-division of shares, members of the Company are entitled to any issued shares of the Company in fractions, the directors may decide how to deal with such fractions In particular the directors may sell the shares to which members have fractional entitlements for the best price reasonably obtainable and pay and distribute to and amongst the members having such entitlement in due proportions the net proceeds of sale For the purpose of giving effect to any such sale the directors may appoint some person to execute or otherwise effect a transfer of the shares to the purchaser and may enter the purchaser's name in the register of members of the Company as the holder The purchaser will not be obliged to see how the purchase money is applied and his title to the shares will not be affected if the sale was irregular or invalid in any way

30      **REDUCTION OF CAPITAL AND PURCHASE OF OWN SHARES**

Subject to the provisions of **Article 31** and with the prior written consent of the Majority Shareholder, the Company may from time to time

30 1 reduce its share capital, any capital redemption reserve or any share premium account in any manner authorised, and

30 2 purchase its own shares (including any redeemable shares) and may hold such shares as treasury shares or cancel them

**31 CONDITIONS CONCERNING REDUCTION OF CAPITAL AND PURCHASE OF OWN SHARES**

31 1 Anything done in accordance with **Article 30** shall be done in accordance with this **Article 31** insofar as it applies, in accordance with the terms of the consent of the Majority Shareholder. If the terms of the consent do not specify how a thing is to be done, it shall be done in the manner the directors deem most expedient

31 2 The Company shall not enter into any contract for the purchase of shares in its own equity share capital unless the purchase has previously been sanctioned by a special resolution passed at a separate meeting of the holders of any class of securities issued by the Company which are convertible into, exchangeable for or carry a right to subscribe for, equity shares in the capital of the Company which are of the same class as those proposed to be purchased

31 3 The Company can select which shares it will purchase in its own equity capital and purchase them by whatever method it sees fit

**32 TRANSMITTEES BOUND BY PRIOR NOTICES**

Model Article 29 shall be amended by the insertion of the words “, or the name of any person nominated under Model Article 27(2), “after the words “the transmittee’s name”

**33 DEDUCTIONS FROM DISTRIBUTIONS IN RESPECT OF SUMS OWED TO THE COMPANY**

33 1 If

33 1 1 a share is subject to the Company's lien, and

33 1 2 the directors are entitled to issue a lien enforcement notice in respect of it,

the directors may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the share any sum of money which is payable to the Company in respect of that share to the extent that they are entitled to require payment under a lien enforcement notice

33 2 Money so deducted must be used to pay any of the sums payable in respect of that share

33 3 The Company must notify the distribution recipient in writing of



- 33 3 1 the fact and amount of any such deduction,
- 33 3 2 any non-payment of a dividend or other sum payable in respect of a share resulting from any such deduction, and
- 33 3 3 how the money deducted has been applied

#### 34 **AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS**

Model Article 36(4) shall be amended by the addition of the following words “, or towards paying up any amounts unpaid on existing shares held by the persons entitled”

#### 35 **NOTICE OF GENERAL MEETINGS**

Every notice convening a general meeting shall

- 35 1 comply with section 325(1) of the 2006 Act as to giving information to shareholders relating to their right to appoint proxies, and
- 35 2 be given in accordance with section 308 of the 2006 Act, that is in hard copy form, electronic form or by means of a website

#### 36 **PROCEEDINGS AT GENERAL MEETINGS**

- 36 1 If a quorum is not present within half an hour of the time at which a general meeting is due to start or if, during a general meeting, a quorum ceases to be present the directors must adjourn it

- 36 2 When adjourning the general meeting the directors must specify that the meeting is adjourned either

- 36 2 1 to the same day, place and time the following week, or

- 36 2 2 to another day, place and time to be decided by the directors

- 36 3 If a quorum is not present within half an hour of the time at which the adjourned meeting is due to start the shareholder or shareholders present in person or by proxy or by corporate representative and who are entitled to vote shall

- 36 3 1 constitute a quorum, and

- 36 3 2 have power to decide on all matters which could have been transacted at the meeting which was adjourned

- 36 4 Model Article 41 shall not apply to the Company

#### 37 **WRITTEN RESOLUTIONS**

- 37 1 A written resolution, proposed in accordance with section 288(3) of the 2006 Act, will

lapse if it is not passed before the end of the period of 28 days beginning with the circulation date

