

**Companies Acts, 1963 to 2006**

**A PUBLIC COMPANY LIMITED BY SHARES**

**MEMORANDUM AND ARTICLES OF ASSOCIATION**

**of**

**DEPFA BANK PUBLIC LIMITED COMPANY**

**(as amended by special resolution passed on 6 November 2008)**

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# **COMPANIES ACTS, 1963 TO 2006**

## **A PUBLIC COMPANY LIMITED BY SHARES**

### **MEMORANDUM OF ASSOCIATION**

**of**

#### **DEPFA BANK public limited company**

**(As amended by Special Resolution passed on 26 April 2004 and 29 September 2008)**

1. The name of the Company is “DEPFA BANK public limited company”.
2. The Company is to be a public limited company.
3. The objects for which the Company is established are:-
  - (1) To carry on the business of banking in all its forms, including borrowing, raising or taking up money and employing and using the same; depositing, lending or advancing with or without security, money, securities and property of any kind; carrying on treasury, financial dealing and custodial activities of all kinds; making, drawing, accepting, endorsing, issuing, discounting, buying, selling and generally dealing and trading in bills of exchange, promissory notes, note issuance facilities, exchequer bills, future rate arrangements, coupons, bank orders, money orders, travellers cheques, drafts, bills of lading, warrants, bonds, debentures, debenture stocks, certificates, scrip, funds, currencies, stocks, shares rights to new issues, options, option certificates, futures, annuities, interests in property, credit derivatives, interest rate and currency swaps, forward rate agreements, repurchase agreements, financial and investment instruments and other instruments and securities, whether transferable or negotiable or not; granting and issuing letters of credit and circular notes; dealing in foreign exchange; buying, selling and dealing and trading in certificates of deposit, securities of all kinds, bullion, precious metals, coin, specie and any currency whatsoever; acquiring, holding, issuing on commission, underwriting, originating, subscribing for and dealing with stocks, funds, shares, debentures, debenture stocks, bonds, loans, obligations, options, option certificates, securities and investments of all kinds; negotiating loans and advances of all kinds; granting or contracting for open general credits, with or without security; arranging, underwriting or providing credit of all kinds including the operation of credit

facilities and credit systems of all kinds; receiving money on deposit or current account at interest or otherwise on any terms, or for safe custody and employing and using same; receiving securities of all kinds, financial instruments, money, valuables, deeds, documents, goods and items of whatsoever nature on deposit, or for safe custody, or otherwise; collecting, receiving and transmitting money and securities of all kinds; providing financial advisory services; managing property and advising on investments and investment policy; transacting all kinds of agency business commonly transacted by bankers including insurance agency, and generally transacting all kinds of business commonly transacted by bankers.

- (2) To act as the holding and co-ordinating company of the group of companies of which the Company is for the time being the holding company and to do all lawful acts and things whatever which may be necessary or convenient to carry on the business of a holding company and to do all lawful acts and things that any of its subsidiaries for the time being are empowered to do and to carry on the business of a management and service company and to act as managers and to co-ordinate the policy, administration, finances, affairs and activities of other companies and to undertake and carry out all such services in connection therewith as may be deemed expedient; and to carry on the business of an investment and holding company and to acquire, hold and sell or otherwise dispose of property of all kinds and to exercise and enforce all rights and powers conferred by or incident upon the ownership of any property acquired by the Company.
- (3) To carry on all of the said businesses or any one or more of them as a distinct or separate business or as the principal business of the Company, to carry on any other business manufacturing or otherwise which may seem to the Company capable of being conveniently carried on in connection with the above or any one of the above or calculated directly or indirectly to enhance the value of or render more profitable any of the Company's property or rights.
- (4) To acquire, dispose of, invest in and hold any bonds, obligations, certificates of deposit, treasury bills, trade bills, bank acceptances, bills of exchange, acceptance credits, monetary instruments, shares, stock, warrants, debentures, debenture stock, loans, mortgages, debt register claims, securities, units of or participation in any unit trust scheme, mutual fund or collective investment scheme, commodities and securities and financial instruments of all kinds created, issued or guaranteed by any government, sovereign, ruler, municipal, local, supranational or otherwise, in any part of the world, or by any company, bank, association or partnership, whether with limited or unlimited liability, constituted or carrying on business or activities in any part of the world and to subscribe for the same either conditionally or otherwise, to enter into underwriting and similar contracts with respect thereto and to exercise and enforce all rights and powers conferred by or incidental to the ownership thereof and to do all the foregoing as principal, agent or broker.
- (5) To carry out any transactions or operations whatsoever which may be lawfully undertaken and carried out by capitalists, promoters,

merchants, underwriters, financiers or concessionaries and to carry on a general financial business and general financial operations of all kinds in any part of the world and to undertake or aid in any enterprise.

- (6) To acquire and undertake the whole or any part of the business, property and liabilities of any other person or company carrying on any business which the Company is authorised to carry on or which is capable of being conducted so as to benefit the Company directly or indirectly or which is possessed of property suitable for the purpose of the Company.
- (7) To take part in the formation, management, supervision or control of the business or operations of any company or undertaking, and for that purpose to appoint and remunerate any directors, accountants or other experts and agents, to transact or carry on all kinds of agency business and in particular in relation to the investment of money, sale of property and the collection and receipt of money.
- (8) Generally to purchase, take on lease or in exchange or otherwise acquire any real and personal property and rights or privileges.
- (9) 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 up and improving buildings and conveniences, and by planting, paving, draining, farming, cultivating, letting on building lease or building agreement and by advancing money to and entering into contracts and arrangements of all kinds with builders, tenants and others.
- (10) 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 for any other purpose whatsoever, to engage in currency exchange and interest rate transactions and any other financial or other transactions of whatever nature, including (without limiting the foregoing) any transaction for the purposes 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 and Irish currency, spot and forward exchange rate contracts, forward rate agreements, caps, floors and collars, futures, options, swaps, and any other currency interest rate and other hedging arrangements and such other instruments as are similar to, or derivatives of, any of the foregoing.
- (11) To construct, maintain and alter any buildings or works necessary or convenient for any of the purposes of the Company or for the benefit of its employees.

- (12) To lend money to such persons or companies, either with or without security and upon such terms as may seem expedient, and in particular to customers and others having dealings with the Company.
- (13) To borrow or raise or secure the payment of money in such manner as the Company shall think fit, and in particular (without limitation) by the creation of charges or mortgages (whether legal or equitable) or floating charges or by the issue of bonds (whether on the basis of mortgages acquired or to be acquired or otherwise), negotiable instruments, commercial paper, debentures or debenture stock, perpetual or otherwise, charged upon all or any of the Company's property, both present and future, including its uncalled capital, and to purchase, redeem or pay off any such charges, mortgages or securities.
- (14) To adopt such means of making known the services 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 of interest, by publication of books and periodicals and by granting prizes, rewards and donations.
- (15) To sell, improve, manage, develop, exchange, lease, mortgage, enfranchise, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company.
- (16) To guarantee, grant indemnities in respect of, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company, or by both such methods, the performance of the contracts or obligations of and the repayment or payment of the principal amounts of and premiums interest and dividends on any securities of any person, firm or company, notwithstanding the fact that the Company may not receive any consideration advantage or benefit direct or indirect from entering into such guarantee or other arrangement or transaction contemplated herein.
- (17) To amalgamate with any other company.
- (18) To apply for, purchase or otherwise acquire any patents, brevets d'invention, licences, trade marks, concessions and the like conferring any exclusive or non-exclusive or limited right to use, or any secret or other information as to any invention which may seem capable of being used, for any of the purposes of the Company or the acquisition of which may seem calculated directly or indirectly to benefit the Company, and to use, exercise, develop or grant licences in respect of or otherwise turn to account the property rights or information so acquired.
- (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 which the

Company is authorised to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit the Company.

- (20) To enter into any arrangement with any government or authority, supreme, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them and to obtain from any such government or authority any rights, privileges and concessions which the Company may think it desirable to obtain, and carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- (21) To establish and maintain or procure the establishment and maintenance of any non-contributory or contributory pension or superannuation funds for the benefit of, and to give or procure the giving of donations, gratuities, pensions, allowances or emoluments to any persons who are or were at any time in the employment or service of the Company or of any company which is a subsidiary of the Company or is allied to or associated with the Company or with any such subsidiary, or who are or were at any time Directors or officers of the Company or of any such other company as aforesaid, or any persons in whose welfare the Company or any such other company as aforesaid is or has been at any time interested and the wives, widows, families and dependants of any such persons, and also to establish and subsidise or subscribe to any institutions, associations, clubs or funds calculated to be for the benefit of or to advance the interests and well being of the Company or of any other such company as aforesaid or of any such persons as aforesaid and to make payments for or towards the insurance of any such persons as aforesaid and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object, and to do any of the matters aforesaid either alone or in conjunction with any such other company as aforesaid.
- (22) To promote any company or companies for the purpose of acquiring all or any of the property and liabilities of the Company or for any other purpose which may seem directly or indirectly calculated to benefit the Company.
- (23) 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 in 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.
- (24) To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures, letters of credit and other negotiable or transferable instruments.
- (25) To undertake and execute any trusts the undertaking whereof may seem desirable, whether gratuitously or otherwise.
- (26) To sell or dispose of the undertaking of the Company or any part thereof for such consideration as the Company may think fit, and in

particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of this Company.

- (27) To obtain any Order or Act of the Oireachtas 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.
- (28) To invest and deal with the moneys of the Company not immediately required and in such manner as from time to time may be determined.
- (29) To procure the Company to be registered or recognised in any country or place.
- (30) 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 proving 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.
- (31) To do all or any of the above things in any part of the world as principals, agents, contractors, trustees, or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others.
- (32) To distribute any of the property of the Company in specie among the members.
- (33) To do all such other things as the Company may think incidental or conducive to the attainment of the above objects or any of them.

Note: It is hereby declared that the word "company" in this clause (except where it refers to this Company) shall be deemed to include any partnership or other body of persons, whether incorporated or not incorporated and whether formed in the Republic of Ireland or elsewhere, and the intention is that the objects specified in each paragraph of this clause shall, except where otherwise expressed in such paragraph, be in no ways limited or restricted by reference to, or inference from, the terms of any other paragraph and that, in the event of ambiguity, this Clause shall be construed in such a way as to widen, and not to restrict, the powers of the Company.

4. The liability of the members is limited.

5. The share capital of the Company is €4,999,999,999 divided into 16,666,333,323 ordinary shares of €0.30 each, 7 A ordinary shares of €0.30 each and 10,000,000 non-cumulative redeemable preference shares of €0.01 each.

We, the several persons whose names, and addresses are subscribed, wish to be formed into a Company in pursuance of this Memorandum of Association, and we agree to take the number of shares in the capital of the Company set opposite our respective names.

---

Names, Addresses and Descriptions of Subscribers	Number of Shares taken by each Subscriber.
Clearstream Banking AG Neue Börsenstrasse 1 D-60485 Frankfurt am Main Germany	Thirteen Thousand Three Hundred and Twenty Eight
Corporate Body	
Director/Authorised Signatory	
Christian Gehling Rechtsanwalt Freiligrathstrasse 1 D-40479 Düsseldorf Germany	One
Lawyer	
Achim Kirchfeld Rechtsanwalt Freiligrathstrasse 1 D-40479 Düsseldorf Germany	One
Lawyer	
Dr. Ralph Wollburg Rechtsanwalt Freiligrathstrasse 1	One

D-40479 Düsseldorf  
Germany

Witness to above signatures:  
Name: P Hanbach  
Address: 24 Rue de Vianden, Luxembourg

Lawyer

MFSD Holdings Limited  
2 Harbourmaster Place  
International Financial Services Centre  
Dublin 1

One

Limited liability company

Penny Pearce  
Authorised Signatory

MFSD Nominees Limited  
2 Harbourmaster Place  
International Financial Services Centre  
Dublin 1

One

Limited liability company

Penny Pearce  
Authorised Signatory

HMP Secretarial Limited  
2 Harbourmaster Place  
International Financial Services Centre  
Dublin 1

One

Limited liability company

Penny Pearce  
Authorised Signatory

---

Total Shares taken:

Thirteen Thousand Three Hundred  
and Thirty Four

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Dated 17 September 2001

Witness to the above signatures:

Name: Aisling Smyth  
Address: 2 Harbourmaster Place  
IFSC, Dublin 1

**COMPANIES ACTS, 1963 TO 2006**  
**A PUBLIC COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**DEPFA BANK public limited company**  
**(As adopted by special resolution passed on 29 September 2008)**

**PART I - PRELIMINARY**

**1. Table "A" not to apply**

No articles or similar regulations set out in any statute, or contained in any instrument made under any statute, concerning companies shall apply to the Company, but the following shall be the Articles of Association of the Company.

**2. Interpretation**

(a) In these Articles, unless the context otherwise requires, the following expressions shall have the following meanings:

(b) **the "Acts"** means the Companies Acts, 1963 to 2001;

**the "1963 Act"** means the Companies Act, 1963;

**the "1983 Act"** means the Companies (Amendment) Act, 1983;

**the "1990 Act"** means the Companies Act, 1990;

**"these Articles"** means these articles of association as originally adopted or as from time to time altered or varied (and **"Article"** means one of these Articles);

**the "Auditors"** means the auditors for the time being of the Company;

**"Business Day"** means a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in Dublin;

**the "Company"** means DEPFA BANK public limited company;

**"Clear Days"** means, in relation to the period of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

**"Depository"** means a custodian or other person (or a nominee for such custodian or other person) appointed under contractual arrangements with the

Company or other arrangements approved by the Directors whereby such custodian or other person or nominee holds or is interested in shares of the Company or rights or interests in shares of the Company and holds such shares or rights or interests in shares as a participant in, or operator of, a securities clearing system approved by the Directors for the purposes of these Articles and/or which issues securities or other documents of title or otherwise evidencing the entitlement of the holder thereof to or to receive such shares, rights or interests, provided and to the extent that such arrangements have been approved by the Directors for the purposes of these Articles, and shall include, where approved by the Directors, the trustees (acting in their capacity as such) of any employees' share scheme established by the Company or any other scheme or arrangement principally for the benefit of employees or those in the service of the Company and/or its subsidiaries or their respective businesses and the managers (acting in their capacity as such) of any investment or savings plan, which in each case the Directors have approved;

**the "Directors"** means the directors for the time being of the Company or those of them present at a duly convened meeting of directors of the Company at which a quorum is present, and **"Director"** means a director for the time being of the Company;

**the "Holder"** means, in relation to any share, the member whose name is entered in the Register as the holder of the share or, where the context permits, the members whose names are entered in the Register as the joint holders of the share;

**"Holding Company"** means any body holding more than half in nominal value of the equity share capital (as defined in section 155(5) of the 1963 Act) and of the shares in the Company carrying voting rights (other than voting rights which arise only in specified circumstances), which in the first instance shall be Hypo Real Estate Holding AG;

**"IFSRA"** means the Irish Financial Services Regulatory Authority as part of the Central Bank and Financial Services Authority of Ireland or such other national or supranational regulatory authority as may at the relevant time have responsibility for the regulation and supervision of banks in Ireland;

**"Junior Share Capital"** means the ordinary shares in the capital of the Company, together with any other securities or obligations expressed to rank junior to the Non-cumulative Euro Preference Shares, whether issued directly by the Company or by any Subsidiary or other entity benefiting from a guarantee or support agreement from the Company expressed to rank junior to the Non-cumulative Euro Preference Shares;

**"New Shares"** means Preference Shares or any further shares issued in the capital of the Company;

**the "Office"** means the registered office for the time being of the Company;

**"paid (up)"** means, in relation to a share, paid or credited as paid (up);

**“Parity Securities”** means any preference shares (other than the Non-cumulative Euro Preference Shares), preferred securities or other securities either (a) issued directly by the Company and ranking *pari passu* with the Non-cumulative Euro Preference Shares or (b) issued by any Subsidiary or other entity and entitled to the benefit of a guarantee or support agreement from the Company ranking *pari passu* with the Non-cumulative Euro Preference Shares;

**“Preference Shares”** means the Non-cumulative Euro Preference Shares, together with any other share in the capital of the Company which is expressed to rank as regards participation in the profits or assets of the Company in some or all respects *pari passu* therewith;

**the “Register”** means the register of members to be kept as required by the Acts;

**“Subsidiary”** means any entity which is for the time being a subsidiary or subsidiary undertaking of the Company within the meaning of the Acts;

**the “Seal”** means the common seal of the Company or (where relevant) the official securities seal kept by the Company pursuant to the Acts;

**the “Secretary”** means the secretary for the time being of the Company or any other person appointed to perform any of the duties of the secretary of the Company, including a joint, assistant or acting secretary;

**“share”** means any share (whether issued or unissued) in the capital of the Company;

**the “State”** means the Republic of Ireland;

**“Stock Exchange Nominee”** has the meaning given to such expression by section 1 of the Companies (Amendment) Act, 1977;

**“subsidiary undertaking”** has the meaning given to such expression by Regulation 4 of the European Communities (Companies: Group Accounts) Regulations, 1992;

**“TARGET Business Day”** means a day on which the Trans European Real-Time Gross Settlement Express Transfer (TARGET) System is operating;

**“undertaking”** means a person, body corporate, a partnership or an unincorporated body of persons engaged for gain in the production, supply or distribution of goods, the provision of a service or the making or holding of investments.

- (c) Expressions in these Articles referring to writing shall be construed, unless the contrary intention appears, as including references to printing, lithography, photography and any other modes of representing or reproducing words in a legible and non-transitory form. Expressions in these Articles referring to

execution of any document shall include any mode of execution whether under seal or under hand.

- (d) Unless specifically defined herein or the context otherwise requires, words or expressions defined in the Acts in force as at the date on which these Articles are adopted shall bear the same meaning in these Articles, except that the word "company" shall include any body corporate.
- (e) The headings and captions included in these Articles are inserted for convenience of reference only and shall not be considered a part of or affect the construction or interpretation of these Articles.
- (f) Unless the context otherwise requires, references in these Articles to any enactment or any section or provision thereof shall include any statutory modification or re-enactment thereof for the time being in force.
- (g) In these Articles, unless the context otherwise requires, words importing any gender shall include all genders, and the singular number shall include the plural, and vice versa, and words importing persons shall include firms or companies.
- (h) Unless the context otherwise requires, any reference in an Article to a paragraph or subparagraph shall be construed as a reference to a paragraph of that Article or (as the case may be) a subparagraph of the paragraph in which the reference is contained.
- (i) References in these Articles to "€" are references to euros.
- (j) References in these Articles to a "month" are to a calendar month.

### 3. **Form of resolution**

Subject to the Acts:

- (a) a special resolution shall be effective for any purpose for which an ordinary resolution is expressed to be required under the Acts or these Articles;
- (b) a resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting duly convened and held and if described as a special resolution shall be deemed to be a special resolution, and such resolution may consist of several documents in the like form each executed by one or more of the members.

## PART II - SHARE CAPITAL AND VARIATION OF RIGHTS

### 4. **Share capital**

- (a) *Authorised share capital*

The share capital of the Company is €4,999,999,999 divided into 16,666,333,323 ordinary shares of €0.30 each ("**ordinary shares**"), 7 A ordinary shares of €0.30 each ("**A ordinary shares**") and 10,000,000 non-cumulative redeemable preference shares of €0.01 each ("**Non-cumulative Euro Preference Shares**").

(b) *Non-cumulative Euro Preference Shares*

- (i) The Non-cumulative Euro Preference Shares shall rank *pari passu inter se* and with all other Preference Shares. They shall confer the rights and be subject to the restrictions set out in this Article 4(b) and shall also confer such further rights (not being inconsistent with the rights set out in this Article 4(b)) as may be attached by the Directors to such shares in accordance with this Article 4(b) prior to allotment. Whenever the Directors have power under this Article to determine any of the rights attached to any of the Non-cumulative Euro Preference Shares, the rights so determined need not be the same as those attached to the Non-cumulative Euro Preference Shares then allotted or in issue. The Non-cumulative Euro Preference Shares may be issued in one or more separate series, and each series shall be identified in such manner as the Directors may determine without any such determination or identification requiring any alteration to these Articles.
- (ii) Each Non-cumulative Euro Preference Share shall confer the following rights as to participation in the profits and assets of the Company, receipt of notices, attendance and voting at meetings and redemption:-

(A) *Income*

the right (subject to the provisions of paragraph (B) of this sub-Article, if applicable) to a non-cumulative preferential dividend payable in euro which shall be calculated at such rate or rates (whether fixed or variable) or on such other basis and shall be payable on such dates (each a "dividend payment date") in respect of such periods (each a "dividend period") and on such other terms and conditions as may be determined by the Directors prior to allotment thereof (including, if determined by the Directors, a term that such share shall rank for dividend as from a particular date either before or after the date of its issue). References in these Articles to a "dividend" on the Non-cumulative Euro Preference Shares include a reference to each dividend in respect of each dividend period applicable thereto and references in this Article 4(b) to dividend payment dates and dividend periods are to dividend payment dates and dividend periods in respect of the Non-

cumulative Euro Preference Shares only. Such dividends shall be paid in priority to the payment of any dividends on the ordinary shares. The Non-cumulative Euro Preference Shares shall rank for dividend *pari passu* with all other Preference Shares expressed to rank *pari passu* therewith as regards participation in profits and otherwise in priority to any other share capital in the Company.

(B) *Further provisions as to income*

all or any of the following provisions shall apply in relation to any particular Non-cumulative Euro Preference Shares if, and to the extent, so determined by the Directors prior to allotment thereof:-

- (1) if, in the opinion of the Directors, the distributable profits of the Company are sufficient to cover the payment in full of dividends on the Non-cumulative Euro Preference Shares on any dividend payment date, and also the payment in full of all other dividends stated to be payable on such date on any other Preference Share expressed to rank *pari passu* therewith as regards participation in profits, then each such dividend shall be declared and paid in full;
- (2) if, in the opinion of the Directors, the distributable profits of the Company are insufficient to cover the payment in full of dividends on the Non-cumulative Euro Preference Shares on any dividend payment date, and also the payment in full of all other dividends stated to be payable on such date on any other Preference Share expressed to rank *pari passu* therewith as regards participation in profits, then dividends shall be declared by the Directors *pro rata* for the Non-cumulative Euro Preference Shares and such other Preference Shares to the extent of the available distributable profits (if any) to the intent that the amount of dividend declared per share on each such Non-cumulative Euro Preference Share and other Preference Share will bear to each other the same ratio as the dividends accrued per share on each such Non-cumulative Euro Preference Share and other Preference Share bear to each other. If it shall subsequently appear that any such dividend which has been paid should not,

in accordance with the provisions of this sub-paragraph, have been so paid, then provided the Directors shall have acted in good faith, they shall not incur any liability for any loss which any shareholder may suffer in consequence of such payment having been made;

- (3) if, in the opinion of the Directors, the payment of any dividend on any Non-cumulative Euro Preference Shares (a) would or would be likely to breach or cause a breach of IFSRA's capital adequacy requirements applicable to the Company and/or any of its subsidiaries, or (b) would be prohibited by Irish banking regulations or other regulatory requirements applicable to the Company and/or any of its subsidiaries, then such dividend shall not be declared or paid to the extent that, in the opinion of the Directors, payment of such dividend would or would be likely to cause a breach of IFSRA's capital adequacy requirements applicable to the Company and/or any of its subsidiaries or, as the case may be, would be prohibited by Irish banking regulations or other regulatory requirements applicable to the Company and/or any of its subsidiaries;
- (4) if the Directors resolve no later than the tenth Business Day before a dividend payment date that no dividend on the Non-cumulative Euro Preference Shares shall be paid on that dividend payment date, then no dividend shall be declared or paid on the Non-cumulative Euro Preference Shares on that dividend payment date;
- (5) the Non-cumulative Euro Preference Shares shall carry no further right to participate in the profits of the Company and if and to the extent that any dividend or part thereof is on any occasion not paid for the reasons described in sub-paragraph (2), (3) or (4) above, the Holders of such shares shall have no claim in respect of such non-payment;
- (6) if any dividend or part thereof on any Non-cumulative Euro Preference Share is not payable for the reasons specified in sub-paragraph (2) or (3) above and if they so resolve, the Directors may, subject to the Acts, pay a special non-

cumulative preferential dividend on the Non-cumulative Euro Preference Shares at a rate not exceeding €0.01 per share (but so that reference elsewhere in this Article to any dividend payable on any Non-cumulative Euro Preference Shares shall not be treated as including a reference to any such special dividend);

- (7) if any date on which a dividend is payable on Non-cumulative Euro Preference Shares is not a TARGET Business Day, then payment of the dividend payable on such date will be made on the next succeeding TARGET Business Day and without any interest or other payment in respect of such delay;
- (8) dividends payable on Non-cumulative Euro Preference Shares shall accrue from and to the dates determined by the Directors prior to allotment thereof, and where a dividend is to be calculated in respect of any period shorter than a full dividend period the day count fraction will be the number of days in the relevant period from and including the date from which the dividend begins to accrue to but excluding the date on which it is payable divided by the number of days in the distribution period in which the relevant period of calculation falls;
- (9) if the dividend stated to be payable on the Non-cumulative Euro Preference Shares on the most recent dividend payment date has not been declared and paid in full, or if a sum has not been set aside to provide for such payment in full, no dividend or other distribution may be declared or paid on any Junior Share Capital, and no sum may be set aside for the payment thereof, unless, on the date of declaration relative to any such payment or on the date of payment, an amount equal to the dividend stated to be payable on the Non-cumulative Euro Preference Shares in respect of the then current dividend period is set aside for the payment in full of such dividend on the dividend payment date relating to the then current dividend period; and
- (10) if any dividend stated to be payable on the Non-cumulative Euro Preference Shares on any

dividend payment date has not been declared and paid in full, or if a sum has not been set aside to provide for such payment in full, no redemption or purchase of any Junior Share Capital or any Parity Securities may be made until such time as dividends stated to be payable on the Non-cumulative Euro Preference Shares in respect of successive dividend periods together aggregating no less than twelve months shall thereafter have been declared and paid in full.

(C) *Capital*

The right on a winding up or liquidation, voluntary or otherwise, other than (unless otherwise provided by the terms of issue of such share) a redemption or purchase by the Company of any shares of any class, to receive in euro out of the surplus assets of the Company available for distribution amongst the members:-

(1) FIRSTLY, and *pari passu* with the Holders of any other Preference Shares expressed to rank *pari passu* therewith as regards participation in profits and in priority to the Holders of the ordinary shares of the Company a sum equal to:-

(a) the amount of any dividend which is due for payment after the date of commencement of winding up or liquidation but which is payable in respect of a period ending on or before such date; and

(b) any further amount of dividend payable in respect of the period from the preceding dividend payment date to the date of payment in accordance with sub-paragraph (1);

but only to the extent that any such amount or further amount was, or would have been, payable as a dividend in accordance with or pursuant to this Article 4(b) (other than pursuant to this provision); and

(2) subject thereto, *pari passu* with the Holders of any other Preference Shares expressed to rank *pari passu* therewith as regards participation in surplus assets and in priority to the Holders of the ordinary shares of the Company, a sum equal to the amount paid up or credited as paid up on the Non-cumulative Euro Preference Shares (including any premium paid to the Company in respect thereof on issue).

If upon any such winding-up or liquidation, the amounts available for payment are insufficient to cover the amounts payable in full on the Non-cumulative Euro Preference Shares and on any other Preference

Shares expressed to rank *pari passu* therewith as regards participation in surplus assets, then the Holders of the Non-cumulative Euro Preference Shares and such other Preference Shares will share rateably in the distribution of surplus assets (if any) in proportion to the full respective preferential amounts to which they are entitled. No Non-cumulative Euro Preference Share shall confer any right to participate in the surplus assets of the Company other than that set out in this subparagraph (ii) (C) of this Article 4(b).

(D) *Receipt of Notice*

The right to have sent to the Holder of each Non-cumulative Euro Preference Share notice of any general meeting of the Company at which such Holder is entitled to attend and vote.

(E) *Attendance and Voting at Meetings*

The right to attend at a general meeting of the Company and to speak to or vote upon any resolution proposed thereat in the following circumstances:-

- (1) in respect of a resolution which is to be proposed at the meeting either varying or abrogating any of the rights attached to the Non-cumulative Euro Preference Shares or proposing the winding up of the Company (and then in each such case only to speak to and vote upon any such resolution);
- (2) in circumstances where the dividend stated to be payable on the Non-cumulative Euro Preference Shares in respect of such number of dividend periods as the Directors shall determine prior to allotment thereof has not been declared and paid in full, and until such date as the Directors shall likewise determine; and
- (3) in such other circumstances as the Directors may determine prior to allotment of the Non-cumulative Euro Preference Shares,

but not otherwise, together with the right, in such circumstances and on such terms, if any, as the Directors may determine prior to allotment of the Non-cumulative Euro Preference Shares, to seek to requisition a general meeting of the Company. Whenever Holders of Non-cumulative Euro Preference Shares are entitled to vote on a resolution, on a show of hands every such Holder who is present in person or by proxy shall have one vote (so, however, that no individual shall have more than one vote) and, on a poll, every such Holder who is present in person or by proxy shall have such number of votes as may be determined by the Directors prior to allotment of such Non-cumulative Euro Preference Shares.

(F) *Redemption*

- (1) Unless the Directors shall, prior to the allotment of any series of Non-cumulative Euro Preference Shares, determine that such series shall be non-redeemable, each series of Non-cumulative Euro Preference Shares shall, subject to the provisions of the Acts, be redeemable at the option of the Company in accordance with the following provisions.
- (2) In the case of any particular Non-cumulative Euro Preference Shares which are to be so redeemable:-
  - (a) such Non-cumulative Euro Preference Shares shall be redeemable during such period or periods or on such date or dates or in such circumstances as the Directors shall prior to allotment thereof determine,;
  - (b) there shall be paid on each Non-cumulative Euro Preference Share so redeemed, in euro, the aggregate of the nominal amount thereof together with any premium paid on issue and together with the arrears (if any) of dividends thereon (whether earned or declared or not) in respect of the period from the dividend payment date last preceding the redemption date to the redemption date;
  - (c) prior to allotment of such Non-cumulative Euro Preference Shares, the Directors shall determine whether the Company may redeem (i) all (but not merely some) of such shares or (ii) all or any of such shares, and the basis on which any necessary selection of such shares for redemption is to be made from time to time;
  - (d) the Company shall give to the Holders of the Non-Cumulative Euro Preference Shares to be redeemed not less than 30 days' and not more than 60 days' notice in writing of the date on which such redemption is to be effected. Such notice shall specify the redemption date and the place at which the certificates for such Non-Cumulative Euro Preference Shares are to be presented for redemption and upon such date each of such Holders shall be bound to deliver to the Company at such place the certificates for such of those Non-Cumulative Euro Preference Shares as are held by him. Upon such delivery, the Company shall pay to such Holder the amount due to him in respect of such redemption and shall cancel the certificates so delivered. If any such certificate includes any Non-Cumulative Euro Preference Shares not redeemable on that occasion, a

fresh certificate for such shares shall be issued to the Holder without charge upon cancellation of the existing certificate. All payments in respect of redemption monies will in all respects be subject to any applicable fiscal or other laws. No defect in the notice of redemption or in the giving thereof shall affect the validity of the redemption proceedings;

- (e) as from the relevant redemption date the dividend on the Non-cumulative Euro Preference Shares due for redemption shall cease to accrue except on any such Non-cumulative Euro Preference Share in respect of which, upon the due delivery of the certificate in accordance with sub-paragraph (d) above, payment of the redemption monies due on such redemption date shall be improperly withheld or refused, in which case such dividend, at the rate then applicable, shall be deemed to have continued and shall accordingly continue to accrue from the relevant redemption date to the date of payment of such redemption monies. Such Non-cumulative Euro Preference Share shall not be treated as having been redeemed until the redemption monies in question together with the accrued dividend thereon shall have been paid;
  - (f) if the due date for the payment of the redemption monies on any Non-cumulative Euro Preference Share is not a TARGET Business Day then payment of such monies will be made on the next succeeding day which is a TARGET Business Day and without any interest or other payment in respect of such delay; and
  - (g) the receipt of the Holder for the time being of any Non-cumulative Euro Preference Share (or in the case of joint Holders the receipt of any one of them) in respect of the monies payable on redemption on such Non-cumulative Euro Preference Share shall constitute an absolute discharge to the Company.
- (3) Upon redemption of any Non-cumulative Euro Preference Share or Shares, the Directors may (pursuant to the authority given by the passing of the resolution to adopt these Articles) consolidate and divide and/or sub-divide the authorised preference share capital existing as a consequence of such redemption into shares of any other class of share capital into which the authorised share capital of the Company is or may at that time be divided of a like nominal amount (as nearly as may be) and in the same currency as the Non-cumulative Euro Preference Share(s) so redeemed or into unclassified shares of the same nominal amount and in the same currency as the Non-cumulative Euro

Preference Share(s) so redeemed (and so that the provisions of Article 45 shall, where relevant, apply to any such consolidation and division or sub-division).

- (iii) (A) Save with the written consent of the Holders of three-quarters in nominal value of, or with the sanction of a special resolution passed at a separate general meeting of the Holders of, the Non-cumulative Euro Preference Shares, the Directors shall not authorise or create, or increase the amount of, any shares of any class or any security convertible into shares of any class ranking as regards rights to participate in the profits or assets of the Company (other than on a redemption or purchase by the Company of any such shares) in priority to the Non-cumulative Euro Preference Shares;
- (B) The special rights attached to any series of Non-cumulative Euro Preference Shares allotted or in issue shall not (unless otherwise provided by their terms of issue) be deemed to be varied by the creation or issue of any New Shares ranking as regards participation in the profits or assets of the Company in some or all respects *pari passu* with or after such Non-cumulative Euro Preference Shares. Any New Shares ranking *pari passu* with such Non-cumulative Euro Preference Shares in some or all respects may without their creation or issue being deemed to vary the special rights attached to any Non-cumulative Euro Preference Share then in issue either carry rights identical in all respects with such Non-cumulative Euro Preference Shares or any of them or rights differing therefrom in any respect, including, but without limitation, in that:-
  - (1) the rate of or means of calculating the dividend may differ and the dividend may be cumulative or non-cumulative;
  - (2) the New Shares or any series thereof may rank for dividend as from such date as may be provided by the terms of issue thereof and the periods by reference to which the dividend is payable and the dates for payment of dividend may differ;
  - (3) the New Shares may be denominated in euro or in any other lawful currency;
  - (4) a premium may be payable on return of capital or there may be no such premium;

- (5) the New Shares may be redeemable at the option of the Holder or of the Company, or may be non-redeemable or may be redeemable at different dates and on different terms from those applying to the Non-cumulative Euro Preference Shares; and
- (6) the New Shares may be convertible into ordinary shares or any other class of shares ranking as regards participation in the profits and assets of the Company *pari passu* with or after such Non-cumulative Euro Preference Shares in each case on such terms and conditions as may be prescribed by the terms of issue thereof.

(c) ***A ordinary shares***

The A ordinary shares shall rank *pari passu* in all respects with the ordinary shares, except that:

- (i) the Holders of the A Ordinary Shares shall not be entitled to receive notice of, nor to attend, speak or vote at any general meeting of the Company; and
- (ii) the Company shall have irrevocable authority at any time:
  - (A) to acquire all or any of the fully paid A ordinary shares otherwise than for valuable consideration in accordance with Section 41(2) of the 1983 Act and without obtaining the sanction of the Holders;
  - (B) to appoint any person to execute on behalf of all the Holders of the A ordinary shares a transfer thereof and/or agreement to transfer the same, without making any payment or obtaining the consent or sanction of the Holders, to the Company or to such other person or persons as the Company may nominate
  - (C) to cancel any acquired A ordinary shares; and
  - (D) pending such acquisition and/or transfer and/or cancellation to retain the certificate (if any) for such shares.

Neither the acquisition by the Company otherwise than for valuable consideration of all or any of the A ordinary shares nor the cancellation thereof by the Company in accordance with this Article shall constitute

a variation or abrogation of the rights or privileges attached to the A ordinary shares, and accordingly the A ordinary shares or any of them may be so acquired and cancelled without any such consent or sanction on the part of the Holders thereof as is referred to in Article 8. The rights conferred upon the Holders of the A ordinary shares shall not be deemed to be varied or abrogated by the creation of further shares ranking in priority thereto or pari passu therewith.

**5. Rights of shares on issue**

Without prejudice to any special rights conferred on the Holders of any existing shares or class of shares and subject to the provisions of the Acts, any share may be issued with such rights or restrictions (whether as regards dividends, return of capital, voting or otherwise) as the Company may from time to time by ordinary resolution determine.

**6. Redeemable shares**

Subject to the provisions of the Acts, any shares may be issued on terms that they are, or are liable at the option of the Company or the Holder, to be redeemed on such terms and in such manner as may be provided by these Articles, and the Company may convert any of its shares into redeemable shares. Subject as aforesaid, the Company may cancel any shares which it has redeemed or may hold them as treasury shares and re-issue any such treasury shares as shares of any class or classes or cancel them.

**7. Allotment of shares**

- (a) Subject to the provisions of the Acts and of any resolution of the Company in general meeting, the shares shall be at the disposal of the Directors who may allot (with or without conferring a right of renunciation), grant options over or otherwise dispose of them to such persons, on such terms and conditions and at such times as they may consider to be in the best interests of the Company and its shareholders, but so that no share shall be allotted at a discount and so that, except in the case of shares allotted pursuant to an employees' share scheme, the amount payable on application on each share shall not be less than one-quarter of the nominal amount of the share and the whole of any premium thereon.
- (b) Without limiting the powers conferred on the Directors by paragraph (a) and the powers and rights of the Directors under or in connection with any share option schemes or arrangements which were adopted or entered into by the Company prior to the adoption of these Articles, the Directors may from time to time grant options to subscribe for the unallotted shares in the capital of the Company to persons in the employment of the Company or any subsidiary of the Company (including directors holding executive offices) on such terms and subject to such conditions as the members of the Company in general meeting may from time to time approve.
- (c) The Company may issue a warrant or certificate to any person to whom the Company has granted the right to subscribe for shares in the Company (other

than under a share option scheme for employees), certifying the right of the registered holder thereof to subscribe for shares in the Company upon such terms and conditions as the right may have been granted.

#### 8. **Variation of rights**

- (a) Whenever the share capital is divided into different classes of shares, the rights attached to any class may be varied or abrogated with the consent in writing of the Holders of three-fourths in nominal value of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting of the Holders of the shares of the class, and may be so varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding-up. To every such separate general meeting the provisions of these Articles relating to general meetings shall apply except that the quorum at any such separate general meeting, other than an adjourned meeting, shall be two persons holding or representing by proxy at least one-third in nominal value of the issued shares of the class in question and the quorum at an adjourned meeting shall be one person holding shares of the class in question or his proxy.
- (b) The rights conferred upon the Holders of the shares of any class shall not, unless otherwise expressly provided by these Articles or the terms of the issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith or subordinate thereto or by the purchase or redemption by the Company of any of its shares.

#### 9. **Trusts not recognised**

Except as required by law, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as by these Articles or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the Holder but this shall not preclude the Company from requiring the members or a transferee of shares to furnish the Company with information as to the beneficial ownership of any share when such information is reasonably required by the Company.

#### 10. **Disclosure of interests**

- (a)
  - (i) For the purposes of this Article, unless the context otherwise requires:-  
  
**"Deemed Voting Concert Party Interest"** means an agreement or arrangement between two or more persons with respect to, or to the exercise of, voting rights attaching to shares and which is likely to result in those rights being exercised so as to influence or to control the policy of the Company or the management of its affairs which the Directors have deemed to be a Deemed Voting Concert Party Interest for the purposes of this Article and, where the Directors so resolve, each of the persons who is party to such agreement or arrangement

shall be deemed (for the purposes of this Article) to be interested in all the shares to which the voting rights in question are attached and, in this definition, references to an arrangement include references to an understanding or mutual expectation, whether formal or informal and whether or not legally binding;

**"Disclosure Notice"** means a notice served pursuant to paragraph (b);

**"Interest"** means an interest (of any size) in the Relevant Share Capital which would be taken into account in deciding whether a notification to the Company would be required under Chapter 2 of Part IV of the 1990 Act but shall include: (A) the interests referred to in section 78(1)(a) and (c) of the 1990 Act except those of a bare trustee, and (B) any Deemed Voting Concert Party Interest; and **"interested"** shall be construed accordingly;

**"Relevant Share Capital"** means the relevant share capital of the Company (as that expression is defined in section 67(2) of the 1990 Act);

**"share"** means any share in the Relevant Share Capital;

- (ii) For the purposes of this Article, a person, other than the Holder of a share, shall be treated as appearing to be or to have been interested in that share if the Holder has informed the Company that the person is, or may be, or has been, or may have been, so interested, or if the Company (after taking account of any information obtained from the Holder or, pursuant to a notice under section 81 of the 1990 Act, from anyone else) knows or has reasonable cause to believe that the person is, or may be, or has been, or may have been, so interested.
- (b) If in their absolute discretion the Directors consider it to be in the interests of the Company to do so, they may, at any time and from time to time, by notice require any Holder of a share, or any other person appearing to be interested or to have been interested in such share, to disclose to the Company in writing within such period as may be specified in such notice (which shall not be less than 28 days from the date of issue of such notice) such information as the Directors shall require relating to the ownership of or any Interest in such share and as lies within the knowledge of such Holder or other person (supported if the Directors so require by a statutory declaration and/or by independent evidence) including (without limitation) any information which the Company is entitled to seek pursuant to section 81 of the 1990 Act.
- (c) Where a Disclosure Notice is served on the Holder of a share and such Holder is a Depository acting in its capacity as such, the obligations of the Depository as a Holder pursuant to this Article shall be limited to disclosing to the Company in accordance with this Article such information relating to the ownership of or Interests in the share concerned as has been recorded by it pursuant to the terms entered into between the Depository and the Company provided that nothing in this Article shall in any other way restrict the powers of the Directors under this Article.

- (d) The Directors may give any number of Disclosure Notices pursuant to paragraph (b) to the same Holder or other person in respect of the same share.
- (e) The Directors may serve notice pursuant to the terms of this Article irrespective of whether or not the person on whom it shall be served may be dead, bankrupt, insolvent or otherwise incapacitated and no such incapacity or any unavailability of information or inconvenience or hardship in obtaining the same shall be a satisfactory reason for failure to comply with any such notice, provided that if the Directors in their absolute discretion think fit, they may waive compliance in whole or in part with any notice given under this Article in respect of a share in any case of bona fide unavailability of information or genuine hardship or where they otherwise think fit but no such waiver shall prejudice or affect in any way any non-compliance not so waived whether by the person concerned or any other person appearing to the Directors to be interested in the share or by any person to whom a notice may be given at any time.
- (f) Any resolution or determination of, or decision or exercise of any discretion or power by, the Directors under or pursuant to the provisions of this Article shall be final and conclusive and things done by or on behalf of, or on the authority of, the Directors pursuant to the foregoing provisions of this Article shall be conclusive and binding on all persons concerned and shall not be open to challenge, whether as to validity or otherwise on any ground whatsoever. The Directors shall not be required to give any reasons for any decisions, determination or declaration taken or made in accordance with this Article.
- (g) The provisions of this Article are in addition to, and shall not limit, any other right or power of the Company or the Directors, including any right or power vested in the Company or the Directors by the Acts.

#### **11. Payment of commission**

The Company may exercise the powers of paying commissions conferred by the Acts. Subject to the provisions of the Acts, any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other. On any issue of shares the Company may also pay such brokerage as may be lawful.

#### **12. Payment by instalments**

If by the conditions of allotment of any share the whole or part of the amount or issue price thereof shall be payable by instalments, every such instalment when due shall be paid to the Company by the person who for the time being shall be the Holder of the share.

### **PART III - SHARE CERTIFICATES**

**13. Issue of certificates**

Every person whose name is entered as a member in the Register (except a Stock Exchange Nominee in respect of whom the Company is not by law required to complete and have ready for delivery a certificate) shall be entitled without payment to receive within two months after allotment or lodgement of a transfer to him of the shares in respect of which he is so registered (or within such other period as the conditions of issue shall provide) one certificate for all the shares of each class held by him provided that the Company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint Holder shall be a sufficient delivery to all of them. The Company shall not be bound to register more than four persons as joint Holders of any share (except in the case of executors or trustees of a deceased member). Every certificate shall be sealed with the Seal and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up thereon.

**14. Balance and exchange certificates**

- (a) Where some only of the shares comprised in a share certificate are transferred the old certificate shall be cancelled and a new certificate for the balance of such shares shall be issued in lieu without charge.
- (b) Any two or more certificates representing shares of any one class held by any member at his request may be cancelled and a single new certificate for such shares issued in lieu without charge, unless the Directors otherwise determine. If any member shall surrender for cancellation a share certificate representing shares held by him and request the Company to issue in lieu two or more share certificates representing such shares in such proportions as he may specify, the Directors may comply, if they think fit, with such request.

**15. Replacement of certificates**

If a share certificate is defaced, worn out, lost, stolen or destroyed, it may be replaced on such terms (if any) as to evidence and indemnity and payment of any exceptional expenses incurred by the Company in investigating evidence or in relation to any indemnity as the Directors may determine but otherwise free of charge, and (in the case of defacement or wearing out) on delivery up of the old certificate.

**PART IV - LIEN ON SHARES**

**16. Extent of lien**

The Company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share. The Directors, at any time, may declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien on a share shall extend to all moneys payable in respect of the share.

17. **Power of sale**

The Company may sell in such manner as the Directors determine any share on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within 14 days after notice demanding payment and stating that, if the notice is not complied with, the shares may be sold, has been given to the Holder of the share or to the person entitled to it by reason of the death or bankruptcy of the Holder.

18. Notwithstanding any other provision of these Articles, the Company's first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share and the extension of that lien to all moneys payable in respect of that share shall not apply where any such shares have been mortgaged or charged by way of security in which event such lien shall rank behind any such security.

19. **Power to effect transfer**

To give effect to any such sale, the Directors may authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser. The transferee shall be entered in the Register as the Holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase moneys nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale, and after the name of the transferee has been entered in the Register, the remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

20. **Proceeds of sale**

The net proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable and any residue (upon surrender to the Company for cancellation of the certificate for the shares sold and subject to a like lien for any moneys not presently payable as existed upon the shares before the sale) shall be paid to the person entitled to the shares at the date of the sale.

PART V - CALLS ON SHARES

21. **Making of calls**

Subject to the terms of allotment, the Directors may make calls upon the members in respect of any moneys unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and each member (subject to receiving at least 14 days' notice specifying when and where payment is to be made) shall pay to the Company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may be revoked, before receipt by the Company of a sum due thereunder, in whole or in part and payment of a call may be postponed by the Directors in whole or in part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect of which the call was made.

**22. Time of call**

A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.

**23. Liability of joint Holders**

The joint Holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

**24. Interest on calls**

If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due until it is paid at the rate fixed by the terms of allotment of the share or in the notice of the call or, if no rate is fixed, at such rate, not exceeding 20 per cent. per annum, as the Directors may determine but the Directors may waive payment of such interest wholly or in part.

**25. Sums due on allotment treated as calls**

An amount payable in respect of a share on allotment or at any fixed date, whether in respect of nominal value of the share or by way of premium or as an instalment of a call, shall for all purposes of these Articles be deemed to be a call duly made and, if it is not paid, the provisions of these Articles shall apply as if that amount had become due and payable by virtue of a call.

**26. Power to differentiate**

Subject to the terms of allotment, the Directors may make arrangements on the issue of shares for a difference between the Holders in the amounts and times of payment of calls on their shares.

**27. Interest on moneys advanced**

The Directors, if they think fit, may receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may pay (until the same would, but for such advance, become payable) interest at such rate, not exceeding (unless the Company in general meeting otherwise directs) 10 per cent per annum, as may be agreed upon between the Directors and the member paying such sum in advance; but any sum paid in excess of the amount for the time being called shall not be included or taken into account in ascertaining the amount of the dividend payable on the shares in respect of which such advance has been made.

**28. Evidence of debt**

On the trial or hearing of any action for the recovery of any money due for any call it shall be sufficient to prove that the member sued is the Holder, or one of the Holders, of the shares in respect of which such debt accrued, that the resolution making the call is duly recorded in the minute book and that notice of such call was duly given to the member sued, in pursuance of these Articles, and it shall not be necessary to prove the

appointment of the Directors who made such call nor any other matter whatsoever, but the proof of the matters aforesaid shall be conclusive evidence of the debt.

## PART VI - FORFEITURE OF SHARES

### 29. **Notice requiring payment**

- (a) If a member fails to pay any call or instalment of a call on or before the day appointed for payment thereof, the Directors may, at any time thereafter during such times as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued.
- (b) The notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
- (c) If the requirements of any such notice as aforesaid are not complied with, any shares in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect. A forfeiture of shares shall include all dividends and other moneys payable in respect of the forfeited shares and not paid before forfeiture. The Directors may accept a surrender of any share liable to be forfeited hereunder. In such case, references in these Articles to forfeiture shall include surrender.

### 30. **Power of disposal**

Until cancelled in accordance with the requirements of the Acts, a share so forfeited shall become the property of the Company (but the Company shall not exercise any rights vested in the share) and may be sold, re-allotted or otherwise disposed of either to the person who was before such forfeiture the Holder or entitled thereto or to any other person upon such terms and in such manner as the Directors think fit and at any time before a sale, re-allotment or disposition the forfeiture may be annulled by the Directors on such terms as they think fit. The Directors may, if necessary, authorise some person to transfer a forfeited share to any such other person as aforesaid.

### 31. **Effect of forfeiture**

A person any of whose shares have been forfeited shall cease to be a member in respect of the forfeited shares but shall nevertheless remain liable to pay to the Company all moneys which, at the date of forfeiture, were payable by him to the Company in respect of the shares, together with interest at the rate at which interest was payable on those moneys before forfeiture or, if no interest was payable, at such rate (not exceeding 20 per cent per annum) as the Directors shall think fit from the date of forfeiture until payment, and to satisfy all claims and demands (if any) which the Company might have enforced in respect of the shares at the time of forfeiture without any deduction or allowance for the value of the shares at the time of forfeiture. Such liability shall cease if and when the Company shall have received

payment in full of all such moneys in respect of the shares, together with interest as aforesaid. The Directors may, if they think fit, waive the payment of such interest or any part thereof.

**32. Statutory declaration**

A statutory declaration that the declarant is a Director or the Secretary of the Company, and that a share in the Company has been duly forfeited or sold to satisfy a lien of the Company on the date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. Such declaration and the receipt of the Company for the consideration (if any) given for the share on the sale, re-allotment or disposal thereof together with the share certificate delivered to a purchaser or allottee thereof shall (subject to the relevant share transfer being made if the same is required) constitute a good title to the share and the person to whom the share is sold, re-allotted or disposed of or any renounee thereof shall be registered as the Holder of the share and shall not be bound to see to the application of the consideration (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, re-allotment or disposal of the share.

**33. Non-payment of sums due on share issues**

The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

**PART VII - TRANSFER OF SHARES**

**34. Form of instrument of transfer**

Subject to such of the restrictions of these Articles and to such of the conditions of issue as may be applicable, the shares of any member may be transferred by instrument in writing in any usual or common form or any other form which the Directors may approve.

**35. Execution of instrument of transfer**

The instrument of transfer of any share shall be executed by or on behalf of the transferor and, in cases where the share is not fully paid, by or on behalf of the transferee. The transferor shall be deemed to remain the Holder of the share until the name of the transferee is entered in the Register in respect thereof.

**36. Refusal to register transfers**

- (a) The Directors in their absolute discretion and without assigning any reason therefor may decline to register any transfer, or renunciation of a renounceable letter of allotment, of a share which is not fully paid.
- (b) The Directors may decline to recognise any instrument of transfer, or renunciation of a renounceable letter of a allotment, of any shares unless:

- (i) it is lodged at the Office or at such other place as the Directors may appoint and is accompanied by the certificate of the shares to which it relates (except in the case of a transfer by a Stock Exchange Nominee where no certificate has been issued in respect of the shares in question or in the case of a renunciation) and such other evidence as the Directors may reasonably require to prove the title of the transferor or person renouncing and the due execution of the transfer or renunciation by him or, if the transfer or renunciation is executed by some other person on his behalf, the authority of that person to do so;
- (ii) it is in respect of one class of share only;
- (iii) and it is in favour of not more than four persons jointly.

**37. Procedure on refusal**

If the Directors refuse to register a transfer of shares then, within two months after the date on which the transfer was lodged with the Company, they shall send to the transferee notice of the refusal.

**38. Notwithstanding anything contained in these Articles, the Directors shall promptly register any transfer of shares and may not suspend registration thereof where such transfer:**

- (i) is to the bank or institution to which such shares have been charged by way of security, whether as agent and trustee for a group of banks or institutions or otherwise, or to any nominee or any transferee of such a bank or institution (a “Secured Institution”); or
- (ii) is delivered to the Company for registration by a Secured Institution or its nominee in order to register the Secured Institution as legal owner of the shares; or
- (iii) is executed by a Secured Institution or its nominee pursuant to the power of sale or other power under such security,

and furthermore, notwithstanding anything to the contrary contained in these Articles or in any agreement or arrangement applicable to any shares in the Company, no transferor or proposed transferor of any such shares to a Secured Institution or its nominee and no Secured Institution or its nominee (each a “Relevant Person”), shall be subject to, or obliged to comply with, any rights of pre-emption contained in these Articles or any such agreement or arrangement nor shall any Relevant Person be otherwise required to offer the shares which are or are to be the subject of any transfer as aforesaid to the shareholders for the time being of the Company or any of them, and no such shareholder shall have any right under the Articles or otherwise howsoever to require such shares to be transferred to them whether for consideration or not. No resolution shall be proposed or passed the effect of which would be to delete or amend this regulation unless not less than 45 days’ written notice thereof shall have been given to any such Secured Institution by the Company.

39. **Closing of transfer books**

The registration of transfers of shares or of transfers of any class of shares may be suspended at such times and for such periods (not exceeding 30 days in each year) as the Directors may determine.

40. **Absence of registration fees**

No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any share.

41. **Retention of transfer instruments**

The Company shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the Directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.

42. **Renunciation of allotment**

Nothing in these Articles shall preclude the Directors from recognising a renunciation of the allotment of any shares by the allottee in favour of some other person.

PART VIII - TRANSMISSION OF SHARES

43. **Death of member**

If a member dies the survivor or survivors where he was a joint Holder, and his personal representatives where he was a sole Holder or the only survivor of joint Holders, shall be the only persons recognised by the Company as having any title to his interest in the shares; but nothing herein contained shall release the estate of a deceased member from any liability in respect of any share which had been jointly held by him.

44. **Transmission on death or bankruptcy**

A person becoming entitled to a share in consequence of the death or bankruptcy of a member may elect, upon such evidence being produced as the Directors may properly require, either to become the Holder of the share or to have some person nominated by him registered as the transferee. If he elects to become the Holder he shall give notice to the Company to that effect. If he elects to have another person registered he shall execute an instrument of transfer of the share to that person. All of these Articles relating to the transfer of shares shall apply to the notice or instrument of transfer as if it were an instrument of transfer executed by the member and the death or bankruptcy of the member had not occurred.

45. **Rights before registration**

A person becoming entitled to a share by reason of the death or bankruptcy of a member (upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the share) shall have the rights to which he would be entitled if he were the Holder of the share, except that, before being

registered as the Holder of the share, he shall not be entitled in respect of it to attend or vote at any meeting of the Company or at any separate meeting of the Holders of any class of shares in the Company, so, however, that the Directors, at any time, may give notice requiring any such person to elect either to be registered himself or to transfer the share and, if the notice is not complied with within 90 days, the Directors thereupon may withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

#### PART IX - ALTERATION OF SHARE CAPITAL

##### 46. **Increase of capital**

- (a) The Company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.
- (b) Except so far as otherwise provided by the conditions of issue or by these Articles, any capital raised by the creation of new shares shall be considered part of the pre-existing ordinary capital and shall be subject to the provisions herein contained with reference to calls and instalments, transfer and transmission, forfeiture, lien and otherwise.

##### 47. **Consolidation, sub-division and cancellation of capital**

- (a) The Company may, by ordinary resolution:
  - (i) consolidate and divide all or any of its share capital into shares of larger amount;
  - (ii) subject to the provisions of the Acts, subdivide its shares, or any of them, into shares of smaller amount, so however that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived (and so that the resolution whereby any share is sub-divided may determine that, as between the Holders of the shares resulting from such sub-division, one or more of the shares may have, as compared with the others, any such preferred, deferred or other rights or be subject to any such restrictions as the Company has power to attach to unissued or new shares); or
  - (iii) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and reduce the amount of its authorised share capital by the amount of the shares so cancelled.
- (b) Subject to the provisions of these Articles, whenever as a result of a consolidation or subdivision of shares any members would become entitled to fractions of a share, the Directors may deal with such fractions as they shall determine and in particular they may sell, on behalf of those members, the shares representing the fractions for the best price reasonably obtainable to

any person and distribute the proceeds of sale in due proportion among those members (save that the Directors may in such event determine that amounts of €2.50 or less shall not be so distributed but shall be retained for the benefit of the Company), and the Directors may authorise some person to execute an instrument of transfer of the shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

**48. Reduction of capital**

The Company may, by special resolution, reduce its share capital, any capital redemption reserve fund, any share premium account or any capital conversion reserve fund in any manner and with, and subject to, any incident authorised, and consent required, by law. Unless otherwise provided by the terms of issue, the rights attached to any Preference Share shall not be deemed to be varied or abrogated by a reduction of any share capital ranking as regards participation in the profits and assets of the Company *pari passu* with or postponed to such Preference Share.

**49. Purchase of own shares**

Subject to the provisions of the Acts and to any rights conferred on the Holders of any class of shares, the Company may purchase all or any of its own shares of any class, including any redeemable shares, by off-market purchase or market purchase on any stock exchange, as may be prescribed for these purposes in accordance with the Acts. Neither the Company nor the Directors shall be required to select the shares to be purchased rateably or in any other particular manner as between the Holders of shares of the same class or as between them and the Holders of shares of any other class or in accordance with the rights as to dividends or capital conferred by any class of shares. Subject to the provisions of the Acts, the Company may cancel any shares so purchased or may hold them as treasury shares and re-issue any such treasury shares as shares of any class or classes or cancel them. For these purposes, “off-market purchase” and “market purchase” have respectively the meanings ascribed to those terms by section 212 of the 1990 Act.

## PART X - GENERAL MEETINGS

**50. Annual general meetings**

The Company shall hold in each year 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 notice calling it. Not more than 15 months shall elapse between the date of one annual general meeting and that of the next.

**51. Extraordinary general meetings**

All general meetings other than annual general meetings shall be called extraordinary general meetings.

**52. Convening general meetings**

The Directors may convene general meetings. Extraordinary general meetings may also be convened on such requisition, or in default may be convened by such requisitionists, and in such manner as may be provided by the Acts.

**53. Notice of general meetings**

- (a) Subject to the provisions of the Acts allowing a general meeting to be called by shorter notice, an annual general meeting and an extraordinary general meeting for the passing of a special resolution shall be called by at least 21 Clear Days' notice and all other extraordinary general meetings shall be called by at least 14 Clear Days' notice.
- (b) Any notice convening a general meeting shall specify the time and place of the meeting and, in the case of special business, the general nature of that business and, in reasonable prominence, that a member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote in his place and that a proxy need not be a member of the Company. It shall also give particulars of any Directors who are to retire at the meeting and of any persons who are recommended by the Directors for appointment or re-appointment as Directors at the meeting, or in respect of whom notice has been duly given to the Company of the intention to propose them for appointment or re-appointment as Directors at the meeting. Subject to any restrictions imposed on any shares, the notice shall be given to all the members and to the Directors and the Auditors.
- (c) 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.

**PART XI - PROCEEDINGS AT GENERAL MEETINGS**

**54. Quorum for general meetings**

- (a) No business other than the appointment of a chairman shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Two persons entitled to attend and to vote upon the business to be transacted, each being a member or a proxy for a member, shall be a quorum.
- (b) If such a quorum is not present within half an hour from the time appointed for the meeting, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case 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.

**55. Special business**

All business shall be deemed special that is transacted at an extraordinary general meeting. All business that is transacted at an annual general meeting shall also be

deemed special, with the exception of declaring a dividend, the consideration of the accounts, balance sheets and reports of the Directors and Auditors, the appointment of Directors in the place of those retiring, the fixing of the remuneration of the Directors, the re-appointment of the retiring Auditors and the fixing of the remuneration of the Auditors.

**56. Chairman of general meetings**

- (a) The chairman (if any) or, in his absence, the deputy chairman (if any) of the board of Directors or, in his absence, some other Director appointed by the Directors for the purpose shall preside as chairman at every general meeting of the Company. If there is no chairman or deputy chairman of the board of Directors and no Director has been so appointed or if none of such persons shall be present within five minutes after the time appointed for the holding of the meeting and willing to act, the Directors present shall elect one of their number to be chairman of the meeting and, if there is only one Director present and willing to act, he shall be chairman. If at any meeting no Director is present, and willing to act as chairman of the meeting, within 15 minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of the members personally present to be chairman of the meeting.
- (b) The chairman shall take such action as he thinks fit to promote the orderly conduct of general meetings. The decision of the chairman on points of order, matters of procedure or matters arising incidentally out of the business of the meeting shall be final and conclusive, as shall be, subject to his acting in good faith, his determination whether any point or matter is of such a nature. Without limiting the above, if an amendment proposed to any resolution under consideration is in good faith ruled out of order by the chairman, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling. Where the text of an ordinary resolution has been set out in full in the notice of general meeting, no amendment to that ordinary resolution shall be considered, except at the discretion of the chairman, unless notice executed by a member qualified to vote at the meeting has been given to the Company of the intention to propose that amendment not less than 48 hours before the time appointed for the holding of the meeting.

**57. Directors' right to attend general meetings**

A Director (and any other person invited by the Chairman to do so) shall be entitled, notwithstanding that he is not a member, to attend and speak at any general meeting and at any separate meeting of the Holders of any class of shares in the Company.

**58. Adjournment of general meetings**

- (a) The chairman, with the consent of a general meeting at which a quorum is present, may (and if so directed by the meeting, shall) adjourn the meeting to another time or place or indefinitely. The chairman may at any time without the consent of the meeting adjourn the meeting to another time or place or indefinitely if it appears to the chairman that:-

- (i) the number of persons present or wishing to attend cannot be conveniently accommodated in the place appointed for the meeting; or
- (ii) the behaviour of any persons attending the meeting prevents or is likely to prevent the orderly conduct of the business of the meeting; or
- (iii) an adjournment is otherwise necessary so that the business of the meeting may be properly conducted.

No business shall be transacted at any adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place.

- (b) Where a meeting is adjourned indefinitely, the time and place for the adjourned meeting shall be fixed by the Directors. When a meeting is adjourned for 14 days or more or indefinitely, at least seven Clear Days' notice shall be given specifying the time and place for the adjourned meeting and the general nature of the business to be transacted. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## PART XII – VOTING

### 59. **Determination of resolutions**

If a resolution is put to vote at a general meeting, it shall be decided on a show of hands unless, before or on the declaration of the result of the show of hands, a poll is duly demanded. Unless a poll is so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn before the poll is taken but only with the consent of the chairman, and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.

### 60. **Entitlement to demand poll**

Subject to the provisions of the Acts, a poll may be demanded:

- (a) by the chairman of the meeting;
- (b) by any member present (in person or by proxy) having the right to vote at the meeting;
- (c) by any member or members present (in person or by proxy) representing not less than one-tenth of the total rights of all the members having the right to vote at the meeting; or

- (d) by a member or members present (in person or by proxy) holding shares in the Company conferring the right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.

#### **61. Taking of a poll**

- (a) Save as provided in paragraph (b), a poll shall be taken in such manner as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- (b) A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time (not being more than 30 days after the date on which the poll is demanded) and place as the chairman of the meeting may direct. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- (c) No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven Clear Days' notice shall be given specifying the time and place at which the poll is to be taken.

#### **62. Votes of members**

Votes may be given either personally or by proxy. Subject to any rights or restrictions for the time being attached to any class or classes of shares and subject to any suspension or abrogation of rights pursuant to these Articles, on a show of hands every member present in person and every proxy shall have one vote, so, however, that no individual shall have more than one vote, and on a poll every member shall have one vote for every share carrying rights of which he is the Holder. On a poll a member entitled to more than one vote need not cast all his votes or cast all the votes he uses in the same way.

#### **63. Voting by joint Holders**

Where there are joint Holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, in respect of such share shall be accepted to the exclusion of the votes of the other joint Holders; and for this purpose seniority shall be determined by the order in which the names of the Holders stand in the Register in respect of the share.

#### **64. Voting by incapacitated Holders**

A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction (whether in the State or elsewhere) in matters concerning

mental disorder, may vote, whether on a show of hands or on a poll, by his committee, receiver, guardian or other person appointed by that court and any such committee, receiver, guardian or other person may vote by proxy on a show of hands or on a poll provided that evidence to the satisfaction of the Directors of the authority of the person claiming to exercise the right to vote shall be deposited at the Office, or at such other place as is specified in accordance with these Articles for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.

**65. Default in payment of calls**

Unless the Directors otherwise determine, no member shall be entitled to vote at any general meeting or any separate meeting of the Holders of any class of shares in the Company, either in person or by proxy, or to exercise any privilege as a member in respect of any share held by him unless all moneys then payable by him in respect of that share have been paid.

**66. Restriction of voting and other rights**

- (a) If at any time the Directors shall determine that a Specified Event (as defined in paragraph (g)) shall have occurred in relation to any share or shares, they may in their absolute discretion serve a notice to such effect on the Holder or Holders thereof. Upon the expiry of 14 days from the service of any such notice (in these Articles referred to as a "Restriction Notice") and for so long as such Restriction Notice shall remain in force:
- (i) no Holder or Holders of the share or shares specified in such Restriction Notice (in these Articles referred to as "**Specified Shares**") shall be entitled in respect of the Specified Shares to attend or vote either personally or by proxy at any general meeting of the Company or at any separate general meeting of the Holders of the class of shares concerned or to exercise any other right conferred by membership in relation to any such meeting; and
  - (ii) the Directors shall, where the Specified Shares represent not less than 0.25 per cent of the class of shares concerned, be entitled:
    - (A) except in a winding up of the Company, to withhold payment of any sum (including shares issuable in lieu of dividends) payable, whether by way of dividend, capital or otherwise, in respect of the Specified Shares, and the Company shall not have any obligation to pay interest on any sum so withheld; and/or
    - (B) where the Specified Event concerned is the event described in subparagraph (i) or (iii) of paragraph (g), to refuse to register any transfer (other than an Approved Transfer as defined in paragraph (h)) of the Specified Shares or any renunciation of any allotment of new shares or debentures made in respect of the Specified Shares.

- (b) A Restriction Notice shall be cancelled by the Directors as soon as reasonably practicable, but in any event not later than seven days, after the Holder or Holders concerned or any other relevant person shall have remedied the default by virtue of which the Specified Event shall have occurred. A Restriction Notice shall automatically cease to have effect in respect of any share comprised in an Approved Transfer upon registration thereof.
- (c) The Directors shall cause a notation to be made in the Register against the name of any Holder or Holders in respect of whom a Restriction Notice shall have been served indicating the number of Specified Shares specified in such Restriction Notice and shall cause such notation to be deleted upon cancellation or cesser of such Restriction Notice.
- (d) Every determination of the Directors and every notice served by them pursuant to the provisions of this Article shall be conclusive as against the Holder or Holders of any share and the validity of any notice served by the Directors in pursuance of this Article shall not be questioned by any person.
- (e) If, while any Restriction Notice shall remain in force in respect of any Specified Shares, any further shares shall be issued in respect thereof pursuant to a capitalisation issue under these Articles, the Restriction Notice shall be deemed also to apply likewise to such Holder or Holders in respect of such further shares which shall as from the date of issue thereof form part of the Specified Shares for all purposes of this Article.
- (f) On the cancellation of any Restriction Notice, the Company shall pay to the Holder (or, in the case of joint Holders, the first named Holder) on the Register in respect of the Specified Shares as of the record date for any such sum all sums the payment of which shall have been withheld pursuant to the provisions of this Article.
- (g) For the purpose of these Articles, a "**Specified Event**" shall be deemed to have occurred in relation to any share if:
  - (i) the Holder or any of the Holders shall fail to pay any call or instalment of a call in respect of such share in the manner and at the time appointed for payment thereof;
  - (ii) the Holder or any of the Holders or any other person shall fail to comply, to the satisfaction of the Directors and within the period prescribed by such notice, in relation to such share with the terms of any Disclosure Notice given to him under Article 10; or
  - (iii) the Holder or any of the Holders or any other person shall fail to comply, to the satisfaction of the Directors and within the period prescribed by such notice, in relation to such share with the terms of any notice given to him pursuant to section 81 of the 1990 Act.
- (h) For the purposes of this Article:
  - (i) an "Approved Transfer" is a transfer of shares which:

- (A) is made pursuant to acceptance of a general offer made by or on behalf of the offeror to all Holders (or all such Holders other than the offeror and nominees or subsidiaries of the offeror) of shares of any class; or
  - (B) the Directors are satisfied has been made pursuant to a *bona fide* sale of the whole of the beneficial interest in the shares comprised in the transfer to a person unconnected with the Holder or with any other person appearing to be interested (within the meaning of Article 10) in such shares (and for this purpose it shall be assumed that no such sale has occurred where the relevant share transfer form presented for stamping has been stamped at a reduced rate of stamp duty by virtue of the transferor or transferee having claimed to be entitled to such reduced rate on the basis that no beneficial interest passes by the transfer); or
  - (C) is made pursuant to any *bona fide* sale on any stock exchange, unlisted securities market or over-the-counter market on which shares of that class are, for the time being, normally traded.
- (ii) reference to a person having failed to comply with the terms of a Disclosure Notice given to him under Article 10 or a notice given to him pursuant to section 81 of the 1990 Act includes reference:
- (A) to his having failed or refused to give all or any part of the information required by the notice; or
  - (B) to his having given information which he knows to be false in a material particular or having recklessly given information which is false in a material particular.
- (i) The provisions of this Article are in addition to, and shall not limit, any other right or power of the Company or the Directors, including any right or power vested in the Company or the Directors by the Acts.

**67. Time for objection to voting**

No objection shall be raised to the qualification of any voter or to the counting of, or failure to count, any vote except at the meeting or adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any such objection or error shall be referred to the chairman of the meeting and shall vitiate the decision of the meeting on any resolution only if the chairman decides that the same is of sufficient magnitude to vitiate the resolution or may otherwise have affected the decision of the meeting. The decision of the chairman on such matters shall be final and conclusive.

**68. Appointment of proxy**

Every member entitled to attend and vote at a general meeting may appoint one or more proxy to attend, speak and vote on his behalf. A member may appoint more

than one proxy to attend on the same occasion. Subject to Article 67(b), the instrument appointing a proxy shall be in writing in any usual form or in any other form which the Directors may approve and shall be executed by or on behalf of the appointor. The signature on such instrument need not be witnessed. A body corporate may execute a form of proxy under its common seal or under the hand of a duly authorised officer thereof. A proxy need not be a member of the Company.

**69. Deposit of proxy instruments**

- (a) The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is executed, or a copy of such authority certified notarially or in some other way approved by the Directors, shall be deposited at the Office, or at such other place or one of such other places (if any) as may be specified for that purpose in or by way of note to the notice convening the meeting or any instrument of proxy sent out by the Company in relation to the meeting, not less than 48 hours (or such lesser period as may be permitted by law not being less than 12 hours) before the time appointed for the holding of the meeting or adjourned meeting or (in the case of a poll taken on a date after the date of the meeting or adjourned meeting at which the poll was demanded) for the taking of the poll at which the instrument of proxy is to be used, and in default shall not be treated as valid; provided that:
  - (i) in the case of a meeting which is adjourned to a date which is after but less than seven days after the date of the meeting which was adjourned or in the case of a poll which is to be taken on a date which is after but less than seven days after the date of the meeting or adjourned meeting at which the poll was demanded, it shall be sufficient if the instrument of proxy and any such authority and certification thereof as aforesaid is lodged with the Secretary at the commencement of the adjourned meeting or (as the case may be) of the taking of the poll;
  - (ii) and an instrument of proxy relating to more than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require to be delivered again for the purposes of any subsequent meeting to which it relates.
- (b) The Directors may allow a proxy to be appointed in electronic form or by other data transmission process, subject to any limitation, conditions or restrictions that they decide. Such appointment shall be delivered to the Company in a manner specified by the Directors. If, and to the extent that, they decide to allow appointments to be made in this way, provisions of the Articles which are inconsistent with this method of appointment shall be of no effect in relation to those appointments. The Directors may require any evidence they think appropriate to satisfy themselves that the electronic appointment is genuine.

**70. Effect of proxy instruments**

Deposit of an instrument of proxy in respect of a meeting shall not preclude a member from attending and at the meeting or at any adjournment thereof. The instrument

appointing a proxy shall be valid, unless the contrary is stated therein, as well for any adjournment of the meeting as for the meeting to which it relates.

**71. Effect of revocation of proxy or of authorisation**

- (a) A vote given or poll demanded in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal, or the revocation of the instrument of proxy or of the authority under which the instrument of proxy was executed, or the transfer of the share in respect of which the instrument of proxy was given, provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the Company at the Office or at such other place or one of such other places (if any) at which the instrument of proxy could have been duly deposited in order to be valid for use at the meeting or adjourned meeting at least 24 hours before the time appointed for the holding of the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which the instrument of proxy is to be used.
- (b) The Directors may send, at the expense of the Company, by post or otherwise, to the members instruments of proxy (with or without arrangements for their return prepaid) for use at any general meeting or at any class meeting, either in blank or nominating any Director or other person and, if thought fit, any other person or persons in the alternative. If for the purposes of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the Company, such invitations shall be issued to all (and not to some only) of the members entitled to be sent a notice of the meeting and to vote thereat by proxy, but the accidental omission to issue such invitations to, or the non receipt of such invitation by, any member shall not invalidate the proceedings at any such meeting.

**72. Bodies corporate acting by representatives at meetings**

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 body corporate shall for the purposes of these Articles be deemed to be present in person at any such meeting if a person so authorised is present at it, and all references to attendance and voting in person shall be construed accordingly. A Director, the Secretary or some person authorised for the purpose by the Secretary may require the representative to produce such evidence of his authority reasonably satisfactory to them before permitting him to exercise his powers.

**PART XIII – DIRECTORS**

**73. Directors**

- (a) Unless otherwise determined by Company in general meeting, the number of Directors shall not be more than 20 or less than two.
- (b) If and so long as any body is for the time being a Holding Company of the Company, the Holding Company shall have the power at any time to appoint Directors (whether to fill casual vacancies or as an addition to the Board or otherwise) and the power to remove any Director, howsoever appointed. Any such appointment or removal shall be effected by a notice in writing signed by a director or secretary of the Holding Company and shall be effective forthwith upon the delivery of such notice to the Company at the Office.
- (c) The continuing Directors may act notwithstanding any vacancy in their body, provided that if the number of the Directors is reduced below the number fixed by or pursuant to these Articles as the minimum number of Directors or the quorum of the Directors, the remaining Director or Directors may act only for the purpose of filling vacancies or of summoning a general meeting for the purpose of appointing Directors, but if there be no Director or Directors able or willing to act, then any member may summon a general meeting for the purpose of appointing Directors.

**74. Share qualification**

A Director shall not require a share qualification.

**75. Ordinary remuneration of Directors**

The ordinary remuneration of the Directors shall be determined from time to time by an ordinary resolution of the Company. Such remuneration shall be divisible (unless such resolution shall provide otherwise) among the Directors as they may agree, or, failing agreement, equally, except that any Director who shall hold office for part only of the period in respect of which such remuneration is payable shall be entitled to rank in such division only for a proportion of the remuneration related to the period during which he has held office. Any sums payable pursuant to this Article shall be distinct from any salary, remuneration or other amounts payable to a Director pursuant to any other Article and shall accrue from day to day.

**76. Special remuneration of Directors**

Any Director who holds any additional office (including for this purpose the office of chairman or deputy chairman whether or not such office is held in an executive capacity), who serves on any committee or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission, participation in profits or otherwise as either the Directors, the Company in general meeting or the Holding Company may determine.

77. **Expenses of Directors**

The Directors may be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of Directors or of committees of Directors or of general meetings or of separate meetings of the Holders of any class of shares or of debentures of the Company or otherwise in connection with the discharge of their duties.

PART XIV- ALTERNATE DIRECTORS

78. **Alternate Directors**

- (a)
  - (i) Each Director (other than an alternate Director) may, by notice in writing delivered to the Secretary at the Office, or in any other manner approved by the Directors, appoint any other Director, or any person willing to act, to be his alternate.
  - (ii) No appointment of an alternate Director who is not already a Director shall be effective until his consent to act as a Director in the form prescribed by the Act has been received at the Office.
  - (iii) An alternate Director need not hold a share qualification and shall not be counted in reckoning any maximum or minimum number of Directors allowed by these Articles.
  - (iv) A Director may, by notice in writing delivered to the Secretary at the Office, revoke at any time the appointment of any alternate appointed by him.
- (b) Every alternate Director shall (subject to his giving to the Company an address at which notices may be served on him) be entitled to receive notice of all meetings of the Directors and (subject to the approval of the Directors) of all meetings of committees of the Directors of which his appointor is a member and, in the absence from such meetings of his appointor, to attend and vote at such meetings and to be counted in the quorum and to exercise all the powers, rights, duties and authorities of his appointor. A Director or other person acting as alternate Director shall have a separate vote at such meetings for each Director for whom he acts as alternate Director (which shall, in the case of a Director acting as alternate, be in addition to his own vote as a Director) and shall, if himself a Director or if acting as alternate Director for more than one Director, be considered as two or more Directors (as the case may be) for the purposes of determining whether a quorum is present, provided always that not less than two individuals are present in person at the meeting.
- (c) Every person acting as an alternate Director shall be an officer of the Company, shall alone be responsible to the Company for his own acts and defaults and shall not be deemed to be the agent of the Director appointing him.

- (d) An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements with the Company and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director. However, he shall not be entitled to receive from the Company any fees for his services as alternate, except only such part (if any) of the fee payable to his appointor as such appointor may by notice in writing to the Company direct. Subject to this paragraph, the Company shall pay to an alternate Director such expenses as might properly have been paid to him if he had been a Director.
- (e) An alternate Director shall cease to be an alternate Director:
  - (i) if his appointor revokes his appointment; or
  - (ii) if his appointor ceases for any reason to be a Director, provided that if any Director retires at an annual general meeting but is re-appointed or deemed to be re-appointed at the same meeting, any valid appointment of an alternate Director which was in force immediately before his retirement shall remain in force; or
  - (iii) if any event happens in relation to him which, if he were a Director otherwise appointed, would cause him to vacate office.

## PART XV - POWERS OF DIRECTORS

### 79. **Directors' powers**

Subject to the provisions of the Acts, the memorandum of association of the Company and these Articles and to any directions given by the members by ordinary resolution, not being inconsistent with these Articles or with the Acts, the business of the Company shall be managed by the Directors who may do all such acts and things and exercise all the powers of the Company as are not by the Acts or by these Articles required to be done or exercised by the Company in general meeting. No alteration of the memorandum of association of the Company or of these Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Directors by these Articles and a meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.

### 80. **Delegation to a Director**

The Directors may entrust to and confer upon a Director any of the powers, authorities and discretions exercisable by them (with power to sub-delegate) upon such terms and subject to such conditions and with such restrictions as they think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.

## 81. **Delegation to committees**

- (a) The Directors may delegate any of their powers, authorities and discretions (with power to sub-delegate) for such time, on such terms and subject to such conditions as they think fit to any committee consisting of one or more Directors and (if thought fit) one or more other persons.
- (b) Without limiting paragraph (a), the Directors may delegate such of their executive powers, authorities and discretions as they may determine to a committee consisting of one or more directors and such other persons as may be approved by the Directors to be designated the “Executive Board/Committee” and may delegate such of their supervisory powers, authorities and discretions (including supervisory functions in respect of any other committee) as they may determine to a committee consisting of one or more directors to be designated the “Supervisory Board”. Each of the Executive Board/Committee and the Supervisory Board and any committee so formed by either of them may delegate any of its powers to sub-committees consisting of one or more Directors and (if thought fit) one or more other persons.
- (c) The Directors may confer such powers either collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Directors in that respect and may from time to time revoke, withdraw, alter or vary any of such powers and discharge any such committee in whole or in part. Insofar as any power, authority or discretion is so delegated, any reference in these Articles to the exercise by the Directors of such power, authority or discretion shall be construed as if it were a reference to the exercise of such power, authority or discretion by such committee.

## 82. **Appointment of attorneys**

The Directors may, from time to time and at any time by power of attorney under seal, appoint any company, firm or person or fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit. Any such power of attorney may contain such provisions for the protection of persons dealing with any such attorney as the Directors may think fit and may authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him.

## 83. **Local management**

The Directors may establish any local or divisional boards or agencies for managing any of the affairs of the Company in any specified locality, either in the State or elsewhere, and may appoint any persons to be members of any such local or divisional board or agency and may fix their remuneration and may delegate to any local or divisional board or agent any of the powers, authorities and discretions vested in the Directors with power to sub-delegate and any such appointment or delegation may be made upon such terms and subject to such conditions as the Directors may think fit, and the Directors may remove any person so appointed, and may annul or

vary any such delegation, but no person dealing in good faith with any such committee, local board or agency, without notice of any such removal, annulment or variation, shall be affected thereby. The Directors may confer such powers either collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Directors in that respect and may from time to time revoke, withdraw, alter or vary all or any of such powers. Subject to any terms and conditions expressly imposed by the Directors, the proceedings of any local or divisional board or agency with two or more members shall be governed by such of these Articles as regulate the proceedings of the Directors, so far as they are capable of applying.

**84. Use of designation "director"**

The Directors may from time to time appoint any person to any office or employment having a designation or title including the word "director" or attach to any existing office or employment with the Company such a designation or title and may at any time determine any such appointment or the use of any such designation or title. The inclusion of the word "director" in the designation or title of any such office or employment with the Company shall not imply that the holder thereof is a Director of the Company nor shall such holder thereby be empowered in any respect to act as a Director of the Company or to be deemed to be a Director for any of the purposes of the Articles.

**85. Borrowing powers**

The Directors may exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property, assets, and uncalled capital or any part thereof and, subject to Part III of the 1983 Act, to issue debentures, debenture stock and other securities whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party, without any limitation as to amount.

**86. Execution of negotiable instruments**

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the Directors shall determine from time to time by resolution.

**PART XVI - APPOINTMENT OF DIRECTORS**

**87. Appointment of additional Directors**

- (a) Without limiting the provisions of Article 71(b), the Company by ordinary resolution may appoint a person to be a Director either to fill a vacancy or as an additional Director provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of Directors.
- (b) Without limiting the provisions of Article 71(b), the Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an

additional Director, provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of Directors. Subject to the provisions of the Acts and of these Articles, a Director so appointed shall retire at the next following annual general meeting and shall then be eligible for re-appointment.

**88. Resolution for appointment**

A resolution for the appointment of two or more persons as Directors by a single resolution shall not be moved at any general meeting unless a resolution that it shall be so moved has first been passed by the meeting without any vote being given against it; and any resolution moved in contravention of this provision shall be void.

**PART XVII - DISQUALIFICATION AND REMOVAL OF DIRECTORS**

**89. Disqualification of Directors**

- (a) The office of a Director shall be vacated automatically:
- (i) if he ceases to be a Director by virtue of any provision of the Acts or he becomes prohibited by law from being a Director or a declaration in respect of him is made by the court pursuant to section 150 of the 1990 Act;
  - (ii) if he is adjudged bankrupt in the State, or any event equivalent or analogous thereto occurs in respect of him in any other jurisdiction, or he makes any arrangement or composition with his creditors generally;
  - (iii) (without committing a breach of any contract between him and the Company) if he resigns his office by notice to the Company;
  - (iv) if he is convicted of an indictable offence, unless the Directors otherwise determine;
  - (v) if he shall have been absent for more than six consecutive months without permission of the Directors from meetings of the Directors held during that period and his alternate Director (if any) shall not have attended any such meeting in his place during such period, and the Directors pass a resolution that by reason of such absence he has vacated office; or
  - (vi) in accordance with any notice of removal given by the Holding Company pursuant to Article 71(b).
- (b) A Director shall not be required to retire at any time on account of age

**90. Removal of Directors**

Without limiting the provisions of Article 71(b), the Company may, by ordinary resolution of which extended notice has been given in accordance with the provisions

of the Acts, remove any Director before the expiry of his period of office notwithstanding anything in these Articles or in any agreement between the Company and such Director and may, if thought fit, by ordinary resolution appoint another Director in his stead. Any person so appointed shall be subject to retirement at the same time (as the case may be) as if he had been appointed a Director on the date on which and in the manner in which the Director in whose place he is appointed was last appointed or re-appointed a Director. Nothing in this Article shall be taken as depriving a person removed hereunder of compensation or damages payable to him in respect of the termination of his appointment as Director or of any other appointment terminating with his appointment as Director.

## PART XVIII - DIRECTORS' OFFICES AND INTERESTS

### 91. **Executive offices**

- (a) The Directors may appoint one or more of their body to the office of chief executive officer or joint chief executive officer or to any other executive office under the Company (including, where considered appropriate, the office of chairman or deputy chairman) on such terms and for such period as they may determine and, without prejudice to the terms of any contract entered into in any particular case, may revoke any such appointment at any time.
- (b) A Director holding any such executive office shall receive such remuneration, whether in addition to or in substitution for his ordinary remuneration as a Director and whether by way of salary, commission, participation in profits or otherwise or partly in one way and partly in another, as the Directors may determine.
- (c) The appointment of any Director to the office of chairman, deputy chairman, chief executive officer or joint chief executive officer shall determine automatically if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- (d) The appointment of any Director to any other executive office shall not determine automatically if he ceases from any cause to be a Director unless the contract or resolution under which he holds office shall expressly state otherwise, in which event such determination shall be without prejudice to any claim for damages for breach of any contract of service between him and the Company.

### 92. **Directors may have interests**

Subject to the provisions of the Acts and provided that he has complied with Article 91, a Director, notwithstanding his office:

- (a) may be a party to, or otherwise interested in, any contract, arrangement, transaction or proposal with the Company or any subsidiary or associated

company thereof or in which the Company or any subsidiary or associated company thereof is otherwise interested;

- (b) may hold any other office or place of profit under the Company (except that of auditor or of auditor of a subsidiary of the Company) in conjunction with his office of Director, and may act by himself or through his firm in a professional capacity for the Company, and in any such case on such terms as to remuneration and otherwise as the Directors shall arrange;
- (c) may be a director or other officer of, or employed by, or a party to any contract, arrangement, transaction or proposal with, or otherwise interested in, any body corporate promoted by the Company or in which the Company or any subsidiary or associated company of the Company is otherwise interested; and
- (d) shall not be accountable, by reason of his office, to the Company for any profit, remuneration or other benefit which he derives from any such contract, arrangement, transaction, proposal, office, place of profit or employment or from any interest in any such body corporate;

and no such contract, arrangement, transaction or proposal entered into by or on behalf of the Company in which any Director is in any way interested shall be liable to be avoided on account of such interest.

### **93. Disclosure of interests by Directors**

- (a) A Director who is in any way, whether directly or indirectly, interested in any contract, arrangement, transaction or proposal with the Company shall declare the nature of his interest at the meeting of the Directors at which the question of entering into the contract, arrangement, transaction or proposal is first considered, or, if the Director was not at the date of that meeting interested therein, at the next meeting of the Directors held after he became so interested, and, in a case where the Director becomes interested in a contract, arrangement, transaction or proposal after it is made, at the first meeting of the Directors held after he becomes so interested.
- (b) A copy of every declaration made and notice given under this Article shall be entered within three days after the making or giving thereof in a book kept for this purpose. Such book shall be open for inspection without charge by any Director, Secretary, Auditor or member of the Company at the Office and shall be produced at every general meeting of the Company and at any meeting of the Directors if any Director so requests in sufficient time to enable the book to be available at the meeting.
- (c) For the purposes of this Article:
  - (i) 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, arrangement, transaction or proposal 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,

arrangement, transaction or proposal of the nature and extent so specified;

- (ii) and an interest of which a Director has no knowledge and of which it would be unreasonable to expect him to have knowledge shall not be treated as an interest of his.

**94. Interested Director may vote and count for quorum**

Save as otherwise provided by these Articles, a Director may vote at a meeting of the Directors or a committee of Directors on any resolution concerning any contract, appointment, arrangement or other matter in which he has an interest. A Director shall be counted in the quorum present at a meeting in relation to any such contract, appointment, arrangement or other matter in which he is interested.

**95. Exercise of rights in other companies**

Subject to the provisions of these Articles and the Acts, the Directors may exercise or procure the exercise of the rights conferred by the shares in any other company held or owned by the Company, and may exercise any rights to which they are entitled as directors of such other company, in such manner as they shall in their absolute discretion think fit, including the exercise thereof in favour of any resolution appointing themselves or any of them as directors, officers or servants of such other company, and fixing their remuneration as such, and may vote as directors of the Company in connection with any of the matters aforesaid.

**96. Entitlement to grant pensions**

The Directors may provide benefits, whether by way of pensions, gratuities or otherwise, for any Director, former Director or other officer or former officer of the Company or to any person who holds or has held any employment with the Company or with any body corporate which is or has been a subsidiary undertaking or associated company of the Company or a predecessor in business of the Company or of any such subsidiary undertaking or associated company and to any member of his family or any person who is or was dependent on him and may set up, establish, support, alter, maintain and continue any scheme for providing all or any such benefits and for such purposes any Director accordingly may be, become or remain a member of, or rejoin, any scheme and receive or retain for his own benefit all benefits to which he may be or become entitled thereunder. The Directors may pay out of the funds of the Company any premiums, contributions or sums payable by the Company under the provisions of any such scheme in respect of any of the persons or class of persons above referred to who are or may be or become members thereof.

**PART XIX - PROCEEDINGS OF DIRECTORS**

**97. Convening and regulation of Directors' meetings**

Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Any Director may waive notice of any

meeting and any such waiver may be retrospective. Notice of a meeting of the Directors shall be deemed to be duly given to a Director if it is given to him personally or by word of mouth or sent in writing by delivery, post, cable, telegram, telex, telefax, electronic mail or any other means of communication approved by the Directors to him at his last known address or any other address given by him to the Company for this purpose. The Directors may make regulations for the giving of notice of a meeting of the Directors in such circumstances and subject to such conditions and requirements as they think fit.

**98. Quorum for Directors' meetings**

The quorum for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two. Any Director who ceases to be a Director at a meeting of the Directors may continue to be present and to act as a Director and be counted in the quorum until the termination of that meeting if no other Director objects and if otherwise a quorum would not be present.

**99. Voting at Directors' meetings**

- (a) Questions arising at any meeting of Directors shall be decided by a majority of votes. Where there is an equality of votes, the chairman of the meeting shall have a second or casting vote.
- (b) Subject as hereinafter provided, each Director present shall have one vote and in addition to his own vote shall be entitled to one vote in respect of each other Director not present at the meeting who shall have authorised him in respect of such meeting to vote for such other Director in his absence. Any such authority may relate generally to all meetings of the Directors or to any specified meeting or meetings and shall be in writing and may be sent by delivery, post, cable, telegram, telex, telefax, electronic mail or any other means of communication approved by the Directors and may bear a printed or facsimile signature of the Director giving such authority. The authority must be delivered to the Secretary for filing prior to, or shall be produced at, the first meeting at which a vote is to be cast pursuant thereto provided that no Director shall be entitled to any vote at a meeting on behalf of another Director pursuant to this paragraph if the other Director shall have appointed an alternate Director and that alternate Director is present at the meeting at which the Director proposes to vote pursuant to this paragraph.

**100. Telecommunication meetings**

- (a) For the purpose of these Articles, the contemporaneous linking together by telephone or other means of telecommunication of a number of Directors not less than the quorum shall be deemed to constitute a meeting of the Directors and all the provisions in these Articles as to meetings of the Directors shall apply to such a meeting, provided that:
  - (i) each of the Directors taking part in such a meeting is able to hear, and speak to, each of the other Directors taking part; and

- (ii) at the commencement of such a meeting each Director must acknowledge his presence and that he accepts that the proceedings shall be deemed to be a meeting of the Directors.
- (b) A Director may not cease to take part in such a meeting by disconnecting his telephone or other means of communication unless he has previously obtained the express consent of the chairman of the meeting, and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he has previously obtained the express consent of the chairman of the meeting to leave the meeting.
- (c) Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or if there is no such group, where the chairman of the meeting is present.
- (d) A minute of the proceedings at such meeting by telephone or other means of communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by either the chairman of the meeting or the Secretary.
- (e) The provisions of this Article shall apply, *mutatis mutandis*, to meetings of committees of the Directors.

#### **101. Chairman of meetings of Directors**

If no chairman is appointed under Article 89, the Directors may appoint one of their number to be chairman, and if no deputy chairman is appointed under that Article the Directors may appoint one of their number to be deputy chairman; and they may remove from office at any time any chairman or deputy chairman appointed under the foregoing provisions of this Article. The chairman of the meetings of the Directors shall be the chairman, if any, appointed under Article 89 or the foregoing provisions of this Article and in his absence the deputy chairman, if any, so appointed. If neither chairman nor deputy chairman is appointed under Article 89 and neither chairman nor deputy chairman is elected under the foregoing provisions of this Article, or no such person is present at any meeting of the Directors within five minutes after the time appointed for holding such meeting, the Directors present may choose one of their number to be chairman of the meeting. References in this Article to "deputy chairman" shall be construed as including, in the absence of an appointment of someone with that specific title, a person appointed to an office known by another title which, at or before the time of his appointment or election as such, is designated by the Directors as being equivalent to the office of deputy chairman.

#### **102. Proceedings of committees**

The meetings and proceedings of any committee or sub-committee of the Directors consisting of two or more members shall be governed *mutatis mutandis* by the provisions of these Articles regulating the meetings and proceedings of the Directors so far as the same are not superseded by any regulations made by the Directors. Any committee or sub-committee so formed shall in the exercise of the powers or discretions so delegated conform to any regulations which may from time to time be imposed by the Directors.

**103. Validity of acts of Directors**

All acts done by any meeting of the Directors or of a committee or sub-committee of Directors or by any person acting as a Director, alternate Director or member of a committee or sub-committee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any person or persons acting as aforesaid, or that they or any of them were disqualified from holding office or were not entitled to vote or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

**104. Directors' resolutions in writing**

A resolution in writing signed by all the Directors entitled to receive notice of a meeting of Directors or of a committee of Directors shall be as valid as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors, and such resolution when duly signed may be delivered or transmitted (unless the Directors shall otherwise determine either generally or in any specific case) by facsimile transmission or some other similar means of transmitting the contents of documents. A resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.

**PART XX - SECRETARY**

**105. Appointment of Secretary**

Subject to the provisions of the Acts, the Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit and any Secretary so appointed may be removed by them, but without prejudice to any claim for damages for breach of any contract of service between him and the Company. If thought fit, two or more persons may be appointed joint secretaries. Anything required or authorised by the Acts or these Articles to be done by or to the Secretary may be done, if the office is vacant or there is for any other reason no Secretary readily available and capable of acting, by or to any assistant or acting Secretary appointed by the Directors or, if there is no assistant or acting secretary readily available and capable of acting, by or to any officer of the Company authorised generally or specially in that behalf by the Directors.

**106. Person acting as Director and Secretary**

Any provision of the Acts or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as a Director and as, or in the place of, the Secretary.

**PART XXI - SEAL**

**107. Use of Seal**

The Directors shall ensure that the Seal (including any official securities seal kept pursuant to the Acts) shall be used only by the authority of the Directors or of a duly authorised committee of the Directors.

**108. Signature of sealed instruments**

Every instrument to which the Seal (including any such official securities seal) shall be affixed shall be signed by two persons appointed for the purpose by the Directors or a duly authorised committee of the Directors save that as regards any certificates for shares or debentures or other securities of the Company the Directors or such a Committee may determine by resolution either generally or in any particular case (and subject to such restrictions as the Directors may determine) that such signatures or either of them shall be dispensed with, or be printed thereon or affixed thereto by some method or system of mechanical signature.

**109. Official seal for use abroad**

The Company may exercise the powers conferred by the Acts with regard to having an official seal for use abroad and such powers shall be vested in the Directors.

**110. Safe custody**

The Directors shall provide for the safe custody of the Seal and of every other seal of the Company.

**PART XXII - DIVIDENDS AND RESERVES**

**111. Declaration of dividends**

Subject to the provisions of the Acts, the Company may by ordinary resolution declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the Directors.

**112. Interim and fixed dividends**

Subject to the provisions of the Acts, the Directors may declare and pay such interim dividends as appear to them to be justified by the profits of the Company available for distribution. If the share capital is divided into different classes, the Directors may declare and pay interim dividends on shares which confer deferred or non-preferred rights with regard to dividend as well as on shares which confer preferential rights with regard to dividend, but subject always to any restrictions for the time being in force (whether under these Articles, under the terms of issue of any shares or under any agreement to which the Company is a party, or otherwise) relating to the application, or the priority of application, of the Company's profits available for distribution or to the declaration or (as the case may be) the payment of dividends by the Company. Subject as aforesaid, the Directors may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment. If the Directors act in good faith they shall 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 or fixed dividend on any shares having deferred or non-preferred rights.

#### **113. Payment of dividends**

Except as otherwise provided by the rights attached to shares by the terms of issue thereof or by these Articles, all dividends shall be declared and paid according to the amounts paid on the shares on which the dividend is paid. Subject as aforesaid, all dividends shall be apportioned and paid proportionately to the amounts paid 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, such share shall rank for dividend accordingly.

#### **114. Deductions from dividends**

The Directors may deduct from any dividend or other moneys payable to any member in respect of a share all sums of moneys (if any) presently payable by him to the Company in relation to shares of the Company.

#### **115. Dividends in specie**

Any general meeting declaring a dividend or bonus may direct, upon the recommendation of the Directors, that it shall be satisfied wholly or partly by the distribution of assets (and, in particular, of paid up shares, debentures or debenture stock of any other company or in any one or more of such ways) and the Directors shall give effect to such resolution. Where any difficulty arises in regard to the distribution, the Directors may settle the same as they think expedient and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all the parties and may vest any such specific assets in trustees upon trust for the persons entitled to the dividend as the Directors think expedient, and generally may make such arrangements for the allotment, acceptance and sale of such specified assets or fractional certificates, or any part thereof, and otherwise as they think fit.

#### **116. Mode of payment of dividends or other moneys**

- (a) The Company may pay any dividend, interest or other moneys payable in cash in respect of shares by cheque, warrant, direct debit, bank transfer or any other method (including electronic media) as the Directors may consider appropriate and may remit the same by post or other delivery service to the registered address of the Holder or person entitled thereto or, in the case of joint Holders, to the registered address of the joint Holder whose name stands first in the Register, or, in the case of two or more persons being entitled to a dividend, interest or other money in consequence of the death or bankruptcy of the Holder, to any one of such persons, or to such person and to such address as the Holder or joint Holders of such other persons may in writing direct. In the case of a Holder who is also an employee of the Company or any of its subsidiaries, the Company may remit any dividend, interest or other moneys as aforesaid to such Holder through the Company's internal postal arrangements. Every cheque, warrant or other form of payment is sent or

made at the risk of the person entitled to the moneys represented by it. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent, or to such person as the Holder or joint Holders or other person entitled thereto may in writing direct, and the payment of such cheque or warrant shall be a good discharge to the Company. Where the Company pays any dividend, interest or other moneys as aforesaid by any method other than cheque or warrant, the debiting of the Company's account in respect of the appropriate amount shall be deemed a good discharge of the Company's obligation to pay such dividend, interest or other moneys. Any one of two or more joint Holders or persons entitled to a dividend, interest or other moneys in consequence of the death or bankruptcy of the Holder may give effective receipts for any dividends, interest or other moneys payable in respect of the share held by him as joint Holder or to which he is jointly entitled as aforesaid.

- (b) The Directors may, at their discretion, make arrangements to enable a Depository or any such other member or members as the Directors shall from time to time determine to receive duly declared dividends in any currency or currencies other than the currency in which such dividends are declared. For the purposes of the calculation of the amount receivable in respect of any dividend, the rate of exchange to be used to determine the equivalent in any such other currency of any sum payable as a dividend shall be such rate or rates, and the payment thereof shall be on such terms and conditions, as the Directors may in their absolute discretion determine.

#### 117. **Dividends not to bear interest**

No dividend or other moneys payable in respect of a share shall bear interest against the Company unless otherwise provided by the rights attached to the share.

#### 118. **Shares in lieu of cash dividend**

The Directors may from time to time at their discretion, with or subject to the sanction of an ordinary resolution of the Company, offer to the Holders of ordinary shares in the Company (in this Article "**Shareholders**") the right to elect to receive an allotment of additional ordinary shares, credited as fully paid, instead of cash in respect of all or part of any cash dividend or dividends specified by such resolution or such part of such dividend or dividends as the Directors may determine. In any such case, the following provisions shall apply:

- (a) Any such resolution may specify a particular dividend or dividends or may specify all or any dividends falling to be declared or paid during a specified period being a period expiring not later than the conclusion of the annual general meeting next following the date of the general meeting at which the resolution is passed.
- (b) The basis of the allotment shall be determined by the Directors so that, as nearly as may be considered convenient in the Directors' absolute discretion but subject to section 27 of the 1983 Act, the value of the additional ordinary shares (in this Article "**New Ordinary Shares**") (excluding any fractional entitlement) to be allotted instead of any cash amount (disregarding any tax credit) of dividend shall equal such amount.

- (c) The Directors shall after determining the basis of allotment give notice in writing to Shareholders of the right of election offered to them and shall send with or following such notice forms of election and specify the procedure to be followed and the place at which and the latest date and time by which duly completed forms of election must be lodged in order to be effective.
- (d) The dividend (or that part of the dividend in respect of which a right of election has been offered) shall not be payable on ordinary shares in respect of which the said right of election has been duly exercised under this Article (in this Article the "**Elected Ordinary Shares**") and instead thereof New Ordinary Shares shall be allotted to the Holders of the Elected Ordinary Shares on the basis of allotment determined under this Article. For such purpose the Directors shall capitalise, out of such of the sums standing to the credit of any of the reserves of the Company (including any share premium account and capital redemption reserve) or profit and loss account as the Directors may determine, a sum equal to the aggregate nominal amount of the New Ordinary Shares to be allotted on such basis and apply the same in paying up in full the appropriate number of unissued ordinary shares for allotment and distribution to and amongst the Holders of the Elected Ordinary Shares on such basis.
- (e) The Directors may do all acts and things which they consider necessary or expedient to give effect to any such capitalisation, and they shall have power to make such provisions as they think fit where New Ordinary Shares would otherwise have been distributable in fractions, including provisions whereby such fractional entitlements, in whole or in part, are disregarded and the benefit thereof accrues to the Company rather than to the Shareholders concerned. The Directors may authorise any person on behalf of the Shareholders concerned to enter into an agreement with the Company relating to such capitalisation and matters incidental thereto and an agreement made under such authority shall be effective and binding on all persons concerned.
- (f) The Directors may also from time to time establish or vary a procedure for election mandates under which a Shareholder may elect to receive New Ordinary Shares credited as fully paid instead of cash in respect of all future rights that may be offered to that Shareholder under this Article until the election mandate is revoked or deemed to be revoked in accordance with the procedure.
- (g) The Directors may undertake and do such acts and things as they may consider necessary or expedient for the purpose of giving effect to the provisions of this Article.
- (h) The New Ordinary Shares allotted pursuant to the provisions of this Article shall rank *pari passu* in all respects with the fully paid ordinary shares then in issue save only as regards participation in the relevant dividend (or share election in lieu).
- (i) The Directors shall not proceed with any offer of a right of election unless the Company has sufficient unissued ordinary shares authorised for issue and sufficient reserves or funds that may be capitalised to give effect to it.

- (j) Notwithstanding anything to the contrary in this Article, the Directors may at any time prior to issue of the New Ordinary Shares, if it appears to them desirable to do so because of a change in circumstances, determine that the relevant dividend shall be payable wholly in cash and if they so determine then all elections made in respect of that dividend shall be disregarded.
- (k) Notwithstanding anything to the contrary in this Article, the Directors may exclude such Shareholders from any offer of a right of election as they may think fit in the light of any legal or practical problems or considerations arising under the laws of, or the requirements of any regulatory or stock exchange authority in, any territory or jurisdiction.
- (l) Where a resolution sanctioning the offer to Shareholders of the right to receive an allotment of additional ordinary shares instead of a cash dividend is to be proposed at a general meeting and that resolution relates in whole or in part to a dividend to be declared at that meeting, then the resolution declaring that dividend shall be deemed to take effect at the end of the general meeting.

#### 119. **Unclaimed dividends**

All dividends, interest or other sums payable which remains unclaimed for one year after having been declared may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed. If the Directors so resolve, all dividends or interest which have remained unclaimed for 12 years after having been declared shall be forfeited and cease to remain owing by the Company. The retention by the Company, or payment into a separate account, of any unclaimed dividend, interest or other moneys payable by the Company in respect of a share in lieu shall not constitute the Company a trustee in respect thereof.

#### 120. **Reserves**

Subject to the Acts, before recommending any dividend, whether preferential or otherwise, the Directors may carry to reserve out of the profits of the Company such sums as they think proper. All sums standing to reserve may be applied from time to time in the discretion of the Directors for any purpose to which the profits of the Company may be properly applied and at the like discretion may be either employed in the business of the Company or invested in such investments as the Directors may lawfully determine. The Directors may divide the reserve into such special funds as they think fit and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided as they may lawfully determine. Any sum which the Directors may carry to reserve out of the unrealised profits of the Company shall not be mixed with any reserve to which profits available for distribution have been carried. The Directors may also carry forward, without placing the same to reserve, any profits which they may think it prudent not to divide.

#### 121. **Record dates**

Notwithstanding any other provision of these Articles but without prejudice to the rights attached to any shares and subject always to the Acts, the Company or the Directors may by resolution specify any date (the "record date") as the date at the close of business (or such other time as the Directors may determine) on which

persons registered as the holders of shares or other securities shall be entitled to receipt of any dividend, distribution, interest, allotment, issue, notice, information, document or circular and such record date may be on or at any time before the date on which the same is paid, made, given or served or (in the case of any dividend, distribution, interest, allotment or issue) at any time after the same is recommended, resolved, declared or announced but without prejudice to the rights inter se in respect of the same of transferors and transferees of any such shares or other securities. No change in the register of such holders after the record date shall invalidate the same.

## PART XXIII – ACCOUNTS

### 122. **Accounts**

- (a) The Directors shall cause accounting records to be kept in accordance with the Acts.
- (b) The accounting records shall be kept at the Office or, subject to the provisions of the Acts, at such other place as the Directors think fit and shall be open at all reasonable times to the inspection of the Directors.
- (c) The Directors shall determine from time to time whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Company or any of them shall be open to the inspection of members, not being Directors. No member (not being a Director) shall have any right of inspecting any accounting record or other book or document of the Company except as conferred by the Acts or authorised by the Directors or by the Company in general meeting.
- (d) In accordance with the provisions of the Acts, the Directors shall cause to be prepared and to be laid before the annual general meeting of the Company from time to time such profit and loss accounts, balance sheets, group accounts and reports as are required by the Acts to be prepared and laid before such meeting.
- (e) A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the annual general meeting of the Company together with a copy of the Directors' report and Auditors' report shall be sent, not less than 21 Clear Days before the date of the annual general meeting, to every member, and every holder of debentures, of the Company and to every other person who is entitled to receive notices of general meetings from the Company under the provisions of the Acts or these Articles; provided that this paragraph shall not require a copy of such documents to be sent to more than one of joint Holders or to any person who under the provisions of the Acts or these Articles is not entitled to receive notices of general meetings from the Company or of whose address the Company is not aware, but any member or holder of debentures to whom a copy of such documents has not been sent shall be entitled to receive a copy free of charge on application at the Office. No accidental non-compliance with the provisions of this paragraph shall invalidate the proceedings at the meeting.

123. **Auditors**

- (a) Auditors shall be appointed and their duties regulated in accordance with the Acts.
- (b) The Auditors shall be entitled to attend any general meeting and to receive all notices of and other communications relating to any general meeting which any member is entitled to receive and shall be entitled to be heard at any general meeting on any part of the business of the meeting which concerns them as auditors.
- (c) Subject to the provisions of the Acts, all acts done by any persons acting as the Auditors shall, as regards all persons dealing in good faith with the Company, be valid, notwithstanding that there was some defect in their appointment or that they were at the time of their appointment not qualified for appointment or subsequently became disqualified.

**PART XXIV - CAPITALISATION OF PROFITS OR RESERVES**

124. **Capitalisation of profits and reserves**

The Directors may with the authority of an ordinary resolution of the Company passed upon the recommendation of the Directors:

- (a) subject as hereinafter provided, resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of any reserve or fund of the Company which is available for distribution or standing to the credit of share premium account, capital redemption reserve or capital conversion reserve fund, or any other undistributable reserve of the Company;
- (b) appropriate the sum resolved to be capitalised to the Holders of ordinary shares in proportion to the nominal amounts of the shares whether or not fully paid) held by them respectively which would entitle them to participate in a distribution of that sum if the shares were fully paid and the sum were then distributable and were distributed by way of dividend and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares or debentures of the Company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to those Holders of ordinary shares or as they may direct, in those proportions, or partly in one way and partly in the other, provided that:
  - (i) the share premium account, the capital redemption reserve, the capital conversion reserve fund and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued shares (excluding, in the case of the share premium account, the capital redemption reserve and the capital conversion reserve fund, redeemable shares) to be issued to Holders of ordinary shares credited as fully paid; and

- (ii) in a case where any sum is applied in paying amounts for the time being unpaid on any shares of the Company or in paying up in full debentures of the Company, the amount of the net assets of the Company at that time is not less than the aggregate of the called up share capital of the Company and its undistributable reserves as shown in the latest audited accounts of the Company or such other accounts as may be relevant and would not be reduced below that aggregate by the payment thereof;
- (c) resolve that any shares so allotted to any Holder in respect of a holding by him of any partly paid shares shall, so long as such shares remain partly paid, rank for dividend only to the extent that the latter shares rank for dividend;
- (d) make such provision by the issue of fractional certificates (or by ignoring fractions or by accruing the benefit thereof to the Company rather than to the Holders of ordinary shares concerned) or by payment in cash or otherwise as they may determine in the case of shares or debentures becoming distributable in fractions;
- (e) authorise any person to enter on behalf of all the Holders of ordinary shares concerned into an agreement with the Company providing for either:
  - (i) the allotment to them respectively, credited as fully paid, of any further shares to which they are entitled upon such capitalisation; or
  - (ii) the payment up by the Company on behalf of such Holders, by the application thereto of their respective proportions of the reserves or profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares;(any agreement made under such authority being binding on all such Holders); and
- (f) generally do all acts and things required to give effect to such resolution.

## PART XXV - NOTICES/PUBLICATIONS

### 125. **Publications in English**

Any notice, information, circular or document to be issued in pursuance of these Articles shall be in the English language. The Directors may also issue, at the expense of the Company, a translation into German of any notice, information, circular or document issued or to be issued in pursuance of these Articles.

### 126. **Notices in writing**

Any notice to be given, served or delivered to or by any person pursuant to these Articles shall be in writing, except that a notice convening a meeting of the Directors or of a committee of the Directors need not be in writing.

**127. Service of notices**

- (a) A notice or document (including any circular, balance sheet, director's or auditors' report or share certificate) to be given, served or delivered in pursuance of these Articles may be given to, served on or delivered to (or deemed to be given to, served on or delivered to) any member by the Company:
- (i) by handing same to him or his authorised agent;
  - (ii) by leaving the same at his registered address; or
  - (iii) by sending the same by the post or other delivery service in a pre-paid cover addressed to him at his registered address;
- or by any combination of these methods.
- (b) Where a notice or document is given, served or delivered pursuant to subparagraph (a)(i) or (ii), the giving, service or delivery thereof shall be deemed to have been effected at the time the same was handed to the member or his authorised agent, or left at his registered address (as the case may be).
- (c) Where a notice or document is given, served or delivered pursuant to subparagraph (a)(iii), the giving, service or delivery thereof shall be deemed to have been effected at the expiration of 24 hours after the cover containing it was posted or given to delivery agents (as the case may be). In proving such service or delivery, it shall be sufficient to prove that such cover was properly addressed, pre-paid and posted or given to delivery agents.
- (d) Where a notice or document is given, served on or delivered pursuant to subparagraph (a)(iv), such notice shall be deemed to have been duly served on all members entitled thereto at noon on the day on which the first of such advertisements shall appear.
- (e) Every legal personal representative, committee, receiver, curator bonis or other legal curator, assignee in bankruptcy, or liquidator of a member shall be bound by a notice given aforesaid if sent to the last registered address of such member, notwithstanding that the Company may have notice of the death, lunacy, bankruptcy, liquidation or disability of such member.

**128. Service on joint Holders**

A notice may be given by the Company to the joint Holders of a share by giving the notice to the joint Holder whose name stands first in the Register in respect of the share and notice so given shall be sufficient notice to all the joint Holders.

**129. Service on transfer or transmission of shares**

- (a) Every person who, by operation of law, transfer or otherwise, becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the Register in respect of the share, has been duly given to a person from whom he derives his title.

- (b) Without prejudice to the provisions of these Articles allowing a meeting to be convened by newspaper advertisement, a notice may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending or delivering it, in any manner authorised by these Articles for the giving of notice to a member, addressed to such persons at the address, if any, supplied by them for that purpose. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

**130. Signature to notices**

The signature to any notice to be given by the Company may be written or printed.

**131. Deemed receipt of notices**

A member present, either in person or by proxy, at any meeting of the Company or of the Holders of any class of shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

**PART XXVI - WINDING UP**

**132. Distribution on winding up**

If the Company shall be wound up and the assets available for distribution among the members as such shall be insufficient to repay the whole of the paid up share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the members in proportion to the capital paid up at the commencement of the winding up on the shares held by them respectively; and if in a winding up the assets available for distribution among the members shall be more than sufficient to repay the whole of the share capital paid up at the commencement of the winding up, the excess shall be distributed among the members in proportion to the capital at the commencement of the winding up paid up on the shares held by them respectively; provided, however, that this Article shall not affect the rights of the Holders of shares issued upon special terms and conditions.

**133. Distribution in specie**

If the Company shall be wound up, the liquidator may, with the sanction of a special resolution of the Company and any other sanction required by the Acts, divide among the members in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and, for such purpose, may value any assets and determine how the division shall be carried out as between the members or different classes of members. The liquidator, with the like sanction, may vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as, with the like sanction, he determines, but so that no member shall be compelled to accept any assets upon which there is a liability.

**PART XXVII - MISCELLANEOUS**

**134. Minutes of meetings**

The Directors shall cause minutes to be made of the following matters, namely:

- (a) of all appointments of officers and committees made by the Directors and of their salary or remuneration;
- (b) of the names of all Directors present at each meeting of the Directors and of the names of all members thereof present at each meeting of every committee appointed by the Directors; and
- (c) of all resolutions and proceedings of all meetings of the Company, of the Holders of any class of shares in the Company, of the Directors and of committees appointed by the Directors.

Any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minute without any further proof.

**135. Authentication of documents**

Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the constitution of the Company (including the memorandum and articles of association) and any resolutions passed by the Company or the Directors or any committee, and any books, records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts. A document purporting to be a copy of a resolution, or an extract from the minutes of a meeting, of the Company, the Directors, or any committee, or any local or divisional board which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that such extract is a true and accurate record of proceedings at a duly constituted meeting.

**136. Destruction of records**

- (a) The Company shall be entitled to destroy:
  - (i) all instruments of transfer which have been registered, at any time after the expiration of six years from the date of registration thereof;
  - (ii) all dividend mandates and all variations or cancellations thereof and all notifications of change of name or address, at any time after the expiration of two years from the date of recording thereof;
  - (iii) all share certificates which have been cancelled, at any time after the expiration of one year from the date of such cancellation; and
  - (iv) all other documents on the basis of which any entry in the Register is made, at any time after the expiry of six years from the date on which an entry in the Register was first made in respect of it.

Provided that the Company may destroy any such type of document at a date earlier than that authorised by this Article if a copy of such document is retained on microfilm or by other similar means and such copy is retained until the expiration of the period applicable to the destruction of the original of such document.

- (b) It shall be presumed conclusively in favour of the Company that every entry in the Register purporting to have been made on the basis of a document so destroyed was duly and properly made, that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered, that every share certificate so destroyed was a valid and effective document and was duly and properly cancelled and that every other document so destroyed had been properly dealt with in accordance with its terms and was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Company; provided always that:
- (i) this Article shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
  - (ii) nothing in this Article shall be construed as imposing upon the Company any liability in respect of the destruction of any document otherwise than as provided for in this Article which would not attach to the Company in the absence of this Article; and
  - (iii) references in this Article to the destruction of any document include references to the disposal thereof in any manner.

#### 137. **Untraced shareholders**

- (a) The Company shall be entitled to sell to any person whosoever (including, without limitation, the Company acting in accordance with the provisions of the 1990 Act and these Articles) at the best price reasonably obtainable any share of a Holder or any share to which a person is entitled by transmission if and provided that:
- (i) during the period of 12 years prior to the date of the publication of the advertisements referred to in subparagraph (or, if published on different dates, the later one) no cheque or warrant sent by the Company through the post in a pre-paid letter addressed to the Holder or to the person entitled by transmission to the share at his address on the Register or at the last known address given by the Holder or the person entitled by transmission as that to which cheques and warrants are to be sent shall have been cashed and no communication in respect of such share shall have been received by the Company from the Holder or the person entitled by transmission (provided that during such 12 year period at least three dividends shall have become payable in respect of such share);
  - (ii) the Company shall have given notice of its intention to sell such share by advertisement in a leading daily newspaper with a national

circulation in the State and in a newspaper circulating in the area in which the address referred to in subparagraph (i) is located (which advertisements, if not published on the same day, shall have been published within 30 days of each other);

- (iii) during the further period of three months after the date of the advertisements (or, if published on different dates, the later one) and prior to the exercise of the power of sale, the Company shall not have received any communication in respect of such share from the Holder or person entitled by transmission; and
  - (iv) if shares of the class concerned are listed, quoted or dealt in on any regulated market of a stock exchange or other regulated securities market, the Company shall have given notice in writing to the appropriate section of that exchange or market of its intention to sell such share.
- (b) To give effect to any such sale the Company may appoint any person to execute as transferor an instrument of transfer of such share and such instrument of transfer shall be as effective as if it had been executed by the Holder or the person entitled by the transmission to such share. The transferee shall be entered in the Register as the Holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase moneys nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- (c) If during the period of 12 years referred to in paragraph (a)(i), or during any period ending on the date when all the requirements of paragraph (a)(i) to have been satisfied, any additional shares have been issued in respect of those held by the Holder or person entitled by transmission at the beginning of, or previously so issued during, any such period and all the requirements of paragraph (a) and have been satisfied in regard to such additional shares, the Company shall also be entitled to sell the additional shares.
- (d) The Company shall account to the Holder or other person entitled to such share for the net proceeds of such sale by carrying all moneys in respect thereof to a separate account which shall be a permanent debt of the Company and the Company shall be deemed to be a debtor and not a trustee in respect thereof for such Holder or other person. Moneys carried to such separate account may be either employed in the business of the Company or invested in such investments as the Directors may from time to time think fit. No interest shall be payable to such Holder or other person in respect of such moneys and the Company shall not be required to account for any money earned on them.

### 138. **Indemnity**

Subject to the provisions of and so far as may be admitted by the Acts but without prejudice to any indemnity to which the person concerned may otherwise be entitled, every Director, Chief Executive Officer, Auditor, Secretary or other officer 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 or discharge

of his duties or in relation thereto including (without limitation) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted to be done 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.

#### 139. **Insurance**

To the extent permitted by law, the Directors shall have the power to purchase and maintain insurance for the benefit of any person who is or was at any time a Director or other officer or employee or auditor of the Company or of any holding company of the Company or of any subsidiary or subsidiary undertaking of the Company or of such holding company, or who is or was at any time a trustee of any pension or retirement benefit scheme for the benefit of any employees or ex-employees of the Company or of any such other company or undertaking as aforesaid, including (without limitation) insurance against any liability incurred by any such person in respect of any act or omission in the actual or purported execution or discharge of his duties or in the exercise or purported exercise of his powers or otherwise in connection with his duties, powers or offices in relation to the Company or any such other company or undertaking as aforesaid or any such pension or retirement benefit scheme.

#### 140. **Scheme of arrangement**

- (a) In these Articles, the "**Scheme**" means the scheme of arrangement dated 1 August 2007 between the Company and the holders of Scheme Shares under Section 201 of the Companies Act 1963 in its original form or with or subject to any modification, addition or condition approved or imposed by the High Court, and expressions defined in the Scheme or (if not so defined) in the document containing the explanatory statement circulated with the Scheme under Section 202 of the Companies Act 1963 shall have the same meanings in this Article.
- (b) Despite anything else in these Articles, if the Company allots and issues any ordinary shares (other than to Hypo Real Estate Holding AG incorporated in Germany registered with the Local Court of Munich under HRB 149 939) ("**HRE**") or any subsidiary undertaking of HRE or anyone acting on behalf of HRE or any subsidiary undertaking of HRE) on or after the Voting Record Time and prior to 6.00 pm on the day before the Order Date, such shares shall be allotted and issued subject to the terms of the Scheme and the holder or holders of those shares shall be bound by the Scheme accordingly.
- (c) If any new ordinary shares are allotted or issued by the Company to any person (a "**new member**") (other than under the Scheme or to HRE or any subsidiary undertaking of HRE or anyone acting on behalf of HRE or any subsidiary undertaking of HRE) at or after 6.00 pm on the day before the Order Date, HRE may, provided the Scheme has become

effective, have such shares transferred to HRE and/or its nominee(s) in consideration of and conditional on the payment and issue by HRE to the new member of the amount of cash and New HRE Shares to which the new member would have been entitled under the terms of the Scheme had such shares transferred to HRE hereunder been Scheme Shares at the Scheme Record Time, such New HRE Shares to rank pari passu in all respects with all other HRE Shares for the time being in issue and ranking for any dividends or distributions made, paid or declared thereon following the date on which the transfer of such ordinary shares is executed.

- (d) In order to give effect to any such transfer required by this Article, the Company may appoint any person to execute and deliver a form of transfer on behalf of the new member in favour of HRE and/or its nominee(s). Before the registration of HRE as a holder of any share to be transferred under this Article, HRE may appoint a person nominated by the Directors to act as attorney on behalf of any holder of that share in accordance with any directions that HRE may give in relation to any dealings with or disposal of that share (or any interest in it), exercising any rights attached to it or receiving any distribution or other benefit accruing or payable in respect of it and any holders of that share shall exercise all rights attaching to it in accordance with the directions of HRE but not otherwise.