

**THE COMPANIES ACT 2014**

**CONSTITUTION**

**OF**

**RECORDED ARTISTS ACTORS AND PERFORMERS**

**COMPANY LIMITED BY GUARANTEE**

## COMPANIES ACT 2014

### CONSTITUTION

-of-

#### RECORDED ARTISTS ACTORS AND PERFORMERS COMPANY LIMITED BY GUARANTEE

Adopted by special resolution on the 27<sup>th</sup> September 2016

Amended by special resolution on 17<sup>th</sup> September 2019

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#### MEMORANDUM OF ASSOCIATION

1. The name of the company is Recorded Artists Actors and Performers Company Limited by Guarantee (“the Company”).
2. The Company is a company limited by guarantee, registered under Part 18 of the Companies Act 2014
3. The Company is a “licensing body” for the purposes of section 149(1) of the Copyright and Related Rights Act 2000.
4. The Company is a “collective management organisation” for the purposes of the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016 (S.I. No 156 of 2016).
5. The objects for which the Company is established are:
  - (a) to exercise and enforce on behalf of the proprietors thereof (“rightholders”) the rights and remedies of performers in recorded performances arising by virtue of the Copyright and Related Rights Act 2000 and any other legal act or regulation for the time being in force granting or otherwise pertaining to such rights;
  - (b) to collect, administer and distribute revenue derived from the exploitation of such rights, for the collective benefit of rightholders;
  - (c) to do all such things as are incidental or conducive to the attainment of the foregoing objects.
6. The Company shall have the following powers, in addition to all other powers conferred upon it by law:
  - (a) To obtain from rightholders and their representatives such mandates, authorisations, assignments, powers of attorney or other instruments as may be necessary or expedient to enable the Company to exercise and enforce, in its own

right and otherwise, all rights and remedies as aforesaid and to rescind, alter and vary the same from time to time.

- (b) By all appropriate agreements, actions or proceedings, to secure royalties, fees and other monies due to rightholders in respect of the exploitation of their rights.
- (c) To enter into representation and reciprocal rights agreements with other collective management organisations, wherever established, in order to extend the rights administered by the Company in Ireland and to facilitate the management of the rights of Irish rightholders in foreign countries, and to exercise and enforce the rights of members of such collective management organisations in accordance with the terms of such representation and reciprocal rights agreements.
- (d) In accordance with Rules of Administration adopted by the Company, to distribute monies received by the Company in the exercise of the foregoing powers, after making provision thereout for the expenses and liabilities of the Company.
- (e) Subject to compliance with all applicable laws and regulations, to invest and deal with monies and other property held by the Company not immediately required in such manner as shall be considered fit, and from time to time to sell or vary such investments.
- (f) To purchase, take on lease or in exchange, rent, hire or otherwise acquire any premises, buildings, lands, chattels, or other property, real or personal, and to develop, sell, manage, lease, mortgage, dispose of or otherwise deal with all or any part of the property, assets or rights of the Company.
- (g) To develop, acquire and protect any intellectual property rights and rights in the nature of the same, confidential information, know-how and trade secrets which shall confer any proprietary, exclusive or non-exclusive right upon the Company and to use, exercise, enforce, develop, sell or grant licences in respect of, or otherwise turn to account the same.
- (h) To borrow and raise money for the purposes of the Company and to guarantee or secure the repayment of any money borrowed, raised or owing, including by mortgage, charge or lien upon the property or assets of the Company, present or future.
- (i) To purchase or acquire and undertake all or any part of the property assets liabilities and engagements of any one or more companies, institutions, associations or undertakings carrying on business which the Company is authorised to conduct, or possessed of property suitable for the purposes of the Company.
- (j) To subscribe for, take, purchase or otherwise acquire and hold shares or other interests in or securities in any company having all or any of the objects of the Company or carrying on any business capable of being carried on so as, directly or indirectly, to benefit the Company.
- (k) To join, amalgamate, merge, become associated with, or to enter into a partnership, joint venture or reciprocal concession with any organisation, authority, body or person calculated to be of benefit to the Company.
- (l) To promote, form, establish, acquire or incorporate any association, institution company or body for a purpose compatible with the objects of the Company.

- (m) To draw, accept, make, endorse, execute and issue bills of exchange, promissory notes and other negotiable or transferable instruments.
- (n) To lend money for such purposes, to such persons and bodies, and upon such terms as may seem expedient, provided that this power shall not extend to the lending of money to or the guarantee of performance of contracts of members or directors of the Company.
- (o) To establish, undertake and execute any trusts which may seem directly or indirectly conducive to the objects of the Company.
- (p) To establish, subscribe to and provide funds, trusts or other schemes by which monies may be provided for retirement annuities and benefits of any kind for the time being allowed by law, for the benefit of persons employed by or providing services to the Company.
- (q) To provide gratuities, donations, pensions and emoluments to any person at any time in the employment of the Company, or engaged in any business acquired by the Company and the families and dependants of any such persons.
- (r) To subscribe to any charity and to grant donations for any public or charitable cause, and to establish, support or aid in the establishment or support of any charitable or other non-profit institution, trust or fund.
- (s) To carry on any trade or business which may in the opinion of the Directors be advantageously carried on by the Company in connection with or as ancillary to the general business of the Company.
- (t) To do all such other lawful things (whether or not for gain) as are incidental or conducive to the attainment of the objects of the Company, or any of them, or calculated directly or indirectly to enhance the value or render useful or profitable any of the Company's property, rights or interests.
- (u) To do all of the above things in any part of the world as principal, agent, or in any other capacity.
- (v) To procure the Company to be registered or recognised in any foreign country.