- 37 2 For the purposes of this **Article 37** "circulation date" is the date on which copies of the written resolution are sent or submitted to shareholders or, if copies are sent or submitted on different days, to the first of those days

## 38 **COMPANY COMMUNICATION PROVISIONS**

### 38 1 Where

38 1 1 a document or information is sent by post (whether in hard copy or electronic form) to an address in the United Kingdom and

38 1 2 the Company is able to show that it was properly addressed, prepaid and posted

it is deemed to have been received by the intended recipient 24 hours after it was posted

### 38 2 Where

38 2 1 a document or information is sent or supplied by electronic means, and

38 2 2 the Company is able to show that it was properly addressed,

it is deemed to have been received by the intended recipient immediately after it was sent

- 38 3 Where a document or information is sent or supplied by means of a website, it is deemed to have been received by the intended recipient

38 3 1 when the material was first made available on the website, or

38 3 2 if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website

- 38 4 Pursuant to section 1147(6) of the 2006 Act, subsections (2) (3) and (4) of that section shall be deemed modified by **Articles 38.1, 38.2 and 38.3.**

- 38 5 Subject to any requirements of the 2006 Act, only such documents and notices as are specified by the Company may be sent to the Company in electronic form to the address specified by the Company for that purpose and such documents or notices sent to the Company are sufficiently authenticated if the identity of the sender is confirmed in the way the Company has specified

## 39 **DIRECTORS' INDEMNITY AND INSURANCE**

- 39 1 Subject to, and so far as may be permitted by, the 2006 Act and without prejudice to

any indemnity to which the person concerned may be otherwise entitled, the Company shall indemnify every director, former director, alternate director, secretary or other officer of the Company or of any associated company (as defined in section 256 of the 2006 Act) against any liabilities incurred by him in the execution and discharge of his duties or the exercise of his powers or otherwise in relation to or in connection with his duties, powers or office, including any liability which may attach to him in respect of any negligence, default, breach of duty or breach of trust in relation to anything done or omitted to be done or alleged to have been done or omitted to be done by him as a director, former director, alternate director, secretary or other officer of the Company or of any such associated company and against any such liability incurred by him in connection with the Company's activities as trustee of an occupational pension scheme as defined in section 235(b) of the 2006 Act

39 2 Subject to the 2006 Act the directors may purchase and maintain at the cost of the Company insurance cover for or for the benefit of every director, former director, alternate director, secretary or other officer of the Company or of any associated company (as defined in section 256 of the 2006 Act) against any liability which may attach to him in respect of any negligence, default, breach of duty or breach of trust by him in relation to the Company (or such associated company), including anything done or omitted to be done or alleged to have been done or omitted to be done by him as a director, former director, alternate director, secretary or other officer of the Company or associated company

39 3 Subject to, and so far as may be permitted by, the 2006 Act, the Company shall be entitled to fund the expenditure of every director, former director, alternate director or other officer of the Company incurred or to be incurred

39 3 1 in defending any criminal or civil proceedings, or

39 3 2 in connection with any application under sections 661(3), 661(4) or section 1157 of the 2006 Act

39 4 Model Articles 52 and 53 shall not apply to the Company

#### 40 **CHANGE OF COMPANY NAME**

The name of the Company may be changed at any time by a decision of the directors

#### 41 **REGISTERED OFFICE**

The Company's registered office is to be situated in England and Wales

## SCHEDULE 1

Regulation 2

# MODEL ARTICLES FOR PRIVATE COMPANIES LIMITED BY SHARES

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## PART 1

### INTERPRETATION AND LIMITATION OF LIABILITY

#### **Defined terms**

1. In the articles, unless the context requires otherwise—

“articles” means the company’s articles of association,

“bankruptcy” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy,

“chairman” has the meaning given in article 12,

“chairman of the meeting” has the meaning given in article 39;

“Companies Acts” means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company,

“director” means a director of the company, and includes any person occupying the position of director, by whatever name called,

“distribution recipient” has the meaning given in article 31,

“document” includes, unless otherwise specified, any document sent or supplied in electronic form,

“electronic form” has the meaning given in section 1168 of the Companies Act 2006,

“fully paid” in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company,

“hard copy form” has the meaning given in section 1168 of the Companies Act 2006,

