

**THE COMPANIES ACT 2006  
COMPANY HAVING SHARE CAPITAL**

**ARTICLES OF ASSOCIATION of HEARTSTONE HOLDINGS LIMITED  
OCN: 11717837**

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## PART 1

### INTERPRETATION AND LIMITATION OF LIABILITY

#### Defined terms

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

“Director” or “director”	means a director appointed by the holders for the time being of a majority of the A Shares;
“articles”	means the company’s articles of association;
“A Share”	means an ordinary share of £1 designated as an A Share in the capital of the company;
“A Shareholder”	means a holder of an A Share;
“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;
“B Shares”	means an ordinary share of £1 designated as a B Share in the capital of the company;
“B Shareholder”	means a holder of a B Share;
“chairman”	has the meaning given in article 12;
“chairman of the meeting”	has the meaning given in article 46;
“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;
“distribution recipient”	has the meaning given in article 38;
“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 52;
“shareholder”	means an A Shareholder or a B Shareholder;
“shares”	means A Shares and B Shares;
“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 A 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.

(3) Committees to which the directors delegate any of their powers must consist of at least one Director.

## **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 a decision taken in accordance with article 8 or made by resolution at a meeting.

(2) A resolution shall only be passed if a majority of directors vote in favour of it and at least one eligible Director who is participating in the meeting of directors or the committee of directors vote in favour of it.

(3) If the quorum for a meeting of directors is relaxed in accordance with article 11.3, a resolution shall be passed if a majority of the directors present and eligible to vote at the meeting vote in favour of it.

(4) Except as provided below, each director has one vote at a meeting of directors.

(5) In the case of an equality of votes, no person shall have a second or casting vote.

### **Directors' Written Resolutions**

**8.—**(1) Any director may propose a directors' written resolution by giving notice of the proposed resolution to each director.

(2) Notice of a proposed directors' written resolution must indicate:

- (a) the proposed resolution; and
- (b) the time by which it is proposed that the directors should adopt it.

(3) A proposed directors' written resolution is adopted when all the directors who would have been entitled to vote on the resolution at a directors' meeting have signed one or more copies of it.

(4) It is immaterial whether any director signs the resolution before or after the time by which the notice proposed that it should be adopted.

(5) Once a directors' written resolution has been adopted it must be treated as if it had been a decision taken at a directors' meeting in accordance with the articles.

### **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 shall be two Directors.

(3) A director shall not be counted in the quorum present in relation to a matter or resolution on which he is not entitled to vote but shall be counted in the quorum present in relation to all other matters or resolutions considered or voted on at the meeting.

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

**12.**—(1) The directors may appoint a director to chair their meetings.

(2) 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 appointed by the same shareholder as the chairman 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 does not have a casting vote.

### **Interests in existing or proposed transactions or arrangements with the company**

**14.—**(1) Subject to disclosure in accordance with sections 177 and 182 of the Companies Act 2006, a director shall be entitled to count in the quorum and vote at a meeting of directors or of a committee of directors or in any decision-making process howsoever held on any resolution concerning a proposed or existing transaction or arrangement in which he has a direct or indirect interest.

(2) Subject to the provisions of the Companies Act 2006, and provided that he has disclosed to the directors the nature and extent of any direct or indirect interest he has in a proposed or existing transaction or arrangement with the company, a director shall not, by reason of his office, be accountable to the company for any benefit which he derives from any such transaction or arrangement and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit.

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

**15.** 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.

### **Records of meetings to be kept**

**16.** The directors must cause minutes of all proceedings at meetings of directors to be recorded in writing and kept for at least 10 years from the date of the meeting recorded, whether taken by a meeting of all the directors, by a committee of directors or by written resolution of the directors.

## **APPOINTMENT OF DIRECTORS**

### **Appointing and removing directors**

**17.—**(1) Subject to article 18(g) below, the A Shareholders shall have the exclusive right to appoint, remove and replace all the Directors.

(2) Subject to 18(g) below, any appointment or removal of a director shall be decided upon by the A Shareholders either:

(a) a written direction signed by all of the A Shareholders; or

(b) by an ordinary resolution passed at a separate meeting of the shareholders of the class concerned duly convened and held in accordance with the provisions of these articles, provided that such meeting may be convened by any holder of shares of the class concerned.

(3) Any appointment or removal of a director by the shareholders shall take effect upon delivery of the direction or a written copy of the resolution to a meeting of the directors or to the secretary (if any).

### **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;
- (g) that person receives notice signed by all the other directors stating that that person should cease to be a director.

### **Directors' remuneration**

- 19.**—(1) Directors (and alternate directors) may undertake any services for the company that the directors decide.
- (2) Directors (and alternate 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 (or alternate 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' (and alternate directors') remuneration accrues from day to day.
- (5) Unless the directors decide otherwise, directors (and alternate directors) are not accountable to the company for any remuneration which they receive as directors (or alternate 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 shall pay any reasonable expenses which the directors (including alternate 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.

## **ALTERNATE DIRECTORS**

### **Appointment and removal of alternates**

- 21.**—(1) Any director (the "appointor") may appoint as an alternate any other director, or any other person approved by resolution of the directors, to—
- (a) exercise that director's powers, and
  - (b) carry out that director's responsibilities,
- in relation to the taking of decisions by the directors in the absence of the alternate's appointor.
- (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.
- (3) The notice must—
- (a) identify the proposed alternate, and
  - (b) 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.

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

**22.**—(1) An alternate director has the same rights, in relation to any decision of the directors or directors' written resolution, as the alternate's appointor.

(2) Except as the articles specify otherwise, alternate directors—

- (a) are deemed for all purposes to be directors;
- (b) are liable for their own acts and omissions;
- (c) are subject to the same restrictions as their appointors; and
- (d) are not deemed to be agents of or for their appointors.

and, in particular (without limitation), 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.

(3) A person who is an alternate director but not a director—

- (a) 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),
- (b) may sign a written resolution (but only if it is not signed or to be signed by that person's appointor).

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

(4) A director who is also an alternate director has an additional vote on behalf of each appointor who is:

- (a) not participating in a directors' meeting; and
- (b) would have been entitled to vote if they were participating in it;

but shall not count as more than one director for the purposes of determining whether a quorum is present.

(5) 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.

### **Termination of alternate directorship**

**23.** An alternate director's appointment as an alternate terminates—

- (a) when the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate;
- (b) 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;
- (c) on the death of the alternate's appointor; or
- (d) when the alternate's appointor's appointment as a director terminates.

## **PART 3**

### **SHARES AND DISTRIBUTIONS**

#### **SHARES**

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

**24.** (1) No share is to be issued for less than the aggregate of its nominal value; however the Directors may approve the issue of new shares on a “nil paid” basis.

(2) This does not apply to shares taken by the subscribers to the company’s memorandum on (i) the formation of the company, and (ii) any subsequent share reorganisation approved by all shareholders.

### **Rights attaching to shares**

**25.** (1) Subject to any special rights and restrictions which may be attached to any class of shares issued after the date of adoption of these articles the rights attaching to the shares are as set out in this article.

(2) The B shares shall be subject to the following rights and restrictions:

- The B Shareholders will have no voting rights in any circumstance, including general meetings of the company
- The B shares will rank *pari passu* with the A shares in respect of their entitlement to dividend payments, as detailed in (4) below.

(3) On a return of assets on liquidation or otherwise, the assets of the company available for distribution among the shareholders shall be applied first in paying to the A and B Shareholders a sum equal to the nominal amount of each share held by them and secondly the balance of such assets (if any) shall be distributed amongst the A and B Shareholders, pro rata (as nearly as may be) according to the nominal amounts paid up or credited as paid up on the shares held by them respectively.

(4) Subject to the provisions of these articles, the profits of the company available for distribution and resolved to be distributed in respect of any financial year shall be distributed among the A and B Shareholders. Every dividend shall be distributed to the shareholders pro rata (as nearly as may be) according to the number of shares held by them respectively.

(5) Subject to any special rights, privileges or the restrictions attached to the B shares in (2) above, and the provisions of the Companies Acts, at a general meeting of the company on a show of hands every shareholder who (being an individual) is present in person or by proxy (not being himself a member) shall have one vote.

