



The Companies Act 2006

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

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**ARTICLES OF ASSOCIATION**

of

**“GLOBAL CERTIFICATION FORUM (GCF) LIMITED”**

**Approved at AGM#12 11 December 2019**

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## 1. PRELIMINARY

### 1.1. In these Articles:

<b>“3GPP”</b>	means 3rd Generation Partnership Project;
<b>“3GPP2”</b>	means 3rd Generation Partnership Project 2;
<b>"Act"</b>	means the Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force;
<b>"Affiliate"</b>	means in relation to any person any company which is a direct or indirect subsidiary or holding company of that person and any company which is a direct or indirect subsidiary of such holding company (“holding company” and “subsidiary company” as defined in section 1159 of the Companies Act 2006);
<b>“Agreement Group”</b>	means a working group established by the Steering Group as described in the Company’s Principles Document;
<b>"Articles"</b>	means these articles of association of the Company as amended from time to time;
<b>“Associate Manufacturer Member”</b>	means any legal entity that manufactures Products, not qualifying or not choosing to become a Manufacturer Member;
<b>“Associate Operator Member”</b>	means a company providing mobile telecommunication services to the public owning or controlling all the elements necessary to provide services to the end-user including in particular radio spectrum license and wireless network infrastructure based on 3GPP and/or 3GPP2 standards who may decide they do not need full membership;
<b>“Board”</b>	means the board of Executive Directors of the Company from time to time;
<b>"Control"</b>	as defined in section 840 of the Income and Corporation Taxes Act 1988 and "controlled" shall be construed accordingly;
<b>"Corporate Representative"</b>	means a person appointed by a Member to represent that Member at any meeting of the Members in accordance with Article 10;

<b>“Declaration of Participation”</b>	means the application form to be delivered by a proposed Member pursuant to Article 5.6 and which shall be in such form and contain such obligations as the Steering Group may, in their absolute discretion, from time to time require or determine;
<b>"Director"</b>	means any person appointed from time to time as a director of the Company;
<b>"document"</b>	includes, unless otherwise specified, any document sent or supplied in electronic form;
<b>"Electronic"</b>	means actuated by electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy and "by electronic means" means by any manner only capable of being so actuated;
<b>"electronic form"</b>	has the meaning given in section 1168 of the Companies Act 2006;
<b>“Executive Director”</b>	means any Director appointed from time to time as an executive director of the Company;
<b>"Founder Member"</b>	means any one of the following: (a) NTT DoCoMo (b) Orange France (c) Telefonica Moviles Espana SA (d) TeliaSonera (e) Vodafone D2 GmbH (f) Telecom Italia (g) Ericsson (h) SonyEricsson (i) Motorola (j) NEC (k) Nokia (l) Panasonic (m) RIM (n) Cetecom GmbH (o) Qualcomm (p) IOT & Approval Solutions Ltd (IOTAS) (q) Flander OY (r) TesTime (s) P3 Solutions GmbH
<b>“Full Member”</b>	means either an Operator Member or a Manufacturer Member of the Company;
<b>“General Meeting”</b>	means any general meeting of the Members of the Company;
<b>“General Manager"</b>	means the General Manager of the Company appointed in accordance with Article 21;

<b>“Manufacturer Member”</b>	means any legal entity responsible for the development, manufacturing and supply of Products, taking full responsibility for the accuracy and integrity of both the device certification and the ongoing maintenance of the certification;
<b>"Member"</b>	means any member of the Company registered as such in the Company’s Register of Members;
<b>“Membership Fee”</b>	means the annual membership fee payable by Members in respect of each financial year of the Company in accordance with Articles 5.8;
<b>“Membership Category”</b>	means the category as a member, for example Operator Member;
<b>“Mission Critical Communications Operator Member”</b>	means a company providing mission critical communications services who are utilising, but may not be owning or controlling, a 3GPP radio network and/or spectrum license;
<b>“Non-Executive Director”</b>	means any Director appointed from time to time as a non-executive director of the Company;
<b>“Non-Full Member”</b>	means any Member of the Company which is not a Full Member
<b>“Observer Member”</b>	means an interested third party involved in the design, development, manufacturing, testing, service provisioning, standards and/or requirements development, etc, of 3GPP and/or 3GPP2 system capable devices, not being any other member.
<b>"Office"</b>	means the registered office of the Company from time to time;
<b>“Operator Member”</b>	means a company providing mobile telecommunication services to the public owning or controlling all the elements necessary to provide services to the end-user including in particular radio spectrum license and wireless network infrastructure based on 3GPP and/or 3GPP2 standards;
<b>"Participate"</b>	in relation to a directors’ meeting shall be construed in accordance with Article 18.9;
<b>"person"</b>	includes any partnership, firm, company, organisation or other entity whether incorporated or not;

<b>“Principles Document”</b>	means the document owned by the Company which details, <i>inter alia</i> , the process and procedures for the initiation and development of the deliverables aimed at the achievement of the Company’s objectives;
<b>“Products”</b>	means any 3GPP and/or 3GPP2 system capable device, or client application software for such a device, or other wireless products as decided by the Steering Group;
<b>“Virtual Operator Member”</b>	means a company providing mobile telecommunication services who are utilising, but not owning or controlling, a 3GPP/3GPP2 radio network and/or spectrum license;
<b>"proxy notice"</b>	has the meaning given in Article 12.2;
<b>“Registered Participants”</b>	means all companies which have been registered with GCF until the date of incorporation of the Company;
<b>"Secretary"</b>	means the secretary of the Company from time to time;
<b>“Steering Group”</b>	means the Steering Group as described in the Company’s Principles Document amended from time to time by the Company;
<b>"Statutes"</b>	means the Act and every other legislative act or regulation in force from time to time which concerns companies and which affects the Company;
<b>"writing"</b>	means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent to supplied in electronic form or otherwise.

