

**A PRIVATE COMPANY LIMITED BY SHARES**

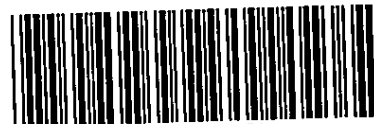
**WRITTEN RESOLUTION**

**OF**

**C5 Capital Limited**  
**Company Number: 07015428**

**(the "Company")**

FRIDAY



A43 \*ATMAOYRC\* 270  
28/10/2011  
COMPANIES HOUSE

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolution is passed as a special resolution (the "Resolution")

**SPECIAL RESOLUTION**

That

- (A) the Articles of Association of the Company be amended by deleting all the provisions of the Company's Memorandum of Association which, by virtue of section 28 Companies Act 2006, are to be treated as provisions of the Company's Articles of Association, and
- (B) the articles of association contained in the document attached to this Resolution and marked "A" for the purpose of identification be approved and adopted as the Articles of Association of the Company in substitution for, and to the exclusion of, the existing Articles of Association

By order of the board

Director/Secretary

24/10/11

Date

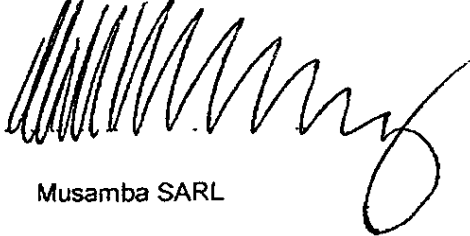
**INFORMATION REQUIRED TO COMPLY WITH SECTION 291(4) COMPANIES ACT 2006**

- 1 Eligible members are the members who would have been entitled to vote on the resolution on the circulation date of the written resolution
- 2 The circulation date of the written resolution is 14 October 2011 (the "**Circulation Date**")
- 3 The procedure for signifying agreement by eligible members to a written resolution is as follows
  - (A) a member signifies his/her/its agreement to a proposed written resolution when the Company receives from him/her/it (or someone acting on his/her/its behalf) an authenticated document –
    - (i) identifying the resolution to which it relates, and
    - (ii) indicating his/her/its agreement to the resolution,
  - (B) the document must be sent to the Company in hard copy form or in electronic form,
  - (C) a member's agreement to a written resolution, once signified, may not be revoked, and
  - (D) a written resolution is passed when the required majority of eligible members have signified their agreement to it
- 4 The period for agreeing to the written resolution is the period of 15 days beginning with the Circulation Date. If, by this date, insufficient agreement has been received for a resolution to pass, such resolution will lapse
- 5 If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document

**AGREEMENT BY ELIGIBLE MEMBER TO WRITTEN RESOLUTION**

We, being the eligible member of the Company

- 1 confirm that we have received a copy of the above written resolution in accordance with section 291 of the Companies Act 2006, and
- 2 hereby resolve and agree that the above resolution be passed as a written resolution pursuant to Section 288 of the Companies Act 2006 and that the resolution shall take effect as a special resolution

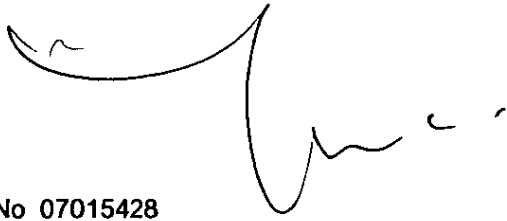


Musamba SARL

24 October 2011

Date

509473409

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a final flourish.

A

Company No 07015428

**C5 Capital Limited**

## **ARTICLES OF ASSOCIATION**

## **Index to the Articles**

<b>Part 1 Interpretation and Limitation of Liability</b>	<b>1</b>
1 Exclusion of other regulations and defined terms	1
2 Liability of members	3
<b>Part 2 Directors</b>	<b>3</b>
<b>Directors' Powers and Responsibilities</b>	<b>3</b>
3 Directors' general authority	3
4 Shareholders' reserve power and effect of altering the articles	3
5 Directors may delegate	3
6 Committees	4
<b>Decision-Making by Directors</b>	<b>4</b>
7 Directors to take decisions collectively	4
8 Unanimous decisions	5
9 Calling a directors' meeting	5
10 Participation in directors' meetings	5
11 Quorum for directors' meetings	6
12 Chairing of directors' meetings	6
13 Casting vote	6
14 Transactions or arrangements with the company	7
15 Conflicts of interest requiring board authorisation	8
16 Directors may vote when interested	9
17 Records of decisions to be kept	9
18 Directors' discretion to make further rules	9
19 Change of name	9

<b>Appointment of Directors</b>	<b>9</b>
20 Methods of appointing directors	9
21 Termination of director's appointment	10
22 Directors' remuneration	10
23 Directors' expenses	10
<b>Alternate Directors</b>	<b>11</b>
24 Appointment and removal of alternate directors	11
25 Rights and responsibilities of alternate directors	11
26 Termination of alternate directorship	12
<b>Part 3 Shares and Distributions</b>	<b>12</b>
<b>Shares</b>	<b>12</b>
27 All shares to be fully paid	12
28 Powers to issue different classes of share	13
29 Rights attaching to shares	13
30 Payment of commissions on subscription for shares	14
31 Exclusion of pre-emption rights	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
<b>Dividends and Other Distributions</b>	<b>16</b>
39 Procedure for declaring dividends	16

40	Payment of dividends and other distributions	17
41	No interest on distributions	18
42	Unclaimed distributions	18
43	Non-cash distributions	18
44	Waiver of distributions	19
45	Distribution in specie on winding up	19
	<b>Capitalisation of Profits</b>	<b>19</b>
46	Authority to capitalise and appropriation of capitalised sums	19
	<b>Part 4 Decision-Making by Shareholders</b>	<b>20</b>
	<b>Organisation of General Meetings</b>	<b>20</b>
47	Attendance and speaking at general meetings	20
48	Quorum for general meetings	20
49	Chairing general meetings	21
50	Attendance and speaking by directors and non-shareholders	21
51	Adjournment	21
	<b>Voting at General Meetings</b>	<b>22</b>
52	Voting general	22
53	Errors and disputes	22
54	Poll votes	22
55	Content of proxy notices	23
56	Delivery of proxy notices	24
57	Amendments to resolutions	24
	<b>Part 5 Administrative Arrangements</b>	<b>24</b>
58	Means of communication to be used	25
59	When notice or other communication deemed to have been received	25

60	Company seals	26
61	Provision for employees on cessation of business	26
	<b>Directors' Indemnity and Insurance</b>	<b>26</b>
62	Indemnity	26
63	Insurance	27
64	Definitions	27
65	Relevant Agreement	27



## **Part 1**

### **Interpretation and Limitation of Liability**

#### **1 Exclusion of other regulations and defined terms**

- (1) No regulations or model articles contained in any statute or subordinate legislation, including those contained in the Model Articles, apply to the company

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

"alternate director" has the meaning given in article 24,

"appointor" has the meaning given in article 24,

"articles" means the company's articles of association,

"B shares" means the non-voting preferred B shares of £0.01 each in the capital of the company having the rights and restrictions set out in these articles,

"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,

"business day" means a day (other than a Saturday or Sunday) on which banks are open for business (other than solely for trading and settlement in euros) in London,

"capitalised sum" has the meaning given in article 46,

"chairman" has the meaning given in article 12,

"chairman of the meeting" has the meaning given in article 49,

"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,

"Conflict" has the meaning given in article 15,

"conflicts of interest" include a conflict of interest and duty and a conflict of duties and "interest" includes both direct and indirect interests,

"contract" in article 14 includes any transaction or arrangement (whether or not constituting a contract),

"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 40,

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

"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,

"group company" means a subsidiary undertaking or parent undertaking of the company or a subsidiary undertaking of any parent undertaking of the company,

"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,

"Model Articles" means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2009/3229) as amended prior to the adoption of these articles,

"ordinary shares" means ordinary shares of £1 each in the capital of the company having the rights and restrictions set out in these articles,

"paid" means paid or credited as paid,

"participate", in relation to a directors' meeting, has the meaning given in article 10,

"Permitted Situation" has the meaning given in article 15,

"persons entitled" has the meaning given in article 46,

"proxy notice" has the meaning given in article 55,

"relevant agreement" means any agreement between shareholders and the company relating to the regulation of the company's affairs and their relationship with one another, which is binding from time to time on all of the shareholders and the company,

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

"shares" means shares in the company,

"share premium" means an amount equivalent to the premium above the nominal value paid in respect of a shareholder's B shares, which shall be reduced by the amount of any distributions paid in respect of such shares in accordance with article 29,

"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

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

## **2 Liability of members**

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**

### **3 Directors' general authority**

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

### **4. Shareholders' reserve power and effect of altering the articles**

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

### **5. Directors may delegate**

- (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) Where a provision in the articles refers to the exercise of a power, authority or discretion by the directors and that power, authority or discretion has been delegated by the directors to a committee, the provision shall be construed as permitting the exercise of the power, authority or discretion by the committee
- (4) The directors may revoke any delegation in whole or part, or alter its terms and conditions

## **6. Committees**

- (1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors
- (2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them

## **Decision-Making by Directors**

### **7. Directors to take decisions collectively**

- (1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8
- (2) If
  - (a) the company only has one director, and
  - (b) no provision of the articles requires it to have more than one director

the general rule does not apply, and the director may (for so long as he remains the sole director) take decisions without regard to any of the provisions of the articles relating to directors' decision-making. For the purpose of article 11, the quorum for the transaction of business by a sole director is one, and all other provisions of the articles apply with any necessary modification (unless a provision expressly provides otherwise)

- (3) If only one director is eligible to vote on any authorisation required under article 15, the general rule does not apply, and the eligible director may take decisions in relation to the relevant matter without regard to any of the provisions of the articles relating to directors' decision-making

## **8 Unanimous decisions**

- (1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter. If an alternate director indicates that he shares the common view, his appointor need not also indicate his agreement.
- (2) 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. A resolution signed by an alternate director need not also be signed by or agreed to by his appointor.
- (3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter and whose vote would have been counted had it been proposed as a resolution at a directors' meeting.
- (4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

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

- (1) Any director may call a directors' meeting by giving five (5) business days notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice, save that if all the directors agree the notice period may be reduced or eliminated.
- (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 and must be in writing or by email sent to the director's last known email address.
- (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 either before or 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.

## **10. Participation in directors' meetings**

- (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

#### **11. Quorum for directors' meetings**

- (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) Subject always to articles 7(2) and 7(3), the quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is three
- (3) Subject always to article 7(2), if the total number of directors for the time being in office is less than the quorum required, the directors must not take any decision other than a decision
  - (a) to appoint further directors, or
  - (b) to call a general meeting so as to enable the shareholders to appoint further directors

#### **12. Chairing of directors' meetings**

- (1) If a director has been nominated by a shareholder or shareholders to chair meetings of the directors, the directors shall appoint the nominated director so to do. If shareholders have not made such a nomination, the directors may themselves appoint a director to chair their meetings
- (2) The person so appointed for the time being is known as the "**chairman**"
- (3) Unless the chairman was appointed pursuant to the nomination of a shareholder or shareholders, the directors may terminate the chairman's appointment at any time
- (4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors may appoint one of themselves to chair it

#### **13. Casting vote**

- (1) If the numbers of votes at a meeting of directors for and against a proposal are equal (ignoring any votes which are to be discounted in accordance with the articles or the

Companies Acts), the chairman or other director chairing the meeting has a casting vote

- (2) Article 13(1) does not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the articles, the chairman of the meeting is not to be counted as participating in the decision-making process for quorum or voting purposes

#### **14 Transactions or arrangements with the company**

- (1) Provided that he has disclosed to the directors the nature and extent of any interest of his in accordance with and to the extent required by the Companies Acts, a director notwithstanding his office
- (a) may be a party to, or otherwise interested in, any contract with the company or in which the company is otherwise interested,
  - (b) may be a director or other officer of, or employed by, or a party to any contract with, or otherwise interested in, any group company or in any body corporate promoted by the company or any group company or in which the company or any group company is interested, and
  - (c) may act by himself or his firm in a professional capacity for the company (otherwise than as auditor)
- (2) For the purposes of this article
- (a) a director shall be deemed to have disclosed the nature and extent of an interest which consists of him being a director, officer or employee of any group company, and
  - (b) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any contract in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such contract of the nature and extent so specified
- (3) Where a director is a director or other officer of, or employed by, a group company, he
- (a) may in exercising his independent judgement only take into account the success of a group company that is a subsidiary undertaking of the company as well as the success of the company, and
  - (b) shall in the exercise of his duties, where that other group company is a parent company, have a duty of confidentiality to the parent company in relation to confidential information of the parent company, but he shall not be restricted by any duty of confidentiality to the company from providing information to any immediate parent company on a confidential basis

**15. Conflicts of interest requiring board authorisation**

- (1) The directors may, subject to the quorum and voting requirements set out in the articles, authorise any matter which would otherwise involve a director breaching his duty under the Companies Acts to avoid conflicts of interest ("**Conflict**")
- (2) Any director (including the relevant director) may propose that the relevant director be authorised in relation to any matter the subject of a Conflict. Such proposal and any authority given by the directors shall be effected in the same way that any other matter may be proposed to and decided upon by the directors under the provisions of the articles save that the relevant director shall not count towards the quorum nor vote on any resolution giving such authority and save further that if there are insufficient directors eligible to vote and therefore to form a quorum, article 7(3) will apply
- (3) Where the directors give authority in relation to a Conflict
  - (a) the terms of the authority shall be recorded in writing (but the authority shall be effective whether or not the terms are so recorded), and
  - (b) the directors may revoke or vary such authority at any time but this will not affect anything done by the relevant director prior to such revocation in accordance with the terms of such authority
- (4) Where the directors give authority in relation to a Conflict or where any of the situations referred to in article 14(1) ("**Permitted Situation**") applies
  - (a) the directors may (whether at the relevant time or subsequently) (i) require that the relevant director is excluded from the receipt of information, the participation in discussion and/or the making of decisions (whether at meetings of the directors or otherwise) related to the Conflict or Permitted Situation, (ii) allow the relevant director to take into account the success of additional entities (not being subsidiary undertakings of the company) when exercising his independent judgment in relation to that Conflict or Permitted Situation, for the purposes of article 14(3)(a), and (iii) impose upon the relevant director such other terms for the purpose of dealing with the Conflict as they may determine,
  - (b) the relevant director will be obliged to conduct himself in accordance with any terms imposed by the board in relation to the Conflict or Permitted Situation, and
  - (c) the directors may provide that where the relevant director obtains (otherwise than through his position as a director of the company) information that is confidential to a third party, the director will not be obliged to disclose that information to the company, or to use or apply the information in relation to the company's affairs, where to do so would amount to a breach of that confidence
- (5) A director shall not, by reason of his office or of the fiduciary relationship thereby established, be liable to account to the company or the members for any remuneration, profit or other benefit realised by reason of his having any type of interest in a Conflict



authorised under this article or in any Permitted Situation and no contract shall be liable to be avoided on the grounds of a director having any such interest

**16. Directors may vote when interested**

- (1) Subject where applicable to disclosure in accordance with the Companies Acts or the articles and subject to any terms imposed by the directors in relation to any Conflict or Permitted Situation, a director shall be entitled to vote in respect of any matter in which he is interested directly or indirectly and if he shall do so his vote shall be counted and, whether or not he does, his presence at the meeting shall be taken into account in ascertaining whether a quorum is present
- (2) Subject to paragraph (3), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive
- (3) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes

**17. Records of decisions to be kept**

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

**18. 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

**19. Change of name**

The company may change its name by a decision of the directors

**Appointment of Directors**

**20. Methods of appointing directors**

- (1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director
  - (a) by ordinary resolution, or

- (b) by a decision of the directors
- (2) In any case where, as a result of death, bankruptcy or other events, the company has no shareholders and no directors, the transmittee(s) of the last shareholder have the right, by notice in writing, to appoint one or more persons to be a director
- (3) For the purposes of paragraph (2), where two 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 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 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, or
- (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

## **22 Directors' remuneration**

A director shall be entitled to remuneration from the company for his services as a director provided such remuneration is approved unanimously by the other directors or by ordinary resolution of the shareholders

Remuneration provided to a director under the terms of a contract of employment with the company shall not be remuneration for his services as a director

## **23 Directors' expenses**

- (1) The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at
  - (a) meetings of directors or committees of directors,

- (b) general meetings, or
- (c) separate meetings of the holders of any class of shares or of debentures of the company

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company

- (2) Subject to the Companies Acts, the directors shall have power to make arrangements to provide a director with funds to meet expenditure incurred or to be incurred by him for the purpose of the company or for the purpose of enabling him properly to perform his duties as an officer of the company or to avoid him incurring any such expenditure

### **Alternate Directors**

#### **24 Appointment and removal of alternate directors**

- (1) Any director (other than an alternate 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 (such person known as an “**alternate director**”)

- (2) Any appointment 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,
  - (b) 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, and
  - (c) specify the meeting for which the appointment is made and state that it will terminate automatically at the end of the meeting or any adjournment of it

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

- (1) An alternate director has the same rights, in relation to any directors’ meeting and all meetings of committees of directors of which his appointor is a member or directors’ written resolutions, 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 appointor, and
  - (d) are not deemed to be agents of or for their appointor
- (3) Subject to the articles, a person who is an alternate director but not also 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), and
  - (b) may sign or otherwise indicate his agreement to a written resolution (but only if it is not signed or to be signed or otherwise agreed by that person's appointor)

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

- (4) Subject to the articles, a director who is also an alternate director has an additional vote on behalf of each appointor who
- (a) is not participating in a directors' meeting, and
  - (b) would have been entitled to vote if he was participating in it

## **26. Termination of alternate directorship**

- (1) Subject to paragraph 24(3)(c) above, 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**

## **27. All shares to be fully paid**

- (1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue

- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum

**28. Powers to issue different classes of share**

- (1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue further classes of shares with such rights or restrictions as may be determined by ordinary resolution or, if no such resolution has been passed or so far as the resolution does not make specific provision, as the directors may decide
- (2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares
- (3) The rights, restrictions, terms and conditions attached to any shares issued pursuant to paragraph (1) or (2) of this article shall apply as if the same were set out in the articles

**29. Rights attaching to shares**

- (1) The ordinary shares shall have the nominal value and carry the rights set out in these articles
- (2) The B shares shall have the nominal value set out in these articles and the rights set out in this article 29 and shall rank as a separate class of share to the ordinary shares
- (3) The B shares shall carry no voting rights, no rights to receive notices of general meetings and no rights to participate in distributions or capitalisation of profits save as set out in article 29(4)
- (4) The B shares shall have the following rights as to participation in profits and assets of the company and redemption
  - (a) the right (ranking in priority to the making of any distributions (of income or capital) as otherwise set out in these articles), to participate in distributions of profits, at such times and by such amounts as the directors may determine, up to a total amount equivalent to the outstanding share premium accruing to such B shares, receipt of which shall have the effect of reducing the amount of share premium accruing to such shares by a corresponding amount For the avoidance of doubt, B shares shall not participate in profits or capital in excess of the total amount of share premium attributable to such shares, and
  - (b) Redemption
    - (i) The B shares shall be redeemable by the company at such times as the directors may determine, upon the provision of not less than 30 days and not more than 60 days notice in writing to the holders of such shares ("Redemption Notice"),
    - (ii) there shall be paid on each B share redeemed the aggregate of the nominal value thereof and any amount of share premium accruing to

such share (after taking into account any deductions pursuant to article 29(4)(a)),

- (iii) any Redemption Notice shall specify the date of redemption, the particular B shares to be redeemed and the redemption price (specifying the amount of nominal value and share premium to be included therein) and shall state the place at which documents of title in respect of such B shares are to be presented and surrendered for redemption and payment of the redemption monies is to be effected, and
  - (iv) all payments in respect of redemption monies will be subject to any applicable laws or regulations
- (5) On a liquidation or insolvency event the surplus assets of the company remaining after the payment of its liabilities shall be applied in distributing the balance of such assets first to holders of B shares in proportion to the shares held by them respectively, but only in respect of the amount of any outstanding share premium accruing to their B shares (after taking into account any reductions in share premium pursuant to article 29(4)) together with the nominal value of such shares, and thereafter to holders of ordinary shares in proportion to the shares held by them respectively

### **30. Payment of commissions on subscription for shares**

No commission shall be paid by the company to any person in consideration of his subscribing or agreeing to subscribe for any shares or procuring or agreeing to procure subscriptions for any shares

### **31. Exclusion of pre-emption rights**

The pre-emption provisions in sections 561 and 562 of the Companies Act 2006 shall not apply to any allotment of equity securities made by the company

### **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**

- (1) Upon demand by a shareholder the company must issue such shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds
- (2) Every certificate must specify
  - (a) in respect of how many shares, of what class, it is issued,

- (b) the nominal value of those shares,
  - (c) that the shares are fully paid, and
  - (d) any distinguishing numbers assigned to them
- (3) No certificate may be issued in respect of shares of more than one class
  - (4) If more than one person holds a share, only one certificate may be issued in respect of it
  - (5) Certificates must
    - (a) have affixed to them the company's common seal, or
    - (b) be otherwise executed in accordance with the Companies Acts

#### **34 Replacement share certificates**

- (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, subject to satisfying the provisions of paragraph 34(2) below, 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

#### **35. Share transfers**

- (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

### **36 Transmission of shares**

- (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) Subject to article 36(3), 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 were enjoyed by the holder from whom the transmittee derived such entitlement
- (3) 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 event which gave rise to the transmission, unless they become the holders of those shares

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

- (1) Transmittees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish
- (2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it
- (3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred

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

If a notice is given to a shareholder in respect of shares and a transmittee (or any person nominated under article 36(2)) is entitled to those shares, the transmittee (and any person nominated under article 36(2)) is bound by the notice if it was given to the shareholder before the transmittee's name had been entered in the register of members

## **Dividends and Other Distributions**

### **39. Procedure for declaring dividends**

- (1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends



- (2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- (4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, the dividend must be paid by reference to each shareholder's holding of shares in the class in respect of which the dividend is paid on the date of the resolution or decision to declare or pay it. All dividends shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.
- (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.

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

- (1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means:
  - (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide,
  - (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide,
  - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide, or
  - (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.
- (2) In the articles, "**the distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable

- (a) the holder of the share, or
- (b) if the share has two or more joint holders, whichever of them is named first in the register of members, or
- (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee

#### **41 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

#### **42. Unclaimed distributions**

- (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) 12 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

#### **43. Non-cash distributions**

- (1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors 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)

- (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

#### **44. 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

#### **45 Distribution in specie on 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 law, 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 the like sanction determines, but no member shall be compelled to accept any assets upon which there is a liability

### **Capitalisation of Profits**

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

- (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 any of the company's reserves or funds, including but not limited to the share premium account, capital redemption reserve, merger reserve or revaluation 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) No capitalisation of profits shall be effected in respect of ordinary shares until all outstanding amounts of share premium accrued in respect of B shares have been repaid to the holders of B shares (pursuant to article 29(4)), whether by payment of a preferential dividend, return of capital, or otherwise

## **Part 4**

### **Decision-Making by Shareholders**

#### **Organisation of General Meetings**

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

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

#### **48. 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

Two persons, or one person where the Company has a single member, entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation being a member, shall be a quorum

**49. Chairing general meetings**

- (1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so
- (2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start

(a) the directors present, or

(b) (if no directors are present), the meeting

must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting

- (3) The person chairing a meeting in accordance with this article is referred to as the **"chairman of the meeting"**

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

- (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

**51 Adjournment**

- (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 seven 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**

#### **52 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

#### **53 Errors and disputes**

- (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

#### **54. Poll votes**

- (1) A poll on a resolution may be demanded
  - (a) in advance of the general meeting where it is to be put to the vote, or

- (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared
- (2) A poll may be demanded by
- (a) the chairman of the meeting,
  - (b) the directors,
  - (c) any person having the right to vote on the resolution,
- A demand for a poll by a proxy counts, for the purposes of paragraph (c) above, as a demand by a member holding the shares to which those rights are attached
- (3) A demand for a poll may be withdrawn if
- (a) the poll has not yet been taken, and
  - (b) the chairman of the meeting consents to the withdrawal
- (4) Polls must be taken immediately and in such manner as the chairman of the meeting directs

## **55 Content of proxy notices**

- (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 (or adjourned 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

#### **56. Delivery of proxy notices**

- (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) The directors may require the production of any evidence which they consider necessary to determine the validity of any proxy notice

#### **57 Amendments to resolutions**

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

### **Part 5**

#### **Administrative Arrangements**



**58 Means of communication to be used**

- (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
- (4) A shareholder or director present in person or by proxy or alternate at any meeting of the company or at any directors' meeting shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called
- (5) General meetings and meetings of the directors and any committee shall be conducted in English. Notices (including accompanying papers) and minutes of such meetings shall be prepared in English

**59 When notice or other communication deemed to have been received**

- (1) Any notice, document or information sent or supplied by the company to the shareholders or any of them
  - (a) by post, shall be deemed to have been received two clear business days after the time at which the envelope containing the notice, document or information was posted unless it was sent by second class post, or there is only one class of post, or it was sent by air mail to an address outside the United Kingdom, in which case it shall be deemed to have been received six clear business days after it was posted. Proof that the envelope was properly addressed, prepaid and posted shall be conclusive evidence that the notice, document or information was sent,
  - (b) by being delivered to a shareholder's registered address, or such other postal address as notified by the shareholder to the company for the purpose of receiving company communications, shall be deemed to have been received on the day it was left, and
  - (c) by electronic means, shall be deemed to have been received 24 hours after it was sent. Proof that a notice, document or information in electronic form was addressed to the electronic address provided by the shareholder for the purpose of receiving communications from the company shall be conclusive evidence that the notice, document or information was sent

**60. Company seals**

- (1) Any common seal may only be used by the authority of the directors or a committee of 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

**61. Provision for employees on cessation of business**

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****62. Indemnity**

- (1) Subject to paragraph (4), a relevant director may be indemnified out of the company's assets against
  - (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company that is an immediate parent undertaking or a subsidiary undertaking of the company,
  - (b) any liability incurred by that director in connection with the activities of the company or an associated company that is an immediate parent undertaking or a subsidiary undertaking of the company in its capacity as a trustee of an occupational pension scheme, and
  - (c) any other liability incurred by that director as an officer of the company or an associated company that is an immediate parent undertaking or a subsidiary undertaking of the company

- (2) The company may fund a relevant director's expenditure for the purposes permitted under the Companies Acts and may do anything to enable a relevant director to avoid incurring such expenditure as provided in the Companies Acts
- (3) No relevant director shall be accountable to the company or the members for any benefit provided pursuant to this article and the receipt of any such benefit shall not disqualify any person from being or becoming a director of the company
- (4) 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

#### **63. Insurance**

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

#### **64. Definitions**

- (1) In articles 62 and 63
  - (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate,
  - (b) a "relevant director" means any director or former director of the company or an associated company, and
  - (c) 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

#### **65. Relevant Agreement**

In addition to the provisions of these articles, the shareholders shall be obliged (except to the extent, if any, prohibited by law) to give effect to all relevant agreements in force at the relevant time to which they are party or by which they are otherwise bound