7. The liability of the members is limited.

8. Every member of the Company undertakes to contribute to the assets of the Company in the event of its being wound up, during or within one year after the cessation of membership, for payment of the debts and liabilities of the Company contracted before the cessation of membership, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding €1.00.

9. In the event of and upon the winding up of the Company, whether voluntary or otherwise, at any time, the assets of the Company (other than the rights in performances vested in or controlled by the Company pursuant to this constitution and any sums distributable in accordance with the Rules of Administration of the Company) after payment of the liabilities of the Company, shall, in so far as they are available for the purpose, be apportioned among the persons who are members of the Company at

the date of such winding up, in the proportions in which such members received distributions from the Company in respect of the year ending on 31 December immediately prior to such winding up, and the rights (if any) vested in the Company by any member or controlled by the Company by virtue of membership shall revert to such member or the heirs, successors or assigns of such member.

## ARTICLES OF ASSOCIATION

### INTERPRETATION

1. (a) In these articles:

<i>“the Companies Act”</i>	means the Companies Act 2014, all amendments and statutory re-enactments thereof, and statutory instruments made pursuant thereto;
<i>“the Copyright Act”</i>	means the Copyright and Related Rights Act 2000, all amendments and statutory re-enactments thereof and statutory instruments made pursuant thereto;
<i>“the CRM Regulations”</i>	means the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016 (S.I. No. 156 of 2016) and any amendments thereof;
<i>“performance”</i>	has the meaning set out in section 202(1) of the Copyright Act;
<i>“performer”</i>	means the performer, or one of the performers of a recorded performance;
<i>“performers’ rights”</i>	means the rights and remedies granted to performers in Part 111 and IV of the Copyright Act and all other rights and remedies accorded to performers by law, and includes corresponding or similar rights subsisting under the laws of other countries of the world in force from time to time.
<i>“Rules of Administration”</i>	means rules adopted by the Company providing for the administration of performers’ rights by the Company;
<i>“distribution”</i>	means any distribution which may be made to members, associates and Affiliated Societies

out of the monies received by the Company in respect of the exercise of all rights, licence and authority granted by them to the Company.

<i>“member”</i>	means a member of the Company, admitted in accordance with these articles;
<i>“associate”</i>	means a person or body admitted as an associate of the Company in accordance with these articles.
<i>“Affiliated Societies”</i>	means collective management organisations established in other countries with which the Company has entered into reciprocal rights agreements;
<i>“director”</i>	means a person appointed as a director of the Company pursuant to these articles ;
<i>“the Board”</i>	means the board of directors of the Company;
<i>“the Registered Office”</i>	means the registered office for the time being of the Company;
<i>“the Secretary”</i>	means any person(s) or body corporate appointed by the Board in accordance with these articles to perform the role of company secretary.

(b) Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to every mode of representing words in visible form.

(c) Unless the contrary intention appears, words or expressions contained in these articles shall bear the same meaning as in the Companies Act.

#### **OPTIONAL PROVISIONS OF THE COMPANIES ACT**

2. To the extent that they are omitted from or modified by these articles, the optional provisions of the Companies Act as defined in section 1177(2) thereof are hereby excluded or modified, as the case may be.

### **ALTERATION OF THE CONSTITUTION**

3. Subject to the provisions of the Companies Act and the provisions of this constitution, the Company may by special resolution in general meeting alter either or both its memorandum and articles of association. Any alteration or addition so made shall be as valid as if originally contained therein.

### **MEMBERS**

4. There shall be no limit to the number of members of the Company.
5. At the date of adoption of this constitution, the Company has 3420 members. The Board may from time to time register an increase or reduction in the number of members.
6. The members of the Company shall be performers admitted to membership by the Board in accordance with these articles, and entered in the Register of Members of the Company.
7. Any performer (other than a member of or person represented by an Affiliated Society) shall be eligible for membership of the Company for so long as he or she shall hold performers' rights entitling the performer to share in the remuneration collected by the Company on behalf of performers pursuant to the Rules of Administration.
8. The Board may from time to time establish Terms and Conditions of Membership and lay down procedures for application for membership. Applications shall be in the form prescribed by the Board. The Board may refuse any such application if, in its opinion, the applicant does not meet the requirements for membership. The decision of the Board in this respect shall be final.
9. Membership of the Company is not transferrable.

### **RIGHTS AND OBLIGATIONS OF MEMBERS**

10. All members shall have the rights set out in Regulation 4(2) – 4(5) (inclusive) of the CRM Regulations.
11. Every member shall, as a continuing condition of membership, be bound by the provisions of the constitution of the Company and any amendment thereof and shall observe all rules or bye-laws made from time to time by the Company in general meeting or by the Board.



## **ASSOCIATES**

12. Any person or body holding performers' rights in any performance(s) entitling such person or body to share in the remuneration collected by the Company pursuant to the Rules of Administration, other than a performer thereof or a member of or person or body represented by an Affiliated Society, shall be entitled to be an associate of the Company, but not a member thereof.
13. The Board may from time to time establish Terms and Conditions of Associate Status and lay down procedures for application. Applications shall be in the form prescribed by the Board. The Board may refuse any such application if, in its opinion, the applicant does not meet the requirements for associate status. The decision of the Board in this respect shall be final.
14. Associate status is not transferrable.

## **RIGHTS AND OBLIGATIONS OF ASSOCIATES**

15. All associates shall have the rights set out in Regulation 4(2) – 4(5) (inclusive) of the CRM Regulations.
16. Every associate, notwithstanding that he she or it is not a member of the Company, shall as a matter of contract pursuant to the Terms and Conditions of Associate Status and as a continuing condition of such status, be bound to the terms of this constitution in so far as they apply to associates and shall observe such Terms and Conditions and comply with all rules and bye-laws applicable to such persons or bodies with such status made from time to time by the Company in general meeting or by the Board.

## **BOARD OF APPEAL**

17. The Board may establish rules constituting a board of appeal for investigation and determination of complaints by members or associates against the Company and by the Company against a member or associate. Such rules may provide for the payment of costs and expenses of appeal by a member or associate, which may be paid by withholding out of distributions to the member or associate, and payment to the member or associate by the Company of any distributions found owing to the member or associate, together with costs and expenses of the appeal.

## **ASSIGNMENT AND EXERCISE OF RIGHTS**

18. Every member and every associate shall upon becoming a member, or at any time thereafter upon request by the Company assign or cause to be assigned to the Company

all rights to be administered on the member's or associate's behalf by the Company. Every such assignment shall be in such form as the Board shall prescribe.

19. The rights referred to in article 18 shall be specified in the individual Terms and Conditions of Membership or Associate Status, as the case may be.
20. Pending the assignment of rights to the Company pursuant to article 18, every member by virtue of his or her membership and every associate by virtue of such status grants to the Company, for and during the period of his or her membership or associate status in his, her or its name or in that of the Company but at the Company's expense, the sole power and authority:
  - (a) to authorise or permit or forbid any third party to exercise the rights administered by the Company;
  - (b) to grant licences on behalf of the member or associate for the exercise of such rights;
  - (c) to collect fees, subscriptions or other monies, whether for the authorised use of the performer's rights of the member or associate or by way of damages or compensation for the unauthorised exercise of such rights;
  - (d) to institute and prosecute proceedings against all persons infringing the said rights of the member or associate or exercising or authorising the exercise of the same without permission, and if the Board shall in its discretion shall decide, to defend or oppose any proceedings taken against a member or associate in respect of such rights and to compound, compromise, refer to arbitration or submit to judgment in any such proceedings and generally to represent the member or associate in all matters concerning the enforcement of such rights;
  - (e) to protect generally the performers' rights of the member or associate;
  - (f) to delegate authority to any Affiliated Societies and to any duly appointed agent or representative do any of the foregoing acts in foreign territories for the purpose of exercising the said rights in such territories.
21. The Company may exercise and enforce the performers' rights of members of Affiliated Societies pursuant to the terms of any contract entered into with such societies.
22. The Company may exercise and enforce the performers' rights of persons or bodies not members of the Company or associates thereof or members of an Affiliated Society, pursuant to the terms of any contract between the Company and any such persons or bodies.
23. Subject as provided in Regulation 5 of the CRM Regulations, the Company may decline to exercise the whole or any part of the performers' rights of a member or associate.
24. Without prejudice to articles 18-20 (inclusive), any member or associate may (subject to compliance with the Rules of Administration) require the Company to grant a non-

exclusive licence to permit the member or associate to exercise all or any part of the performers rights in respect of any particular performance and/or to authorise the exercise of the performers' rights in specific performances for non-commercial purposes.

#### **RULES OF ADMINISTRATION**

25. The Company shall adopt and maintain Rules of Administration which shall identify the rights administered by the Company and provide for the manner in which they shall be administered.
26. The Rules of Administration shall address the matters specified in regulations 9-13 (inclusive) of the CRM Regulations.
27. Subject to the provisions of the CRM Regulations and the provisions of this constitution, the Company may, by ordinary resolution in general meeting, alter the Rules of Administration.

#### **TERMINATION OF MEMBERSHIP & ASSOCIATE STATUS**

##### *By the member/ associate*

28. Any member or associate may, by giving three months' notice in writing to the Secretary, terminate his, her or its membership:

##### *On the death of the member/associate*

29. The death of a member or associate shall terminate his or her membership.

##### *On bankruptcy or liquidation*

30. (a) Membership shall terminate upon the bankruptcy of a member or associate.  
  
(b) In the case of an associate being a body corporate or a firm, its associate status shall terminate, in the case of a body corporate in the event of and upon liquidation of such body corporate (other than a voluntary liquidation for the purpose of reorganisation or reconstruction) and, in the case of a firm in the event and upon such firm ceasing to carry on business.

##### *On the expiry of performers' rights*

31. Membership or associate status shall terminate upon the expiration of the longest period for which any performers' right subsists in any territory in any performance in

respect of which the member or associate is entitled to participate in distributions by the Company under the Rules of Administration.

*On disposal of performers' rights*

32. Membership shall terminate on the disposal by the member or associate of all of the performers' rights of the member.

*By the Board*

33. The Board may terminate a membership or associate status by serving notice upon the member or associate to that effect. Before reaching the decision to issue such a notice, the Board shall:
- a. give warning to the person or body concerned of its intention to terminate the membership or associate status and the reason therefor;
  - b. give the person or body concerned a reasonable opportunity to make a submission as to why the membership or associate status should not be terminated;
  - c. take any such submission made by the person or body concerned into account in reaching its decision;
  - d. act fairly and impartially.

**CONSEQUENCES OF TERMINATION**

34. Subject as otherwise provided herein, all rights, privileges and obligations of membership or associate status shall cease on the date of termination. Without prejudice to the generality of the foregoing, a member or associate shall cease to be entitled to participate in distributions by the Company (save as to any payment to which the member or associate was entitled under the Rules of Administration at the date of termination) and shall cease to have any claim of any kind upon the assets of the Company.
35. On the death of a member or associate, any payment to which the person concerned would, if living, have been entitled in accordance with the Rules of Administration in respect of the period following the death of such person shall be retained by the Company pending the issue of a grant of representation to the person's estate and, upon production of the same, shall be paid to the personal representative of such person. Upon the appointment of a successor to the performer's rights of a member as an associate, payment shall thereafter be made to the successor in that capacity.
36. On the bankruptcy of an individual member or the liquidation of a body corporate member, any payment by the Company which such member would otherwise have been entitled to receive shall be made to the person entitled for the time being to

receive debts due to the member and any existing direction given by the member to the Company to make payments to any other person or body shall cease to have effect.

### **GENERAL MEETINGS OF MEMBERS**

37. Only members of the Company, directors and officers thereof and the statutory auditors of the Company shall be entitled to attend general meetings of the Company.
38. The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year and shall specify the meeting as such in the notice calling it and not more than one year shall elapse between the date of one annual general meeting of the Company and that of the next.
39. The business of the annual general meeting shall incorporate the matters set out in section 186 of the Companies Act, as well as the matters allocated to the general assembly of members set out in regulation 6 of the CRM Regulations, and shall include :
  - (a) consideration of the Company's statutory financial statements and the report of the directors, together with the report of the statutory auditors on those statements and that report;
  - (b) the review by the members of the Company's affairs and the general performance of the Board;
  - (c) the authorisation of the directors to approve the remuneration of the statutory auditors;
  - (d) subject to the provisions of these articles, the appointment and dismissal of directors;
  - (e) the appointment or re-appointment of statutory auditors;
  - (f) the remuneration and other benefits of the directors (if any), including pension awards and entitlements, rights to other awards and severance pay;
  - (g) the following matters:
    - I. The general policy on the distribution of rights revenue due to rightholders;
    - II. The general policy on the use of non-distributable amounts;
    - III. The general investment policy with regard to rights revenue and to any income arising from the investment of rights revenue;
    - IV. The general policy on deductions from rights revenue and from any income arising from the investment of rights revenue;
    - V. The use of non-distributable amounts;
  - (h) consideration of the annual transparency report prepared in accordance with regulation 20 of the CRM Regulations;
  - (i) any other matters reserved to the members of the Company under the terms of this constitution or the Rules of Administration.

40. All general meetings of the Company, other than annual general meetings, shall be known as “extraordinary general meetings”. Every general meeting of the Company shall be a meeting of the general assembly of members, for the purposes of the CRM Regulations.
41. The matters specified in the CRM Regulations as being matters to be determined by the general assembly of members, to the extent that they are not settled at the annual general meeting of the Company, may be decided in an extraordinary general meeting.
42. The Board may, whenever it thinks fit, convene an extraordinary general meeting and extraordinary general meetings may also be convened as provided by Section 1203 of the Companies Act. If at any time there are not sufficient directors in Ireland capable of acting to form a quorum, any director or any member of the Company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Board.
43. General meetings of the Company shall be held at such time and at such place in the State as the Board shall appoint.
44. A meeting, other than an adjourned meeting shall be called, in the case of an annual general meeting or an extraordinary general meeting for the passing of a special resolution, by not less than 21 days’ notice, and in the case of any other extraordinary general meeting, by not less than 7 days’ notice. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given. It shall be given in the manner specified in these articles to such persons as are under these articles entitled to receive such notices from the Company.
45. The notice of a general meeting shall specify –
  - a) the place, the date and the time of the meeting;
  - b) the general nature of the business to be transacted at the meeting;
  - c) in the case of a proposed special resolution, the text or substance of the resolution with reasonable prominence, a statement that a member may appoint a proxy (who need not be a member) and the time by which the proxy form must be received at the Registered Office
46. The statutory auditors of the Company shall be entitled to:
  - a) attend any general meeting of the Company;
  - b) receive all notices of, and other communications relating to any general meeting which any member of the Company is entitled to receive;
  - c) be heard at any general meeting which they attend, on any part of the business of the meeting which concerns them as statutory auditors
47. A meeting of the Company, notwithstanding that it is called by shorter notice than that specified at article 44 herein, shall be deemed to have been duly called if it is so agreed

by all of the members entitled to attend and vote at the meeting, and the statutory auditors of the Company.

48. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Ten members present in person or by proxy shall be a quorum.
49. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it 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 Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.
50. The Chairperson of the Board shall preside as chairperson at every general meeting of the Company. If he or she has notified his or her inability to attend or is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the directors present shall elect one of their number to be chairperson of the meeting.
51. The chairperson may with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting) adjourn the meeting from time to time and from place to place.
52. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.

#### **PROXIES**

53. Any member of the Company entitled to attend and vote at a meeting of the Company shall be entitled to appoint any other person (who may or may not be a member of the Company) as his or her proxy to attend the meeting and vote instead of him or her, provided that the appointment does not result in a conflict of interest. A proxy so appointed shall have the same right as the member to speak at the meeting and to vote on a show of hands and on a poll.
54. The instrument of proxy in the form set out in article 55, signed by the member appointing the proxy, shall be deposited at the Registered Office no later than 24 hours before the time fixed for the meeting or presented to the Secretary or the chairperson of the meeting no later than the time fixed for commencement of the meeting or adjourned meeting for which the proxy is granted and shall not otherwise be valid.

55. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances permit:

**RECORDED ARTISTS ACTORS AND PERFORMERS CLG (“the Company”)**

*[Name of member] (“the Member”) of [address of member] being a member of the Company, hereby appoint/s [name and address of proxy] or failing him or her [name and address of alternative proxy] as the proxy of the Member to attend, speak and vote for the Member on behalf of the Member at the (annual or extraordinary, as the case may be) general meeting of the Company to be held on the [date of meeting] and any adjournment thereof.*

*This proxy shall only be valid for the specified meeting and any adjournment of that meeting.*

*The proxy is to vote as follows:*

*Voting instructions for proxy  
(choice to be marked with an “x”)*

<i>Resolution No</i>	<i>in favour</i>	<i>abstain</i>	<i>against</i>
1.			
2.			
3.			

*Unless otherwise instructed the proxy will vote as he or she thinks fit.*

*Signature of Member*

*Dated*

**VOTING AT GENERAL MEETINGS**

56. Only members of the Company shall be entitled to vote at a general meeting of the Company.
57. Where a matter is being decided (whether on a show of hands or on a poll) every member present in person or by proxy shall have one vote.
58. A vote shall take place on a show of hands, unless a poll is demanded before or on the declaration of the result of a show of hands.
59. A demand for a poll may be made by –
- a) the chairperson of the meeting; or
  - b) at least three members present in person or by proxy; or



- c) any members present in person representing not less than 10% of the voting rights of members entitled to vote at the meeting.
60. Unless a poll is demanded, a declaration by the chairperson that a resolution has on a show of hands been carried, or lost, 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 such resolution.
61. If a poll is demanded it shall be taken in such manner as the chairperson directs and the result of the poll shall be deemed to be the resolution, in relation to the matter concerned, of the meeting at which the poll was demanded.
62. Where there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting shall be entitled to a second or casting vote.
63. No member shall be entitled to vote at a meeting of members of the Company if there are monies due and outstanding by such member to the Company.
64. No objection shall be raised to the qualification to vote of any voter except at the meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the meeting whose decision shall be final and conclusive.
65. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy provided that no intimation in writing of such death or revocation as aforesaid shall have been received by the Company at the Registered Office before the commencement of the meeting or adjourned meeting at which the proxy is used.
66. A member in respect of whom a General Power of Attorney has been enrolled in the Central Office of the High Court or an Enduring Power of Attorney registered in the Wards of Court Office of the High Court may vote by his or her attorney(s) duly appointed, whether in person or by proxy granted by such attorney(s).

## **RESOLUTIONS**

67. Notwithstanding article 44 herein, a special resolution may be proposed and passed as a special resolution at a meeting of which less than 21 days' notice has been given, if the conditions specified in section 191 of the Companies Act are satisfied.
68. The terms of any resolution (whether special or otherwise) before a general meeting may be amended by ordinary resolution at the meeting, provided that the resolution as

amended will still be such that adequate notice of the same can be deemed to have been duly given.

69. Subject to compliance with the conditions in section 193 of the Companies Act, a resolution in writing signed by all the members for the time being entitled to attend and vote on such resolution at a general meeting shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and held, and if described as a special resolution shall be deemed to be a special resolution within the meaning of the Companies Act.
70. When a resolution is passed at an adjourned general meeting, it will be treated as having been passed on the date of that meeting and not on any earlier date.

#### **MINUTES OF GENERAL MEETINGS**

71. The Company shall, as soon as may be after the holding of a meeting, cause minutes of the proceedings of general meetings and the terms of all resolutions to be entered in books kept for the purpose. All such books shall be kept in the same place.
72. Any minute referred to in article 71, if purporting to be signed by the chairperson of the meeting at which the proceedings were had, or the chairperson of the next succeeding meeting, shall be evidence of what occurred at the meeting.

#### **THE BOARD OF DIRECTORS**

73. The Company shall have a minimum of eight and a maximum of ten directors. Within this range, the Board may from time to time by ordinary resolution increase or reduce the number of directors and may determine in what rotation the increased or reduced number is to go out of office.
74. With the exception of external directors appointed pursuant to article 79, directors shall be members of the Company.
75. With the exception of external directors appointed pursuant to article 79, and any appointment made to fill a casual vacancy pursuant to article 80, vacancies for the position of director shall be filled by election at the annual general meeting of the Company.
76. There shall be a minimum of eight elected directors (including any director appointed to fill a casual vacancy pursuant to article 80).
77. Elections shall be conducted in accordance with procedures adopted by the Board from time to time.

78. No person shall be eligible for election as a director at a general meeting, unless not less than 48 days before the day appointed for the meeting there shall have been left at the Registered Office –
- a) a notice in writing signed by a full member of the Company entitled to attend and vote at the meeting, of such member’s intention to propose the person concerned for such election; and
  - b) notice in writing signed by the person concerned of his or her willingness to be elected.
79. So long as the maximum number of directors permitted by article 73 is not exceeded, the Board shall be at liberty to co-opt up to two directors for specific periods who shall be persons who, in the opinion of the Board, will help to provide balanced representation of the interests the Company seeks to reflect, or who are identified as persons who will add to the vision and performance of the Board. A person co-opted pursuant to this article need not be a member of the Company and shall be known as an “external director”.
80. The Board shall have the power at any time and from time to time, to co-opt a member to be a director to fill a casual vacancy in the number of elected directors. Any director so appointed shall hold office only until the next annual general meeting and shall be eligible for election thereat.
81. No person may be a director of the Company unless he or she has attained the age of 18 years.
82. Any purported appointment of a director without that person’s consent shall be void.
83. At a general meeting of the Company, a motion for the unopposed appointment of two or more persons as directors of the Company by a single resolution shall not be made, unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it.

#### **CHAIRPERSON**

84. The Board shall appoint a Chairperson of the Board. The Chairperson shall not, while he or she continues to hold such position, be subject to retirement in accordance with article 85. He or she shall however be subject to the same provisions as to removal and vacation of office as other directors.

#### **ROTATON OF DIRECTORS**

85. Every two years, at the annual general meeting of the Company, two elected directors shall retire from office. The persons to retire shall be those who have been longest in

office; as between directors who were appointed on the same day, the directors to retire shall be determined by lot.

86. A retiring elected director shall be eligible for re-election.
87. At each Annual General Meeting, an external director who has been in office for a period of two years since his or her appointment or re-appointment shall retire from office.
88. An external director may be re-appointed by the Board on the expiry of the term for which he or she was appointed.

#### **REMOVAL OF DIRECTORS**

89. The Company may by ordinary resolution remove a director before the expiration of his or her period of office. Such a resolution shall not be effective unless the provisions of section 146 of the Companies Act are observed.
90. A vacancy created by the removal of a director under this article may be filled at the meeting at which he or she is removed and, if not so filled, may be filled as a casual vacancy.

#### **VACATION OF OFFICE**

91. The office of director shall be vacated, and the director shall be deemed to have resigned, if the director:
  - a) is adjudicated bankrupt or, being a bankrupt, has not obtained a certificate of discharge in the relevant jurisdiction; or
  - b) becomes or is deemed to be subject to a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act; or
  - c) is the subject of a declaration of restriction under the Companies Act and the Board, at any time during the currency of the declaration, resolves that his or her office be vacated; or
  - d) becomes, in the unanimous opinion of his or her fellow-directors, unable to act effectively because of illness or other material inhibition; or
  - e) resigns his or her office by notice in writing to the Company or by notice verbally delivered, recorded in a Board minute; or
  - f) is sentenced to a term of imprisonment (including a term that is suspended) following conviction of an indictable offence; or
  - g) fails to observe any provision of this constitution, of the Companies Act or of the CRM Regulations relating to the disclosure of conflict between the director's personal interests and those of the Company; or

- h) being a member of the Company, is removed from that position pursuant to article 33; or
- i) is absent from Board meetings held during a period of more than 6 months, without the permission of the directors.

#### **SECRETARY**

- 92. The Company shall have a Secretary, who may be one of the directors.
- 93. The Secretary shall be appointed by the Board for such term, at such remuneration and upon such conditions as it may think fit; and any Secretary so appointed may be removed by it.
- 94. Without derogating from the applicable statutory and other legal duties, the duties of the Secretary shall be those delegated to the Secretary from time to time by the Board.
- 95. The directors shall ensure that the Secretary has the skills or resources necessary to discharge the statutory and other duties associated with the position, including to maintain (or to procure the maintenance of) the Company records (other than accounting records) required to be kept in relation to the Company.
- 96. A provision of the Companies Act 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 director and as, or in place of the Secretary.

#### **REGISTER OF DIRECTORS AND SECRETARIES**

- 97. The Company shall keep a register of its directors and secretaries, and shall enter in the register the information specified in Section 149 of the Companies Act.

#### **POWERS AND DUTIES OF DIRECTORS**

- 98. The conduct of the business of the Company shall be governed by the Board, which may exercise all such powers of the Company as are not by the Companies Act or by these articles required to be exercised by the Company in general meeting, subject nevertheless to the provisions of the Companies Act and of these articles and to such directions, being not inconsistent with the aforesaid provisions as may, by special resolution, be given by the Company in general meeting but no direction given by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that direction had not been given.

99. Without prejudice to the generality of article 98, by way of delegation of powers by the members, the Board shall have the authority to decide the following matters:
- a) The risk management policy of the Company;
  - b) The approval of any acquisition, sale or hypothecation of immovable property by the Company;
  - c) The approval of mergers and alliances, the setting up of subsidiaries and the acquisition of other entities or of shares or other rights in other entities;
  - d) The approval of taking out loans, granting loans or providing security for loans.
100. The Board shall continuously monitor the activities and the performance of the duties of the person(s) who manage the business of the Company, thereby performing the “supervisory function” in relation to management as required by regulation 7(1) of the CRM Regulations and addressing the responsibility in regulation 8(1) of the CRM Regulations to ensure that the person(s) responsible for managing the business of the Company do so in a sound, prudent and appropriate manner, using sound administrative and accounting procedures and internal control mechanisms.
101. All monies received by the Company in respect of the exercise of the rights, licence and authority granted by the members and by Affiliated Societies shall, subject to deduction of the expenses of the Company, be distributed or otherwise dealt with by the Board in accordance with the Rules of Administration and in compliance with the provisions of Chapters 2 and 3 of the CRM Regulations.
102. Subject to the provisions of the CRM Regulations, the Board may make such provision as it thinks fit, out of the receipts of the Company, for the payment of such gratuities, pensions and emoluments to any person at any time in the employment of the Company and the families and dependants of such persons, provided that the value of such provision shall not in any one accounting year exceed a sum equivalent to one percent of the total amount allocated to members and Affiliated Societies during the preceding accounting year, as shown in the financial statements of the Company for that year.
103. Subject to the provisions of the CRM Regulations, the Board may set aside out of the receipts of the Company such sum as it thinks proper as a reserve fund to meet contingencies or for future distribution, or for repairing, improving and maintaining any of the property or premises of the Company, and for such other purposes as the Board shall, in its discretion, think fit and may invest the several sums so set aside in such investments as it may think fit, and from time to time deal with or vary such investments; dispose of all or any part thereof for the benefit of the Company, and employ the reserve fund for the general purposes of the Company.
104. The Board may exercise all the powers of the company to borrow money and to mortgage or charge its undertaking and property or any part thereof.

105. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for monies 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 Board shall from time to time by resolution determine.

#### **DELEGATION OF POWERS BY THE BOARD**

106. The Board may delegate any of its powers to such person or persons as it shall think fit, including committees. The composition of committees shall be determined by the Board and may include members who are not directors. A committee member who is not a director shall, as a condition of membership of the committee, agree to be bound by the provisions of this Constitution. Committees shall, in the exercise of their powers, conform to any regulations that may be imposed on them by the Board.
107. The Board may from time to time and at any time by power of attorney appoint any Company, firm or person or body of persons, whether nominated directly or indirectly by the Board, 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), in such terms, for such period and subject to such conditions as they may think fit.
108. The Board may from time to time appoint a person to act as the Chief Executive Officer of the Company for such period and on such terms as to remuneration or otherwise as the Board thinks fit and, subject to the terms of any agreement entered into with such person, may revoke such appointment.
109. The Chief Executive Officer and/or such other person or persons with management responsibility as may be designated by the Board from time to time shall comprise the “persons responsible for managing the business” of the Company for the purposes of regulation 8 of the CRM Regulations.

#### **PROCEEDINGS OF DIRECTORS AND COMMITTEES**

110. The directors shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
111. Matters referred to a vote shall be decided by simple majority. When there is an equality of votes, the chairperson of the meeting shall have a second or casting vote.

112. The quorum necessary for the transaction of the business of the Board may be fixed by the Board from time to time and unless so fixed shall be four
113. The Chairperson of the Board may, and the Secretary on the requisition of any two directors shall, at any time summon a meeting of the Board.
114. The Chairperson of the Board shall preside at all meeting of the Board. If he or she has notified his or her inability to attend the meeting or is not present within 15 minutes after the time appointed for holding the same, the Deputy Chairperson shall chair the meeting. If neither is present within 15 minutes after the time appointed for the holding of the meeting, the directors present shall choose one of their number to be chairperson of the meeting.
115. The Board may act notwithstanding any vacancy in its number but, if and so long as its number is reduced below the number fixed by or pursuant to these articles as the necessary quorum of directors, the continuing director or directors may act for the purpose of increasing the number of directors to that number of or summoning a general meeting of the Company, but for no other purpose.
116. A committee established pursuant to article 106 may elect a chairperson of its meetings; if no such person is elected, or if the chairperson has notified his or her inability to attend the meeting is not present within 15 minutes after the time appointed for holding it, the members of the committee may choose one of their number to be chairperson of the meeting.
117. Subject to these articles and to any directions given by the Board, a committee may meet, adjourn and regulate its meetings as it thinks proper; the quorum necessary for the transaction of its business may be fixed by the committee from time to time and unless so fixed shall be the figure representing at least one half of the number of members of the committee.
118. Questions arising at any committee meeting shall be determined by a majority of votes of members of the committee present, and where there is an equality of votes, the chairperson shall have a second or casting vote.
119. All acts done by the Board or by a committee established by the Board or by any person acting as a director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.
120. A resolution in writing, signed by all the directors or members of a committee, as the case may be, for the time being entitled to receive notice of a meeting shall be as valid as if it had been passed at a meeting duly convened and held.



121. Meetings of the Board and of committees established by the Board may be convened by electronic communication and may be held and joined by directors as a telephone conference or by way of internet or other electronic facility, provided that each director or committee member who declares himself or herself present at the meeting can speak to and be heard by all of the others. A communications technology failure shall not invalidate decisions taken at the meeting, provided a quorum of directors remains in communication with each other throughout. Such a meeting shall be deemed to take place where the chairperson of the meeting then is unless he or she shall be outside the State, in which case the meeting shall be deemed to take place at the Registered Office. Decisions made at such meetings shall be authenticated in writing by the chairperson of the meeting within seven days thereof and circulated to every director or committee member, as the case may be.

#### **MINUTES OF BOARD MEETINGS**

122. The Company shall cause minutes to be entered in books kept for that purpose of –
- a) all appointments of officers made by the directors;
  - b) the names of the directors present at all meetings of its directors and of any committees;
  - c) all resolutions and proceedings at all meetings of its directors and of committees.
123. Such minutes shall be entered in the foregoing books as soon as may be after the appointment concerned is made, the meeting concerned has been held or the resolution concerned has been passed.
124. Any such minute, if purporting to be signed by the chairperson of the meeting at which the proceedings were had, or by the chairperson of the next succeeding meeting, shall be evidence of the proceedings.
125. Where minutes have been made in accordance with articles 123- 124 (inclusive) then, until the contrary is proved-
- a) the meeting shall be deemed to have been duly held and convened;
  - b) all proceedings had at the meeting shall be deemed to have been duly had; and
  - c) all appointments of officers made by its directors at the meeting shall be deemed to be valid.

#### **REMUNERATION OF DIRECTORS**

126. Directors shall not be remunerated for acting as such SAVE HOWEVER that a stipend may be paid to the Chairperson of the Board in recognition of the additional duties associated with the position.

127. Subject to compliance with any rules or protocols laid down by the Board, directors may be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Board, any committee established by the Board, general meetings of the Company, or otherwise incurred in connection with attending to the business of the Company.

#### **USE OF COMPANY PROPERTY BY DIRECTORS**

128. No director shall use Company property for his or her own use or benefit SAVE HOWEVER that *de minimis* use of Company property may be made by a director for the exclusive purpose of carrying out his or her duties as a director, when such use is sanctioned at a meeting of the Board.

#### **POWER OF DIRECTOR TO ACT IN A PROFESSIONAL CAPACITY FOR THE COMPANY**

129. Any director may act by himself or herself, or his or her firm, in a professional capacity for the Company, and shall be entitled to remuneration for professional services rendered as if he or she were not a director.

#### **CONFLICT OF INTEREST**

130. A director or committee member who is in any way interested, directly or indirectly, in any contract or other arrangement that the Company proposes to enter into, shall declare the nature of his or her interest at the meeting of the Board or committee at which the question of entering into the contract or arrangement is first raised, or at the next meeting after he or she became so interested.
131. Neither a director nor a committee member shall vote in respect of any contract, appointment or arrangement in which he or she is interested. He or she shall not be counted in the quorum present at the meeting.

#### **TRANSPARENCY**

132. The Company shall produce a transparency report for each financial year no later than eight months following the end of the financial year. The transparency report shall be in the form prescribed by regulation 20 of the CRM Regulations and shall be published in the manner specified therein.

#### **ACCOUNTS**

133. The Company shall keep or cause to be kept adequate accounting records in accordance with Chapter 2 of Part 6 of the Companies Act.
134. The accounting records shall be kept on a continuous basis and shall be sufficient to explain the Company's transactions and facilitate the preparation of financial statements that give a true and fair view of the assets, liabilities, financial position and profit or loss of the Company.
135. The accounting records shall include:
  - a) entries from day to day of all monies received and expended by the Company;
  - b) a record of the assets and liabilities of the Company;
  - c) a record of all transactions whereby goods are purchased and sold;
  - d) a record of all transactions whereby services are provided or purchased by the Company.
136. The Company's financial records shall be kept at the Registered Office or at such other place as the Board shall direct.
137. The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the financial statements and accounting records of the Company or any of them shall be open to inspection of its members, not being directors of the Company.
138. The Board shall from time to time in accordance with the provisions of Part 6 of the Companies Act cause to be prepared and to be laid before the annual general meeting of the Company such financial statements and reports of the directors and statutory auditors as are required by those provisions to be laid before the annual general meeting.

#### **AUDIT**

139. Statutory auditors shall be appointed by the Company and their duties regulated in accordance with Part 6 of the Companies Act.
140. The Board shall arrange for the statutory financial statements of the Company for each financial year to be audited by the statutory auditors.

#### **SEAL**

141. The Company shall have a common seal that states the Company's name in legible characters.
142. The seal shall be used only on the authority of the Board, and every instrument to which the seal shall be affixed shall be signed by a director and shall be countersigned by the

Secretary or by a second director or by some other person appointed by the Board for the purpose.

#### **NOTICES**

143. A notice convening a general meeting shall be delivered by the Company to every person entitled to attend the same by e-mail to the e-mail address provided to the Company by the intended recipient and appearing in the Register of Members, unless the recipient shall have specifically requested that notices be delivered by post.
144. A notice of any other description, including a notice convening a Board meeting may be delivered by hand/courier, by ordinary pre-paid post by fax or by e-mail.
145. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been received at the expiration of 24 hours after the letter containing the same is posted. Where a notice is served by fax or e-mail, the service shall be deemed to have been effected at the expiration of 24 hours after the fax or e-mail has been sent, unless there is a notified failure or error in delivery in that period.
146. The accidental omission to give notice of any meeting convened pursuant to these articles, or the non-receipt of such notice by any person entitled to receive notice shall not invalidate the proceedings at that meeting.
147. Notice of every general meeting shall be given in the manner hereinbefore authorised to: every full member, every director and the statutory auditor for the time being of the Company.

#### **INSURANCE**

148. The Company may discharge the cost of Directors' and Officers' insurance for its officers, on such terms as the Board shall decide.