

**ARTICLES OF ASSOCIATION FOR  
PRIVATE COMPANIES LIMITED BY SHARES**

**SUPPLY CHAIN COORDINATION LIMITED  
COMPANY REGISTRATION NUMBER 10881715**

**Adopted by Special Resolution on**

1st October 2021

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# INDEX TO THE ARTICLES

## PART 1

### OBJECTS OF THE COMPANY

1. Objects of the Company

## PART 2

### INTERPRETATION AND LIMITATION OF LIABILITY

2. Defined terms
3. Liability of members

## PART 3

### DIRECTORS

#### DIRECTORS' POWERS AND RESPONSIBILITIES

4. Directors' general authority
5. Shareholders' reserve power
6. Directors may delegate
7. Committees
8. Shareholder consent matters
9. Board consent matters
10. The Business Plan and annual budget

#### DECISION-MAKING BY DIRECTORS

11. Directors to take decisions collectively
12. Unanimous decisions
13. Calling a directors' meeting
14. Participation in directors' meetings
15. Quorum for directors' meetings
16. Chairing of directors' meetings
17. Casting vote
18. Conflicts of interest
19. Records of decisions to be kept
20. Directors' discretion to make further rules

#### APPOINTMENT OF DIRECTORS

21. Methods of appointing directors
22. Termination of director's appointment
23. Directors' remuneration
24. Directors' expenses

## PART 4

### SHARES AND DISTRIBUTIONS

#### SHARES

25. All shares to be fully paid up
26. Powers to issue different classes of share
27. Company not bound by less than absolute interests
28. Share certificates
29. Replacement share certificates
30. Share transfers
31. Transmission of shares

- 32. Exercise of transmitters' rights
- 33. Transmitters bound by prior notices

#### DIVIDENDS AND OTHER DISTRIBUTIONS

- 34. Prohibition of the declaration and payment of dividends

#### CAPITALISATION OF PROFITS

- 35. Authority to capitalise and appropriation of capitalised sums

#### PART 5

#### DECISION-MAKING BY SHAREHOLDERS ORGANISATION OF GENERAL MEETINGS

- 36. Attendance and speaking at general meetings
- 37. Quorum for general meetings
- 38. Chairing general meetings
- 39. Attendance and speaking by directors and non-shareholders
- 40. Adjournment

#### VOTING AT GENERAL MEETINGS

- 41. Voting: general
- 42. Errors and disputes
- 43. Poll votes
- 44. Content of proxy notices
- 45. Delivery of proxy notices
- 46. Amendments to resolutions

#### PART 6

#### ADMINISTRATIVE ARRANGEMENTS

- 47. Means of communication to be used
- 48. Company seals
- 49. No right to inspect accounts and other records
- 50. Provision for employees on cessation of business

#### DIRECTORS' INDEMNITY AND INSURANCE

- 51. Indemnity
- 52. Insurance

## **PART 1**

### **OBJECTS OF THE COMPANY**

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#### **1 OBJECTS OF THE COMPANY**

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The objects of the company are as follows:

- (1) Management and co-ordination of NHS supply chain services, including procurement, logistics, e-commerce, reporting, analysis, quality control, communications, payments, supplier management, emergency response and consultancy services for the provision of everyday hospital consumables (including in respect of intensive care units), personal protective equipment, medicinal products, clinical products, home-care and capital equipment and associated services and supplies;
- (2) Overseeing the procurement and delivery of clinically assured products focused on patient safety within the NHS and to protect the public from disease and provide services to facilitate the prevention and treatment of disease;
- (3) Coordinating the procurement of a range of medical devices, medicines, medicinal products and clinical consumables from suppliers for the NHS;
- (4) Ensuring the provision of reliable logistics services for the delivery of products to persons or bodies exercising functions, or otherwise providing services, under the National Health Service Act 2006 (as amended from time to time) as well as to persons or bodies not within scope of the aforementioned including public health and social care organisations;
- (5) Managing the provision of IT services to provide systems platforms that support the operations of NHS Supply Chain;
- (6) Administering the provision of transaction processing services to ensure that suppliers are paid, customers receive and pay their invoices and accurate financial/statutory accounting is performed in a timely manner;
- (7) Enabling the provision of customer engagement services so that customers can make effective best value judgments in exercising their choice of products for use in the provision of health services;
- (8) Ensuring the provision of clinical and product assurance services to give customers confidence that the products they are using are of good quality and clinically suitable for their intended use;
- (9) Complying with public procurement principles (where applicable) so that the above

services are procured through open, transparent and competitive conditions ensuring equal access and opportunity to all suppliers; and

- (10) Exercising performance management and supervision powers to ensure that the above services are all delivered efficiently and effectively and present good value for taxpayers' money.

## **PART 2**

### **INTERPRETATION AND LIMITATION OF LIABILITY**

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#### **2     DEFINED TERMS**

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(1)     In the articles, unless the context requires otherwise

“Annual Budget” means the annual budget to be approved by the Directors (subject to the shareholder’s consent under article 8) and adopted by the company each year, including detailed financial projections, a budget for expenses, and other financial information on a basis agreed by the Board in accordance with these articles;

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

“Auditors” means the auditors for the time being of the company;

“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;

“Board” means the board of directors of the company for the time being;

“Business” means the business of the company as carried on in accordance with: (1) the objects set out in Part 1 of these articles and (2) the original Act of Entrustment issued on 28<sup>th</sup> March 2019 to the company’s Chief Executive by the Secretary of State for Health and Social Care and (3) the Addendum to the Act of Entrustment issued on 30 September 2021 as well as the key objectives set out in those documents as updated from time to time;

“Business Plan” means the business plan of the company in the agreed form, including the Annual Budget, as revised and approved from time to time in accordance with these articles;

“chair” has the meaning given in article 16;

“chair of the meeting” has the meaning given in article 38;

“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;

“Departmental Directors” means those directors appointed by NHS England and employed by NHS England;

“directors” means the Departmental Directors, the Executive Directors and the External Directors of the company, as the case may be, and “director” shall mean any one of them;

“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;

“Executive Directors” means the company’s chief executive officer (CEO) and chief finance officer (CFO);

“External Directors” means those directors other than the Departmental Directors and the Executive Directors;

“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;

“Memorandum” means the memorandum of association of the company from time to time;

“NHS England” means the National Health Service Commissioning Board or any successor to its functions from time to time;

“NHS Supply Chain” means the operational name used to describe the company’s business which is governed by its objects in Part 1 of the Articles;

“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 11;

“proxy notice” has the meaning given in article 44;

“Secretary of State” means the Secretary of State for Health and Social Care of HM Government, or any successor to his functions from time to time, represented herein by a duly authorised officer of the Secretary of State for Health and Social Care;

“shareholder” means NHS England or such other individual, organisation or entity to whom he may transfer his shares from time to time;

“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.

### **3 LIABILITY OF MEMBERS**

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

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## **PART 3 DIRECTORS DIRECTORS' POWERS AND RESPONSIBILITIES**

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### **4 DIRECTORS' GENERAL AUTHORITY**

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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.

### **5 SHAREHOLDERS' RESERVE POWER**

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- (1) The shareholder 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.

### **6 DIRECTORS MAY DELEGATE**

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- (1) Subject to the articles (and in particular article 9(1)) 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.

## **7 COMMITTEES**

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- (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 (including but not limited to articles 8 and 9 below).
- (2) Subject to article 6(1), the directors may make rules of procedure for all or any committees, which prevail over rules of procedure related to such committees and derived from the articles if they are not consistent with them.
- (3) Any committee established in accordance with these articles must include at least one Departmental Director or a representative of the shareholder ((see also 9(1)(n)).

## **8 SHAREHOLDER CONSENT MATTERS**

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- (1) Notwithstanding anything to the contrary within these articles, the company shall not, and the directors shall procure that the company shall not, without the prior written consent of the shareholder:
  - (a) make any variation of any rights, including class rights, attaching to any shares in the company;
  - (b) issue any shares, or consolidate, subdivide or convert any shares in the company, or create or grant any option or rights to subscribe for shares or convert into shares in the company;
  - (c) re-purchase or cancel any shares by the company, or capitalise, repay, reduce

or distribute the amount (if any) standing to the credit of its share premium account or capital redemption reserve (if any) or any other reserve, or carry out any other reorganisation or reduction of the share capital of the company (excluding for these purposes the payment of any dividend);

- (d) devolve or transfer management control to persons outside the Board, (and if approved, the terms of any such devolution shall also require the prior written approval of the shareholder);
- (e) vary the authorised or issued share capital in the company;
- (f) appoint or dismiss any director, the chair of the company, or make any change in the scope of authority of any director;
- (g) introduce new shareholders;
- (h) make any amendments to the Memorandum or articles;
- (i) make any arrangements with creditors generally or commence any winding-up or dissolution of or appoint any liquidator, administrator or administrative receiver of the company or any of its assets unless it shall have become insolvent, present or cause to be presented or allow any act which would result in the winding up or the presentation of any petition for the winding up of the company;
- (j) make any change to the general investment criteria to be applied by the company or the purposes to which the company applies its resources;
- (k) make a change to the name of the company;
- (l) make any material change to the nature of the Business;
- (m) relocate the head office of the company;
- (n) refinance, securitise and/or sell any existing debt or investment of the company unless falling within the terms of a protocol or operational model which has been pre-agreed with the shareholder;
- (o) do any of the following:
  - (i) the fixing or payment of the remuneration of any director or provision of benefits of any nature whatsoever to any director, former director or any associate of any director or former director;
  - (ii) the making of any provision for the benefit of any persons which is permitted by section 247 of the Companies Act 2006;
  - (iii) the establishment or amendment of any pension scheme, or an increase in the amount of contributions to any director or former director or any member of any such person's family;

- (iv) the grant of any pension rights to any director or former director or any member of any such person's family; and/or
- (v) the establishment or amendment of any profit-sharing, share option, bonus or other incentive scheme of any nature for directors or employees, or any increase in the amount of contributions thereto;
- (p) Notwithstanding article 8(1)(o)(i) to (o)(v), save as set out in the Business Plan (approved by the shareholder in accordance with article 8(1)(u)), agree or vary the terms of engagement, secondment and/or removal of or the terms of any other agreement relating to any director or senior personnel (comprising all those persons, whether employees, secondees, consultants or other professionals whose remuneration exceeds £100,000 per annum) (and in providing or not prior written consent the shareholder shall have regard to HM Treasury's guidance for the approval of senior pay as amended or updated from time to time (including in connection with performance ("bonus") arrangements);
- (q) enter into any contract that is not within the ordinary course of business of the company;
- (r) enter into any single contract (excluding contracts in respect of employees, secondees, and consultants acting in a personal capacity and contracts included in the Business Plan, including the Annual Budget) including any commitment to spend £1,000,000 or more (on an annualised basis during the financial year in which the contract is entered into);
- (s) pass any shareholder resolution;
- (t) make any material change in the nature or scope of the objects of the company, as set out above at Part 1, including the introduction or discontinuance of any field of activity and the relocation or expansion of the business of the company, or the commencement of any new business not being ancillary or incidental to such business;
- (u) approve the Business Plan (and included therein the Annual Budget), and any material amendments to it agreed by the Board;
- (v) enter into any contract or arrangement that is other than in the furtherance of health and social care and/or does not further the key objectives of the NHS Supply Chain;
- (w) acquire any shares or other interest in, or make any investment in, another company or business, or incorporate any subsidiary or dispose of any shares or dilute any interest in a subsidiary;
- (x) other than disclosed and approved in the Business Plan, participate in any partnership or joint venture (incorporated or not), or any revenue-sharing or profit-sharing agreement;

- (y) amalgamate or merge the company with any other company or legal entity;
- (z) declare or make any distribution;
- (aa) enter into any financing transactions of transactions that can be regarded as financing transactions (for example sale and leaseback arrangements);
- (bb) amend, issue or adopt any expense policy in relation to the company;
- (cc) appoint or remove the Auditors;
- (dd) effect any significant change in the accounting principles and practices for the time being adopted by the company or change the accounting reference date;
- (ee) appoint or remove the company's Chief Executive Officer; and/or
- (ff) enter into any agreement or negotiations to effect any of the above.

## 9 BOARD CONSENT MATTERS

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- (1) Notwithstanding anything to the contrary within these articles, the company shall not, and the directors shall procure that the company shall not, without the consent of the shareholder where required in accordance with article 8 and the consent of the Board (or a validly established committee of the Board to whom the matter has been delegated in accordance with these articles) in accordance with article 9(2) below:
  - (a) acquire or dispose of any investments; incorporate or acquire a subsidiary of the company, and dispose of any shares or dilute any interest in a subsidiary;
  - (b) enter into a contract or arrangement involving expenditure on capital assets or the realisation of capital assets in excess of £10,000, either in any one year or in relation to any one project, other than in accordance with the Business Plan (including the Annual Budget);
  - (c) incur or agree to borrowings or similar indebtedness or liability (e.g. operating leases or hire purchase agreements) in excess of £10,000 per item, other than in accordance with the Business Plan (including the Annual Budget);
  - (d) rationalise the company's business or relocate its functions, to the extent not contemplated by the Business Plan (including the Annual Budget);
  - (e) acquire or dispose of business assets, including without limitation intellectual property rights;
  - (f) enter into joint ventures or profit sharing arrangements or partnerships;
  - (g) commence, settle, or make any material decisions relating to any litigation, legal

or arbitration proceedings;