“holder” in relation to shares means the person whose name is entered in the register of

members as the holder of the shares,

“instrument” means a document in hard copy form,

“ordinary resolution” has the meaning given in section 282 of the Companies Act 2006,

“paid” means paid or credited as paid;

“participate”, in relation to a directors’ meeting, has the meaning given in article 10,

“proxy notice” has the meaning given in article 45,

“shareholder” means a person who is the holder of a share,

“shares” means shares in the company,

“special resolution” has the meaning given in section 283 of the Companies Act 2006,

“subsidiary” has the meaning given in section 1159 of the Companies Act 2006,

“transmittee” means a person entitled to a share by reason of the death or bankruptcy of a

shareholder or otherwise by operation of law, and

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

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company

### **Liability of members**

2. The liability of the members is limited to the amount, if any, unpaid on the shares held by them

## **PART 2**

### **DIRECTORS**

#### **DIRECTORS’ POWERS AND RESPONSIBILITIES**

##### **Directors’ general authority**

3. Subject to the articles, the directors are responsible for the management of the company’s business, for which purpose they may exercise all the powers of the company

##### **Shareholders’ reserve power**

- 4.—(1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action  
(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution

##### **Directors may delegate**

- 5.—(1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles—
  - (a) to such person or committee,
  - (b) by such means (including by power of attorney),

- (c) to such an extent;
  - (d) in relation to such matters or territories, and
  - (e) on such terms and conditions,
- as they think fit

(2) If the directors so specify, any such delegation may authorise further delegation of the

directors' powers by any person to whom they are delegated.

(3) The directors may revoke any delegation in whole or part, or alter its terms and conditions

### **Committees**

6.—(1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors

(2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them

## **DECISION-MAKING BY DIRECTORS**

### **Directors to take decisions collectively**

7.—(1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8

(2) If—

(a) the company only has one director, and

(b) no provision of the articles requires it to have more than one director, the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making

### **Unanimous decisions**

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

(2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing

(3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting

(4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting

### **Calling a directors' meeting**

9.—(1) Any director may call a directors' meeting by giving notice of the meeting to the

directors or by authorising the company secretary (if any) to give such notice



- (2) Notice of any directors' meeting must indicate—
- (a) its proposed date and time,
  - (b) where it is to take place, and
  - (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting
- (3) Notice of a directors' meeting must be given to each director, but need not be in writing
- (4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it

### **Participation in directors' meetings**

- 10.—(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when—
- (a) the meeting has been called and takes place in accordance with the articles, and
  - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting
- (2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other
- (3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is

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

- 11.—(1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting
- (2) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two
- (3) If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision—
- (a) to appoint further directors, or
  - (b) to call a general meeting so as to enable the shareholders to appoint further directors

### **Chairing of directors' meetings**

- 12.—(1) The directors may appoint a director to chair their meetings
- (2) The person so appointed for the time being is known as the chairman
- (3) The directors may terminate the chairman's appointment at any time
- (4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it

### **Casting vote**

**13.—**(1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote

(2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes

### **Conflicts of interest**

**14.—**(1) If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes

(2) But if paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes

(3) This paragraph applies when—

(a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in the decision-making process,

(b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest, or

(c) the director's conflict of interest arises from a permitted cause

(4) For the purposes of this article, the following are permitted causes—

(a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries,

(b) subscription, or an agreement to subscribe, for shares or other securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities, and

(c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries which do not provide special benefits for directors or former directors

(5) For the purposes of this article, references to proposed decisions and decision-making

processes include any directors' meeting or part of a directors' meeting

(6) Subject to paragraph (7), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive

(7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes

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

**15.** The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors

### **Directors' discretion to make further rules**

**16.** Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors

## **APPOINTMENT OF DIRECTORS**

### **Methods of appointing directors**

**17.—**(1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director—

- (a) by ordinary resolution, or
- (b) by a decision of the directors

(2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director

(3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances

rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder

### **Termination of director's appointment**

**18.** A person ceases to be a director as soon as—

- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law,
- (b) a bankruptcy order is made against that person,
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts,
- (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months,
- (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have,
- (f) notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms

### **Directors' remuneration**

- 19.—(1) Directors may undertake any services for the company that the directors decide
- (2) Directors are entitled to such remuneration as the directors determine—
- (a) for their services to the company as directors, and
  - (b) for any other service which they undertake for the company
- (3) Subject to the articles, a director's remuneration may—
- (a) take any form, and
  - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day
- (5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested

### **Directors' expenses**

20. The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at—
- (a) meetings of directors or committees of directors,
  - (b) general meetings, or
  - (c) separate meetings of the holders of any class of shares or of debentures of the company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company

## **PART 3**

## **SHARES AND DISTRIBUTIONS**

### **SHARES**

#### **All shares to be fully paid up**

- 21.—(1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue
- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum

#### **Powers to issue different classes of share**

**22.**—(1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary resolution

(2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares

### **Company not bound by less than absolute interests**

**23.** Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it

### **Share certificates**

**24.**—(1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds

(2) Every certificate must specify—

- (a) in respect of how many shares, of what class, it is issued,
- (b) the nominal value of those shares,
- (c) that the shares are fully paid, and
- (d) any distinguishing numbers assigned to them

(3) No certificate may be issued in respect of shares of more than one class

(4) If more than one person holds a share, only one certificate may be issued in respect of it

(5) Certificates must—

- (a) have affixed to them the company's common seal, or
- (b) be otherwise executed in accordance with the Companies Acts

### **Replacement share certificates**

**25.**—(1) If a certificate issued in respect of a shareholder's shares is—

- (a) damaged or defaced, or
- (b) said to be lost, stolen or destroyed, that shareholder is entitled to be issued with a replacement certificate in respect of the same shares

(2) A shareholder exercising the right to be issued with such a replacement certificate—

- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates,
- (b) must return the certificate which is to be replaced to the company if it is damaged or defaced, and
- (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide

### **Share transfers**

**26.—**(1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor

(2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share

(3) The company may retain any instrument of transfer which is registered

(4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it

(5) The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent

### **Transmission of shares**

**27.—**(1) If title to a share passes to a transmittee, the company may only recognise the transmittee as having any title to that share.

(2) A transmittee who produces such evidence of entitlement to shares as the directors may properly require—

(a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and

(b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had

(3) But transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares

### **Exercise of transmittees' rights**

**28.—**(1) Transmittees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish

(2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it

(3) Any transfer made or executed under this article is to be treated as if it were made or

executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred

### **Transmittees bound by prior notices**

**29.** If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members

## **DIVIDENDS AND OTHER DISTRIBUTIONS**

### **Procedure for declaring dividends**

- 30.**—(1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends
- (2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights
- (4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it
- (5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear
- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment
- (7) If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

#### **Payment of dividends and other distributions**

- 31.**—(1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means—
- (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide,
  - (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide,
  - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide, or
  - (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide
- (2) In the articles, "the distribution recipient" means, in respect of a share in respect of which a dividend or other sum is payable—
- (a) the holder of the share, or
  - (b) if the share has two or more joint holders, whichever of them is named first in the register of members, or
  - (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee

#### **No interest on distributions**

- 32.** The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by—

- (a) the terms on which the share was issued, or
- (b) the provisions of another agreement between the holder of that share and the company

### **Unclaimed distributions**

**33.**—(1) All dividends or other sums which are—

- (a) payable in respect of shares, and
- (b) unclaimed after having been declared or become payable, may be invested or otherwise made use of by the directors for the benefit of the company until claimed

(2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.

(3) If—

- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
- (b) the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company

### **Non-cash distributions**

**34.**—(1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company)

(2) For the purposes of paying a non-cash distribution, the directors may make whatever

arrangements they think fit, including, where any difficulty arises regarding the distribution—

- (a) fixing the value of any assets,
- (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients, and
- (c) vesting any assets in trustees.

