

# THE COMPANIES ORDINANCE (CHAPTER 622)

## Company Limited by Guarantee ARTICLES OF ASSOCIATION OF

**Hong Kong Arts Administrators Association Limited**  
香港藝術行政人員協會有限公司

### Part A Mandatory Articles

**1. Company Name** The name of the company is

“Hong Kong Arts Administrators Association Limited  
香港藝術行政人員協會有限公司”

### 2. Members' Liabilities

The liability of the members is limited.

### 3. Liabilities or Contributions of Members

Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within 1 year afterwards, for the payment of the debts and liabilities of the company contracted before he ceases to be a member, 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 the amount specified below:

Class of Members

Member

Amount to be contributed by each of the members in this class

HKD100.00

I/WE, the undersigned, wish to form a company and wish to adopt the articles of association as attached.

Name(s) of Founder Members
<b>CHAN Hoi-cheong</b> (Sd.)
<b>CHEUNG Yuk-kwan , Andrew</b> (Sd.)
<b>CHIA Chun-heng, Benny</b> (Sd.)
<b>CHOJ Suk-kuen</b> (Sd.)
<b>CHUNG Ling-hoi</b> (Sd.)
<b>LEE Bo-luen</b> (Sd.)
<b>LIN Kar-ying, Mary</b> (Sd.)
<b>MA Bun, Henry</b> (Sd.)
<b>MA Kwok-hang , Francis</b> (Sd.)
<b>TSENG Sun-man</b> (Sd.)

I/WE, the undersigned, wish to form a company and wish to adopt the articles of association as attached.

Name(s) of Founder Members
<b>TSOI Sik-cheong</b> <b>(Sd.)</b>

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## Part 1

### Interpretation

#### 1. Interpretation

(1) In these articles—

**alternate** (候補者) and **alternate director** (候補董事) mean a person appointed by a director as an alternate under article 26(1);

**appointor** (委任者)—see article 26(1);

**articles** (本《章程細則》) means the articles of association of the company;

**associated company** (有聯繫公司) means—

- (a) a subsidiary of the company;
- (b) a holding company of the company; or
- (c) a subsidiary of such a holding company;

**Member** shall consist of (i) Ordinary Members and (ii) Voting Members as defined in article 34;

**mental incapacity** (精神上無行為能力) has the meaning given by section 2(1) of the Mental Health Ordinance (Cap. 136);

**mentally incapacitated person** (精神上無行為能力者) means a person who is found under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs;

**Ordinance** (《條例》) means the Companies Ordinance (Cap. 622);

**proxy notice** (代表通知書)—see article 49(1).

(2) Other words or expressions used in these articles have the same meaning as in the Ordinance as in force on the date these articles become binding on the company.

(3) For the purposes of these articles, a document is authenticated if it is authenticated in any way in which section 828(5) or 829(3) of the Ordinance provides for documents or information to be authenticated for the purposes of the Ordinance.

## Part 2

### Objects

#### 2. Objects

The objects for which the company is established are:-

- (a) To promote, support and encourage the development of arts administration in Hong Kong.
- (b) To provide a forum for members of the Company to exchange information, experience, ideas, and concepts on the principles and practice of arts administration in Hong Kong and abroad.
- (c) To formulate standards of working condition, welfare, knowledge, training, conduct and experience which are desirable in the practice of arts administration.
- (d) To provide educational service in arts administration and to establish centres for giving of information or providing services relating to arts administration.
- (e) To establish, produce, promote, present, organize, arrange, manage and conduct from time to time programmes of music, films, drama, singing and the arts in Hong Kong and for that purpose to enter into contracts, agreements and arrangements with orchestras, musical societies and performers of all kinds, theatrical, operatic, ballet and film, companies, choral and operatic

societies and singers, artists, painters and sculptors and generally all persons or organizations of any kind which would enhance and contribute to any of the objects of the Company.

- (f) In connexion with any of the objects of the Company generally to produce, promote, present, manage, conduct, organize, arrange and provide concerts, recitals, lectures, conferences, public performances and exhibitions of musical and artistic works of all kinds as well as plays, films, operas, operettas, burlesques, pantomimes, songs, mime, ballet, comedies, music and dances in every and any form, oratorios, interviews, reviews, television and radio programmes, competitions, lectures, discussions and documentary programmes and generally to present depict and portray events, doings, performances and happenings and every kind of entertainment, instruction, diversion, recreation, relaxation, education, amusement, information or activity and to disseminate the same by means of live performances, television, sound radio, cinema or any other means.
- (g) Subject to the provisions of Section 115 of the Companies Ordinance Cap. 622 to own buy lease or otherwise, acquire, build, demolish, develop, turn to account, hire, occupy, equip and operate any buildings, offices, concert halls, theatres, exhibition rooms, galleries, broadcasting television and film studios and any other land, building, premises or tenements of any kind in Hong Kong or elsewhere useful or convenient as places of direct or indirect, original or transmitted, filmed or recorded entertainment instruction, diversion, recreation, amusement, education, information, advertising or otherwise as the same may be deemed by the Company useful or likely to advance or benefit either directly or indirectly the interest of the Company or otherwise to further the objects of the Company in any way.
- (h) To obtain, rent, hire, arrange and provide accommodation, board and lodging, travelling facilities, transportation and storage for persons engaged to give lectures, demonstration, perform, appear or assist at any activity organized by the Company and for any equipment, goods or chattels of any kind used or required by them and for that purpose to enter into agreements and contracts of all kinds with hotel, lodging house and restaurant proprietors, transportation companies by land, sea or air, packing and storage companies, warehouse and any other person, firm or company providing facilities necessary or convenient for the purposes of the Company.
- (i) To acquire by purchase or otherwise equipment chattels and goods for the use of members as the Company may deem expedient to enable the Company to fulfil its objects and to sell or otherwise dispose of such equipment chattels and goods as aforesaid.
- (j) To enter into any arrangement the Company may deem appropriate for the storage of any property belonging to the Company or which may be used by the Company or for the maintenance or upkeep thereof.
- (k) To purchase or otherwise acquire any instruments, equipment, plant, machinery, furniture, fixtures, fittings, scenery and all other effects of every description necessary or usually or normally used in connection with or for the purpose of objects of the Company.
- (l) To retain or employ professional or technical advisers or workers in connection with the objects of the Company and to pay such reasonable and proper fees for their services as may be thought expedient.
- (m) To engage a business manager and secretary and such other staff to conduct the affairs of the Company upon such terms and generally as shall be deemed necessary and or expedient for the purposes of the Company.
- (n) To prepare print and publish any periodicals, books, circulars, leaflets or other literature or to make any films which may be thought desirable for the promotion of the interests of the Company and its Members and others interested in the objects of the Company and to distribute among its Members and others, information and statistics on all matters affecting the said objects, and in these or other activities undertake the duties of advertising and publicity agents.

- (o) To promote and hold, either alone or in conjunction with any other corporation or association , club or persons, any competition, meeting , exhibition, performance conference or seminars of any kind with a view to furthering the Company's objects and the raising of money for the purposes of the Company and to offer, give, contribute to and distribute prizes, awards and bonuses in connexion therewith and to promote, give, hold or support dinners, ball s, meetings and entertainments of all kinds for the purposes aforesaid.
- (p) To act on behalf of members in regard to advance bookings, sale of ticket s at meeting and other gatherings and sporting events and for the reservation of accommodation at hotels and the like, and to carry out such similar duties as may generally be required from time to time and, in particular, in regard to any meetings whether the Company act as promoter s or joint promoters or otherwise.
- (q) To make known by way of advertisement or in any other way the objects of the Company or any analogous activities causes or projects which it may be desired to sponsor, support or promote.
- (r) To purchase or otherwise acquire copyrights, or other rights licences or interests of all kinds whatsoever in or relating to literary, dramatic, theatrical, musical, cinematograph, choreographic, and other works, sporting and other events and subjects and matters of every description and (without limiting the generality of the foregoing) the right s to broadcast by sound and television and cause to be transmitted performances, works, scenes and events of every description and to make adaptations thereof.
- (s) To enter into arrangements whether reciprocal or otherwise for a supply of live or recorded programmes to programme contractors or other stations elsewhere in the world and for the purchase, hire or acquisition under any other form of commercial arrangement of programmes broadcast from stations controlled by other programme contractors or other persons.
- (t) To enter into contracts with and make all necessary and appropriate arrangements with enterprises advertising on television and to broadcast advertisements or advertising material by sound or television.
- (u) To buy, sell, manipulate and deal, either as principals or agents, both wholesale and retail, in produce, commodities, articles and things of all kinds which can conveniently be dealt in by the Company in connection with any of its objects.
- (v) To print, publish, distribute and sell or otherwise dispose of tickets, programmes, books, magazines, periodicals, music and other publications whatsoever of all descriptions and to acquire protective copy right for things printed and published as aforesaid.
- (w) To establish, promote, maintain and manage any club, association, company or other organisation for the purpose of or connected with the objects of the Company.
- (x) canvass for and receive subscriptions and other contributions towards the cost of the activities of the Company and generally to raise money for the purposes of the Company.
- (y) To enter into any arrangements or contracts with any governments or authorities, supreme, municipal, local or otherwise or with any person or company that may seem conducive to the objects of the Company or any of them and to obtain from any such government or authority, person or company any rights, privileges and concessions which the Company may think desirable to obtain and to carry out, exercise and comply with any such arrangements, contracts, rights, privileges and concessions.
- (z) To establish, promote, or assist in establishing or promoting, and to subscribe to, or become a member of, any other associations whose objects are similar or in part similar to the objects of the Company or the establishment or promotion of which may be beneficial to the Company Provided that no subscription be paid to any such other association or club out of the funds of

the Company, except *bona fide* in furtherance of the objects of the Company.

- (aa) To support and subscribe to any charitable or public body, and any institution, company or club which may be for the benefit of the Company or its employees, to give pensions, gratuities Christmas boxes or charitable aid to any persons who may have served the Company or have been connected with the Company's activities, or to the wife, widow, children or other relatives of any such person; to make payments towards insurance; and to form and contribute to provident and benefit funds for the benefit of any persons employed by the Company.
- (bb) To invest and deal with the moneys of the Company not immediately required, upon such securities and in such manner as may from time to time be determined by the Company.
- (cc) To borrow with or without security or raise and give security for money by the issue of or upon bonds, debentures, debenture stock, bills of exchange, promissory notes or other obligations or securities of the Company or by mortgage or charge upon all or any part of the property of the Company.
- (dd) To act as trustee for the members of the Company and as such trustee to receive and hold money in trust for them and therewith to purchase, hold in trust for and supply to the Members of the Company intoxicating liquors, tobacco and other things
- (ee) To repay or refund to persons who have advanced or subscribed money for the purpose of meeting the preliminary expenses of the formation of the Company to be established as aforesaid the amount of the money so advanced or subscribed by them.
- (ff) To issue badges and insignia to the members of the Company.
- (gg) To do all or any of the above things by or through agents or otherwise and either alone or in conjunction with others.
- (hh) To do all such other lawful things as are incidental or conducive to the attainment of the above objects or any of them.
- (ii) To do all such other lawful things as are incidental or conducive to the attainment of the above objects.

Provided always that:

- (jj) In case the company shall take or hold any property which may be subject to any trusts, the company shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts.

### **Part 3**

#### **Application of Income and Property**

- 3. Application of income and property:
  - (1) The income and property of the company shall be applied solely towards the promotion of the objects as set out in these articles.
  - (2) Subject to sub-article (4), no member of the Board of Directors of the company shall be appointed to any salaried office of the company, or any office of the company paid by fees and no remuneration or other benefit in monies or monies' worth shall be given by the company to any member of its Board of Directors.

- (3) Subject to sub-article (4), none of the income or property of the company may be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise howsoever to any member of the company.
- (4) The requirement under sub-articles (2) and (3) above does not prevent the payment by the company:
  - (a) of reasonable and proper remuneration to a member of the company for any goods or services supplied by him or her to the company;
  - (b) of reimbursement to a member of the company for out-of-pocket expenses properly incurred by him or her for the company;
  - (c) of interest on money lent by a member of the company to the company at a reasonable and proper rate which must not exceed 12% per annum on money lent to the Company by a member above the prime rate prescribed for the time being by The Hong Kong and Shanghai Banking Corporation Limited for Hong Kong dollar Loans;
  - (d) of rent to a member of the company for premises let by him or her to the company: Provided that the amount of the rent and the other terms of the lease must be reasonable and proper; and such member must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion; and
  - (e) of remuneration or other benefit in money or money's worth to a body corporate in which a member of the company is interested solely by virtue of being a member of that body corporate by holding not more than one-hundredth part of its capital or controlling not more than a one-hundredth part of its votes.

## **Part 4**

### **Directors and Company Secretary**

#### **Division 1—Directors' Powers and Responsibilities**

##### **4. Directors' general authority**

- (1) Subject to the Ordinance and these articles, the business, administration and affairs of the company are managed by the directors, who may exercise all the powers of the company.
- (2) An alteration of these articles does not invalidate any prior act of the directors that would have been valid if the alteration had not been made.
- (3) The powers given by this article are not limited by any other power given to the directors by these articles.
- (4) A directors' meeting at which a quorum is present may exercise all powers exercisable by the directors.

##### **5. Officers**

- (1) The directors shall be composed of not less than 5 Voting Members and not more than 11 Voting Members.
- (2) The board of directors shall consist of the following officers selected from among the directors themselves:-
  - (a) Chairman;
  - (b) Vice Chairman;
  - (c) Secretary;
  - (d) Treasurer;
  - (e) Such other officers (having such duties and responsibilities) as the board of directors may from time to time designate.
- (3) The Chairman shall preside over meetings of the board of directors and shall perform such duties as are customarily attached to his office.

- (4) The Secretary shall keep the record of all the meetings of the board of directors. He shall keep custody of the properties of the Society and maintain financial records. In addition, he shall perform the duties customarily incident to his office or those required by the Board, the Chairman or the Vice Chairman.
- (5) The Treasurer shall receive all subscriptions and all other moneys coming into the Society. His receipt shall be the only sufficient discharge and he shall pay into the Bank which was chosen by the Board from time to time all moneys received by him.
- (6) The board of directors shall provide for successions and acting designations to cover other contingencies which may arise.
- (7) The board of directors shall be responsible for raising funds from all legitimate sources in order to support the activities of the Company. The Chairman, the Vice Chairman and the Secretary shall endeavour to organise all fund raising activities of the company.

## **6. Members' reserve power**

- (1) The members may, by special resolution, direct the directors to take, or refrain from taking, specified action.
- (2) The special resolution does not invalidate anything that the directors have done before the passing of the resolution.

## **7. Directors may delegate**

- (1) Subject to these articles, the directors may, if they think fit, delegate any of the powers that are conferred on them under these articles—
  - (a) to any person or committee;
  - (b) by any means (including by power of attorney);
  - (c) to any extent and without territorial limit;
  - (d) in relation to any matter; and
  - (e) on any terms and conditions.
- (2) If the directors so specify, the delegation may authorize further delegation of the directors' powers by any person to whom they are delegated.
- (3) The directors may—
  - (a) revoke the delegation wholly or in part; or
  - (b) revoke or alter its terms and conditions.

## **8. Committees**

- (1) The directors may make rules providing for the conduct of business of the committees to which they have delegated any of their powers
- (2) The board of directors may establish and abolish from time to time, in its absolute discretion, such advisory and consultative committees, councils and groups as it may determine to be in the best interests of the company; and may prescribe such rules and regulations governing the composition, appointment process, duration, scope and responsibilities, procedures, remuneration (if any), budgets and other matters pertaining thereto as it determines desirable from time to time.
- (3) The committees must comply with the rules and regulations.

## **Division 2—Decision-taking by Directors**

### **9. Directors to take decision collectively**

A decision of the directors may only be taken—

- (a) by a majority of the directors at a meeting; or
- (b) in accordance with article 10.

## **10. Unanimous decisions**

- (1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other (either directly or indirectly) by any means that they share a common view on a matter.
- (2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.
- (3) A reference in this article to eligible directors is a reference to directors who would have been entitled to vote on the matter if it had been proposed as a resolution at a directors' meeting.
- (4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at a directors' meeting.

## **11. Calling directors' meetings**

- (1) Any request made by the Chairman or the Vice Chairman or by requisition in writing signed by the two directors of the board of the directors stating the reasons for such meetings to be convened may call a directors' meeting by giving notice of the meeting to the directors or by authorizing the company secretary to give such notice.
- (2) Notice of a directors' meeting must indicate—
  - (a) its proposed date and time; and
  - (b) where it is to take place.
- (3) Notice of a directors' meeting must be given to each director, but must be in writing.