- (h) approve the Business Plan (including the Annual Budget) and any material amendments to it agreed by the Board, and monitor performance of the company against the Business Plan (and against the Annual Budget);
  - (i) give any guarantee, bond or indemnity in respect of or to secure the liabilities or obligations of any person;
  - (j) materially modify (as defined in regulation 72 of the Public Contracts Regulations 2015, as amended from time to time) any contract with a category tower service provider, IT service provider or logistics service provider who respectively provide procurement category, information technology and logistics services to the company to support the NHS Supply Chain;
  - (k) agree to vary the service agreement dated 31 July 2019 between the company and the shareholder (which was originally entered between the company and the Secretary of State for Health and Social Care and was novated to NHS England on 1 October 2021) or to enter or vary any other contractual agreement between the company and the shareholder from time to time.
  - (l) effect any material change in the senior management structure, to the extent not contemplated by the Business Plan (including the Annual Budget);
  - (m) create any charges, liens or mortgages (other than any trade lien arising in the ordinary course of business) over any assets or property; and
  - (n) establish a sub-committee of the Board, or delegate powers to committees and set their terms of reference. Any committee duly appointed shall have at least one Departmental Director or representative of the shareholder and will be bound by these consent matters; and
  - (o) make any material change to the company's Employee Handbook.
- (2) For a matter to receive the consent of the Board it shall require a vote in favour by a simple majority of the directors available and eligible to vote on the matter at a quorate meeting of the Board (or a committee established in accordance with these articles for that purpose), to include a vote in favour from:
- (a) at least one Departmental Director; and
  - (b) at least one External Director.

## **10 THE BUSINESS PLAN AND ANNUAL BUDGET**

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- (1) Subject to the provisions of these articles (including, but not limited to articles 8 and 9 above), it is the responsibility of the Board to set the strategy for the company, agree

operational targets and to monitor progress.

- (2) Strategy and operational targets will be included in the Business Plan.
- (3) The Business Plan will be reviewed at least annually and approved in accordance with articles 8 and 9 above not later than the beginning of each financial year.
- (4) To the extent that an Annual Budget is not approved in relation to a subsequent financial year then the expenditure and capital commitments of the company shall not exceed the levels of the immediately preceding financial year.
- (5) The Annual Budget shall be reviewed by the Board at least every 6 months.

## **DECISION-MAKING BY DIRECTORS**

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### **11 DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

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- (1) The general rule about decision-making by directors is that any decision of the directors must be either in accordance with article 9 (2) above or a decision taken in accordance with article 12.
- (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.

### **12 UNANIMOUS DECISIONS**

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- (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 12 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.

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

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- (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.

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

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- (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.

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

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- (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 shall be a majority of the directors to include at least one Executive Director, one Departmental Director and one External Director.
- (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) subject to shareholder consent being obtained in accordance with article 8(1)(f), to appoint further directors, or
  - (b) to call a general meeting so as to enable the shareholder to appoint further directors.

## **16 CHAIRING OF DIRECTORS' MEETINGS**

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- (1) Subject to the prior approval of the Shareholder, the directors may appoint a director to chair their meetings.
- (2) The person so appointed for the time being is known as the chair.
- (3) The directors may terminate the chair's appointment at any time.
- (4) If the chair 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.

## **17 CASTING VOTE**

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- (1) If the numbers of votes for and against a proposal are equal, the chair (but not any other director chairing the meeting pursuant to article 16(4)) has a casting vote, provided always that the provisions of article 9(2) still apply.
- (2) The chair does not have a casting vote if, in accordance with the articles, the chair is not to be counted as participating in the decision-making process for quorum or voting purposes.



## 18 CONFLICTS OF INTEREST

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- (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) of this article 18 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) of this article 18, 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 chair whose ruling in relation to any director other than the chair 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 chair, the question is to be decided by a decision of the directors at that meeting, for which purpose the chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

## **19 RECORDS OF DECISIONS TO BE KEPT**

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- (1) 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.