### **Waiver of distributions**

**35.** Distribution recipients may waive their entitlement to a dividend or other distribution

payable in respect of a share by giving the company notice in writing to that effect, but if—

- (a) the share has more than one holder, or
- (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share



## CAPITALISATION OF PROFITS

### **Authority to capitalise and appropriation of capitalised sums**

**36.—**(1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution—

- (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve, and
  - (b) appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions
- (2) Capitalised sums must be applied—
- (a) on behalf of the persons entitled, and
  - (b) in the same proportions as a dividend would have been distributed to them
- (3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct
- (4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct
- (5) Subject to the articles the directors may—
- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another,
  - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments), and
  - (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article

## PART 4

### DECISION-MAKING BY SHAREHOLDERS

#### ORGANISATION OF GENERAL MEETINGS

### **Attendance and speaking at general meetings**

**37.—**(1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting

(2) A person is able to exercise the right to vote at a general meeting when—

- (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and

- (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it
- (4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

### **Quorum for general meetings**

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

### **Chairing general meetings**

- 39.**—(1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so
- (2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—
- (a) the directors present, or
  - (b) (if no directors are present), the meeting,
- must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting
- (3) The person chairing a meeting in accordance with this article is referred to as “the chairman of the meeting”

### **Attendance and speaking by directors and non-shareholders**

- 40.**—(1) Directors may attend and speak at general meetings, whether or not they are shareholders
- (2) The chairman of the meeting may permit other persons who are not—
- (a) shareholders of the company, or
  - (b) otherwise entitled to exercise the rights of shareholders in relation to general meetings,
- to attend and speak at a general meeting

### **Adjournment**

- 41.**—(1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it
- (2) The chairman of the meeting may adjourn a general meeting at which a quorum is present if—
- (a) the meeting consents to an adjournment, or

- (b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner
- (3) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting
- (4) When adjourning a general meeting, the chairman of the meeting must—
  - (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
  - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)—
  - (a) to the same persons to whom notice of the company's general meetings is required to be given, and
  - (b) containing the same information which such notice is required to contain
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place

## VOTING AT GENERAL MEETINGS

### **Voting: general**

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

### **Errors and disputes**

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

### **Poll votes**

- 44.—**(1) A poll on a resolution may be demanded—
- (a) in advance of the general meeting where it is to be put to the vote, or
  - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by—
- (a) the chairman of the meeting,
  - (b) the directors,
  - (c) two or more persons having the right to vote on the resolution, or

- (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution
- (3) A demand for a poll may be withdrawn if—
  - (a) the poll has not yet been taken, and
  - (b) the chairman of the meeting consents to the withdrawal
- (4) Polls must be taken immediately and in such manner as the chairman of the meeting directs

### **Content of proxy notices**

**45.—**(1) Proxies may only validly be appointed by a notice in writing (a “proxy notice”)

which—

- (a) states the name and address of the shareholder appointing the proxy,
  - (b) identifies the person appointed to be that shareholder’s proxy and the general meeting in relation to which that person is appointed,
  - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine, and
  - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions
- (4) Unless a proxy notice indicates otherwise, it must be treated as—
- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
  - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself

### **Delivery of proxy notices**

**46.—**(1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person

(2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given

(3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates

(4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor’s behalf

### **Amendments to resolutions**

**47.—**(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—

- (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
  - (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if—
- (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
  - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution
- (3) If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution

## PART 5

### ADMINISTRATIVE ARRANGEMENTS

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

**48.**—(1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company

(2) Subject to the articles, any notice or document to be sent or supplied to a director in

connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being

(3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours

#### **Company seals**

**49.**—(1) Any common seal may only be used by the authority of the directors

(2) The directors may decide by what means and in what form any common seal is to be used

(3) Unless otherwise decided by the directors, if the company has a common seal and it is

affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature

(4) For the purposes of this article, an authorised person is—

- (a) any director of the company,

- (b) the company secretary (if any); or

- (c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied

## **No right to inspect accounts and other records**

**50.** Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder

## **Provision for employees on cessation of business**

**51.** The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary

## **DIRECTORS' INDEMNITY AND INSURANCE**

### **Indemnity**

**52.—**(1) Subject to paragraph (2), a relevant director of the company or an associated company may be indemnified out of the company's assets against—

- (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,
- (b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),
- (c) any other liability incurred by that director as an officer of the company or an associated company.

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

(3) In this article—

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
- (b) a "relevant director" means any director or former director of the company or an associated company

### **Insurance**

**53.—**(1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss

(2) In this article—

- (a) a "relevant director" means any director or former director of the company or an associated company,
- (b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and
- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate