

Company No 4966635  
THE COMPANIES ACT 2006  
COMPANY LIMITED BY SHARES

**WRITTEN RESOLUTIONS**  
**OF**  
**Tesco Property (Nominees) (No.2) Limited**  
**(the Company)**  
(passed on 28 July 2011)

Tesco Property (Nominees) Limited, being the sole member of the Company for the time being and at the circulation date of these resolutions entitled to vote on the resolutions and in accordance with Chapter 2, Part 13 of the Companies Act 2006 hereby pass the following resolutions taking effect as special resolutions

- "1 THAT the New Articles, in the form of the annexed draft, and marked for the purposes of identification as "Appendix A", be adopted in substitution for the Company's Existing Articles of Association
- 2 THAT the objects clause be removed "

SIGNATURE



DATE

28 JULY 2011

Notes

- 1 The circulation date of this resolution is 28 July 2011. This resolution has been sent to eligible members who would have been entitled to vote on the resolution on this date. Only such eligible members (or persons duly authorised on their behalf) should sign this resolution.
- 2 An eligible member can signify its agreement to the resolution by signing the resolution and by delivering a copy of the signed resolution to an officer of the Company by hand.
- 3 This resolution must be passed within 28 days. If the resolution is not passed by such date it will lapse. The agreement of a member to this resolution is ineffective if signified after this 28-day period.



**COMPANY No 4966635**

**THE COMPANIES ACT 2006**

**A PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**Tesco Property (Nominees) (No.2) Limited**

**[As adopted by Special Resolution passed 28 July 2011]**



## INDEX TO THE ARTICLES

Article		Page
1	Model regulations do not apply	3
2	Defined terms	3
3	Liability of members	5
4	Directors' general powers	5
5	Shareholders' reserve power and effect of altering the articles	5
6	Directors' duties	5
7	Directors may delegate	5
8	Directors to take decisions collectively	6
9	Unanimous decisions	6
10	Calling a directors' meeting	6
11	Participation in directors' meetings	7
12	Quorum for directors' meetings	7
13	Chairing of directors' meetings	7
14	Directors' interests in relation to transactions or arrangements with the Company	8
15	Directors' interests other than in relation to transactions or arrangements with the Company	8
16	Directors' interests generally and voting	9
17	Casting vote	10
18	Records of decisions to be kept	10
19	Directors' discretion to make further rules	10
20	Methods of appointing directors	11
21	Termination of a director's appointment	11
22	Appointment and termination of appointments of directors by majority shareholders	11
23	Directors' services and remuneration	12
24	Directors' expenses	12
25	Directors' power to change Company name	12
26	Appointment and removal of alternates	12
27	Rights and responsibilities of alternate directors	13
28	Alternates voting at directors' meetings	13
29	Termination of alternate directorship	13
30	All shares to be fully paid up	14
31	Powers to allot shares	14
32	Company not bound by less than absolute interests	14
33	Share certificates	14
34	Replacement share certificates	15
35	Share transfers	15
36	Transmission of shares	16
37	Exercise of transmitters' rights	16
38	Transmitters bound by prior notices	16
39	Variation of share rights	16
40	Procedure for declaring dividends	17
41	Payment of dividends and other distributions	17
42	No interest on distributions	18
43	Unclaimed distributions	18
44	Non-cash distributions	18
45	Waiver of distributions	19
46	Authority to capitalise and appropriation of capitalised sums	19

47	Notice of general meeting	20
48	Attendance and speaking at general meetings	20
49	Quorum for general meetings	20
50	Chairing general meetings	20
51	Attendance and speaking by directors and non-shareholders	21
52	Adjournment	21
53	Voting general	21
54	Errors and disputes	22
55	Poll votes	22
56	Content of proxy notices	22
57	Delivery of proxy notices etc	23
58	Amendments to resolutions	23
59	Means of communication to be used	24
60	When a communication is deemed received	24
61	Notices in writing given to the Company by majority shareholders	25
62	Company seals	25
63	No right to inspect accounts and other records	25
64	Winding up	25
65	Indemnity	26
66	Insurance	26

