

COMPANY NUMBER  
03729094

## The Companies Act 1985

### Company Limited by Shares

#### Articles of Association

of

Simon Group Pension Fund Limited



#### PRELIMINARY

1. The regulations contained in Table A in The companies (Tables A to F) Regulations 1985 (as amended so as to affect companies first registered on the date of incorporation of the Company) shall, except as hereinafter provided and so far as not inconsistent with the provisions of these Articles, apply to the Company to the exclusion of all other regulations or Articles of Association. References herein to regulations are to regulations in the said Table A unless otherwise stated.

2. In these Articles:

**"Deferred Member"** means a member of the Simon Group Pension Fund who is not yet drawing his pension and is not a Pensioner Member

**"Employer Nominated Director"** means a Director selected by the Principal Employer.

**"Independent Director"** means a Director selected by the Principal Employer. Such director shall be a person (or company represented by a person) who in the opinion of the Principal Employer has qualifications or experience of acting in the capacity of a trustee of occupational pension schemes. The Independent Director must be a person who is not receiving remuneration from any employer which participates in the Simon Group Pension Fund and who neither beneficially owns (whether on his own or with one or more associates) nor is able to control directly or indirectly or through other companies, any of the issued share capital of the Principal Employer or any of its subsidiaries or associated companies. The Independent Director must not be a company of which the Principal Employer controls, directly or indirectly or through other companies, any of the issued share capital of the Independent Director or any of its subsidiaries or associated companies.

**"Member"** has the same meaning as that given in the Companies Act 1985 except in the expression and Pensioner Member.

**"Member Nominated Director"** means a Director selected in accordance with procedures adopted pursuant to Section 242 of the Pensions Act 2004 by members of the Simon Group Pension Fund as set out in Article 12. Such individual must be a Deferred or Pensioner member of the Simon Group Pension Fund. A Member Nominated Director cannot be a director of the Principal Employer or any of its subsidiary or associated companies or of any person which controls the Principal Employer.

**"Pensioner Member"** means a member of the Simon Group Pension Fund who is drawing his pension and is not a Deferred Member.

**"Principal Employer"** means Simon Group plc or any company which, for the time being, is the principal employer of the Simon Group Pension Fund.

Unless the context otherwise requires, words or expressions contained in these articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these articles become binding on the company.

### **SHARE CAPITAL**

3. The authorised share capital of the Company at the date of adoption of these articles is £2 of which £2 is issued.

### **PROCEEDINGS AT GENERAL MEETINGS**

4. In the case of a corporation a resolution in writing may be signed on its behalf by a Director or the Secretary thereof or by its duly appointed attorney or duly authorised representative. Regulation 53 shall be extended accordingly. Regulation 53 (as so extended) shall apply *mutatis mutandis* to resolutions in writing of any class of members of the Company.

### **VOTES OF MEMBERS**

5. An instrument appointing a proxy (and, where it is signed on behalf of the appointer by an attorney, the letter or power of attorney or a duly certified copy thereof) must either be delivered at such place or one of such places (if any) as may be specified for that purpose in or by way of note to the notice convening the meeting (or, if no place is so specified, at the registered office) before the time appointed for holding the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used or be delivered to the Secretary (or the chairman of the meeting) on the day and at the place of, but in any event before the time appointed for holding, the meeting or adjourned meeting or poll. The instrument may be in the form of a facsimile or other machine made copy and shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates. An instrument of proxy relating to more than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require again to be delivered for the purposes of any subsequent meeting to which it relates. Regulation 62 shall not apply.
6. At a general meeting, but subject to any rights or restrictions attached to any shares, on a show of hands every Member present in person or by proxy (or being a corporation present by a duly authorised representative) shall have one vote for every share of which he is the holder. Regulations 50 and 54 shall not apply.

### **NUMBER OF DIRECTORS**

7. From 20 July 2011 (but not before) the number of Directors shall be three. One Director will be an Independent Director. At least one Director will be an Employer Nominated Director. Regulation 64 shall not apply. There shall be one Member Nominated Director.

## **ALTERNATE DIRECTORS**

8. Regulations 65-69 shall not apply.

## **DELEGATION OF DIRECTORS' POWERS**

9. In addition to the powers to delegate contained in Regulation 72, the Directors may delegate any of their powers or discretions (including without prejudice to the generality of the foregoing all powers and discretions whose exercise involves or may involve the payment of remuneration to or the conferring of any other benefit on all or any of the Directors) to committees consisting of one or more Directors and (if thought fit) one or more other named person or persons to be co-opted as hereinafter provided. Insofar as any such power or discretion is delegated to a committee, any reference in these Articles to the exercise by the Directors of the power or discretion so delegated shall be read and construed as if it were a reference to the exercise thereof by such committee. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations which may from time to time be imposed by the Directors. Any such regulations may provide for or authorise the co-option to the committee of persons other than Directors and may provide for Members who are not Directors to have voting rights as Members of the committee but so that (a) the number of Members who are not Directors shall be less than one-half of the total number of Members of the committee and (b) no resolution of the committee shall be effective unless passed by a majority including at least one Member of the committee who is a Director.

## **APPOINTMENT AND RETIREMENT OF DIRECTORS**

10. The Directors shall not be subject to retirement by rotation. Regulations 73 to 80 shall not apply.
11. Employer Nominated Directors and an Independent Director will be appointed by the Principal Employer. The Employer Nominated Director does not need to be a Member of the Simon Group Pension Fund.
12. The Member Nominated Director will be selected in accordance with the procedure adopted by the Trustee from time to time pursuant to section 242 of the Pensions Act 2004.
13. An Employer Nominated Director shall retire from office on the earlier of the following:
  - a. the Principal Employer requiring the Director to retire;
  - b. if the Director gives at least one month's written notice to resign, the date the notice expires.
14. The Independent Director shall retire from office on the earlier of the following:
  - a. the fourth anniversary of the date of his or her appointment and at the end of each subsequent four year period, if before such date the Principal Employer gives him at least one month's notice that it requires him to resign expiring on such date;
  - b. if the Director gives at least one month's written notice to resign, the date the notice expires.

15. A Member Nominated Director shall retire from office on the earliest of the following:
- a. the date on which the Director's period of office expires, being the fourth anniversary of the date of the Director's appointment, or earlier in accordance with the procedures adopted by the Trustee from time to time;
  - b. the date on which he or she ceases to be a member of the Simon Group Pension Fund;
  - c. if he or she gives at least one month's written notice to resign, the date the notice expires.

A Member Nominated Director shall be eligible for re-election.

### **DISQUALIFICATION AND REMOVAL OF DIRECTORS**

16. The office of a Director shall be vacated as follows:
- a. in any of the events specified in Regulation 81;
  - b. if the Director ceases to be eligible as a trustee of an occupational pension scheme under section 29 of the Pensions Act 1995; or
  - c. if the Principal Employer so requests, and the Directors (except for the Director being removed) unanimously approve the removal in writing.
17. Without prejudice to the generality of article 14, the Independent Director shall be removed if:
- a. the Independent Director has committed a breach of trust relating to the Fund by way of conscious wrongdoing or fraud of the Independent Director or any of its officers or employees;
  - b. the Independent Director in the reasonable opinion of the Principal Employer, fails to discharge its duties as Independent Director;
  - c. the Independent Director is a member of a professional organisation or regulatory body and is disciplined for misconduct by that organisation or body.
  - d. The Independent Director refuses to act or becomes incapable of acting (by reason of illness, mental disorder, minority or otherwise);
18. Following the disqualification or removal of a Director the Principal Employer must ensure that a replacement Director is selected in accordance with the articles as soon as practicable.

### **REMUNERATION OF DIRECTORS**

19. Any Director who serves on any committee, or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid

such extra remuneration by way of salary, commission or otherwise or may receive such other benefits as the Directors may determine. Regulation 82 shall be extended accordingly.

#### **PROCEEDINGS OF DIRECTORS**

20. Subject to the provisions of the articles, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors by giving at least ten working days' notice, unless the Directors agree otherwise.
21. The Independent Director shall be chairman of the Trustees. Regulation 88 shall not apply.
22. The Directors, and any committee of the Directors, shall be deemed to meet together if, being in separate locations, they are nonetheless linked by conference telephone or other communication equipment which allows those participating to hear and speak to each other. A person so participating shall be deemed to be present at the meeting and shall be entitled to vote or be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
23. The business of any committee of the Directors may be conducted by conference telephone or by means of email communication between the members of the committee, each member communicating his decision to the chairman and to the other members.
24. On any matter in which a Director is in any way interested he may vote and be taken into account for the purposes of a quorum and (save as otherwise agreed) may retain for his own absolute use and benefit all profits and advantages directly or indirectly accruing to him thereunder or in consequence thereof. Regulations 94 and 98 shall not apply.
25. No business shall be transacted at any meeting unless there is a quorum. The quorum for any meeting of the directors shall be the number of directors who are in post. Regulations 88, 89 and 90 shall not apply. In the event of a vacancy, the continuing directors may act in all matters notwithstanding any vacancies in their number. In the case of a committee of the directors, the quorum shall be such number as the directors may determine or, in default of such determination, it shall be all members of the committee.
26. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Directors may determine.
27. Any Director may appoint a proxy to vote in his or her name and on his or her behalf at any meeting.
28. Subject to the provisions of the Act, a Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.

## **NOTICES**

29. A Member whose registered address is not within the United Kingdom shall be entitled to have notices sent to him as if he were a Member with a registered address within the United Kingdom and the last sentence of Regulation 112 shall not apply.

## **INDEMNITY**

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