## **2. Statement of Objects**

- 2.1. The objects for which the Company is established (“the Objects”) are:
- 2.1.1. to provide common means for documenting and assessing compliance, with requirements established by GCF, in Products for all interested industry players, and
  - 2.1.2. to capture global recognition and acceptance of the assessed compliance in avoidance of multiple testing and cost efficiencies.

## **3. LIABILITY OF MEMBERS**

- 3.1. The liability of each member is limited to £1, being the amount that each member undertakes to contribute to the assets of the company in the event of its being wound up while their membership is current or within one year after their membership ceases, for:
- 3.1.1. payment of the Company’s debts and liabilities contracted before their membership ceases,
  - 3.1.2. payment of the costs, charges and expenses of winding up, and
  - 3.1.3. adjustment of the rights of the contributories among themselves.

## **4. NO DISTRIBUTION OF PROFITS TO MEMBERS**

- 4.1. The income and property of the Company shall be applied solely towards the promotion of its objects as set out at Article 2.1 and no part of such property and income may be or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to members of the Company.
- 4.2. Nothing in this Article 4 prevents any payment in good faith by the Company:
- 4.2.1. of reasonable remuneration to any member who is an officer or employee of the Company or who otherwise provides any services to the Company;
  - 4.2.2. of interest on money lent by any member of the Company at a reasonable and proper rate per annum;
  - 4.2.3. of reasonable rent for premises demised or let by any member of the Company;
  - 4.2.4. to any director (or alternate director) of expenses under Article 20.3; or
  - 4.2.5. of any premium in respect of any such insurance as is permitted by Article 31.

## **5. MEMBERSHIP AND PARTICIPATION IN THE COMPANY**

### **Membership Criteria**

- 5.1. The Founder Members, being the subscribers to the memorandum of association, shall be the initial Members of the Company and entered in the Company’s Register of Members as such.

- 5.2. All Registered Participants duly registered for the activities of the GCF at the date of incorporation of the Company shall be Members of the Company and entered in the Company's Register of Members, unless they have objected in writing to such membership at any time prior to the incorporation of the Company.
- 5.3. The Members shall admit any person as a Member who has applied to become a Member (in accordance with Article 5.6) and satisfies the membership criteria set out in Article 5.4.
- 5.4. Membership is open to all mobile telecommunications network operators, to all manufacturers of Products and to interested third parties. Network operators may wish to become either Operator Member or Associate Operator Member. Manufacturers may wish to become either Manufacturer Member or Associate Manufacturer Member.
- 5.5. Full Membership rights are only granted to Operator and Manufacturer Members; all other members have only limited rights as expressed by these Articles.

No person shall be admissible as a Full Member if neither that person nor one or more of its Affiliates qualifies as an Operator Member or a Manufacturer Member.

#### **Declaration of Participation**

- 5.6. Each prospective Member shall execute and deliver to the Company a Declaration of Participation as defined by the Company from time to time thereby agreeing to observe and perform the obligations contained in such Declaration of Participation (including the payment of fees).

Upon receipt of the duly completed and signed Declaration of Participation, transfer of the applicable Membership Fee (as advised by the Company to the proposed Member) in cleared funds and upon acceptance by the Steering Group the Company shall notify the proposed Member of acceptance of the Declaration of Participation.

The Board of Directors shall enter such applicant in the Company's Register of Members as a Member. The Membership Fee shall not be refundable in the event of the resignation or expulsion of a Member.

- 5.7. No amendments shall be made to any section of the Declaration of Participation (including any Schedule to that Declaration of Participation Form) unless the Steering Group resolves to approve such amendments by a simple majority of both the Operator and the Manufacturer Members ("Double Majority") present and entitled to vote on such a resolution.
- 5.8. Every Member shall pay an annual Membership Fee to the Company of such amount(s) and on such date(s) as shall be determined by the Steering Group pursuant to Article 23 and Article 25 and such Membership Fee shall not be refundable in the event of the resignation or expulsion of a Member.
- 5.9. Membership of the Company and the privileges, rights and obligations of such membership in each Membership Category shall be personal and not transferable.



- 5.10. Any Member shall be entitled to participate in any Steering Group and any Agreement Group meeting. For the avoidance of doubt, participation within the Steering Group as well as within the Agreement Groups shall not result in a Member becoming liable to pay any fee in addition to payment of the annual Membership Fee. However, the Steering Group may agree to ask for meeting cost contributions.
- 5.11. Copyright in all documentation shall be vested equally in all Members. On withdrawal from the Company, all rights of the resigning participants shall automatically revert to the remaining participants.
- 5.12. With the exception of Clause 5.11, no Intellectual Property Rights shall pass to the Members through the operation and participation in the Company.

#### **Change of Control of Members**

- 5.13. Any Member which is subject to a change of Control shall notify the Company in writing of such change of Control within 7 days of the change of Control taking effect.

#### **Resignations**

- 5.14. Resignations must be received by written notice to the Company prior to 1st September in any budget year. In the event that the resignation is submitted after 1st September of any year, the Member will still be liable for payment of the Membership Fee for the following budget year, notwithstanding such resignation.

A Member shall be deemed to have given written notice to the Board of Directors to withdraw from the Company with immediate effect and shall be removed from the Register of Members in the event that

- 5.14.1. the relevant Member is wound up, dissolved, ceases to trade, becomes or is declared insolvent, has an administrator, receiver or liquidator appointed in respect of all or any part of its undertaking or otherwise ceases to exist;
- 5.14.2. the relevant Member fails to pay any sums due by it to the Company within 105 days from the date upon which it became payable;
- 5.14.3. the relevant Member materially breaches any of the terms of these Articles or the Member Application Form and fails to remedy such breach within 30 days of receiving notice from the Company requiring it so to do (such notice from the Company to be absolutely and finally determinative with respect to whether any breach is considered material);
- 5.14.4. the relevant Member breaches (whether materially or not) any of its obligations (whether owed to the Company, any Member or any third party) relating to the confidentiality of information supplied by any person in connection with the activities of the Company; or
- 5.14.5. the relevant Member ceases to meet the criterion for Membership as set out in Article 5.

- 5.15. The Steering Group shall be entitled to suspend or expel from membership of the Company any Member on the grounds of misconduct, in relation either to the Company, its property or its Members, or of conduct likely to prove prejudicial to the good standing of the Company or to the attainment of its objects. A Member whose suspension or expulsion is to be decided upon at a meeting of the Steering Group shall be entitled to not less than 7 clear days' notice (excluding the days on which the notice is served or is deemed to be served and for which it is given) of that meeting, stating the case made against such Member. Such Member shall be entitled to attend and speak at that meeting at any time during which its membership is discussed but shall withdraw prior to voting. A resolution under this Article shall not be effective unless passed by a majority of not less than two thirds of the Members present and voting.

## **6. GENERAL MEETINGS**

- 6.1. The Company shall in each year hold a General Meeting as its annual general meeting ("Annual General Meeting") in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it. The Annual General Meeting of the Company shall be held at such time and place as the Board of Directors shall appoint in order to approve the budget for the next financial year and provided that each Annual General Meeting shall be held not more than 15 months following the date of the previous Annual General Meeting
- 6.2. All General Meetings other than Annual General Meetings shall be called Extraordinary General Meetings.
- 6.3. The Board of Directors may, whenever they think fit, convene an Extraordinary General Meeting or, in default, such a meeting may be convened by such requisition as provided by the Act.

## **7. NOTICE OF GENERAL MEETINGS**

- 7.1. An Annual General Meeting or an Extraordinary General Meeting shall be called by at least 14 clear days' notice but may be called by shorter notice if it is so agreed by such majority in number of the Members having a right to attend and vote being a majority together holding not less than 90% of the total voting rights at the meeting of all Members.
- 7.2. Every notice convening a general meeting of the Company must comply with the provisions of:-
- 7.2.1. section 311 of the Act as to the provision of information regarding the time, date and place of the meeting and the general nature of the business to be dealt with at the meeting; and
- 7.2.2. section 325 (1) of the Act as to the giving of information to members regarding their right to appoint proxies;
- 7.3. Every notice of, or other communication relating to, any general meeting which any member is entitled to receive must be sent to each of the directors and to the auditors (if any) for the time being of the Company.

## **8. PROCEEDINGS AT GENERAL MEETINGS**

### **Chair**

- 8.1. The General Manager shall chair each General Meeting and shall have the right to speak at such meetings.
- 8.2. Where the General Manager is not present within fifteen minutes after the time appointed for holding the meeting or is otherwise unable to act as the chair of any General Meeting, the Members present and entitled to vote (whether in person or by proxy) shall choose one of their number (by simple majority vote) to be the chair of the meeting.

### **Quorum**

- 8.3. No business shall be transacted in any General Meeting unless persons representing not less than five (5) Operator Members and five (5) Manufacturer Members are present (in person or by proxy) at the time when the meeting proceeds to business, save the appointment of a chair of the meeting.

### **Adjournment**

- 8.4. If within one hour from the time appointed for a 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 next day, at the same time and place, or to such other time and place as the Board of Directors may determine, and if at the adjourned meeting a quorum is not present within one hour from the time appointed for the meeting the Members present shall be a quorum.
- 8.5. The chair may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting to another time (or indefinitely, to no fixed time) and/or another place.
- 8.6. No business shall be transacted at any adjourned meeting other than business which might lawfully have been transacted at the meeting from which the adjournment took place.
- 8.7. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of the original meeting.

### **Amendment to Resolutions**

- 8.8. If an amendment is proposed to any resolution under consideration but in good faith is ruled out of order by any chair of the meeting, the proceedings on the main resolution shall not be invalidated by any error in such ruling. No amendment to a resolution (other than a mere clerical amendment to correct a patent error) may in any event be considered or voted upon.

## **Resolutions in Writing of Members**

- 8.9. A resolution in writing is passed:
- 8.9.1. as an ordinary resolution if it is passed by Members representing a simple majority of the total voting rights of those Members who would have been entitled to vote on the resolution on the date on which copies of it are sent or submitted to Members in accordance with the Act (or if copies are sent or submitted to Members on different days, on the first of these days); and
  - 8.9.2. as a special resolution if it is passed by Members representing not less than 75% of the total voting rights of those Members who would have been entitled to vote on the resolution on the date on which copies of it are sent or submitted to Members in accordance with the Act (or if copies are sent or submitted to Members on different days, on the first of these days);

and shall be valid and effective as if it had been duly passed at a general meeting of the Company duly convened and held and may consist of several instruments in like form each executed by or on behalf of one or more Members.

## **9. DECISION-MAKING OF THE GENERAL MEETING**

- 9.1. Unless otherwise provided in these Articles, resolutions of the Members in a General Meeting shall be adopted by a simple majority of both the Operator Members and the Manufacturer Members (“Double Majority”) present and entitled to vote in each vote.

### **Demand for Poll**

- 9.2. At any General Meeting a resolution put to the vote of the meeting shall be decided by a simple majority of both the Operator Members and the Manufacturer Members (“Double Majority”) present and entitled to vote on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:
- 9.2.1. the chair of the meeting; or
  - 9.2.2. at least three Members present in person or by proxy and having the right to vote at the meeting; or
  - 9.2.3. a Member or Members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting.
- 9.3. A demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chair. A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.

## **Procedure on a Poll**

- 9.4. A poll shall be taken in such manner (including the use of ballot or voting papers or tickets) as the chair of the meeting may direct. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The chair of the meeting may (and if so directed by the meeting shall) appoint scrutineers (who need not be Members) and may adjourn the meeting to some place and time fixed by them for the purpose of declaring the result of the poll.
- 9.5. On a poll, votes may be given either personally or by proxy. A person entitled to more than one vote need not use all their votes or cast all the votes they use in the same way.
- 9.6. A poll demanded on the choice of a chair or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken either immediately or at such subsequent time (within a period of 30 days from the date of the meeting) and place as the chair may direct. No notice need be given of a poll not taken immediately. The demand for a poll shall not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

## **10. VOTES OF FULL MEMBERS IN GENERAL MEETINGS**

- 10.1. Except provided in these Articles, on a show of hands or on a poll every Full Member who is present in person or by proxy shall have one vote.

### **Restriction on Voting etc in Particular Circumstances**

- 10.2. If any monies payable by a Full Member to the Company (whether pursuant to these Articles or to the conditions on which such Member agreed to become a Member of the Company or otherwise) shall be outstanding and overdue, such Member shall not, unless the Directors otherwise determine, be entitled to:
- 10.2.1. vote either personally or by proxy at a General Meeting;
- 10.2.2. exercise any other right conferred by membership in relation to General Meetings;
- 10.2.3. exercise any rights or powers conferred by these Articles on such Member to nominate, elect or appoint any Director; or
- 10.2.4. exercise any other right or privilege conferred by membership as may be determined by the Directors in their absolute discretion.

### **Validity and Result of Vote**

- 10.3. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered. Every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chair of the meeting whose decision shall be final and conclusive.

10.4. Unless a poll is taken, a declaration by the chair of the meeting that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded for or against such resolution.

## **11. QUALIFIED MAJORITIES AND RESERVED MATTERS**

11.1. The following matters shall be reserved to the Full Members for decision by special resolution vote both of the Operator Members and the Manufacturer Members:

11.1.1. Amending these Articles including without limitation amendments to the process of election of Directors;

11.1.2. Winding-up the Company;

11.1.3. Imposition of or charging any extraordinary levies on Members, including but not limited to any additional funding, other than Membership Fees, or the request of any loan, advance, or the granting of any guarantee or indemnity in favour of the Company;

11.1.4. Creation of any security, charge, lien or other encumbrances whatsoever over any of the Company's assets;

11.1.5. Sale of any part of the business of the Company or the acquisition of any part of the business of any other company.

## **12. PROXIES**

12.1. Any Member may appoint another person as their proxy to attend any general meeting and to vote instead of them at general meetings. A proxy must be a Member of the Company or the chair of the General Meeting.

12.2. Proxies may only validly be appointed by a notice in writing (a "proxy notice") which:

12.2.1. states the name and address of the member appointing the proxy;

12.2.2. identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;

12.2.3. is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the directors may determine; and

12.2.4. is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.

12.3. The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

12.4. Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

- 12.5. Unless a proxy notice indicates otherwise, it must be treated as
- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
  - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

#### **Delivery of proxy notices**

- 12.6. A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- 12.7. An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- 12.8. A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 12.9. If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointer's behalf

### **13. CORPORATIONS ACTING BY REPRESENTATIVES**

- 13.1. Any corporation which is a Member of the Company may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its "Corporate Representative" at any General Meeting.
- 13.2. The person so authorised shall be entitled to exercise the same powers on behalf of such corporation as the corporation could exercise if it were an individual Member of the Company.
- 13.3. Such corporation shall, for the purposes of these Articles, be deemed to be present in person at any such meeting if a person so authorised is present at that meeting.

### **14. BOARD OF DIRECTORS**

- 14.1. The Company shall be managed by a Board of Executive Directors that shall be responsible for the management and administration of the Company and acting together shall be authorised to sign on behalf of and otherwise represent the Company.
- 14.2. In addition to the Executive Directors the Board will have Non-Executive Directors which shall give advice and support to the Board as specified from time to time. For the avoidance of doubt the Non-Executive Directors have no voting rights.
- 14.3. By way of simple majority of the Executive Directors both of the Operator Members and the Manufacturer Members ("Double Majority") present and entitled to vote the Board of Executive Directors may adopt regulations governing its decision-making process, any internal division of its duties among the Executive Directors and the formation and operation of any Working Group.

- 14.4. The Board of Executive Directors shall keep a written record of all resolutions of the Board. Such records will be held available for inspection by the Executive Directors at the Office of the Company. Copies or extracts of such records will be provided to the Directors upon request, free of charge.

#### **Directors of the Board: Number of Directors**

- 14.5. The Board shall have a maximum of fourteen Executive Directors at any time, including minimum four and up to six Directors representing the Operator Members and minimum four and up to six Directors representing the Manufacturer Members. Any Full Member can only have one Executive Director at any time. Notwithstanding the above, the Chair and the Vice-Chair of the Steering Group shall be additionally appointed as Executive Directors representing their membership category.
- 14.6. In addition to the Executive Directors as set out in Section 14.1, the Board shall have up to seven Non-Executive Directors.
- 14.7. The Company may by special resolution both of the Operator Members and the Manufacturer Members from time to time set and/or vary the number of either Executive or Non-Executive Directors.

#### **Director's Qualification**

- 14.8. Except as provided in Article 14.9, no person shall be appointed as a Director unless they are an employee or officer or director of a Full Member or of an Affiliate of a Full Member or otherwise explicitly appointed by or contractually obliged to a Full Member.
- 14.9. Notwithstanding Article 14.8 (but subject to Article 16 regarding the removal and resignation of Directors), the Executive Directors may nominate candidates for election as Non-Executive Directors of the Company for any period of appointment of Directors.

### **15. APPOINTMENT OF DIRECTORS**

#### **Election of Executive Directors**

- 15.1. At a General Meeting of the Company, the Members shall, by simple majority both of the Operator Members and the Manufacturer Members, vote on the election of all Executive Directors on the Board. Thereafter, at successive General Meetings each year, three Executive Directors of the Operator and the Manufacturer Membership category will be re-elected.



- 15.2. If, following such re-election process there are less than the minimum number of Directors representing either the Operator Members and/or the Manufacturer Members (as set out in Article 14.5 or any subsequent re-election both of the Operator Members and the Manufacturer Members passed pursuant to Article 14.7 which remains in effect) on the Board, subject always to Article 14.7 or a special resolution both of the Operator Members and the Manufacturer Members passed pursuant to Article 14.7 which remains in effect (if any), the Members shall resolve to appoint new Executive Directors to the Board in accordance with the method set out in Articles 15.3 to 15.13, for the period to the next General Meeting when the re-election of Executive Directors will occur as set out in Article 15.1.
- 15.3. No Executive Director may be appointed unless they have been nominated or otherwise appointed in accordance with the procedure set out in the following provisions of Article 15.4 to Article 15.9.
- 15.4. Subject to the remainder of this Article 15.4, each Full Member may nominate one person for appointment as an Executive Director. For any Member to nominate a candidate for the Board, that Member must have attended at least two Steering Group meetings or Agreement Group meetings during the twelve months prior to the date in which such nomination is made. At least one of the two meetings attended must be a Steering Group meeting.
- 15.5. Any such nomination shall be made on a nomination form supplied by the Company. Such form must be lodged at the Office by the time specified on the relevant form (the "Closing Date"), and, if not so returned, shall not be valid. The form must stipulate the category to which such candidate is being nominated (ie Operator Member or Manufacturer Member category). Such form must also include, or be accompanied by a notice in writing signed by the person so nominated indicating their willingness to be appointed as an Executive Director and the particulars which would, if such person were to be so appointed, be required to be included in the Company's statutory books. If the nomination form does not include or is not accompanied by such consent and/or particulars, the nomination will not be treated as valid.
- 15.6. The nomination form shall be in such form as the Board of Executive Directors may from time to time specify.
- 15.7. After the Closing Date, the Company shall confirm that each person nominated satisfies the requirements set out in Article 15.5. The Company shall then compile a list of the persons nominated in accordance with the nomination procedure set out above. A copy of the list of nominees shall be sent to each Member no later than 7 days after the Closing Date.
- 15.8. Voting will be conducted as a secret vote by the Full Members present at the General Meeting called for the purpose.
  - 15.8.1. Companies eligible to vote must be Full Members, physically present at the General Meeting.
  - 15.8.2. Voting is conducted within each Member category only; an Operator Member may not cast votes for candidates nominated in the Manufacturer Membership category and vice versa.
  - 15.8.3. Each company is to nominate a representative who is entitled to cast votes. Only one representative of each Full Member may cast votes. Proxy voting will not be possible. A Full Member may vote for its own candidate.

- 15.8.4. Each company is to place one vote per position up for election.
- 15.8.5. The nominees receiving the highest number of votes within each Membership category shall be elected and appointed as Directors to the vacant positions on the Board. A maximum of two successive rounds of voting will be instigated affecting only those candidates with equal votes. During these rounds, each company is to place their vote for one of the tied nominees only. If equal votes still exist after the second round of voting, the chair of the General Meeting will conduct a random draw to decide on the nominee(s) to be appointed.
- 15.9. If, at any time following the election of Executive Directors at the beginning of each successive period pursuant to Article 15.1, the number of Executive Directors is less than the minimum number of Executive Directors of the Company as specified in Article 14.5, the remaining Executive Directors shall call a General Meeting in order to fill such vacancy or vacancies. Until the vacancy or vacancies (as appropriate) have been filled the Executive Directors shall not, without the consent of the Members, be entitled to take any steps other than those required to bring into effect any resolutions validly passed prior to the vacancy (or vacancies) occurring or to effect the appointment of the new Executive Director(s).

#### **Election of Non-Executive Directors**

- 15.10. The Executive Directors of the Board may propose candidates for appointment by the Board as Non-Executive Directors. Such candidates must be willing to be appointed as Non-Executive Director. The proposed candidates may represent any Non-Full Member or organisation.
- 15.11. A proposed candidate is elected by simple majority of the Executive Directors present at the Meeting of the Board.
- 15.12. Non-Executive Directors are appointed for a period of office determined by the Executive Directors

### **16. REMOVAL AND RESIGNATION OF DIRECTORS**

- 16.1. Without restricting or limiting in any way the provisions of Article 14, a Director shall cease to be a Director if:
- 16.1.1. they deliver a signed, written resignation to the Office or if they offer in writing to resign and the Directors resolve to accept such resignation;
  - 16.1.2. they cease to be a Director by virtue of any provision of the Act or they become prohibited by law from being a Director;
  - 16.1.3. they have a bankruptcy order made against them or settle or agree terms with their creditors generally or apply to the court for an interim order under section 253 of the Insolvency Act 1986 in connection with a voluntary arrangement under that legislative act or any similar action or proceedings in any other jurisdiction occur;
  - 16.1.4. in England or elsewhere an order is made by any court having the right so to do, on grounds (however formulated) of mental disorder, for their detention or for the appointment of a guardian or for the appointment of a receiver or other person (by whatever name called) to exercise powers with respect to their property or affairs;
  - 16.1.5. in case of Executive Directors, they cease to be an employee or officer or director of the Full Member or of an Affiliate of the Full Member or otherwise contractually obliged to a Member or to an Affiliate of the Full Member; or
  - 16.1.6. in case of Non-Executive Directors, they cease to be an employee or officer or director of the non-member organisation or non Full Member.