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THE COMPANIES ACT 2006  
A PRIVATE COMPANY LIMITED BY SHARES  
**ARTICLES OF ASSOCIATION**  
**OF**

**Tesco Property (Nominees) (No 2) Limited**

(As adopted by Special Resolution passed on 28 July 2011)

**PRELIMINARY**

**1 Model regulations do not apply**

None of the regulations in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985, as amended or the articles in the model articles for a private company limited by shares set out in Schedule 1 to The Companies (Model Articles) Regulations 2008 shall apply to the Company

**INTERPRETATION**

**2 Defined terms**

- (a) In the articles, unless the context requires otherwise

**Act** means the Companies Act 2006 including any statutory modification or re-enactment of it for the time being in force,

**alternate** has the meaning given in article 7,

**alternate director** has the meaning given in article 29,

**articles** means the Company's articles of association, as from time to time amended,

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

**chairman** has the meaning given in article 13,

**chairman of the meeting** has the meaning given in article 51,

**Companies Acts** means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the Company,

**Company** means , Tesco Property (Nominees) (No 2) Limited

**director** means a director of the Company, and includes any person occupying the position of director, by whatever name called,

**distribution recipient** has the meaning given in article 47,

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

**electronic form** has the meaning given in section 1168 of the Act,

**eligible director** means a director who would be entitled to vote on the matter at a directors' meeting but excluding any director whose vote is not to be counted in respect of the particular matter,

**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 Act,

**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,

**office** means the registered office for the time being of the Company,

**ordinary resolution** has the meaning given in section 282 of the Act,

**paid** means paid or credited as paid,

**participate**, in relation to a directors' meeting, has the meaning given in article 11,

**relevant situation** has the meaning given in article 15,

**shareholder** means a person who is the holder of a share,

**shares** means shares in the Company,

**special resolution** has the meaning given in section 283 of the Act,

**Statutes** means the Act and every other statute, statutory instrument, regulation or order for the time being in force concerning companies registered under the Act,

**subsidiary** has the meaning given in section 1159 of the Act,

**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

- (b) Unless the context otherwise requires, other words or expressions contained in the articles bear the same meaning as in the Act as in force on the date when the articles become binding on the Company
- (c) Unless the contrary intention appears, words importing the singular number include the plural number and vice versa, words importing one gender include all genders, and words importing persons include bodies corporate and unincorporated associations

- (d) Headings to the articles are inserted for convenience only and shall not affect construction

## **LIMITED LIABILITY**

### **3. Liability of members**

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

## **DIRECTORS**

### **DIRECTORS' GENERAL POWERS, DUTIES AND RESPONSIBILITIES**

#### **4 Directors' general powers**

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 and effect of altering the articles**

- (a) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action
- (b) No such special resolution invalidates anything which the directors have done before the passing of the resolution
- (c) No alteration of the articles invalidates anything which the directors have done before the alteration

#### **6. Directors' duties**

- (a) The purpose of the Company

- (i) may, if and to the extent that the directors consider it appropriate, and

- (ii) shall, if directed by the holders of the majority of the ordinary shares of the Company by notice in writing to the Company,

include promoting the success of the group as a whole or of any one or more members of the group (and in this context **group** means the Company, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company)

- (b) In the exercise of his duties, a director who is also a director of any holding company of the Company shall owe a strict duty of confidentiality to that holding company in relation to confidential information of the holding company but, subject to this, a director shall not be restricted by any duty of confidentiality to the Company from providing information regarding the Company to a holding company of the Company

#### **7. Directors may delegate**

- (a) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles
  - (i) to such person or committee,

- (ii) by such means (including by power of attorney),
- (iii) to such an extent,
- (iv) in relation to such matters or territories, and
- (v) on such terms and conditions,

as they think fit

- (b) If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated
- (c) The directors may revoke any delegation in whole, or part, or alter its terms and conditions

#### **DECISION-MAKING BY DIRECTORS**

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

- (a) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 9
- (b) If
  - (i) the Company only has one director, and
  - (ii) 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

##### **9. Unanimous decisions**

- (a) 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
- (b) Such a decision may take the form of a resolution in writing, at least one copy of which has been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing
- (c) A resolution in writing signed by an alternate director need not also be signed by or agreed to by his appointor
- (d) 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
- (e) In this article something being **signed** includes it being approved by letter, facsimile, telegram, telex or electronic signature (as defined in section 7 of the Electronic Communications Act 2000) provided that, in the case of an electronic signature, the Company has no reason to doubt the authenticity of the electronic signature

##### **10. Calling a directors' meeting**

- (a) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the secretary (if any) to give such notice

- (b) Notice of any directors' meeting must indicate
  - (i) its proposed date and time,
  - (ii) where it is to take place, and
  - (iii) 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
- (c) Notice of a directors' meeting must be given to each director but need not be in writing
- (d) 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 seven 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

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

- (a) Subject to the articles, directors **participate** in a directors' meeting, or part of a directors' meeting, when
  - (i) the meeting has been called and takes place in accordance with the articles, and
  - (ii) they can each communicate to each other any information or opinions they have on any particular item of the business of the meeting
- (b) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other
- (c) 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

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

- (a) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting
- (b) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must, unless only one eligible director is in office, never be less than two eligible directors, and, unless otherwise fixed, it is two eligible directors

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

- (a) The directors may appoint a director to chair their meetings
- (b) The person so appointed for the time being is known as the **chairman**
- (c) The directors may terminate the chairman's appointment at any time
- (d) 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 may appoint one of themselves to chair it

## **DIRECTORS' INTERESTS**

### **14. Directors' interests in relation to transactions or arrangements with the Company**

The relevant provisions of the Act (including without limitation sections 177 and 182 of the Act) shall apply in relation to declarations of interests in proposed and existing transactions or arrangements with the Company

### **15. Directors' interests other than in relation to transactions or arrangements with the Company**

(a) If a situation (a **relevant situation**) arises in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the Company could take advantage of it but excluding any situation which cannot reasonably be regarded as likely to give rise to a conflict of interest) the following provisions shall apply if the conflict of interest does not arise in relation to a transaction or arrangement with the Company

(i) if the relevant situation arises from the appointment or proposed appointment of a person as a director of the Company

(A) the directors (other than the director, and any other director with a similar interest, who shall not be counted in the quorum at the meeting and shall not vote on the resolution), or

(B) the shareholders (by ordinary resolution or by notice in writing given to the Company by the holders of a majority of the ordinary shares of the Company),

may resolve to authorise the appointment of the director and the relevant situation on such terms as they may determine,

(ii) if the relevant situation arises in circumstances other than in paragraph (i)

(A) the directors (other than the director and any other director with a similar interest who shall not be counted in the quorum at the meeting and shall not vote on the resolution), or

(B) the shareholders (by ordinary resolution or by notice in writing given to the Company by the holders of a majority of the ordinary shares of the Company),

may resolve to authorise the relevant situation and the continuing performance by the director of his duties on such terms as they may determine

(b) Any reference in paragraph (a) to a conflict of interest includes a conflict of interest and duty and a conflict of duties

(c) Any terms determined by the directors or the shareholders under paragraphs (a)(i) or (a)(ii) may be imposed at the time of the authorisation or may be imposed or varied subsequently by either the directors or the shareholders and may include (without limitation)

(i) whether the interested directors may vote (and be counted in the quorum at any meeting) in relation to any decision relating to the relevant situation,

(ii) the exclusion of the interested directors from all information and discussion by the Company of the relevant situation, and

- (iii) (without prejudice to the general obligations of confidentiality) the application to the interested directors of a strict duty of confidentiality to the Company for any confidential information of the Company in relation to the relevant situation
- (d) Any authorisation given under paragraphs (a)(i) or (a)(ii) may be withdrawn by either the directors or the shareholders by giving notice to the director concerned
- (e) An interested director must act in accordance with any terms determined by the directors or the shareholders under paragraphs (a)(i) or (a)(ii)
- (f) Except as specified in paragraph (a), any proposal made to the directors and any authorisation by the directors in relation to a relevant situation shall be dealt with in the same way as any other matter may be proposed to and decided by the directors in accordance with the articles
- (g) Any authorisation of a relevant situation given by the directors or the shareholders under paragraph (a) may provide that, where the interested director obtains (other than through his position as a director of the Company) information that is confidential to a third party, he will not be obliged to disclose it to the Company or to use it in relation to the Company's affairs in circumstances where to do so would amount to a breach of that confidence
- (h) If the directors make an authorisation under paragraph (a), impose or vary the terms of an authorisation under paragraph (c), or withdraw an authorisation under paragraph (d), they shall, as soon as reasonably practicable, notify the shareholders of this fact and provide, where applicable, any relevant particulars regarding the authorisation or its terms
- (i) If the shareholders make an authorisation under paragraph (a), impose or vary the terms of an authorisation under paragraph (c), or withdraw an authorisation under paragraph (d), they shall, as soon as reasonably practicable, notify the directors of this fact and provide, where applicable, any relevant particulars regarding the authorisation or its terms
- (j) A director shall, as soon as reasonably practicable, declare the nature and extent of his interest in a relevant situation within paragraph (a)(i) or (a)(ii) to the other directors and the shareholders. Failure to comply with this requirement does not affect the underlying duty to make the declaration of interest
- (k) If a declaration of interest in relation to a relevant situation proves to be, or becomes, inaccurate or incomplete, a further declaration must be made

## **16. Directors' interests generally and voting**

- (a) Subject to the Act and to articles 14 and 15, a director notwithstanding his office
  - (i) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested,
  - (ii) may act by himself or his firm in a professional capacity for the Company (except as auditor) and he or his firm shall be entitled to remuneration as if he were not a director,
  - (iii) may be a director or other officer of, or employed by, or a party to, any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested, and
  - (iv) shall not, by reason of his office (or of the fiduciary relationship established by holding that office), be accountable to the Company for any remuneration, profit or other benefit resulting from any relevant situation authorised under article 15 or any interest permitted under

paragraphs (a)(i), (a)(ii), or (a)(iii), and no contract, transaction or arrangement shall be liable to be avoided on the grounds of any director having an interest authorised under article 15 or permitted under paragraphs (a)(i), (a)(ii), or (a)(iii)

- (b) Subject to articles 14 and 15 and to any contrary direction from the holders of a majority of the ordinary shares in the Company, a director shall be entitled to vote on any decision concerning any matter in which he has, directly or indirectly, an interest or a duty
- (c) In the case of an alternate director, an interest of his appointor shall be treated as an interest of the alternate in addition to any interest which the alternate otherwise has
- (d) Subject to the Act, the Company may, by ordinary resolution or by notice in writing given to the Company by the holders of a majority of the ordinary shares of the Company, suspend or relax the provisions of this article to any extent or ratify any contract, transaction or arrangement not duly authorised by reason of a contravention of this article
- (e) Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the Company or to any body corporate in which the Company is interested, the proposals may be divided and considered in relation to each director separately and (provided he is not otherwise precluded from voting) each of the directors concerned shall be entitled to vote in respect of each proposal except that concerning his own appointment
- (f) Subject to paragraph (g), 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 and quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman, whose ruling in relation to any director other than the chairman is to be final and conclusive
- (g) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting and quorum purposes

#### **17. Casting vote**

- (a) If at a directors' meeting the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote
- (b) But this does not apply if, in accordance with the articles, the chairman or other director is not an eligible director for the purpose of that meeting (or part of the meeting)

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

The directors must ensure that the Company keeps a record, in writing, for at least ten years from the date of the decision recorded, of every unanimous or majority decision taken by the directors

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

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**

### **20 Methods of appointing directors**

- (a) 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
  - (i) by ordinary resolution,
  - (ii) by a decision of the directors, or
  - (iii) by notice of his appointment given in accordance with article 22
- (b) 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
- (c) For the purposes of paragraph (b), 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

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

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 Act 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 has examined him 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, or
- (g) notice of his removal is given, in accordance with article 22

### **22. Appointment and termination of appointments of directors by majority shareholders**

The holders of the majority of the ordinary shares in the Company may appoint any person as a director and may remove any director. Any appointment or removal shall be made by notice in writing signed by the holders or on their behalf and shall take effect when it is lodged at the office or produced at any directors' meeting.

### **23. Directors' services and remuneration**

- (a) Directors may undertake any services for the Company that the directors decide and the Company may enter into a contract of service with any director on such terms as the directors think fit
- (b) Any appointment of a director to an executive office shall terminate if he ceases to be a director but without prejudice to any claim to damages for breach of contract of service between the director and the Company
- (c) Directors are entitled to such remuneration as the directors determine
  - (i) for their services to the Company as directors, and
  - (ii) for any other service which they undertake for the Company
- (d) Subject to the articles, a director's remuneration may take any form
- (e) Unless the directors decide otherwise, directors' remuneration accrues from day to day

### **24 Directors' expenses**

The Company may pay any reasonable expenses which the directors, alternate directors and the secretary (if any) 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

### **25. Directors' power to change Company name**

The directors may change the name of the Company

## **ALTERNATE DIRECTORS**

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

- (a) Any director (the **appointor**) may appoint as an **alternate** any other director, or any other person to
  - (i) exercise that director's powers, and
  - (ii) carry out that director's responsibilities,in relation to the taking of decisions by the directors in the absence of the alternate's appointor
- (b) 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
- (c) The notice must

- (i) identify the proposed alternate, and
- (ii) 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

**27 Rights and responsibilities of alternate directors**

- (a) An alternate may act as an **alternate director** to more than one director and subject to article 16(c) has the same rights, in relation to any decision of the directors as the alternate's appointor
- (b) Except as the articles specify otherwise, alternate directors
  - (i) are deemed for all purposes to be directors,
  - (ii) are liable for their own acts and omissions,
  - (iii) are subject to the same restrictions as their appointors, and
  - (iv) are not deemed to be agents of or for their appointors,

and in particular, each alternate director shall be entitled to receive notice of all directors' meetings and of all committee meetings of directors of which his appointor is a member
- (c) Subject to the articles, a person who is an alternate director but not a director
  - (i) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating), and
  - (ii) may otherwise participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision and is not participating)

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

- (d) 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

**28. Alternates voting at directors' meetings**

Subject to the articles, a director who is also an alternate director has an additional vote at a directors' meeting on behalf of each appointor who is

- (a) not participating in the directors' meeting, and
- (b) would have been an eligible director if he were participating in it

No alternate may be counted as more than one director for the purpose of determining whether a quorum is present

**29. Termination of alternate directorship**

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,
- (d) when the alternate's appointor's appointment as a director terminates, or
- (e) where the directors otherwise decide

## **SHARES AND DISTRIBUTIONS – SHARES**

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

- (a) 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
- (b) This does not apply to shares taken on the formation of the Company by the subscribers to the Company's memorandum

### **31. Powers to allot shares**

- (a) In accordance with section 551 of the Companies Act 2006, the directors may exercise all powers of the Company to allot shares in the Company or grant rights to subscribe for, or convert any security into, shares in the Company up to a maximum nominal amount of £100
- (b) The authority contained in paragraph (a) shall expire on the day no longer than five years from the date the resolution is passed or from the date of incorporation but the Company may, before the authority expires, make an offer or agreement which would or might require relevant securities to be allotted after it expires
- (c) 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. In the absence of such determination by the Company by ordinary resolution, the directors may determine such share rights or restrictions
- (d) Section 561(1) of the Act is excluded
- (e) 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

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

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

### **33 Share certificates**

- (a) The Company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds
- (b) Every certificate must specify

- (i) in respect of how many shares and of what class, it is issued,
  - (ii) the nominal value of those shares,
  - (iii) that the shares are fully paid, and
  - (iv) any distinguishing numbers assigned to them
- (c) No certificate may be issued in respect of shares of more than one class
- (d) If more than one person holds a share, only one certificate may be issued in respect of it
- (e) Certificates must
  - (i) have affixed to them the Company's common or official seal and in the case of an official seal, unless otherwise determined by the directors, the certificate does not need to be signed, or
  - (ii) be otherwise executed in accordance with the Act

**34. Replacement share certificates**

- (a) If a certificate issued in respect of a shareholder's shares is
  - (i) damaged or defaced, or
  - (ii) said to be lost, stolen or destroyed,that shareholder is entitled to be issued with a replacement certificate in respect of the same shares
- (b) A shareholder exercising the right to be issued with such a replacement certificate
  - (i) may at the same time exercise the right to be issued with a single certificate or separate certificates,
  - (ii) must return the certificate which is to be replaced to the Company if it is damaged or defaced, and
  - (iii) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide

**35. Share transfers**

- (a) 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
- (b) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share
- (c) The Company may retain any instrument of transfer which is registered
- (d) The transferor remains the holder of a share until the transferee's name is entered in the register of members as the holder of it

- (e) 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

### **36. Transmission of shares**

- (a) If title to a share passes to a transmittee, the Company may only recognise the transmittee as having any title to that share
- (b) A transmittee who produces such evidence of entitlement to shares as the directors may properly require
  - (i) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and
  - (ii) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had
- (c) But transmittees do not have the right to attend or vote at a general meeting, or to 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

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

- (a) Transmittees who wish to become the holders of shares to which they have become entitled must notify the Company in writing of that wish
- (b) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it
- (c) 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

### **38. Transmittees bound by prior notices**

If a notice is given to a shareholder in respect of shares and a transmittee (or a transferee nominated by such transmittee pursuant to article 37) is entitled to those shares, the transmittee (or transferee) is bound by the notice if it was given to the shareholder before the transmittee's (or transferee's) name has been entered in the register of members

### **39 Variation of share rights**

- (a) Each of the following shall be deemed to constitute a variation of the rights attached to each class of shares of the Company
  - (i) any alteration in the memorandum or articles of association of the Company, and
  - (ii) any increase, reduction, subdivision, consolidation, or other alteration in the statement of capital of the Company or any of the rights attaching to any share capital

## DIVIDENDS AND OTHER DISTRIBUTIONS

### 40 Procedure for declaring dividends

- (a) The Company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends
- (b) 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
- (c) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights
- (d) 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
- (e) If the Company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear
- (f) 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
- (g) 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

### 41 Payment of dividends and other distributions

- (a) 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
  - (i) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide,
  - (ii) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide,
  - (iii) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide, or
  - (iv) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide
- (b) In the articles, the **distribution recipient** means, in respect of a share in respect of which a dividend or other sum is payable
  - (i) the holder of the share, or
  - (ii) if the share has two or more joint holders, whichever of them is named first in the register of members, or

- (iii) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee

#### **42. No interest on distributions**

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

#### **43 Unclaimed distributions**

- (a) All dividends or other sums which are

- (i) payable in respect of shares, and
- (ii) 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

- (b) The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it

- (c) If

- (i) 12 years have passed from the date on which a dividend or other sum became due for payment, and
- (ii) 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

#### **44 Non-cash distributions**

- (a) Subject to the terms of issue of the share in question, the Company may, by ordinary resolution or by a decision 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)

- (b) 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

- (i) fixing the value of any assets,
- (ii) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients, and
- (iii) vesting any assets in trustees

#### **45 Waiver of distributions**

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**

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

- (a) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution
  - (i) 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
  - (ii) appropriate any sum which they so decide to capitalise (a **capitalised sum**) to the persons who would have been entitled to it if it had been distributed by way of dividend (the **persons entitled**) and in the same proportions
- (b) Capitalised sums must be applied
  - (i) on behalf of the persons entitled, and
  - (ii) in the same proportions as a dividend would have been distributed to them
- (c) 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
- (d) 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
- (e) Subject to the articles the directors may
  - (i) apply capitalised sums in accordance with paragraphs (c) and (d) partly in one way and partly in another,
  - (ii) 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
  - (iii) 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

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

### **47 Notice of general meeting**

A shareholder present, either in person or by proxy, at any general meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which the meeting was convened

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

- (a) 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
- (b) A person is able to exercise the right to vote at a general meeting when
  - (i) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
  - (ii) 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
- (c) 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
- (d) In determining attendance at a general meeting, it is immaterial whether any two or more shareholders attending it are in the same place as each other
- (e) 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

### **49 Quorum for general meetings**

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

### **50 Chairing general meetings**

- (a) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so
- (b) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which the meeting was due to start
  - (i) the directors present, or
  - (ii) (if no directors are present), the meeting,must appoint a director or shareholder (including a proxy or a corporate representative) to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting
- (c) The person chairing a meeting in accordance with this article is referred to as the **chairman of the meeting**

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

- (a) Directors may attend and speak at general meetings, whether or not they are shareholders
- (b) The chairman of the meeting may permit other persons who are not
  - (i) shareholders of the Company, or
  - (ii) otherwise entitled to exercise the rights of shareholders in relation to general meetings,to attend and speak at a general meeting

**52. Adjournment**

- (a) 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
- (b) The chairman of the meeting may adjourn a general meeting at which a quorum is present if
  - (i) the meeting consents to an adjournment, or
  - (ii) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or to ensure that the business of the meeting is conducted in an orderly manner
- (c) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting
- (d) When adjourning a general meeting, the chairman of the meeting must 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
- (e) 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 seven clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)
  - (i) to the same persons to whom notice of the Company's general meetings is required to be given, and
  - (ii) containing the same information which such notice is required to contain

Otherwise, it shall not be necessary to give such notice

- (f) 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**

**53 Voting: general**

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

#### **54 Errors and disputes**

- (a) 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
- (b) Any such objection must be referred to the chairman of the meeting, whose decision is final

#### **55 Poll votes**

- (a) A poll on a resolution may be demanded
    - (i) in advance of the general meeting where it is to be put to the vote, or
    - (ii) 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
  - (b) A poll may be demanded by
    - (i) the chairman of the meeting,
    - (ii) the directors,
    - (iii) two or more persons having the right to vote on the resolution,
    - (iv) 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, or
    - (v) a person or persons holding shares in the Company conferring a right to vote on the resolution, being shares on which the aggregate sum has been paid up equal to not less than 10% of the total sum paid up on all the shares conferring that right
  - (c) A demand for a poll by a proxy counts for the purposes of
    - (i) paragraph (b)(iii) as a demand by a person having the right to vote on the resolution,
    - (ii) paragraph (b)(iv) as a demand by a person representing the voting rights that the proxy is authorised to exercise, and
    - (iii) paragraph (b)(v) as a demand by a person holding the shares to which the voting rights are attached
  - (d) A demand for a poll may be withdrawn if
    - (i) the poll has not yet been taken, and
    - (ii) the chairman of the meeting consents to the withdrawal
  - (e) Polls must be taken immediately and in such manner as the chairman of the meeting directs
- #### **56. Content of proxy notices**
- (a) Proxies may only validly be appointed by a notice in writing (a **proxy notice**) which
    - (i) states the name and address of the shareholder appointing the proxy,

- (ii) identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed,
  - (iii) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine, and
  - (iv) is delivered to the Company in accordance with the articles and any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate
- (b) The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes
  - (c) 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
  - (d) Unless a proxy notice indicates otherwise, it must be treated as
    - (i) 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
    - (ii) 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

#### **57. Delivery of proxy notices etc**

- (a) 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
- (b) 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
- (c) 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
- (d) 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
- (e) A vote given or poll demanded by a proxy or by a duly authorised corporate representative shall be valid notwithstanding the previous revocation of his authority unless notice revoking the appointment was delivered to the Company before the start of the meeting or adjourned meeting to which it relates
- (f) A vote given by a proxy or by a duly authorised corporate representative shall be valid notwithstanding that he has not voted in accordance with any instructions given by the shareholder by whom he is appointed. The Company shall not be obliged to check whether the proxy or corporate representative has in fact voted in accordance with any shareholder's instructions