### **Classes of shares**

**26.** (1) The share capital of the company shall be comprised of two classes of ordinary shares, being A Shares and B Shares, subject to further classes being created with the prior written consent of at least 75% of the A shareholders.

(2) No further allotment of B shares, or increase in the level of B Share Capital, shall be permitted without the prior written consent of at least 75% of the A shareholders.

(3) The shares of each class of shares shall entitle the holders thereof to the respective rights and privileges and subject them to the respective restrictions and provisions appearing in these articles. The A Shares and the B Shares shall constitute separate classes of shares but, except where otherwise provided herein, confer the holder thereof the same rights.

### **Reserved Matters**

**27.** (1) Notwithstanding any other provision of these articles none of the following shall occur unless at least 75% of the holders of all of the A Shares consent in writing:

(a) any alteration to the articles of association of the company or any act, matter or omission in breach of, or contrary to, the provisions of the articles of association of the company;

- (b) any consolidation or re-denomination of any shares of the company into larger nominal amounts or any sub-division of the share capital of the company into smaller nominal amounts;
- (c) the issue of any shares in the company and/or grant of any option or right to acquire or call for the issue of the same whether by conversion, subscription or otherwise;
- (d) the redemption or purchase by the company of any share or the reduction of the share capital, or any uncalled or unpaid liability in respect thereof, capital redemption reserve or share premium account of the company or the passing of any resolution authorising any of the foregoing;
- (e) any arrangement whereby the directors of the company shall cease to determine the general policy of the company and the scope of the activity and operation of the company or cease to determine all matters involving major or unusual decisions material to the business of the company as a whole or otherwise whereby the control of the management of the company shall pass from the directors thereof to any third party or body;
- (f) the paying of any share capital or debenture or debenture stock of the company by way of capitalisation or application of any profits or reserves.

### **Variation of Class Rights**

- 28.** (1) Subject to the Companies Acts, all or any of the special rights or privileges for the time being attached to any share or class of shares in the capital of the company (notwithstanding that the company may or be about to be in liquidation) may only be varied or abrogated with, either:
- (a) the prior written consent of the holders of not less than 75% of the A shares; or
  - (b) the sanction of a special resolution passed at a separate meeting by the holders of not less than 75% of the A shares and held as provided in these articles.

### **Pre-emption rights on issue**

- 29.** (1) Sections 561 and 562 of the Companies Act 2006, in relation to all allotments by the company of equity securities, are hereby excluded.
- (2) Unless otherwise agreed by special resolution, if the company proposes to allot any new equity securities, those equity securities shall not be allotted to any person unless the company has first offered them to the A shareholders on the date of the offer on the same terms, and at the same price, as those equity securities are being offered to other persons on a pari passu and pro rata basis to the number of shares held by those holders (as nearly as possible without involving fractions). The offer:
- (a) shall be in writing, shall be open for acceptance for a period of 15 business days from the date of the offer and shall give details of the number and subscription price of the relevant equity securities; and
  - (b) may stipulate that any shareholder who wishes to subscribe for a number of equity securities in excess of the proportion to which he is entitled shall, in his acceptance, state the number of excess equity securities for which he wishes to subscribe.
- (3) No shares may be allotted or issued, pursuant to this article 29, to any person who is not immediately prior to such allotment or issue a shareholder.
- (4) Any share issued pursuant to this article 29 to a shareholder by reference to his holding of shares shall on issue be designated a share of the same class as his current holding. Any such share certificate issued shall take account of such conversion and re-designation.
- (5) With the prior written approval of all the A shareholders, any of the restrictions or other provisions of this article 29 may be waived or varied by the directors in relation to any proposed issue of shares.

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

**30.** 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**

**31.—**(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; and
- (c) 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**

**32.—**(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**

**33.—**(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, they must give the transferee notice of their refusal together with their reasons for the refusal. If registration is refused, 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**

**34.—**(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**

- 35.**—(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 transmitttee wishes to have a share transferred to another person, the transmitttee 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 transmitttee 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**

- 36.** If a notice is given to a shareholder in respect of shares and a transmitttee is entitled to those shares, the transmitttee is bound by the notice if it was given to the shareholder before the transmitttee's name or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 35 has been entered in the register of members.