## **20 DIRECTORS' DISCRETION TO MAKE FURTHER RULES**

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- (1) 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**

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## **21 METHODS OF APPOINTING DIRECTORS**

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- (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 by ordinary resolution.
- (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.

## **22 TERMINATION OF DIRECTORS' APPOINTMENT**

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- (1) 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) *[Paragraph omitted pursuant to The Mental Health (Discrimination) Act 2013.];*
- (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; or
- (g) a shareholder resolution is passed approving the removal of the director from office.

## **23 DIRECTORS' REMUNERATION**

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- (1) Directors may undertake any services for the company that the directors decide.
- (2) 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.
- (3) Unless the directors decide otherwise, directors' remuneration accrues from day to day.
- (4) 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.

## **24 DIRECTORS' EXPENSES**

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- (1) The company may pay any reasonable expenses which the directors properly incur in

accordance with any expense policy of the company and 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 4**

### **SHARES AND DISTRIBUTIONS**

#### **SHARES**

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##### **25 ALL SHARES TO BE FULLY PAID UP**

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- (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.

##### **26 POWERS TO ISSUE DIFFERENT CLASSES OF SHARE**

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- (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.

##### **27 COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS**

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- (1) 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.

##### **28 SHARE CERTIFICATES**

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- (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 Act.

## **29 REPLACEMENT SHARE CERTIFICATES**

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- (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.

## **30 SHARE TRANSFERS**

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- (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.

### **31 TRANSMISSION OF SHARES**

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- (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,

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.

### **32 EXERCISE OF TRANSMITTEES' RIGHTS**

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- (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.

### **33 TRANSMITTEES BOUND BY PRIOR NOTICES**

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- (1) 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.

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## **DIVIDENDS AND OTHER DISTRIBUTIONS**

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### **34 PROHIBITION OF THE DECLARATION AND PAYMENT OF DIVIDENDS**

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- (1) The declaration or payment by the directors and the company of dividends or of any sum constituting a distribution to its shareholders is expressly prohibited.

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## **CAPITALISATION OF PROFITS**

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

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- (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 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").
- (2) 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.
- (3) 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.
- (4) Subject to the articles the directors may -



- (a) apply capitalised sums in accordance with paragraphs (2) and (3) 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.

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## **PART 5**

### **DECISION-MAKING BY SHAREHOLDERS**

### **ORGANISATION OF GENERAL MEETINGS**

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#### **36 ATTENDANCE AND SPEAKING AT GENERAL MEETINGS**

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- (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.

#### **37 QUORUM FOR GENERAL MEETINGS**

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- (1) No business other than the appointment of the chair of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.
- (2) A quorum for a general meeting shall be two shareholders attending in person or by proxy (save that for so long as the company has only one shareholder, one shareholder shall constitute a quorum).

### **38 CHAIRING GENERAL MEETINGS**

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- (1) If the directors have appointed a chair, the chair shall chair general meetings if present and willing to do so.
- (2) If the directors have not appointed a chair, or if the chair 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 chair 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 chair of the meeting”.

### **39 ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS**

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- (1) Directors may attend and speak at general meetings, whether or not they are shareholders.
- (2) The chair 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.

### **40 ADJOURNMENT**

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- (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 chair of the meeting must adjourn it.
- (2) The chair 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 chair 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 chair of the meeting must adjourn a general meeting if directed to do so by the meeting.
- (4) When adjourning a general meeting, the chair 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.

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## VOTING AT GENERAL MEETINGS

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### 41 VOTING: GENERAL

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

### 42 ERRORS AND DISPUTES

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- (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 chair of the meeting, whose decision is final.

#### **43 POLL VOTES**

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- (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 chair 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 chair of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the chair of the meeting directs.

#### **44 CONTENT OF PROXY NOTICES**

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- (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.

#### **45 DELIVERY OF PROXY NOTICES**

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- (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.

#### **46 AMENDMENTS TO RESOLUTIONS**

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- (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 chair of the meeting may determine); and
  - (b) the proposed amendment does not, in the reasonable opinion of the chair 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 chair 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 chair of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chair of the meeting's error does not invalidate the vote on that resolution.

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## **PART 6**

### **ADMINISTRATIVE ARRANGEMENTS**

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#### **47 MEANS OF COMMUNICATION TO BE USED**

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- (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.

#### **48 COMPANY SEALS**

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

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#### **49 NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

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

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#### **50 PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS**

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- (1) 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.

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

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#### **51 INDEMNITY**

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- (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.

## **52 INSURANCE**

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- (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.