

THE COMPANIES (NORTHERN IRELAND) ORDER 1986

**COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL**

ARTICLES of ASSOCIATION

of

MUTUAL ENERGY LIMITED

Interpretation

1 Exclusion of Table C

No regulations set out in any enactment concerning companies shall apply as the regulations or articles of the Company.

2 Definitions

In these Articles unless the context otherwise requires:-

"**Auditors**" means the auditors for the time being of the Company or, in the case of joint auditors, any one of them;

"**Board**" means the board of Directors from time to time of the Company or the Directors present at a meeting of the Directors at which a quorum is present;

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

"**Companies Acts**" means the Companies Act 2006 and every other enactment from time to time in force concerning companies in so far as it applies to the Company;

"**Director**" means any director of the Company from time to time;

"**Executive Director**" means a Director appointed to hold any employment or executive office within the Company (including that of a chief executive or a managing director) pursuant to Article 42.2;

"**enactment**" means any order in council, statute, statutory instrument or other subordinate legislation (including, without limitation, the Table C set out in the Schedule to the Companies (Tables A to F) Regulations (Northern Ireland) 1986 or the model articles for companies limited by guarantee set out in Schedule 2 to The Companies (Model Articles) Regulations 2008);

"**Member**" means a member of the Company;

"Membership Policy" means a written policy complying with the requirements of Article 6;

"Membership Selections Committee" has the meaning given in Article 6;

"Non-Executive Director" means a Director, other than an Executive Director;

"seal" means any common or official seal that the Company may be permitted to have under the Companies Acts;

"these Articles" means these articles of association as altered from time to time by special resolution and the expression **"this Article"** shall be construed accordingly;

"the Office" means the registered office from time to time of the Company;

"Relevant Authority" means

- (a) The Northern Ireland Authority for Utility Regulation (the "**Authority**"); or
- (b) any person, department or other entity which from time to time performs any of the functions which are of the date of the adoption of these Articles assigned to the Authority.

"Secretary" means the secretary, or (if there are joint secretaries) any one of the joint secretaries, of the Company and (except in Article 70) includes an assistant or deputy secretary and any person appointed by the Board to perform any of the duties of the secretary;

"United Kingdom" means Great Britain and Northern Ireland;

references to a document being "**executed**" include references to its being executed under hand or under seal or by any other method;

references to "**writing**" include references to any method of representing or reproducing words in a legible and non-transitory form; and

words or expressions to which a particular meaning is given by the Companies Acts in force when these Articles or any part of these Articles are adopted bear the same meaning in these Articles or that part (as the case may be) save that the word "**company**" shall include any body corporate.

Headings are included only for convenience and shall not affect interpretation.

3 **Form of Resolution**

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 at which he was present shall be as effectual as if it had been passed at a general meeting properly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more of the Members.

Members

4 **Number of Members**

The number of Members shall not be subject to any maximum. Save with the consent of the Authority, the minimum number of members shall be as set out in the Membership Policy.

5 **Admission of Members**

- 5.1 The subscribers to the Memorandum of Association of the Company and, subject to Article 5.5, such other persons as are admitted to membership by the Board in accordance with the provisions of this Article 5 shall be Members, and their names shall be entered in the register of members accordingly. The Board shall have an absolute discretion as to the admission or rejection by them of an application for membership of the Company received from any person otherwise than in accordance with the appointment process set forth in these Articles and the Membership Policy.
- 5.2 The Board may at any time after the date of adoption of these Articles admit to the membership of the Company any person who has applied to become a member and who has been recommended for membership by the Membership Selections Committee to become a Member.
- 5.3 To become a Member in accordance with Article 5.2 any person applying shall, as a condition precedent to admission to membership, deliver a signed application in accordance with Article 5.5(c).
- 5.4 Subject to these Articles, Members shall be admitted to membership for an initial term (the "**Initial Term**") expiring not later than the third anniversary of his admission to membership. A Member shall cease to hold that position when his Initial Term expires unless the Board determines before the expiry of the Initial Term that the Member should continue to hold that position for a further term not exceeding three years. The provisions of the immediately preceding sentence shall apply, mutatis mutandis, on the expiry of such further term as they apply on the expiry of the Initial Term. For the avoidance of doubt, no person shall be entitled to hold the position of Member for more than three consecutive terms of three years.
- 5.5 No person shall be admitted as a Member:
- (a) otherwise than in accordance with the foregoing provisions of this Article; and
 - (b) unless the person has been recommended for membership by the Membership Selections Committee; and
 - (c) unless he signs and delivers to the Board an application in writing in such form as shall from time to time be approved by the Board.
- 5.6 The Board shall at its discretion make available a register of the names of Members for public inspection.

6 **Membership Policy**

- 6.1 The Board shall prepare and keep in force a published written policy (the "**Membership Policy**") setting out procedures for the selection and admission of persons as members of the Company. The Membership Policy shall include a provision by which a committee (the "**Membership Selections Committee**") will be appointed for the purpose of making recommendations to the Board from time to time as to the persons who, in the opinion of the Membership Selections Committee, would be suitable for admission to membership of the Company.

6.2 The Board shall periodically review (including upon the request of a Relevant Authority) the Membership Policy. The Board shall send to the Relevant Authority (a) a report on the outcome of such review and (b) any proposed revisions which (having regard to the outcome of such review) the Board considers ought appropriately to be made to such policy. Following such review, the Board shall be entitled to make such revisions to the Membership Policy from time to time as it considers ought reasonably to be made provided always that no such revisions may be made unless those revisions have previously been approved:-

- (a) by the Members at a general meeting of the Company; and
- (b) by the Relevant Authority, provided always that in the event that the Relevant Authority does not notify the Board in writing within 28 days of receipt of such revisions that it objects to such revisions then such revisions shall be deemed to be approved by the Relevant Authority.

7 **Duties of Members**

Every Member shall be bound to further to the best of his ability the objects of the Company set out in Clause 3 of the Company's Memorandum of Association and shall observe these Articles.

8 **Membership not Transferable**

Membership shall be personal to the Member and shall not be transferable by act of the Member, by operation of law or otherwise.

9 **Cessation of Membership**

9.1 A Member shall cease to hold that position:-

- (a) if he becomes of unsound mind or permanently incapable of acting; or
- (b) if he is convicted of any arrestable criminal offence (other than an offence under road traffic legislation in Northern Ireland or elsewhere for which a fine or non-custodial penalty is imposed); or
- (c) if he is guilty of conduct tending to bring himself or the Company or any of its subsidiaries into disrepute; or
- (d) if, being an individual, he becomes bankrupt or makes any arrangement with his creditors; or
- (e) if he sends to the Company notice in writing of his retirement; or
- (f) if his membership is terminated under the provisions of Article 9.2.

9.2 (a) The Membership Selections Committee shall (at the request of the Board) consider whether it is in the best interests of the Company that a particular Member should cease to be a Member and, if it so resolves by a resolution passed by a majority of at least three-quarters of the members of the Membership Selections Committee present at the relevant meeting and voting, shall request in writing any Member to resign his membership. If such Member shall fail to comply with such request within 30 days, the Board may by resolution passed at a Board meeting by a like

majority resolve that the membership of such Member be terminated forthwith. Not less than seven days' notice of such Board meeting shall be given to the Member concerned and the notice to the Member shall state the purpose for which the meeting is called. Such Member may attend the meeting and be heard but shall not be present when voting takes place. The decision of the meeting shall forthwith be notified in writing to such Member.

- (b) Without prejudice to Article 9.2(a), the membership of any Member who fails to observe the provisions these Articles or the Membership Policy may be terminated by a resolution passed by a majority of at least three-quarters of the Directors present and voting at a meeting of the Board. In relation to such meeting, the provisions of Article 9.2(a) (save for the first two sentences thereof) shall apply.

10 **Expenses**

No Member shall be entitled to receive any fees or other payment from the Company for acting as a Member. The Board may, however, determine at its discretion to reimburse reasonable expenses incurred by Members in fulfilling their duties as Members.

11 **General Meetings**

Any general meeting of the Company other than an Annual General Meeting shall be called a General Meeting.

12 **Annual General Meetings**

The Board shall convene and the Company shall hold general meetings as Annual General Meetings in accordance with the requirements of the Companies Acts. In the event that the Board shall fail to convene any general meeting in accordance with the requirements of the Companies Acts then, without prejudice to the provisions of the Companies Acts, not less than 10% of the Members may convene such a meeting.

13 **Convening of General Meetings**

The Board may convene a General Meeting whenever it thinks fit and shall convene a General Meeting on the requisition of not less than 10% of the Members. If the Board defaults in convening a General Meeting at the requisition of not less than 10% of the Members, such Members shall be entitled to convene the meeting.

Notice of General Meetings

14 **Length of Notice**

An Annual General Meeting and a General Meeting convened for the passing of a special resolution or a resolution appointing a person as a Director shall be convened by not less than twenty-one clear days' notice in writing. All other General Meetings shall be convened by not less than fourteen clear days' notice in writing. The notice shall specify the place, day and time of the meeting, and the general nature of the business to be transacted. Notice of every general meeting shall be given to all Members and to the Auditors.

15 **Meetings on Short Notice**

Notwithstanding that a meeting of the Company is convened by shorter notice than that specified in this Article, it shall be deemed to have been properly convened if it is so agreed:-

- (a) in the case of an Annual General Meeting, by all the Members entitled to attend and vote at the meeting; and
- (b) in the case of any other meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together representing not less than 95 per cent. of the total voting rights at that meeting of all the Members.

16 **Non-Receipt of Notice**

The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send an instrument of proxy to, or the non-receipt of either or both by, any person entitled to receive the notice shall not invalidate the proceedings at that meeting.

17 **Postponement of General Meetings**

If the Board, in its absolute discretion, considers that it is impractical or unreasonable for any reason to hold a general meeting on the date or at the time or place specified in the notice calling the general meeting, it may postpone the general meeting to another date, time and place by giving notice of such postponement not less than three clear days before the date previously specified for that meeting. Such notice shall specify the date, time and place of the postponed meeting. Notice of the business to be transacted at such postponed meeting shall not be required.

Proceedings at General Meetings

18 **Quorum**

No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the choice or appointment of a chairman which shall not be treated as part of the business of the meeting. Save as otherwise provided by these Articles, ten Members present in person or by proxy and entitled to vote shall be a quorum for all purposes.

19 **Procedure If Quorum Not Present**

If within five minutes (or such longer time not exceeding one hour as the chairman of the meeting may decide to wait) after the time appointed for the commencement of the general meeting a quorum is not present, the meeting shall stand adjourned to such other day (being not less than three nor more than twenty-eight days later) and at such other time or place as may have been specified for the purpose in the notice convening the meeting. Where no such arrangements have been so specified, the meeting shall stand adjourned to such other day (being not less than ten nor more than twenty-eight days later) and at such other time or place as the chairman of the meeting may decide and, in this case, the Company shall give not less than seven clear days' notice in writing of the adjourned meeting. At any adjourned meeting two Members present in person or by proxy and entitled to vote shall be a quorum.

20 **Security Arrangements**

The Board may direct that persons wishing to attend any general meeting should submit to such searches or other security arrangements or restrictions as the Board shall consider appropriate in the circumstances and shall be entitled in its absolute discretion to, or to authorise some one or more persons who shall include a Director or the Secretary or the chairman of the meeting to, refuse entry to, or to eject from, such general meeting any

person who fails to submit to such searches or otherwise to comply with such security arrangements or restrictions.

21 **Chairman of General Meeting**

The chairman (if any) of the Board shall preside as chairman at every general meeting. If there is no chairman, or if at any meeting the chairman is not present within five minutes after the time appointed for the commencement of the meeting, or if the chairman is not willing to act as chairman, another Director shall preside as chairman if present and willing to act. If no Director is present, or if each of the Directors present declines to take the chair, the persons present and entitled to vote shall appoint one of their number to be chairman.

22 **Orderly Conduct**

The chairman shall take such action as he thinks fit to promote the orderly conduct of the business of the meeting as laid down in the notice of the meeting and the chairman's decision on matters of procedure or arising incidentally from the business of the meeting shall be final as shall be his determination as to whether any matter is of such a nature.

23 **Rights to Attend and Speak**

Each Director shall be entitled to attend and speak at any general meeting of the Company. The chairman may invite any person whom the chairman considers is, by virtue of his knowledge and experience of the Company's business, able to assist in the deliberations of the meeting to attend and speak at any general meeting of the Company.

24 **Adjournments**

The chairman may at any time without the consent of the meeting adjourn any meeting (whether or not it has commenced or a quorum is present) either sine die or to another time or place where it appears to him that (a) the Members wishing to attend cannot be conveniently accommodated in the place appointed for the meeting (b) the conduct of persons present prevents or is likely to prevent the orderly continuation of business or (c) an adjournment is otherwise necessary so that the business of the meeting may be properly conducted. In addition, the chairman may at any time with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting either sine die or to another time or place. When a meeting is adjourned sine die the time and place for the adjourned meeting shall be fixed by the Board. No business shall be transacted at any adjourned meeting except business which might properly have been transacted at the meeting had the adjournment not taken place.

25 **Notice of Adjournment**

When a meeting is adjourned for three months or more, or sine die, notice of the adjourned meeting shall be given as in the case of an original meeting. Except where these Articles otherwise require, it shall not be necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting.

26 **Resolutions**

Subject to the Companies Acts, where for any purpose an ordinary resolution of the Company is required, a special resolution shall also be effective.

27 **Amendments to Resolutions**

In the case of a resolution duly proposed as a special resolution no amendment thereto (other than an amendment to correct a patent error) may be considered or voted upon. In the case of a resolution duly proposed as an ordinary resolution no amendment thereto (other than an amendment to correct a patent error) may be considered or voted upon unless the chairman in his absolute discretion decides that it may be considered or voted upon.

Voting at General Meetings

28 Method of Voting

At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless (before or on the declaration of the result of the show of hands or on the withdrawal of any other demand for a poll) a poll is properly demanded. Subject to the Companies Acts, a poll may be demanded by:-

- (a) the chairman of the meeting; or
- (b) at least two Members present in person or by proxy or by the duly authorised representative of a corporation and entitled to vote.

29 Chairman's Declaration Conclusive

Unless a poll is so demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.

30 Procedure if Poll Demanded

If a poll is properly demanded it shall be taken in such manner as the chairman shall direct and he may appoint scrutineers who need not be Members. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

31 When Poll to be Taken

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 on such date being not later than thirty days after the date of the demand) and at such time and place as the chairman shall direct. It shall not be necessary (unless the chairman otherwise directs) for notice to be given of a poll.

32 Continuance of Other Business after Poll Demand

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, and it may be withdrawn with the consent of the chairman at any time before the close of the meeting or the taking of the poll, whichever is the earlier, and in that event shall not invalidate the result of a show of hands declared before the demand was made.

33 Votes of Members

Every Member shall have one vote.

34 Votes on a Poll

On a poll votes may be given either personally or by proxy.

35 **Casting Vote of Chairman**

In the case of an equality of votes at a general meeting, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to an additional or casting vote.

36 **Objections or Errors in Voting**

If:-

- (a) any objection shall be raised to the qualification of any voter; or
- (b) any votes have been counted which ought not to have been counted or which might have been rejected; or
- (c) any votes are not counted which ought to have been counted.

the objection or error shall not vitiate the decision of the meeting or adjourned meeting on any resolution unless it is raised or pointed out at the meeting or, as the case may be, the adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and shall only vitiate the decision of the meeting on any resolution if the chairman decides that the same may have affected the decision of the meeting. The decision of the chairman on such matters shall be conclusive.

Proxies

37 **Execution of Proxies**

An instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney authorised in writing or, if the appointor is a corporation, either under its seal or under the hand of an officer, attorney or other person authorised to sign it,

38 **Delivery of Proxies**

The instrument appointing a proxy and (if required by the Board) any authority under which it is executed or a certified copy of the authority may be delivered to the Office (or to such other place in Northern Ireland as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case, in any accompanying document) not less than twenty-four hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of the meeting or adjourned meeting, not less than twenty-four hours before the time appointed for the taking of the poll and an instrument of proxy which is not so delivered shall be invalid. When two or more valid but differing instruments of proxy are delivered in respect of the same Member for use at the same meeting, the one which is last delivered (regardless of its date or of the date of its execution) shall be treated as replacing and revoking the others as regards that Member. If the Company is unable to determine which was last delivered, none of them shall be treated as valid in respect of that Member. Delivery of an instrument appointing a proxy shall not preclude a Member from attending and voting in person at the meeting or poll concerned.

39 **Maximum Validity of Proxy**

No instrument appointing a proxy shall be valid after twelve months have elapsed from the date named in it as the date of its execution.

40 **Form of Proxy**

Instruments of proxy shall be in any usual form or in such other form as the Board may approve and the Board may, if it thinks fit, but subject to the provisions of the Companies Acts, send out with the notice of any meeting forms of instrument of proxy for use at the meeting. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll and to vote on any amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy shall, unless the contrary is stated in it, be valid for any adjournment of the meeting as well as for the meeting to which it relates.

41 **Cancellation of Proxy's Authority**

A vote given or poll demanded by a proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll or the previous death or insanity of the Member who appointed the proxy, unless notice in writing of the determination, death or insanity was received by the Company at the Office or such other place in Northern Ireland as was specified for the delivery of instruments of proxy in the notice convening the meeting (or other accompanying document) not later than the last time at which an instrument of proxy should have been delivered in order to be valid for use at the meeting or on the holding of the poll at which the vote was given or the poll demanded.

Appointment, Retirement and Removal of Directors

42 **Number of Directors and Maximum Term of Office**

42.1 Unless otherwise determined by ordinary resolution of the Company, the minimum number of Directors shall be one and there shall be no maximum number of Directors. The number of Non-Executive Directors shall at all times exceed the number of Executive Directors.

42.2 The Board may from time to time appoint one or more Directors as Executive Directors for such period (subject to the provisions of the Companies Acts) and upon such other terms as the Board may in its discretion decide and may revoke or terminate any appointment so made. Any revocation or termination of the appointment shall be without prejudice to any claim for damages that the Director may have against the Company or the Company may have against the Director for breach of any contract of service between him and the Company which may be involved in the revocation or termination. A Director so appointed shall receive such remuneration (whether by way of salary, commission or otherwise) as the Board may decide, and either in addition to or in lieu of his remuneration as a Director.

42.3 Without prejudice to article 42.4 below, in the event that a Non-Executive Director is appointed other than at a general meeting of the Company, the term of appointment of that Non-Executive Director shall not be for a period which expires at a date after the date of the next annual general meeting of the Company, but may be for a period shorter than that.

42.4 Any Non-Executive Director's term of office may be renewed or extended, provided always that:-

(a) any such renewal or extension is approved by the Members in general meeting;

- (b) any such renewal or extension may not be for a period of more than the period expiring on the date of the third annual general meeting of the Company falling after the date of the general meeting at which such Non-Executive Director's appointment is renewed or extended (but, for the avoidance of doubt, may be for a lesser period); and
- (c) no such renewal or extension may be made if the period of that renewal or extension would result in that Non-Executive Director holding office for a period of more than the period ending on the date of the sixth annual general meeting of the Company falling after the date of the annual general meeting at which such Director is first appointed (except if such Non-Executive Director's term of office is recommended for renewal beyond that period by the Board in what the Board considers to be exceptional circumstances) PROVIDED that in no circumstances may any renewal or extension be made if the period of that renewal or extension would result in that Non-Executive Director holding office for a period of more than the period ending on the date of the ninth annual general meeting of the Company falling after the date of the annual general meeting at which such Director is first appointed.

43 **Age of Directors**

No person shall be disqualified from being appointed a Director, and no Director shall be required to vacate that office, by reason only of the fact that he has attained the age of seventy years or any other age, nor shall it be necessary by reason of his age to give special notice under the Companies Acts of any resolution.

44 **Power of Company to Appoint Directors**

Subject to the provisions of these Articles, the Company may by ordinary resolution appoint any person who is willing to act to be a Director, either to fill a vacancy or as an addition to the existing Board.

45 **Power of Board to Appoint Directors**

Without prejudice to the power of the Company in general meeting pursuant to any of the provisions of these Articles to appoint any person to be a Director, the Board may, without prejudice to Article 61, appoint any person who is willing to act to be a Director to fill a vacancy arising on the resignation of a Director. Any Director so appointed shall hold office only until the next following Annual General Meeting. At such Annual General Meeting, and without prejudice to Article 42, any Director who was appointed to fill a casual vacancy shall be eligible for reappointment.

46 **Power of Removal by Special Resolution**

In addition to any power of removal conferred by the Companies Acts, the Company may by special resolution remove any Director before the expiration of his period of office and may (subject to these Articles) by ordinary resolution appoint another person who is willing to act to be a Director in his place.

47 **Persons Eligible as Directors**

No person shall be appointed or re-appointed a Director at any general meeting unless:-

- (a) he is recommended by the Board; or

- (b) not less than seven nor more than forty-two days before the day appointed for the meeting, notice executed by one-sixth in number of the Members qualified to vote at the meeting has been given to the Secretary of the intention to propose that person for appointment or reappointment together with notice executed by that person of his willingness to be appointed or reappointed.

48 **Vacation of Office by Directors**

The office of a Director shall be vacated if:-

- (a) he resigns his office by notice in writing delivered to the Office or tendered at a meeting of the Board; or
- (b) he is or has been suffering from mental ill health or becomes a patient for any purpose of any statute relating to mental health and the Board resolves, having obtained professional advice, that his office is vacated; or
- (c) he is absent without the permission of the Board from meetings of the Board for three consecutive months and the Board resolves that his office is vacated; or
- (d) he becomes bankrupt or compounds with his creditors generally; or
- (e) he is prohibited by law from being a Director; or
- (f) he ceases to be a Director by virtue of the Companies Acts or is removed from office pursuant to these Articles; or
- (g) he is requested to resign in writing by all of the other Directors.

49 **Membership of Committees**

If the office of a Director is vacated for any reason, he shall cease to be a member of any committee or sub-committee of the Board.

Additional Remuneration, Expenses and Pensions

50 **Directors' Fees**

Each of the Directors shall be paid a fee at such rate as may from time to time be determined by the Board or any committee authorised by the Board provided that the aggregate of all fees so paid to Directors (excluding amounts payable under any other provision of these Articles) shall not exceed such amount as may from time to time be decided by ordinary resolution of the Company.

51 **Additional Remuneration**

Any Director who goes or resides abroad for any purposes of the Company or who performs services which in the opinion of the Board or any committee authorised by the Board go beyond the ordinary duties of a Director may be paid such extra remuneration (whether by way of salary, commission or otherwise) as the Board or any committee authorised by the Board may in its discretion decide in addition to any remuneration provided for by or pursuant to any other Article.

52 **Expenses**

Each Director may be paid his reasonable travelling, hotel and incidental expenses of attending and returning from meetings of the Board or committees of the Board or general meetings of the Company or any other meeting which as a Director he is entitled to attend and shall be paid all other costs and expenses properly and reasonably incurred by him in the conduct of the Company's business or in the discharge of his duties as a Director.

53 **Permitted Interests and Voting**

53.1 Subject to the provisions of the Companies Acts and of Article 53.10, no Director or proposed or intending Director shall be disqualified by his office from contracting with the Company, either with regard to his tenure of any office or place of profit or as vendor, purchaser or in any other manner whatever, nor shall any contract in which any Director is in any way interested be liable to be avoided, nor shall any Director who is so interested be liable to account to the Company or the Members for any remuneration, profit or other benefit realised by the contract by reason of the Director holding that office or of the fiduciary relationship thereby established, provided always that:-

- (a) in the event that the consideration payable to or by the Director under such contract (excluding for the avoidance of doubt consideration payable to an Executive Director under a contract of service or to a Director for his services as Director or chairman of the Board or of a Board committee) is less than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to the date of the relevant contract, the Company shall first be required to notify Members that it is proposed that the contract be entered into; and
- (b) in the event that the consideration which would be payable to or by the Director under such contract (excluding for the avoidance of doubt consideration payable to an Executive Director under a contract of service or to a Director for his services as Director or chairman of the Board or of a Board committee) is greater than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to the date of the relevant contract, the Company shall first be required (1) to go through an appropriate tendering or price testing process in relation to the proposed contract and (2) seek the approval of the Members to the entering into of the contract.

53.2 A Director may hold any other office or place of profit with the Company (except that of Auditor) in conjunction with his office of Director for such period (subject to the provisions of the Companies Acts) and upon such other terms as the Board may decide, and may be paid such extra remuneration for so doing (whether by way of salary, commission or otherwise) as the Board or any committee authorised by the Board may decide, and either in addition to or in lieu of any remuneration provided for by or pursuant to any other Article, provided always that:-

- (a) in the event that the consideration payable to the Director in respect of that other office or place of profit (excluding remuneration paid to an Executive Director appointed by the Board pursuant to Article 42.2) is less than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to, as appropriate, the date of commencement of that other office or the date of commencement of the relevant arrangements in respect of that place of profit, the Company shall first be required to notify Members that it is proposed that the arrangement be entered into; and

- (b) in the event that the consideration which would be payable to the Director under any such arrangement (excluding remuneration payable to an Executive Director appointed by the Board pursuant to Article 42.2) is greater than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to, as appropriate, the date of commencement of that other office or the date of commencement of the relevant arrangements in respect of that place of profit, the Company shall first be required (1) to go through an appropriate tendering or price testing process in relation to the proposed arrangement and (2) seek the approval of the Members to the entering into of the arrangement.
- 53.3 A Director may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested or as regards which it has any power of appointment, and shall not be liable to account to the Company or the Members for any remuneration, profit or other benefit received by him as a director or officer of or from his interest in the other company. The Board may also cause any voting power conferred by the shares in any other company held or owned by the Company or any power of appointment to be exercised in such manner in all respects as it thinks fit, including the exercise of the voting power or power of appointment in favour of the appointment of the Directors or any of them as directors or officers of the other company, or in favour of the payment of remuneration to the directors or officers of the other company.
- 53.4 A Director may act by himself or his firm in a professional capacity for the Company (otherwise than as Auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided always that:-
- (a) in the event that the consideration payable to the Director or his firm in respect of those services (excluding for the avoidance of doubt consideration payable to an Executive Director under a contract of service or to a Director for his services as Director or chairman of the Board or of a Board committee) is less than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to the date of commencement of provision of the relevant services, the Company shall first be required to notify Members that it is proposed that the arrangement be entered into; and
- (b) in the event that the consideration which would be payable to or by the Director or his firm in respect of those services (excluding for the avoidance of doubt consideration payable to an Executive Director under a contract of service or to a Director for his services as Director or chairman of the Board or of a Board committee) is greater than an amount which is equal to £35,000 indexed for Retail Prices Index inflation from the date of incorporation of the Company to the date of commencement of provision of the relevant services, the Company shall first be required (1) to go through an appropriate tendering or price testing process in relation to the proposed arrangement and (2) seek the approval of the Members to the entering into of the arrangement.
- 53.5 A Director shall not vote on or be counted in the quorum in relation to any resolution of the Board concerning his own appointment, or the settlement or variation of the terms or the termination of his own appointment, as the holder of any office or place of profit with the Company or any other company in which the Company is interested but, where proposals are under consideration concerning the appointment, or the settlement or variation of the terms or the termination of the appointment, of each of the Directors to offices or places of profit with the Company or any other company in which the Company is interested, a separate resolution may be put in relation to each Director and in that case each of the

Directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution unless it concerns his own appointment or the settlement or variation of the terms or the termination of his own appointment or the appointment of another Director to an office or place of profit with a company in which the Company is interested and the Director seeking to vote or be counted in the quorum owns one per cent. or more of it.

53.6 Save as otherwise provided by these Articles, a Director shall not vote on, or be counted in the quorum in relation to, any resolution of the Board in respect of any contract in which he has an interest which is to his knowledge a material interest and, if he shall do so, his vote shall not be counted, but this prohibition shall not apply to any resolution where that material interest arises only from one or more of the following matters:

- (a) the giving to him of any guarantee, indemnity or security in respect of money lent or obligations undertaken by him or by any other person at the request of or for the benefit of the Company or any of its subsidiary undertakings; or
- (b) the giving to a third party of any guarantee, indemnity or security in respect of a debt or obligation of the Company or any of its subsidiary undertakings for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security; or
- (c) any contract concerning the adoption, modification or operation of a pension fund or retirement death or disability benefits scheme which relates to Directors of the Company or to directors and employees of any of its subsidiary undertakings and does not provide in respect of any Director as such any privilege or advantage not accorded to the employees to which the fund or scheme relates; or
- (d) any contract for the benefit of employees of any of the Company's subsidiary undertakings under which he benefits in a similar manner to the employees and which does not accord to any Director as such any privilege or advantage not accorded to the employees to whom the contract relates; or
- (e) any contract for the purchase or maintenance for any Director or Directors of insurance against any liability.

53.6 A company shall be deemed to be one in which a Director owns one per cent. or more if and so long as (but only if and so long as) he, taken together with any person connected with him, is to his knowledge (either directly or indirectly) the holder of or beneficially interested in one per cent. or more of any class of the equity share capital of that company or of the voting rights available to members of that company. For the purpose of this Article 53.7 there shall be disregarded any shares held by the Director or any such person as bare or custodian trustee and in which he has no beneficial interest, any shares comprised in a trust in which his, or any such person's, interest is in reversion or remainder if and so long as some other person is entitled to receive the income of the trust and any shares comprised in an authorised unit trust scheme in which he, or any such person, is interested only as a unit holder.

53.7 Where a company in which a Director owns one per cent. or more is materially interested in a contract, he also shall be deemed materially interested in that contract.

53.8 If any question shall arise at any meeting of the Board as to the materiality of the interest of the Director who is not the chairman of the meeting or as to the entitlement of the Director who is not the chairman of the meeting to vote or be counted in the quorum and the question is not resolved by his voluntarily agreeing to abstain from voting or not to be counted in the quorum, the question shall be referred to the chairman of the meeting and his ruling in

relation to the Director concerned shall be conclusive except in a case where the nature or extent of his interest (so far as it is known to him) has not been fairly disclosed to the Board. If a quorum cannot be formed as a result of the chairman's ruling, the item(s) of business which the inquorate meeting of the Board had been convened to consider shall be decided by the Members in general meeting. If any question shall arise in respect of the chairman of the meeting, the question shall be decided by a resolution of the Board (for which purpose the chairman shall be counted in the quorum but shall not vote on the matter) and the resolution shall be conclusive except in a case where the nature or extent of the interest of the chairman (so far as it is known to him) has not been fairly disclosed to the Board. If a quorum cannot be formed as a result of the resolution, the item(s) of business which the inquorate meeting of the Board had been convened to consider shall be decided by the Members in general meeting.

- 53.9 A Director who to his knowledge is in any way, whether directly or indirectly, interested in a contract with the Company shall declare the nature of his interest at the meeting of the Board at which the question of entering into the contract is first taken into consideration, if he knows his interest then exists, or in any other case at the first meeting of the Board after he knows that he is or has become so interested. For the purposes of this Article, a general notice to the Board by a Director to the effect that (a) he is a member of a specified company or firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm or (b) he is to be regarded as interested in any contract which may after the date of the notice be made with a specified person who is connected with him, shall be deemed to be a sufficient declaration of interest under this Article in relation to any such contract; provided that no such notice shall be effective unless either it is given at a meeting of the Board or the Director takes reasonable steps to secure that it is brought up and read at the next Board meeting after it is given.
- 53.10 References in this Article to a contract include references to any proposed contract and to any transaction or arrangement whether or not constituting a contract.
- 53.11 Subject to the provisions of the Companies Acts, the Company may by ordinary resolution suspend or relax the provisions of this Article to any extent or ratify any contract not properly authorised by reason of a contravention of this Article.
- 53.12 For the purpose of this Article 53, an interest of a person who is, for any purpose of the Companies Acts, connected with a Director shall be treated as an interest of the Director.

Powers and Duties of the Board

54 General Powers of Company Vested in Board

Subject to the provisions of the Companies Acts, the Memorandum of Association of the Company and these Articles and to any directions given by the Company in general meeting by special resolution, the business of the Company shall be managed by the Board which may exercise all the powers of the Company whether relating to the management of the business of the Company or not. No alteration of the Memorandum of Association or these Articles and no special resolution shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that resolution had not been passed. The powers given by this Article shall not be limited by any special power given to the Board by any other Article.

55 **Agents**

The Board may, by power of attorney or otherwise, appoint any person to be the agent of the Company upon such terms (including terms as to remuneration) as it may decide and may (with the exception of those powers, authorities and discretions conferred on the Board under Articles 5 (*Admission of Members*), 6 (*Membership Policy*) and 45 (*Power of Board to Appoint Directors*) (which powers, authorities and discretions shall be exercisable only by the Board)) delegate to any person so appointed any of its powers, authorities and discretions (with power to sub-delegate). The Board may remove any person appointed under this Article and may revoke or vary the delegation but no person dealing in good faith and without notice of the revocation or variation shall be affected by it. The power to delegate contained in this Article shall (save as expressly provided herein) be effective in relation to the powers, authorities and discretions of the Board generally and shall not be limited by the fact that in certain Articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the Board or by a committee authorised by the Board.

56 **Delegation to Individual Directors**

The Board may entrust to and confer upon any Director any of its powers, authorities and discretions (with power to sub-delegate) upon such terms and conditions and with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions and may from time to time revoke or vary all or any of them but no person dealing in good faith and without notice of the revocation or variation shall be affected by it. The power to delegate contained in this Article shall be effective in relation to the powers, authorities and discretions of the Board generally and shall not be limited by the fact that in certain Articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the Board or by a committee authorised by the Board.

57 **Provision for Employees**

The Board may exercise any power conferred by the Companies Acts to make provision for the benefit of persons employed or formerly employed by any of the Company's subsidiaries in connection with the cessation or the transfer to any person of the whole or part of the undertaking of that subsidiary.

Proceedings of the Board

58 **Board Meetings**

The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. A Director at any time may, and the Secretary on the requisition of a Director at any time shall, summon a meeting of the Board.

59 **Notice of Board Meetings**

Notice of a Board meeting shall be deemed to be properly given to a Director if it is given to him personally or sent in writing to him at his last known address or any other address given by him to the Company for this purpose. A Director absent or intending to be absent from the United Kingdom or Ireland may request the Board that notices of Board meetings shall during his absence be sent in writing to him at an address given by him to the Company for this purpose, but such notices need not be given any earlier than notices given to Directors not so absent and if no request is made to the Board it shall not be necessary to give notice of a Board meeting to any Director who is for the time being absent from the United

Kingdom or Ireland. A Director may waive notice of any meeting either prospectively or retrospectively.

60 **Quorum**

The quorum necessary for the transaction of the business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be two Non-Executive Directors. Subject to the provisions of these Articles, any Director who ceases to be a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of the meeting if the other Director does not object. Where a Director is disqualified from being counted in a quorum in relation to the consideration of any matter by the Board, such matter shall be considered instead by the Members in general meeting.

61 **Directors below Minimum through vacancies**

The continuing Directors or a sole continuing Director may act notwithstanding any vacancy in their number but, if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with these Articles or is below the number fixed by or in accordance with these Articles as the quorum or there is only one continuing Director, the continuing Director may act for the purpose of filling vacancies or of summoning general meetings of the Company but not for any other purpose.

62 **Appointment of Chairman**

The Board may appoint a Director to be the chairman of the Board, and may at any time remove him from that office. Unless he is unwilling to do so, the chairman shall act as chairman at every meeting of the Board. If no chairman is appointed, the Directors may choose one of their number to be chairman of the meeting.

63 **Competence of Meetings**

A meeting of the Board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Board.

64 **Voting**

Subject to any other provisions of these Articles requiring a different majority, questions arising at any meeting of the Board shall be determined by a majority of votes. In the case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

65 **Delegation to Committees**

65.2 With the exception of the powers, authorities and discretions conferred on the Board under Articles 5 (*Admission of Members*), 6 (*Membership Policy*) and 45 (*Power of Board to Appoint Directors*) (which powers, authorities and discretions shall be exercisable only by the Board), the Board may delegate any of its powers, authorities and discretions (with power to subdelegate) to any committee, consisting of such person or persons (whether Directors or not) as it thinks fit. Any committee so formed may exercise its power to sub-delegate by sub-delegating to any person or persons (whether or not a member or members of the Board or of the committee).

65.3 Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, conform to any regulations which may be imposed on it by the Board. The meetings and proceedings of any committee consisting of two or more persons shall be

governed by the provisions contained in these Articles for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any regulations imposed by the Board.

- 65.4 The power to delegate contained in this Article shall, save as expressly provided herein, be effective in relation to the powers, authorities and discretions of the Board generally and shall not be limited by the fact that in certain Articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the Board or by a committee authorised by the Board.

66 Participation in Meetings by Telephone

All or any of the members of the Board or any committee of the Board may participate in a meeting of the Board or that committee by means of a conference telephone or any communication equipment which allows all persons participating in the meeting to hear each other. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the chairman of the meeting then is.

67 Resolution in Writing

A resolution in writing executed by all the Directors for the time being entitled to receive notice of a meeting of the Board (if that number is sufficient to constitute a quorum) or by all the members of a committee for the time being shall be as valid and effectual as a resolution passed at a meeting of the Board or, as the case may be, of the committee properly called and constituted. The resolution may be contained in one document or in several documents in like form each executed by one or more of the Directors or members of the committee concerned and may be in any form, including facsimile transmission.

68 Validity of Acts of Board or Committee

All acts done by the Board or by any committee or by any person acting as a Director or member of a committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or committee or person so acting or that they or any of them were disqualified or had vacated office, be as valid as if each such member or person had been properly appointed and was qualified and had continued to be a Director or member of the committee.

Secretary

69 Appointment and Removal of the Company Secretary

Subject to the provisions of the Companies 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.

Seals

70 Use of Seals

The Board shall provide for the custody of every seal of the Company. A seal shall only be used by the authority of the Board or of a committee of the Board authorised by the Board on their behalf. Subject as otherwise provided in these Articles, any instrument to which the common seal is applied shall be signed by a Director and shall be countersigned by the

Secretary or by the second Director or by some other person appointed by the Board for this purpose.

Accounting Records and Summary Financial Statements

71 Records to be Kept

The Board shall cause to be kept accounting records sufficient to show and explain the Company's transactions, and such as to disclose with reasonable accuracy at any time the financial position of the Company at that time, and which accord with the Companies Acts.

72 Inspection of Records

No Member in his capacity as such shall have any right of inspecting any accounting record or book or document of the Company except as conferred by law or authorised by the Board or by ordinary resolution of the Company.

Service of Notices and Other Documents

73 Service of Notices

Any notice or other document may be served on or delivered to any Member by the Company either personally or by sending it through the post addressed to the Member at his registered address or by leaving it at that address addressed to the Member or by any other means authorised in writing by the Member concerned.

74 Members Resident Abroad

Any Member whose registered address is not within the United Kingdom or Ireland and who gives to the Company an address within the United Kingdom at which notices may be served upon him shall be entitled to have notices served upon him at that address but, unless he does so, shall not be entitled to receive any notice from the Company.

75 When Notice Deemed Served

Any notice or other document, if sent by the Company by post, shall be deemed to have been served or delivered on the day following that on which it was put in the post and, in proving service or delivery, it shall be sufficient to prove that the notice or document was properly addressed, prepaid and put in the post. Any notice or other document not sent by post but left by the Company at a registered address shall be deemed to have been served or delivered on the day it was so left. Any notice or other document served or delivered by the Company by any other means authorised in writing by the Member concerned shall be deemed to have been served when the Company has carried out the action it has been authorised to take for that purpose.

76 **Electronic communication**

Any Member may notify the Company of an address for the purpose of his receiving electronic communications from the Company, and having done so shall be deemed (unless and until he subsequently revokes that notification) to have agreed to receive by electronic communication notices and other documents from the Company of the kind to which the address relates. In addition, if a Member notifies the Company of his e-mail address, the Company may (unless and until he subsequently revokes that notification) satisfy its obligation to send him any notice or other document by:

- (a) publishing such notice or other document on a web site; and
- (b) notifying him by e-mail to that e-mail address that such notice or document has been so published, specifying the address of the web site on which it has been published, the place on the web site where the notice may be accessed, how it may be accessed and (if the notice relates to a Member's meeting) stating (i) that the notice concerns a notice of a Company meeting served in accordance with the Companies Acts, (ii) the place, date and time of the meeting and (iii) whether the meeting is to be an annual or other general meeting.

Any amendment or revocation of a notification given to the Company under this Article shall only take effect if in writing signed, by the Member and on actual receipt by the Company thereof.

An electronic communication shall not be treated as received by the Company if it is rejected by computer virus protection arrangements.

77 **Winding Up**

The provisions of clause 8 of the Company's Memorandum of Association relating to the winding up and dissolution of the Company shall apply and have effect as if that clause were repeated in these Articles.

78 **Indemnity of Officers**

78.1 Subject to the provisions of and so far as may be consistent with the Companies Acts and any other applicable law, every Director, Secretary or other officer of the Company shall be indemnified by the Company out its own funds and/or exempted by the Company from all costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or discharge of his duties and/or the exercise or purported exercise of his power and/or otherwise in relation to or in connection with his duties, powers or office including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgement 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.

78.2 With prejudice to Article 78.1 above the Directors shall have the power to purchase and maintain insurance for or for the benefit of any person who is or was at any time a Director or officer of any Relevant Company (as defined in Article 78.3 below) or who is or was at any time a trustee of any pension fund or employees' incentive scheme in which employees of any Relevant Company are interested, including (without prejudice to the generality of

the foregoing) insurance against any liability incurred by him in respect of any act or omission in the actual or purported execution and/or discharge of his duties and/or in the exercise or purported exercise of his powers and/or otherwise in relation to this duties, powers or offices in relation to any Relevant Company, or any such pension fund or employees' incentive scheme.

78.3 For the purpose of Article 78.2 above, "**Relevant Company**" shall mean the Company, or any other body, whether or not incorporated, in which the Company has or had any interest whether direct or indirect or which is in any way allied to or associated with the Company, or any subsidiary undertaking of the Company or of such other body.

NAME AND ADDRESS OF SUBSCRIBER

MD Directors Limited
Pacific House
70 Wellington Street
Glasgow
G2 6SB

Dated 2005

Witness to the above signature:-

..... Witness
..... Full Name
..... Address

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OF
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