- 16.2. Notwithstanding any agreement between the Company and the relevant Executive Director (but without limiting or restricting any claim they may have for damages for breach of any such agreement), the Company may in accordance with and subject to the provisions of the Statutes by a special resolution both of the Operator Members and the Manufacturer Members remove any Executive Director from office provided that Article 15.9 shall apply.

## **17. POWERS AND DUTIES OF THE BOARD OF EXECUTIVE DIRECTORS**

- 17.1. Subject to the provisions of the Statutes, the memorandum of association and these Articles and to any directions given by special resolution, the business of the Company shall be managed by the Board of Executive Directors who may exercise all the powers of the Company, which are not, by the Statutes or by these Articles required to be exercised by the Company in a General Meeting. No alteration of the memorandum or these Articles and no direction given by special resolution both of the Operator Members and the Manufacturer Members shall invalidate any prior act of the Board of Executive Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited or restricted by any special power given to Board of Executive Directors by any other Article.
- 17.2. All cheques, promissory notes, drafts, bills of exchange, and other negotiable or transferable instruments, and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the Board of Executive Directors shall from time to time by resolution determine.
- 17.3. Subject to the provisions of the Statutes, the Board of Executive Directors may exercise all the powers of the Company to borrow money, and to mortgage or charge all or any part or parts of its undertaking, property, assets (present or future) and to issue any debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party, subject to Article 11.

### **Delegation of Powers**

- 17.4. The Board of Executive Directors may from time to time, by power of attorney or otherwise as admitted by law, appoint any Executive Director or the General Manager to be the attorney or agent of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board of Executive Directors under these Articles) and for such period and subject to such conditions as they may think fit. The Board of Executive Directors may also authorise any such attorney or agent to sub-delegate all or any of the powers, authorities and discretions vested in them.

- 17.5. The Board of Executive Directors may delegate any of its powers to any committee consisting of three or more Executive Directors of both the Operator Members and of the Manufacturer Members, provided that neither the Steering Group nor an Agreement Group shall constitute such a committee. Any such delegation may be made subject to any conditions the Board of Executive Directors may impose and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with three or more Executive Directors shall be governed by these Articles regulating the proceedings of the Board of Executive Directors so far as they are capable of applying.

## **18. PROCEEDINGS OF THE BOARD OF EXECUTIVE DIRECTORS**

- 18.1. Subject to the provisions of these Articles, the Executive Directors may meet together and regulate their proceedings as they think fit. At any time an Executive Director may, and the Secretary or the General Manager at the request of an Executive Director shall, call a meeting of the Executive Directors. Reasonable notice (being at least one month or such shorter period as all Directors may agree at the time) of a meeting of Directors must be given to all Directors (including those resident outside and/or absent from the United Kingdom and including the Non-Executive Directors). Any Director may waive notice of any meeting and any such waiver may be retroactive.
- 18.2. The General Manager may attend and speak at any meeting of the Executive Directors (except where the Executive Directors resolve otherwise), but shall not be entitled to vote.

### **Quorum**

- 18.3. The quorum necessary for the transaction of business shall be three of the Executive Directors representing the Operator Members and three of the Executive Directors representing the Manufacturer Members, in each case present throughout the meeting. A person, who holds office only as an alternate director shall, if their appointer is not present, be counted in the quorum.
- 18.4. A meeting of the Executive Directors at which a quorum is present shall be competent to exercise all the powers and discretions for the time being exercisable by the Executive Directors.

### **Chair**

- 18.5. The Executive Directors shall appoint a chair for any Board meeting from among their number.

### **Voting**

- 18.6. Except as otherwise provided in these Articles, resolutions proposed for consideration or other questions arising at any meeting of the Executive Directors shall be determined by a simple majority of Executive Directors both of the Operator Members and the Manufacturer Members ("Double Majority") present and entitled to vote. In the case of a deadlocked resolution, the chair shall not have a second, casting vote.

- 18.7. An Executive Director who is also an alternate director shall be entitled in the absence of their appointer to a separate vote on behalf of their appointer in addition to their own vote.
- 18.8. On any contract, arrangement or matter in which an Executive Director is in any way interested, directly or indirectly, such Executive Director may not vote and may not be counted in the quorum present at any meeting at which such contract, arrangement or matter is being considered.

### **Participation in Directors Meetings**

- 18.9. Directors participate in a Directors' meeting, or part of a Directors' meeting, when:
- 18.9.1. the meeting has been called and takes place in accordance with the articles, and
- 18.9.2. they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.
- 18.10. If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

### **Resolutions of Executive Directors in Writing**

- 18.11. A resolution in writing signed by all the Executive Directors entitled to receive notice of a meeting of the Board of Executive Directors or of a committee of Executive Directors shall be as valid and effectual as if it had been passed at a meeting of the Board of Executive Directors or (as the case may be) a committee of Executive Directors duly convened and held and may consist of several documents in the like form each signed by one or more Executive Directors; but a resolution signed by an alternate director need not also be signed by their appointer and, if it is signed by an Executive Director who has appointed an alternate director, it need not be signed by the alternate director in that capacity.

### **Validity of Proceedings**

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

### **Minutes**

- 18.13. The Board of Executive Directors shall cause minutes to be made in books kept for the purpose of recording:
- 18.13.1. all appointments of officers made by the Board of Executive Directors; and

- 18.13.2. all proceedings at meetings of the Company and of the Board of Executive Directors, and of committees of the Board of Executive Directors, including the names of the Executive Directors present at each such meeting.

## **19. DIRECTORS' INTERESTS**

- 19.1. Subject to the provisions of the Act and provided that they have disclosed to the other Directors the nature and extent of any material interest of theirs, a Director notwithstanding their office:
- 19.1.1. may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
- 19.1.2. may be a Director or other officer of, or employed by, or act in a professional capacity for (and be remunerated for so acting), or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and
- 19.1.3. shall not, by reason of their office, be accountable to the Company for any profit, benefit or advantage which they derive or receive, directly or indirectly, from or as a result of any such transaction or arrangement or any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
- 19.2. For the purposes of this Article:
- 19.2.1. a general notice given to the Board of Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified; and
- 19.2.2. An interest of which a Director has no knowledge and of which it is unreasonable to expect them to have knowledge shall not be treated as an interest of theirs.

## **20. REMUNERATION OF DIRECTORS**

- 20.1. Neither Executive Directors nor Non-Executive Directors shall be entitled to any ordinary remuneration or fees, unless and until determined by the Company by special resolution both of the Operator Members and the Manufacturer Members.
- 20.2. No gratuities, pensions or other retirement, superannuation, death or disability benefits shall be payable to (or to any person in respect of) any Director or ex-Director unless and until determined by special resolution both of the Operator Members and the Manufacturer Members. If any such gratuities, pension or other benefits are so approved, the Directors shall have the power to pay and agree to pay the same and, for the purpose of providing any such gratuities, pensions or other benefits, to contribute to any scheme or fund or to pay premiums.

- 20.3. The Directors may agree to repay to any Director all such reasonable expenses as they may incur in attending and returning from meetings of the Directors or of any committee of the Directors or Members' meetings or otherwise in connection with or about the business of the Company.

## **21. GENERAL MANAGER**

- 21.1. The Board of Executive Directors may from time to time appoint a General Manager on such terms and for such period as they may (subject to the provisions of the Statutes) determine. The Board of Executive Directors may, without limiting or prejudicing in any way the terms of any contract entered into in any particular case, at any time revoke or vary the terms of any such appointment.
- 21.2. The Board of Executive Directors is authorized to decide to remunerate the General Manager by way of salary, commission or other means or may provide such other benefits as they may determine by a simple majority of Executive Directors both of the Operator Members and the Manufacturer Members ("Double Majority") present and entitled to vote at that meeting.
- 21.3. The Board of Executive Directors may entrust to and confer upon the General Manager any of the powers exercisable by them as Executive Directors upon such terms and conditions and with such restrictions as they think fit, and either collaterally with or to the exclusion of their own powers. The Board of Executive Directors may from time to time revoke, withdraw, alter or vary all or any of such powers.

## **22. ALTERNATE DIRECTORS**

- 22.1. Any Executive Director (other than an alternate director) may appoint any other Executive Director, or any other person willing to act, to be an alternate director and may remove from office an alternate director so appointed by them. The nomination must be in line with the procedure and conditions approved by the Board.
- 22.2. An alternate director shall be entitled to receive notice of all meetings of the Board of Directors, to attend and note at any such meeting at which the Executive Director appointing them is not personally present, and generally to perform all the functions of their appointer as an Executive Director in their absence but shall not be entitled to receive any remuneration from the Company for his services as an alternate director. The alternate director may only attend a Board Meeting when the Executive Director is not able to attend the Board Meeting.
- 22.3. An alternate director shall cease to be an alternate director if their appointer ceases to be an Executive Director.
- 22.4. Any appointment or removal of an alternate director shall be by notice to the Company signed by the Executive Director making or revoking the appointment or in any other manner approved by the Board of Executive Directors.

22.5. Save as otherwise provided in these Articles, an alternate director shall be deemed for all purposes to be an Executive Director and shall alone be responsible for their own acts and defaults and they shall not be deemed to be the agent of the Executive Director appointing them.

### **23. STEERING GROUP**

23.1. All Members of the Company are members of the Steering Group. The Steering Group tasks include amongst others the following decisions:

- Approval of the annual budget and work plan, and
- Membership matters.

23.2. The Steering Group shall meet minimum two and maximum five times per year. Other Steering Group meetings may be called by the Chair or Vice Chair of the Steering Group on an ad hoc basis. Invitations to all Members shall be sent by the chair in writing at least two weeks in advance

23.3. Subject to the provisions of these Articles, the Steering Group will meet and regulate its proceedings in the Principles Document.

### **24. COMPANY SECRETARY**

24.1. Subject to the provisions of the Act, the Secretary shall be appointed by the Board of 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. Any such removal shall not, of itself, limit or restrict any claim for damages which they may have for breach of any contract of service between them and the Company.

24.2. The Board of Executive Directors may, if they think fit, appoint two or more persons as joint Secretaries. The Board of Executive Directors may also appoint from time to time on such terms as they may think fit, one or more deputy and/or assistant Secretaries.

### **25. MEMBERS' CONTRIBUTIONS**

25.1. On the basis of the budget of the Company for the relevant financial year, such budget to be prepared by the Steering Group for presentation at each Annual General Meeting of the Company pursuant to Article 6.1, and adopted by a simple majority of both the Operator Members and the Manufacturer Members – with or without amendments - the Steering Group shall determine the Membership Fee payable by each category of Member by resolution, adopted with a simple majority of both the Operator Members as well as the Manufacturer Members.. The Membership Fees for the forthcoming financial year shall be reflective of the costs and requirements of the Company for that year, as determined in the budget, and shall be notified to the Members prior to the Annual General Meeting.



- 25.2. If the Board of Executive Directors determines at any time during a financial year that additional funds in excess of the Membership Fees, are required by the Company, it may call a General Meeting at which a special resolution both of the Operator Members and the Manufacturer Members pursuant to Article 11.1.3 shall be proposed. If the aforementioned special resolution is adopted by both the Operator Members and the Manufacturer Members, the requirement to provide the approved additional funding shall be apportioned equally between all Members.
- 25.3. The Membership Fees and any additional funds requested and duly approved in accordance with these Articles shall be paid by each Member, as appropriate, within 60 days or otherwise agreed with a Member on receipt of notification thereof from the Board of Executive Directors.
- 25.4. Non-compliance with its payment obligation within the period referred to above shall constitute a material breach of the relevant Member's obligations, and in such case all rights pertaining to membership of the Company (but for the avoidance of doubt not the obligations under the memorandum of association and Articles) shall be suspended in respect of such Member following the expiry of a further period of 30 days.
- 25.5. The Membership Fee and any amounts payable by the Members shall be applied by the Company for the purposes specified in the budget of the Company, as the same is annually approved by a resolution of the Steering Group.

## **26. ACCOUNTS**

A Full Member shall only have the right to inspect the accounting records or other books or documents of the Company if so authorised by the Board of Executive Directors or by an ordinary resolution of the Company.

## **27. AUDITORS**

- 27.1. Subject to the provisions of the Statutes, all acts done by any person acting as an auditor shall, as regards all persons acting in good faith with the Company, be valid, notwithstanding that there was some defect in their appointment or that they were at the time of their appointment not qualified for appointment or subsequently became disqualified.
- 27.2. An auditor shall be entitled to attend any General Meeting and to receive notice of, and other communications relating to, any General Meeting which any Member is entitled to receive, and to be heard at any General Meeting on any part of the business of the meeting which concerns them as auditor.

## **28. NOTICES**

- 28.1. Any notice to be given to or by any person pursuant to the Articles shall be in writing (or produced by any substitute for writing or partly one and partly another) except that a notice calling a meeting of the Board of Executive Directors need not be in writing.

- 28.2. Any notice or document may be served on or delivered to any Member by the Company either at, or by sending it by post in a prepaid cover addressed to such Member at their registered address. Any notice may also be served on a Member by electronic mail or facsimile transmission.
- 28.3. Where any such notice is served or sent by post, service or delivery shall be deemed to be effected at the expiry of twenty-four hours (or, where second class mail is employed, forty-eight hours or where air mail is employed, seventy-two hours) after the time when the cover containing the same is posted. In proving such delivery or service, it shall be sufficient to prove that such cover was properly addressed, stamped and posted. Any service by electronic mail shall be deemed to have been served upon mailing provided that a valid report has been received within twenty-four hours after mailing. Any notice served by facsimile transmission shall be deemed to have been served twelve hours after the time of dispatch provided that a valid receipt report has been received within that time.
- 28.4. The accidental failure to send, or the non-receipt by any person entitled to, any notice of or any document relating to any meeting or other proceeding shall not invalidate the relevant meeting or other proceeding.
- 28.5. Nothing in any of this Article 28 shall affect any requirement of the Statutes that any particular offer, notice or other document be served in any particular manner.

## **29. DISSOLUTION; WINDING UP**

- 29.1. The Board of Executive Directors shall have the power, in the name and on behalf of the Company, to present a petition to the court for the winding up of the Company.
- 29.2. On winding up, any surplus of assets shall be distributed between the Members in proportion to their overall financial contributions to the Company since incorporation of the Company.

## **30. INDEMNITY**

- 30.1. Subject to the provisions of and so far as may be consistent with the Statutes, but without prejudice to any indemnity to which a Director may otherwise be entitled, every Director or other officer or auditor of the Company shall be indemnified by the Company out of its own funds against, and/or exempted by the Company from, all costs, charges, losses, expenses and liabilities incurred by them in the actual or purported execution and/or discharge of their duties and/or the exercise or purported exercise of their powers and/or other wise in relation to or in connection with their duties, powers or office. Such indemnity or exemption may relate (without limitation) to any liability incurred by them in defending any proceedings, whether civil or criminal, which relate to anything done or omitted by them as officer or employee of the Company and in which judgment is given in their favour (or otherwise disposed of without any finding or admission of any material breach of duty on their part) or in which they are acquitted or in connection with any application in which relief is granted to them by the court

- 30.2. Without restricting or reducing in any way the scope of this Article 30, the Board of Executive Directors shall have the power to purchase and maintain insurance for, or for the benefit of, any persons who are or were at any time Directors, officers, employees or auditors of the Company or who are or were at any time trustee of any pension fund or employees' share scheme in which employees of the Company are interested, (including, without limitation, insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to the Company, or any such pension fund or employees' share scheme).

### **31. DIRECTORS' LOANS**

- 31.1. Without prejudice to the indemnity provisions set out in Article 30 and under the Companies Act, the Company may not at any time make a loan or quasi-loan to a Director or enter into any guarantee or provide any security in connection with a loan or quasi-loan made by any person to a Director or persons connected with them.