## **DIVIDENDS AND OTHER DISTRIBUTIONS**

### **Procedure for declaring dividends**

- 37.**—(1) Subject to the articles, 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 arrears.
- (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**

- 38.**—(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 in writing;

- (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 in writing;
  - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified in writing; or
  - (d) any other means of payment as the directors agree with the distribution recipient in writing.
- (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**

- 39.** 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**

- 40.**—(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**

- 41.**—(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**

**42.** 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**

**43.—**(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

##### **Convening, attendance and speaking at general meetings**

**44.—**(1) The directors may call general meetings and, on the requisition of members pursuant to the provisions of CA 2006, shall forthwith proceed to convene a general meeting in accordance with CA 2006.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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**

**45.** (1) No business shall be transacted at a general meeting unless the shareholders attending it constitute a quorum at the time when the meeting proceeds to business and remains present during the transaction of business.

(2) Two persons entitled to vote upon the business to be transacted, each being an A Shareholder or a proxy for an A Shareholder shall be a quorum provided.

##### **Chairing general meetings**

**46.—**(1) The chairman of the board of directors shall chair general meetings.

(2) If the chairman of the board of directors is not present at any general meeting the shareholder who appointed him shall be entitled to 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**

**47.—**(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**

- 48.**—(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**

- 49.** A resolution put to the vote of a general meeting must be decided on a poll of all A Shareholders. Holders of B shares are not entitled to vote on any matters at a general meeting.

### **Errors and disputes**

- 50.**—(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**

- 51.**—(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) an individual who is a member of the company and holds A shares,
  - (b) a person authorised under section 323 of the Companies Act 2006 (representation of corporations at meetings) to act as the representative of a corporation in relation to the meeting, or
  - (c) a person appointed as proxy of a member in relation to the meeting.
- (3) A poll may not be demanded at a general meeting on the question of—
- (a) the election of the chairman of the meeting, or
  - (b) the adjournment of the meeting.
- (4) 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.

A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.

- (5) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

### **Content of proxy notices**

**52.—**(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**

**53.—**(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**

- 54.**—(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.

## **Written Resolutions**

- 55.** (1) Subject to the Companies Act 2006, a written resolution proposed and approved in accordance with the Companies Act 2006 by:
- (a) a simple majority in the case of an ordinary resolution, and
  - (b) at least 75% in the case of a special resolution,
- In each case of the holders of all the issued share shares entitled to vote on the matter is as valid and effective for all purposes as a resolution passed at a general meeting duly convened and held.
- (2) A written resolution may consist of several documents in the like form, each executed by or on behalf of one or more persons.
- (3) In the case of a corporation the resolution may be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly appointed authorised representative.

## **Class Meetings**

- 56.** Except as otherwise provided by these articles, and except where there is only one holder of shares of a class, the provisions of these articles relating to general meetings shall apply, with necessary modifications, to any meeting of the holders of shares of a class held otherwise than in connection with the variation or abrogation of the rights attached to shares of that class.

## **PART 5**

### **ADMINISTRATIVE ARRANGEMENTS**

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

- 57.**—(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**

**58.**—(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**

**59.** 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**

**60.** Subject to the Companies Act 2006, 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**

**61.**—(1) Subject to paragraph (2), but without prejudice to any indemnity to which a relevant officer may otherwise be entitled, a relevant officer shall be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties for the company or an associated company or any company that is a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006), or in relation thereto including any liability incurred by him in defending any civil or criminal proceedings, in which judgement is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him relief from liability for negligence, default, breach of duty or breach of trust in relation to the company's affairs or those of 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 officer” means any director or other officer or former director or other officer of the company or an associated company or any company that is a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006) other than any person (whether an officer of the company or not) engaged by the company as auditor to the extent that he is acting in his capacity as an auditor.

## **Insurance**

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

(2) In this article—

(a) a “relevant officer” means any director or other officer or former director or other officer of the company or an associated company or any company that is a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006) other than any person (whether an officer of the company or not) engaged by the company as auditor to the extent that he is acting in his capacity as an auditor,

(b) a “relevant loss” means any loss or liability which has been or may be incurred by a relevant officer 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.