#### **58 Amendments to resolutions**

- (a) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if
  - (i) 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

- (ii) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution
- (b) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if
  - (i) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
  - (ii) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution
- (c) 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

#### **ADMINISTRATIVE ARRANGEMENTS**

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

- (a) Subject to the articles, any document or information sent or supplied by or to the Company under the articles may be sent or supplied in any way in which the Act provides for documents or information which are or is authorised or required by any provision of that Act to be sent or supplied by or to the Company
- (b) Subject to the articles, any document or information 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 such notices or documents to be sent or supplied for the time being
- (c) 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

##### **60 When a communication is deemed received**

- (a) Any document or information, if sent by first class post, shall be deemed to have been received on the day following that on which the envelope containing it is put into the post, or, if sent by second class post, shall be deemed to have been received on the second day following that on which the envelope containing it is put into the post and in proving that a document or information has been received it shall be sufficient to prove that the letter, envelope or wrapper containing the document or information was properly addressed, prepaid and put into the post
- (b) Any document or information not sent by post but left at a registered address or address at which a document or information may be received shall be deemed to have been received on the day it was so left
- (c) Any document or information, if sent or supplied by electronic means, shall be deemed to have been received on the day on which the document or information was sent or supplied by or on behalf of the Company
- (d) If the Company receives a delivery failure notification following a communication by electronic means in accordance with paragraph (c), the Company shall send or supply the document or information in hard copy or electronic form (but not by electronic means) to the shareholder either personally or by post addressed to the shareholder at his registered address or by leaving it at that address This

shall not affect when the document or information was deemed to be received in accordance with paragraph (c)

- (e) Where a document or information is sent or supplied by means of a website, it shall be deemed to have been received
  - (i) when the material was first made available on the website, or
  - (ii) if later, when the recipient was deemed to have received notice of the fact that the material was available on the website

**61 Notices in writing given to the Company by majority shareholders**

Any notice in writing given to the Company by the holders of a majority of the ordinary shares of the Company shall take effect when it is lodged at the office or produced to any directors' meeting

**62 Company seals**

- (a) Any common seal may only be used by the authority of the directors or of a committee of the directors
- (b) The directors may decide by what means and in what form any common seal is to be used
- (c) 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
- (d) For the purposes of this article, an authorised person is
  - (i) any director of the Company,
  - (ii) the secretary (if any), or
  - (iii) any person authorised by the directors for the purpose of signing documents to which the common seal is applied
- (e) The Company may exercise the powers conferred by the Act with regard to having official seals and those powers shall be vested in the directors. Subject to the Act, any instrument to which an official seal is affixed shall be signed by such persons, if any, and affixed in such manner as the directors may from time to time determine

**63. No right to inspect accounts and other records**

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

**WINDING UP**

**64 Winding up**

If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company and any other sanction required by the Act, divide among the shareholders *in specie* the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the shareholders or different classes of shareholders. The liquidator may, with the like sanction, vest the whole or any part of the assets in

trustees upon such trusts for the benefit of the shareholders as he with like sanction determines, but no shareholder shall be compelled to accept any assets upon which there is liability

## **DIRECTORS' INDEMNITY AND INSURANCE**

### **65. Indemnity**

- (a) Subject to paragraph (b), a relevant director of the Company or an associated company may be indemnified out of the Company's assets against
  - (i) 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,
  - (ii) 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 Act), or
  - (iii) any other liability incurred by that director as an officer of the Company or an associated company
- (b) 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
- (c) In this article
  - (i) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
  - (ii) a **relevant director** means any director or former director of the Company or an associated company

### **66 Insurance**

- (a) 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
- (b) In this article
  - (i) a **relevant director** means any director or former director of the Company or an associated company,
  - (ii) 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
  - (iii) companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate