

Companies Act 2014

**DESIGNATED ACTIVITY COMPANY  
LIMITED BY SHARES**

**CONSTITUTION**

**OF**

**BENEFACTS LEGACY DESIGNATED ACTIVITY COMPANY**

**MEMORANDUM OF ASSOCIATION**

1. The name of the Company is Benefacts Legacy Designated Activity Company.
2. The Company is a designated activity company limited by shares, that is to say a private company limited by shares registered under Part 16 of the Companies Act 2014.
3. The objects for which the Company is established are:
  - 3.1 To take and retain ownership of the residual assets of Benefacts (being the enterprise funded by public and philanthropic funds and established as company number 553387 which ceased trading after seven years on 15 March 2022) (“the Benefacts Project”);
  - 3.2 To preserve the legacy and reputation of the Benefacts Project including in the form of a public website describing the activities and achievements of the Benefacts Project;
  - 3.3 To publish on a not-for-profit basis, through the public website to the extent possible, the datasets for each year from 2015 – 2021, public reports and such other products as are capable of being published; and
  - 3.4 To engage on a not-for-profit basis, with any charity, public body or social enterprise which in the opinion of the Directors could utilise the company’s intellectual assets in ways that will serve the non-profit sector and that sector’s stakeholders.
4. The Company shall in addition to the powers conferred on it by law have the following powers which are exclusively subsidiary and ancillary to the above objects and which powers may only be exercised in promoting the above objects. Any income generated by the exercise of these powers is to be applied to the promotion of the above objects:
  - 4.1 To carry on the businesses of manufacturer, distributor, wholesaler, retailer, service provider, investor, designer, trader and any other business (except the issuing of policies of insurance) which may seem to the Company’s board of directors capable of being conveniently carried on in connection with these objects or calculated directly or indirectly to enhance the value of or render more profitable any of the Company’s property.
  - 4.2 To carry on the business of a holding company and to co-ordinate the administration, finances and activities of any subsidiary companies or associated companies, to do all lawful acts and things whatever that are necessary or convenient in carrying on the business of such a holding company and in particular to carry on in all its branches the business of a management services company, to act as managers and to direct or

coordinate the management of other companies or of the business, property and estates of any company or person and to undertake and carry out all such services in connection therewith as may be deemed expedient by the Company's board of directors and to exercise its powers as a shareholder of other companies.

- 4.3 To carry on all or any of the businesses as aforesaid either as a separate business or as the principal business of the Company.
- 4.4 To invest and deal with the property of the Company in such manner as may from time to time be determined by the Company's board of directors and to dispose of or vary such investments and dealings.
- 4.5 To borrow or raise money or capital in any manner and on such terms and subject to such conditions and for such purposes as the Company's board of directors shall think fit or expedient, whether alone or jointly and/or severally with any other person or company, including, without prejudice to the generality of the foregoing, whether by the issue of debentures or debenture stock (perpetual or otherwise) or otherwise, and to secure, with or without consideration, the payment or repayment of any money borrowed, raised or owing or any debt, obligation or liability of the Company or of any other person or company whatsoever in such manner and on such terms and conditions as the Company's board of directors shall think fit or expedient and, in particular by mortgage, charge, lien, pledge or debenture or any other security of whatsoever nature or howsoever described, perpetual or otherwise, charged upon all or any of the Company's property, both present and future, and to purchase, redeem or pay off any such securities and also to accept capital contributions from any person or company in any manner and on such terms and conditions and for such purposes as the Company's board of directors shall think fit or expedient.
- 4.6 To lend and advance money or other property or give credit or financial accommodation to any company or person in any manner either with or without security and whether with or without the payment of interest and upon such terms and conditions as the Company's board of directors shall think fit or expedient.
- 4.7 To guarantee, indemnify, grant indemnities in respect of, enter into any suretyship or joint obligation, or otherwise support or secure, whether by personal covenant, indemnity or undertaking or by mortgaging, charging, pledging or granting a lien or other security over all or any part of the Company's property (both present and future) or by any one or more of such methods or any other method and whether in support of such guarantee or indemnity or suretyship or joint obligation or otherwise, on such terms and conditions as the Company's board of directors shall think fit, the payment of any debts or the performance or discharge of any contract, obligation or liability of any person or company (including, without prejudice to the generality of the foregoing, the payment of any capital, principal, dividends or interest on any stocks, shares, debentures, debenture stock, notes, bonds or other securities of any person, authority or company) including, without prejudice to the generality of the foregoing, any company which is for the time being the Company's holding company or another subsidiary (as defined by the Act) of the Company's holding company or a subsidiary of the Company or otherwise associated with the Company, in each case notwithstanding the fact that the Company may not receive any consideration, advantage or benefit, direct or indirect, from entering into any such guarantee or indemnity or suretyship or joint obligation or other arrangement or transaction contemplated herein.
- 4.8 To grant, convey, assign, transfer, exchange or otherwise alienate or dispose of any property of the Company of whatever nature or tenure for such price, consideration,

sum or other return whether equal to or less than the market value thereof or for shares, debentures or securities and whether by way of gift or otherwise as the Company's board of directors shall deem fit or expedient and where the property consists of real property to grant any fee farm grant or lease or to enter into any agreement for letting or hire of any such property for a rent or return equal to or less than the market or rack rent therefor or at no rent and subject to or free from covenants and restrictions as the Company's board of directors shall deem appropriate.

- 4.9 To purchase, take on, lease, exchange, rent, hire or otherwise acquire any property and to acquire and undertake the whole or any part of the business and property of any company or person.
- 4.10 To develop and turn to account any land acquired by the Company or in which it is interested and in particular by laying out and preparing the same for building purposes, constructing, altering, pulling down, decorating, maintaining, fitting out and improving buildings and conveniences and by planting, paving, draining, farming, cultivating, letting and by entering into building leases or building agreements and by advancing money to and entering into contracts and arrangements of all kinds with builders, contractors, architects, surveyors, purchasers, vendors, tenants and any other person.
- 4.11 To construct, improve, maintain, develop, work, manage, carry out or control any property which may seem calculated directly or indirectly to advance the Company's interest and to contribute to, subsidise or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof.
- 4.12 To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments.
- 4.13 To engage in currency exchange and interest rate transactions including, but not limited to, dealings in foreign currency, spot and forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars and any other foreign exchange or interest rate hedging arrangements and such other instruments as are similar to, or derived from, any of the foregoing whether for the purpose of making a profit or avoiding a loss or managing a currency or interest rate exposure or any other exposure or for any other purpose.
- 4.14 As an object of the Company and as a pursuit in itself or otherwise and whether for the purpose of making a profit or avoiding a loss or managing a currency or interest rate exposure or any other exposure or for any other purpose whatsoever, to engage in any currency exchange transactions, interest rate transactions and commodity transactions, derivative and or treasury transactions and any other financial or other transactions, including (without prejudice to the generality of the foregoing) securitisation, treasury and or structured finance transactions, of whatever nature in any manner and on any terms and for any purposes whatsoever, including, without prejudice to the generality of the foregoing, any transaction entered into in connection with or for the purpose of, or capable of being for the purposes of, avoiding, reducing, minimising, hedging against or otherwise managing the risk of any loss, cost, expense, or liability arising, or which may arise, directly or indirectly, from a change or changes in any interest rate or currency exchange rate or in the price or value of any property, asset, commodity, index or liability or from any other risk or factor affecting the Company's business, including but not limited to dealings whether involving purchases, sales or otherwise in foreign currency, spot and/or forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars and or any such other currency or

interest rate or commodity or other hedging, treasury or structured finance arrangements and such other instruments as are similar to, or derived from any of the foregoing.

- 4.15 To apply for, establish, create, purchase or otherwise acquire, sell or otherwise dispose of and hold any patents, trade marks, copyrights, brevets d'invention, registered designs, licences, concessions and the like conferring any exclusive or non-exclusive or limited rights to use or any secret or other information and any invention and to use, exercise, develop or grant licences in respect of or otherwise turn to account or exploit the property, rights or information so held.
- 4.16 To enter into any arrangements with any governments or authorities, national, local or otherwise and to obtain from any such government or authority any rights, privileges and concessions and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- 4.17 To establish, form, register, incorporate or promote any company or companies or person, whether inside or outside of the State.
- 4.18 To procure that the Company be registered or recognised whether as a branch or otherwise in any country or place.
- 4.19 To enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint venture, reciprocal concession or otherwise with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction.
- 4.20 To amalgamate with any other company or person.
- 4.21 To promote freedom of contract, and to resist, insure against, counteract and discourage interference therewith, to join any lawful federation, union or association, or do any other lawful act or thing with a view to preventing or resisting directly or indirectly any interruption of or interference with the Company's or any other trade or business or providing or safeguarding against the same, or resisting or opposing any strike, movement or organisation which may be thought detrimental to the interests of the Company or its employees and to subscribe to any association or fund for any such purposes.
- 4.22 To make gifts to any person or company including, without prejudice to the generality of the foregoing, capital contributions and to grant bonuses to the directors or any other persons or companies who are or have been in the employment of the Company including substitute and alternate directors and any other officer or employee.
- 4.23 To establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit directors, ex-directors, employees or ex-employees of the Company or the dependants or connections of such persons, and to grant pensions and allowances upon such terms and in such manner as the Company's board of directors think fit, and to make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object, or any other object whatsoever which the Company's board of directors may think advisable.
- 4.24 To establish and contribute to any scheme for the purchase of shares or subscription for shares in the Company or its holding company, to be held for the benefit of the employees or former employees of the Company or any subsidiary of the Company including any person who is or was a director holding a salaried employment or office

in the Company or any subsidiary of the Company and to lend or otherwise provide money to the trustees of such schemes or the employees or former employees of the Company or any subsidiary of the Company to enable them to purchase shares of the Company or its holding company and to formulate and carry into effect any scheme for sharing the profits of the Company or its holding company with its employees and/or the employees of any of its subsidiaries.

- 4.25 To remunerate any person or company for services rendered or to be rendered in placing or assisting to place or guaranteeing the placing of any of the shares of the Company's capital or any debentures, debenture stock or other securities of the Company or in or about the formation or promotion of the Company or the conduct of its business.
- 4.26 To obtain any Act of the Oireachtas or provisional order for enabling the Company to carry any of its objects into effect or for effecting any modification of the Company's constitution or for any other purpose which may seem expedient and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.
- 4.27 To adopt such means of making known the products of the Company as may seem expedient and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations.
- 4.28 To undertake and execute the office of trustee and nominee for the purpose of holding and dealing with any property of any kind for or on behalf of any person or company; to act as trustee, nominee, agent, executor, administrator, registrar, Secretary, committee or attorney generally for any purpose and either solely or with others for any person or company; to vest any property in any person or company with or without any declared trust in favour of the Company.
- 4.29 To pay all costs, charges, fees and expenses incurred or sustained in or about the promotion, establishment, formation and registration of the Company.
- 4.30 To do all or any of the above things in any part of the world, and as principals, agents, contractors, trustees or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with any person or company.
- 4.31 To do all such other things as the Company's board of directors may think incidental or conducive to the attainment of the above powers or any of them.

NOTE: it is hereby declared that in this memorandum of association:

- (a) the word "company", except where used in reference to this Company, shall be deemed to include a body corporate, whether a company (wherever formed, registered or incorporated), a corporation aggregate, a corporation sole and a national or local government or other legal entity; and
- (b) the word "person", shall be deemed to include where the context permits an unincorporated body of persons, a partnership, a club or other association as well as an individual; and
- (c) the word "property", shall be deemed to include, where the context permits, real property, personal property including choses or things in action and all other intangible property and money and all estates, rights, titles and interests therein and includes the

Company's uncalled capital and future calls and all and every other undertaking and asset; and

- (d) words denoting the singular number only shall include the plural number and vice versa; and
  - (e) it is intended that the objects specified in each paragraph in this clause shall, except where otherwise expressed in such paragraph, be separate and distinct objects of the Company and shall not be in any way limited or restricted by reference to or inference from the terms of any other paragraph or the order in which the paragraphs of this clause occur or the name of the Company.
5. The liability of the members is limited.
  6. The share capital of the Company is €1.00 divided into 100 ordinary shares of €0.01 each.

## ARTICLES OF ASSOCIATION

### Interpretation and general

1. Sections 77 to 81, 83 to 84, 94 to 96 and 126 of the Act shall apply to the Company but, subject to that, the provisions set out in these articles of association shall constitute the whole of the regulations applicable to the Company and no other “optional provisions” as defined by section 968(2) of the Act shall apply to the Company.
2. The Company is a designated activity company that has the status of a private company limited by shares registered under Part 16 of the Act and the number of members of the Company (exclusive of persons who are in the employment of the Company and of persons who, having been formerly in the employment of the Company, were while in such employment and have continued after the termination of such employment to be members of the Company) is limited to one hundred and forty nine (149) (or such greater number as may be prescribed by the Act as being the maximum permitted number of members in a company of this type) so, however, that where two or more persons hold one or more shares in the Company jointly, they shall for the purpose of this Regulation be treated as a single member.
3. In these articles of association:
  - 3.1 the “Act” means the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force;
  - 3.2 a “Director” shall include an alternate director;
  - 3.3 a “secretary” shall include any joint, assistant or deputy secretary;
  - 3.4 a word or expression used in these articles of association which is not otherwise defined and which is also used in the Act shall have the same meaning here, as it has in the Act;
  - 3.5 any phrase introduced by the terms “including, “include” and “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
  - 3.6 a “person” includes any individual, firm, body corporate, association or partnership, government or state or agency of a state, local authority or government body or any joint venture association or partnership (whether or not having a separate legal personality) and that person’s personal representatives, successors or permitted assigns;
  - 3.7 a “company”, other than the Company, shall be construed so as to include any company, corporation or body corporate, wherever and however incorporated or established; and
  - 3.8 the singular shall include the plural and vice versa and references to one gender includes all genders.

### Allotment and acquisition of shares

4. The following provisions apply to the allotment of shares (and 'allotment of shares' shall include issue of shares):
  - 4.1 for the purposes of section 69(1) of the Act, the allotment of shares (including redeemable shares) is authorised generally;

- 4.2 for the purposes of section 69(3) of the Act, the general authorisation for the allotment of shares in the Company is not subject to any stipulation as to a period during which the allotment may occur; and
  - 4.3 for the purposes of section 69(12)(a)(i) of the Act, section 69(6) of the Act shall not apply, generally, to any allotment of shares in the Company.
5. The Company:
- 5.1 may give financial assistance for the purpose of an acquisition of its shares or, where the Company is a subsidiary, its holding company, and
  - 5.2 is authorised, for the purposes of section 105(4)(a) of the Act, to acquire its own shares.
6. The Directors (and for the purposes of section 69(4)(a) of the Act, any committee of the Directors so authorised by the Directors and any person so authorised by the Directors or such committee) may without prejudice to Regulation 57:
- 6.1 allot, issue, grant options over and otherwise dispose of shares in the Company;
  - 6.2 exercise the Company's powers under Regulation 5,
- on such terms and subject to such conditions as they think fit, subject only to the provisions of the Act.

### **General Meetings – General**

7. Subject to Regulation 8 and, for the avoidance of doubt, section 175(3) of the Act, the Company shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year, and shall specify the meeting as such in the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the Company and that of the next.
8. So long as the Company holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the year following.
9. The annual general meeting shall be held at such time and place as the Directors shall appoint.
10. All general meetings of the Company other than annual general meetings shall be called extraordinary general meetings.
11. The Directors may, whenever they think fit, convene an extraordinary general meeting and extraordinary general meetings shall also be convened on such requisition, or in default, may be convened by such requisitionists, as provided by section 178(3) to (7) of the Act. If at any time the number of Directors is less than the minimum number of Directors, any Director or any member may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.
12. An annual general meeting or extraordinary general meeting of the Company may be held outside the State provided that, unless all of the members entitled to attend and vote at such meeting consent in writing to its being held outside of the State the Company shall make, at its expense, all necessary arrangements to ensure that members can by technological means participate in any such meeting without leaving the State.

13. A general meeting of the Company may be held in two or more venues (whether inside or outside of the State) at the same time using any technology that provides members, as a whole, with a reasonable opportunity to participate.

#### **Notice of general meetings**

14. The only persons entitled to notice of general meetings of the Company are:
  - 14.1 the members;
  - 14.2 the personal representatives of a deceased member, which member would but for his death be entitled to vote;
  - 14.3 the assignee in bankruptcy of a bankrupt member of the Company (being a bankrupt member who is entitled to vote at the meeting);
  - 14.4 the Directors and secretary of the Company; and
  - 14.5 unless the Company is entitled to and has availed itself of the audit exemption under the Act, the statutory auditors (who shall also be entitled to receive other communications relating to any general meeting which a member is entitled to receive).
15. A meeting of the Company, other than an adjourned meeting, shall be called:
  - 15.1 in the case of the annual general meeting or an extraordinary general meeting for the passing of a special resolution, by not less than 21 days' notice;
  - 15.2 in the case of any other extraordinary general meeting, by not less than seven days' notice; or
  - 15.3 in either case, on such shorter notice as all of the members and, unless the Company has availed of the audit exemption under section 360 or 365 of the Act (and, where relevant, section 399 of the Act has been complied with in that regard), the statutory auditors of the Company agree.
16. In determining the correct period of notice for a general meeting, neither the day on which the notice is served nor the day of the meeting for which it is given shall be counted.
17. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at the meeting.

#### **Unanimous written resolutions**

18. In accordance with section 193(1) of the Act (as modified in its application to a DAC by section 989 of the Act), notwithstanding any provision to the contrary in the Act:
  - 18.1 a resolution in writing signed by all the members of the Company for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate by their duly appointed representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and held (a "unanimous written resolution");
  - 18.2 if described as a special resolution a unanimous written resolution shall be deemed to be a special resolution within the meaning of the Act, and
  - 18.3 a unanimous written resolution may consist of several documents in like form each signed by one or more members.

19. A unanimous written resolution shall be deemed to have been passed at a meeting held on the date on which it was signed by the last member to sign, and, where the resolution states a date as being the date of his or her signature thereof by any member, it shall be taken that it was signed by him or her on that date.
20. Where a unanimous written resolution is not contemporaneously signed, the Company shall notify the members, within 21 days after the date of delivery to it of the document or documents constituting the unanimous written resolution of the fact that the resolution has been passed.
21. The signatories of unanimous written resolution shall, within 14 days after the date of its passing, procure delivery to the Company of the documents constituting the unanimous written resolution and without prejudice to the use of the other means of delivery generally permitted by the Act, such delivery may be effected by electronic mail or the use of a facsimile machine and the Company shall retain those documents as if they constituted the minutes of a general meeting of the Company.
22. A unanimous written resolution within the meaning of Regulation 18 shall be ineffective to remove a Director or a statutory auditor (or so as not to continue the statutory auditor in office).

### **Majority written resolutions**

23. An ordinary resolution and special resolution may be passed as majority written resolutions in accordance with sections 194 (as modified in its application to a DAC by section 990 of the Act) and 195 of the Act.

### **Written decision of sole member**

24. At any time that the Company is a single-member company, its sole member may pass any resolution as a written decision in accordance with section 196 of the Act.

### **Quorum for general meetings**

25. Two members of a Company present in person or by proxy at a general meeting of it shall be a quorum provided that at any time when the Company is a single-member company, one member of the Company present in person or by proxy at a general meeting of it shall be a quorum.
26. If within 15 minutes after the time appointed for a general meeting a quorum is not present, then:
  - 26.1 the meeting shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine; and
  - 26.2 if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the members present shall be a quorum.

### **Proxies**

27. Every member of the Company entitled to attend and vote at a meeting of the Company shall be entitled to appoint another person (whether a member or not) as his or her proxy to attend and vote instead of him or her. A member shall not be entitled to appoint more than one proxy to attend on the same occasion. A proxy so appointed shall have the same right as the member to speak at the meeting and to vote on a show of hands and on a poll.
28. The instrument appointing a proxy (the "instrument of proxy") shall be in writing:

- 28.1 under the hand of the appointer or of his or her attorney duly authorised in writing; or
  - 28.2 if the appointer is a body corporate, either under seal of the body corporate or under the hand of an officer or attorney of it duly authorised in writing.
29. The instrument of proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the Company or at such other place within the State as is specified for that purpose in the notice convening the meeting, and shall be so deposited not later than:
- 29.1 the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - 29.2 in the case of a poll, 48 hours before the time appointed for the taking of the poll.
30. An instrument of proxy which is not in compliance with these Regulations shall not be valid.
31. The depositing of the instrument of proxy may, rather than its being effected by sending or delivering the instrument, be effected by communicating the instrument to the Company by electronic means.
32. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the appointer or revocation of the proxy or of the authority under which the proxy was executed or the transfer of the share in respect of which the proxy is given provided however that it will not be valid if notice in writing of such death, insanity, revocation or transfer as is mentioned in that subsection is received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

**Form of proxy**

33. An instrument appointing a proxy shall be in the following form or a form as near to it as circumstances permit:

[name of company] (“the Company”)

[name of member] (“the Member”) of [address of member] being a member of the Company hereby appoint/s [name and address of proxy] or failing him or her

[name and address of alternative proxy] as the proxy of the Member to attend, speak and vote for the Member on behalf of the Member at the (annual or extraordinary, as the case may be) general meeting of the Company to be held on the [date of meeting] and at any adjournment of the meeting.

The proxy is to vote as follows:

Voting Instructions to Proxy (choice to be marked with an ‘x’)			
Number or description of resolution:	In Favour	Abstain	Against
1			
2			
3			

Unless otherwise instructed the proxy will vote as he or she thinks fit.
Signature of member:.....
Dated: [date].....

**Representative of bodies corporate**

- 34. Any body corporate which is a member of the Company may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of members of the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual member of the Company. The chairperson of a meeting may require a person claiming to be an authorised person within the meaning of this Regulation to produce such evidence of the person’s authority as such as the chairperson may reasonably specify and, if such evidence is not produced, the chairperson may exclude such person from the meeting.

**The business of general meetings**

- 35. All business shall be deemed to be special business that is transacted at an extraordinary general meeting and that is transacted at an annual general meeting other than, in the case of an annual general meeting, the business specified in Regulation 36 which shall be ordinary business.
- 36. The business of the annual general meeting shall include:
  - 36.1 the consideration of the Company’s statutory financial statements and the report of the directors and, unless the Company is entitled to and has availed itself of the audit exemption under section 360 or 365 of the Act, the report of the statutory auditors on those statements and that report;
  - 36.2 the review by the members of the Company’s affairs;
  - 36.3 the authorisation of the directors to approve the remuneration of the statutory auditors (if any); and
  - 36.4 save where the Company has availed itself of the audit exemption referred to in Regulation 36.1, the appointment or re-appointment of statutory auditors.

**Proceedings at general meetings**

- 37. The chairperson, if any, of the board of Directors shall preside as chairperson at every general meeting of the Company, or if there is no such chairperson, or if he or she is not present at the time appointed for the holding of the meeting or is unwilling to act, the Directors present shall elect one of their number to be chairperson of the meeting.
- 38. If at any meeting no Director is willing to act as chairperson or if no Director is present at the time appointed for holding the meeting, the members present shall choose one of their number to be chairperson of the meeting.
- 39. The chairperson may, with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- 40. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

41. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting but, subject to that, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
42. Unless a poll is demanded in accordance with section 189 of the Act, at any general meeting:
  - 42.1 a resolution put to the vote of the meeting shall be decided on a show of hands; and
  - 42.2 a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
43. Where there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded, shall not have a second or casting vote.
44. Subject to any rights or restrictions for the time being attached to any class or classes of shares, where a matter is being decided:
  - 44.1 on a show of hands, every member present in person and every proxy shall have one vote, but so that no individual member shall have more than one vote; and
  - 44.2 on a poll, every member shall, whether present in person or by proxy, have one vote for each share of which he or she is the holder.
45. Where there are joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holder or holders; and for this purpose, seniority shall be determined by the order in which the names of the joint holders stand in the register of members.
46. Each of the following:
  - 46.1 a member of unsound mind;
  - 46.2 a member who has made an enduring power of attorney;
  - 46.3 a member in respect of whom an order has been made by any court having jurisdiction in cases of unsound mind,may vote, whether on a show of hands or on a poll, by his or her committee, donee of an enduring power of attorney, receiver, guardian or other person appointed by the foregoing court.
47. Any committee, donee of an enduring power of attorney, receiver, guardian, or other person referred to in Regulation 46 may speak and vote by proxy, whether on a show of hands or on a poll.
48. No member shall be entitled to vote at any general meeting of the Company unless all calls or other sums immediately payable by him or her in respect of shares in the Company have been paid.
49. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

### **Class meetings**

50. The provisions of these articles of association relating to general meetings shall, as far as applicable, apply in relation to any meeting of any class of member of the Company.

### **Appointment of directors**

51. The number of Directors, from time to time, shall be not less than two and not more than twelve. The first Directors shall be the persons specified by Section 25(5) of the Act.
52. Thereafter each member of the Company shall be a Director. Should this person vacate the office of Director, they must forfeit their share or shares.
53. The Company may from time to time, by ordinary resolution, increase or reduce the number of Directors provided that any resolution to appoint a director approved by the members that would result in the maximum number of Directors being exceeded shall be deemed to constitute an ordinary resolution increasing the number of Directors to the number in office following such a resolution of appointment.
54. No other person shall have the right to appoint a Director(s) save for the purpose of increasing the number of Directors to the number fixed as the quorum in accordance with Clause 68.

### **Vacation of office by Directors**

55. In addition to the circumstances described in sections 146, 148(1) and 196(2) of the Act, the office of Director shall be vacated -

55.1 ipso facto, if that Director –

- (a) resigns his or her office by notice in writing to the Company;
- (b) becomes subject to a declaration of restriction under section 819 of the Act and the Directors, at any time during the currency of the declaration, resolve that his or her office be vacated;
- (c) resigns his office by spoken declaration at any board meeting and such resignation is accepted by resolution of that meeting, in which case such resignation shall take effect at the conclusion of such meeting unless otherwise resolved;
- (d) is adjudicated insolvent or bankrupt or makes any arrangement or compromise with his creditors generally (in any jurisdiction);
- (e) is removed from office by notice in writing to the Company: where there is a sole member, by the sole member or where there is more than one member, by any member or members having the right to attend and vote at a general meeting of the Company on a resolution to remove a Director and holding for the time being not less than 90% in nominal value of the shares giving that right;
- (f) ceases to be a member of the Company; and

55.2 by resolution of the board of directors where that Director -

- (a) can no longer be reasonably regarded as possessing an adequate decision making capacity by reason of his or her health;

- (b) is sentenced to a term of imprisonment (whether or not the term is suspended) following conviction of a criminal offence in any jurisdiction;
- (c) is for more than six months absent, without the permission of the Directors, from meetings of the Directors held during that period;
- (d) is in full-time employment of the Company or the Company's holding company or a subsidiary of the Company's holding company, upon the termination of such employment;

and a Director so removed shall have no right to prior notice or to raise any objection to his or her removal from office but any removal (other than one initiated by the Director) shall be without prejudice to any claim for compensation or damages payable as a result of the removal also terminating any contract of service.

### **Directors' remuneration**

- 56. No remuneration shall be payable under any circumstances to any of the Directors in respect of his services as Director, or on any Committee of the Directors.
- 56A. Directors are entitled to reimbursement for vouched expenses reasonably and properly incurred on behalf of the Company. Reasonable remuneration for the provision of services to or on behalf of the company, incurred on behalf of the company may be paid to any Director subject to the unanimous agreement of the board.

### **General power of management and delegation**

- 57. The business of the Company shall be managed by its Directors, who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Act or by this Constitution, required to be exercised by the Company in general meeting, but subject to:
  - 57.1 any regulations contained in these articles of association;
  - 57.2 the provisions of the Act; and
  - 57.3 such directions, not being inconsistent with the foregoing regulations or provisions, as the Company in general meeting may (by special resolution) give.
- 58. No direction given by the Company in general meeting under Regulation 57.3 shall invalidate any prior act of the Directors which would have been valid if that direction had not been given.
- 59. Without prejudice to the generality of Regulation 57, Regulation 57 operates to enable, subject to a limitation (if any) arising under any of paragraphs 57.1 to 57.3 of it, the Directors exercise all powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof.
- 60. Without prejudice to section 40 of the Act, the Directors may delegate any of their powers (including any power referred to in these articles of association) to such person or persons as they think fit, including committees; any such person or committee shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.
- 61. The reference in Regulation 57 to a power of the Company required to be exercised by the Company in general meeting includes a reference to a power of the Company that, but for the power of the members to pass a written resolution to effect the first-mentioned power's exercise, would be required to be exercised by the Company in general meeting.

62. The acts of the board of Directors or of any committee established by the board of Directors or any delegee of the board or any such committee shall be valid notwithstanding any defect which may afterwards be discovered in the appointment or qualification of any Director, committee member or delegee.
63. The Directors may appoint an assistant company secretary and a deputy company secretary for such term, at such remuneration and upon such conditions as they may think fit; and any such person so appointed may be removed by them.

#### **Meetings of Directors and committees**

64. The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any such meeting shall be decided by a majority of votes and where there is an equality of votes, the chairperson shall not have a second or casting vote. A Director may, and the secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
65. All Directors shall be entitled to reasonable notice of any meeting of the Directors.
66. Nothing in Regulation 65 or any other provision of the Act enables a person, other than a Director, to object to the notice given for any meeting of the Directors.
67. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be two.
68. The continuing Directors may act notwithstanding any vacancy in their number but, if and so long as their number is reduced below the number fixed in accordance with these articles of association as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company but for no other purpose.

#### **Chairperson**

69. The Directors may elect a chairperson of their meetings and determine the period for which he or she is to hold office, but if no such chairperson is elected, or, if at any meeting the chairperson is not present within 15 minutes after the time appointed for holding it, the Directors present may choose one of their number to be chairperson of the meeting.

#### **Committees**

70. The Directors may establish one or more committees consisting in whole or in part of members of the board of Directors.
71. A committee established under Regulation 70 (a "committee") may elect a chairperson of its meetings; if no such chairperson is elected, or if at any meeting the chairperson is not present within 15 minutes after the time appointed for holding it, the members of the committee present may choose one of their number to be chairperson of the meeting.
72. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting of a committee shall be determined by a majority of votes of the members of the committee present, and where there is an equality of votes, the chairperson of the committee shall have a second or casting vote.
73. Where any committee is established by the Directors:

- 73.1 the meetings and proceedings of such committee shall be governed by the provisions of these articles of association regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed upon such committee by the Directors; and
- 73.2 the Directors may authorise, or may authorise such committee to authorise, any person who is not a Director to attend all or any meetings of any such committee on such terms as the Directors or the committee think fit, provided that any such person shall not be entitled to vote at meetings of the committee.

**Written resolutions and telephonic meetings of Directors**

- 74. A resolution in writing signed by all the Directors, or by all the members of a committee of them, and who are for the time being entitled to receive notice of a meeting of the Directors or, as the case may be, of such a committee, shall be as valid as if it had been passed at a meeting of the Directors or such a committee duly convened and held.
- 75. Subject to Regulation 76, where one or more of the Directors (other than a majority of them) would not, by reason of:
  - 75.1 the Act or any other enactment;
  - 75.2 these articles of association; or
  - 75.3 a rule of law,
 be permitted to vote on a resolution such as is referred to in Regulation 74, if it were sought to pass the resolution at a meeting of the Directors duly convened and held, then such a resolution, notwithstanding anything in Regulation 74, shall be valid for the purposes of that subsection if the resolution is signed by those of the Directors who would have been permitted to vote on it had it been sought to pass it at such a meeting.
- 76. In a case falling within Regulation 75, the resolution shall state the name of each Director who did not sign it and the basis on which he or she did not sign it.
- 77. For the avoidance of doubt, nothing in Regulations 74 to 76 dealing with a resolution that is signed by other than all of the Directors shall be read as making available, in the case of an equality of votes, a second or casting vote to the one of their number who would, or might have been, if a meeting had been held to transact the business concerned, chairperson of that meeting.
- 78. The resolution referred to in Regulation 74 may consist of several documents in like form each signed by one or more Directors and for all purposes shall take effect from the time that it is signed by the last Director.
- 79. A meeting of the Directors or of a committee referred to in Regulation 70 may consist of a conference between some or all of the Directors or, as the case may be, members of the committee who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each of the others and to be heard by each of the others and:
  - 79.1 a Director or member of the committee taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly; and
  - 79.2 such a meeting shall be deemed to take place:

- (a) where the largest group of those participating in the conference is assembled;
- (b) if there is no such group, where the chairperson of the meeting then is; or
- (c) if neither subparagraph (a) or (b) applies, in such location as the meeting itself decides.

**Directors' duties, conflicts of interest, etc.**

- 80. The Directors may have regard to the interests of the Company's holding company and to other companies in a group of which it is a member to the full extent permitted by the Act.
- 81. Subject to the provisions of the Act, a Director may vote in respect of any contract, appointment or arrangement in which he or she is interested and he or she shall be counted in the quorum present at the meeting.
- 82. A Director is expressly permitted (for the purposes of section 228(1)(d) of the Act) to use vehicles, telephones, computers, accommodation and any other Company property where such use is approved by the board of Directors or by a person so authorised by the board of Directors or where such use is in accordance with a Director's terms of employment, letter of appointment or other contract or in the course of the discharge of the Director's duties or responsibilities or in the course of the discharge of a Director's employment.
- 83. Nothing in section 228(1)(e) of the Act shall restrict a Director from entering into any commitment which has been approved by the Board or has been approved pursuant to such authority as may be delegated by the Board in accordance with these articles of association. It shall be the duty of each Director to obtain the prior approval of the Board, before entering into any commitment permitted by sections 228(1)(e)(ii) and 228(2) of the Act.
- 84. A Director may vote in respect of any contract, appointment or arrangement in which he or she is interested and shall be counted in the quorum present at the meeting and is hereby released from his or her duty set out in section 228(1)(f) of the Act and a Director may vote on his or her own appointment or arrangement and the terms of it.
- 85. The Directors may exercise the voting powers conferred by the shares of any other company held or owned by the Company in such manner in all respects as they think fit and, in particular, they may exercise the voting powers in favour of any resolution appointing the Directors or any of them as Directors or officers of such other company.
- 86. Any Director may vote in favour of the exercise of such voting rights notwithstanding that he or she may be or may be about to become a Director or officer of the other company referred to in Regulation 85 and as such or in any other way is or may be interested in the exercise of such voting rights in the foregoing manner.
- 87. No Director or intending such Director shall be disqualified by his or her office from contracting with the Company as vendor, purchaser or otherwise.
- 88. In particular, neither shall:
  - 88.1 any contract with respect to any of the matters referred to in Regulation 83, nor any contract or arrangement entered into by or on behalf of the Company in which a Director is in any way interested, be liable to be avoided; nor
  - 88.2 a Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement,

by reason of such Director holding that office or of the fiduciary relation thereby established.

89. A Director, notwithstanding his or her interest, may be counted in the quorum present at any meeting at which:
- 89.1 that Director or any other Director is appointed to hold any such office or place of profit under the Company; or
  - 89.2 the terms of any such appointment are arranged,
- and he or she may vote on any such appointment or arrangement.
90. Without prejudice to the provisions of section 228 of the Act, a Director may be or become a Director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise.
91. A Director may act by himself or herself, or his or her firm, in a professional capacity for the Company; and any Director, in such a case, or his or her firm, shall be entitled to remuneration for professional services as if he or she were not a Director, but nothing in this Regulation authorises a Director, or his or her firm, to act as statutory auditor of the Company.

#### **Alternate Directors**

92. Any Director (the “appointer”) may from time to time appoint any person to be an alternate director (the “appointee”) as respects him or her.
93. One or more persons may stand appointed at a particular time to be an alternate director as respects a particular Director, although only one alternate in respect of each Director may attend an individual meeting.
94. The appointee, while he or she holds office as an alternate director, shall be entitled –
- 94.1 to notice of meetings of the Directors;
  - 94.2 to attend at such meetings as a Director; and
  - 94.3 in place of the appointer, to vote at such meetings as a Director,
- but shall not be entitled to be remunerated.
95. Any appointment under Regulation 92 shall be effected by notice in writing given by the appointer to the Company.
96. Any appointment so made may be revoked at any time by the appointer or by an ordinary resolution of the members and Regulation 55 shall apply to each alternate director.
97. Revocation of such an appointment by the appointer shall be effected by notice in writing given by the appointer to the Company.
98. An appointee shall cease to be an alternate director ipso facto upon his or her appointer ceasing to be a Director.
99. The appointer and each appointee of that appointer shall be deemed to constitute but one and the same Director for the purposes of counting the number of Directors for all purposes under these articles of association or the Act, including for the purposes of determining the maximum number of directors, the quorum for a meeting of the Directors or a majority of the directors for

the purposes of determining the approval of a resolution of the Directors or all the Directors for the purposes of a resolution in writing of the Directors.

#### **The common seal and official seal**

100. The Company's seal shall be used only by the authority of the Directors, a committee authorised by the Directors to exercise such authority or by any one or more persons severally or jointly so authorised by the Directors or such a committee, and the use of the seal shall be deemed to be authorised for these purposes where the matter or transaction pursuant to which the seal is to be used has been so authorised.
101. Any instrument to which the Company's seal shall be affixed shall be signed by any one of:
- 101.1 a Director;
  - 101.2 the secretary; or
  - 101.3 any other person authorised to sign by (i) the Directors or (ii) a committee or a person with the authority to use the seal under Regulation 100,
- and the signature or countersignature of a second such person shall not be required.
102. The Company may have an official seal for use abroad.
103. The Company may have one or more duplicate common seals or official seals for use in different locations.

#### **Service of notices on members and the Company**

104. A notice required or authorised to be served on or given to a member of the Company pursuant to a provision of the Act or these articles of association shall, save where the means of serving or giving it specified in Regulation 104.4 is used, be in writing and may be served on or given to the member in one of the following ways:
- 104.1 by delivering it to the member;
  - 104.2 by leaving it at the registered address of the member;
  - 104.3 by sending it by post in a prepaid letter to the registered address of the member; or
  - 104.4 by electronic means; and
- each of the members of the Company hereby consents to the use of electronic means in the form of email to serve or give notices in relation to them and further agrees to provide the Company with an email address to which notices may be served or given.
105. Any notice served or given in accordance with Regulation 104 shall be deemed, in the absence of any agreement to the contrary between the Company (or, as the case may be, the officer of it) and the member, to have been served or given:
- 105.1 in the case of its being delivered, at the time of delivery (or, if delivery is refused, when tendered);
  - 105.2 in the case of its being left, at the time that it is left;

105.3 in the case of its being posted (to an address in the State) on any day other than a Friday, Saturday or Sunday, 24 hours after despatch and in the case of its being posted (to such an address)—

(a) on a Friday — 72 hours after despatch; or

(b) on a Saturday or Sunday — 48 hours after despatch;

105.4 in the case of electronic means being used in relation to it, twelve hours after despatch, but this Regulation is without prejudice to section 181(3) of the Act.

106. In addition to the means of service of documents set out in section 51 of the Act, a notice or other document may be served on the Company by an officer or member of the Company by email provided, however, that the Directors have designated an email address for that purpose and notified that email address to its members and officers for the express purpose of serving notices on the Company.

### **Sending statutory financial statements to members**

107. Each of the members hereby agree and consent that copies of the documents referred to in section 338(2) of the Act, are to be treated, for the purposes of section 338 of the Act, as sent to a person where:

107.1 the Company and that person have agreed to his or her having access to the documents on a website (instead of their being sent to him or her);

107.2 the documents are documents to which that agreement applies; and

107.3 that person is notified, in a manner for the time being agreed for the purpose between him or her and the Company, of—

(a) the publication of the documents on a website,

(b) the address of that website, and

(c) the place on that website where the documents may be accessed, and how they may be accessed.

108. Documents treated in accordance with Regulation 107 as sent to any person are to be treated as sent to him or her not less than 21 days before the date of a meeting if, and only if:

108.1 the documents are published on the website throughout a period beginning at least 21 days before the date of the meeting and ending with the conclusion of the meeting; and

108.2 the notification given for the purposes of paragraph (c) of Regulation 107.3 is given not less than 21 days before the date of the meeting.

109. Any obligation by virtue of section 339(1) or (2) of the Act to furnish a person with a document may, unless these articles of association provides otherwise, be complied with by using electronic communications for sending that document to such address as may for the time being be notified to the Company by that person for that purpose.

### **Winding up**

110. If upon the winding up or dissolution of the Company there remains, after satisfaction of all debts and liabilities, any property whatsoever, it shall not be paid to or distributed among the

members of the Company. Instead, such property shall be given or transferred to an institution having main objects similar to the main objects of the Company. Members of the Company shall select the relevant institution or institutions at or before the time of dissolution. Final accounts will be prepared and submitted that will include a section that identifies and values any assets transferred along with the details of the recipients and the terms of the transfer.

### **Indemnification**

111. Subject to the provisions of and so far as may be permitted by section 235(3) of the Act every Director, secretary and other officer (excluding statutory auditors) of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto including any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court.