## **12. Participation in directors' meetings**

- (1) Subject to these articles, directors participate in a directors' meeting, or part of a directors' meeting, when—
  - (a) the meeting has been called and takes place in accordance with these articles; and
  - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- (2) In determining whether directors are participating in a directors' meeting, it is irrelevant where a director is and how they communicate with each other.
- (3) If all the directors participating in a directors' meeting are not in the same place, they may regard the meeting as taking place wherever any one of them is.
- (4) The board of directors may, if it thinks fit, transact any of its business by the circulation of papers, and a resolution in writing signed or confirmed by cable by a majority of the directors thereof shall be valid and effectual as if it had been passed at a meeting of the board of directors, provided that notice of any such action or proposed action is given to all members of the board of directors.

## **13. Quorum for directors' meetings**

- (1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- (2) The quorum for board meetings may be fixed from time to time by a decision of the directors, but it must be a majority personally present of the directors of the board of directors.

## **14. Meetings if total number of directors less than quorum**

If the total number of directors for the time being is less than the quorum required for directors' meetings, the directors must not take any decision other than a decision—

- (a) to appoint further directors; or
- (b) to call a general meeting so as to enable the members to appoint further directors.

**15. Chairing of directors' meetings**

- (1) The Chairman shall preside over meetings of the board and shall perform such duties as are customarily attached to his office.
- (2) If the Chairman is absent or in case of disability in a directors' meeting within 10 minutes of the time at which it was to start, the Vice Chairman shall serve as Acting Chairman.

**16. Chairman's casting vote at directors' meetings**

- (1) If the numbers of votes for and against a proposal are equal, the Chairman or other director chairing the directors' meeting has a casting vote.
- (2) Paragraph (1) does not apply if, in accordance with these articles, the Chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

**17. Alternates voting at directors' meetings**

A director who is also an alternate director has an additional vote on behalf of each appointor who—

- (a) is not participating in a directors' meeting; and
- (b) would have been entitled to vote if he or she were participating in it.

**18. Conflicts of interest**

- (1) This article applies if—
  - (a) a director is in any way (directly or indirectly) interested in a transaction, arrangement or contract with the company that is significant in relation to the company's business; and
  - (b) the director's interest is material.
- (2) The director must declare the nature and extent of the director's interest to the other directors in accordance with section 536 of the Ordinance.
- (3) The director and the director's alternate must neither—
  - (a) vote in respect of the transaction, arrangement or contract in which the director is so interested; nor
  - (b) be counted for quorum purposes in respect of the transaction, arrangement or contract.
- (4) Paragraph (3) does not preclude the alternate from—
  - (a) voting in respect of the transaction, arrangement or contract on behalf of another appointor who does not have such an interest; and
  - (b) being counted for quorum purposes in respect of the transaction, arrangement or contract.
- (5) If the director or the director's alternate contravenes paragraph (3)(a), the vote must not be counted.
- (6) Paragraph (3) does not apply to—
  - (a) an arrangement for giving a director any security or indemnity in respect of money lent by the director to or obligations undertaken by the director for the benefit of the company;
  - (b) an arrangement for the company to give any security to a third party in respect of a debt or obligation of the company for which the director has assumed responsibility wholly or in part under a guarantee or indemnity or by the deposit of a security; or
  - (c) an arrangement under which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries, which do not provide special benefits for directors or former directors.
- (7) A reference in this article to a transaction, arrangement or contract includes a proposed

transaction, arrangement or contract.

## **19. Supplementary provisions as to conflicts of interest**

- (1) A director may hold any other office or position of profit under the company (other than the office of auditor) in conjunction with the office of director for a period and on terms (as to remuneration or otherwise) that the directors determine.
- (2) A director or intending director is not disqualified by the office of director from contracting with the company—
  - (a) with regard to the tenure of the other office or position of profit mentioned in paragraph (1); or
  - (b) as vendor, purchaser or otherwise.
- (3) The contract mentioned in paragraph (2) or any transaction, arrangement or contract entered into by or on behalf of the company in which any director is in any way interested is not liable to be avoided.
- (4) A director who has entered into a contract mentioned in paragraph (2) or is interested in a transaction, arrangement or contract mentioned in paragraph (3) is not liable to account to the company for any profit realized by the transaction, arrangement or contract by reason of—
  - (a) the director holding the office; or
  - (b) the fiduciary relation established by the office.
- (5) Paragraph (1), (2), (3) or (4) only applies if the director has declared the nature and extent of the director's interest under the paragraph to the other directors in accordance with section 536 of the Ordinance.
- (6) A director of the company may be a director or other officer of, or be otherwise interested in—
  - (a) any company promoted by the company; or
  - (b) any company in which the company may be interested as shareholder or otherwise.
- (7) Subject to the Ordinance, the director is not accountable to the company for any remuneration or other benefits received by the director as a director or officer of, or from the director's interest in, the other company unless the company otherwise directs.

## **20. Validity of acts of meeting of directors**

The acts of any meeting of directors or of a committee of directors or the acts of any person acting as a director are as valid as if the directors or the person had been duly appointed as a director and was qualified to be a director, even if it is afterwards discovered that—

- (a) there was a defect in the appointment of any of the directors or of the person acting as a director;
- (b) any one or more of them were not qualified to be a director or were disqualified from being a director;
- (c) any one or more of them had ceased to hold office as a director; or
- (d) any one or more of them were not entitled to vote on the matter in question.

## **21. Record of decisions to be kept**

The directors must ensure that the company keeps a written record of every decision taken by the directors under article 9 for at least 10 years from the date of the decision.

## **22. Directors' discretion to make further rules**

Subject to these articles, the directors may make any rule that they think fit about—

- (a) how they take decisions; and
- (b) how the rules are to be recorded or communicated to directors.

## Division 3—Appointment and Retirement of Directors

### 23. Appointment and retirement of directors

- (1) A person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director—
  - (a) by election every 2 years from the Voting Members at the annual general meeting in alternate years; or
  - (b) by a decision of the directors.
- (2) A director appointed under paragraph (1)(a) holds office until the conclusion of the next annual general meeting of the year in which election of directors is held but shall be eligible for re-election. **The Chairman of the board of directors shall be eligible for re-election only up to 6 consecutive years.**
- (3) Each Voting Member may nominate persons being Voting Members to stand for the election referred to in paragraph (1)(a). All such nominated persons must have signified their willingness to act, and all nominations should be in the hands of the Secretary, in writing, 10 days before the annual general meeting of the year in which election of directors is held.
- (4) An appointment under paragraph (1)(b) may only be made to—
  - (a) fill a casual vacancy; or
  - (b) appoint a director as an addition to the existing directors if the total number of directors does not exceed the number fixed in accordance with these articles.
- (5) For the purpose of paragraph (1)(b), only a Voting Member may be appointed to be a director.**
- (6) A director appointed under paragraph (1)(b) must—
  - (a) retire from office at the next annual general meeting in which election of directors is held; or
  - (b) if the company has dispensed with the holding of annual general meetings or is not required to hold annual general meetings, retire from office before the end of 9 months after the end of the company's accounting reference period by reference to which the financial year in which the director was appointed is to be determined.

### 24. Retiring director eligible for reappointment

A retiring director is eligible for reappointment to the office.

### 25. Composite resolution

- (1) This article applies if proposals are under consideration concerning the appointment of 2 or more directors to offices or employments with the company or any other body corporate.
- (2) The proposals may be divided and considered in relation to each director separately.
- (3) Each of the directors concerned is entitled to vote (if the director is not for another reason precluded from voting) and be counted in the quorum in respect of each resolution except that concerning the director's own appointment.

### 26. Termination of director's appointment

A person ceases to be a director if the person—

- (a) ceases to be a director under the Ordinance or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) or is prohibited from being a director by law;
- (b) becomes bankrupt or makes any arrangement or composition with the person's creditors generally;
- (c) becomes a mentally incapacitated person;
- (d) resigns the office of director by notice in writing of the resignation in accordance with

- section 464(5) of the Ordinance;
- (e) ceases to be a Voting Member at the time of his election;
- (f) for more than 6 months has been absent without the directors' permission from directors' meetings held during that period; or
- (g) is removed from the office of director by an ordinary resolution of the company.

## 27. Directors' expenses

The company may pay any travelling, accommodation and other expenses properly incurred by directors in connection with—

- (a) their attendance at—
  - (i) meetings of directors or committees of directors;
  - (ii) general meetings; or
  - (iii) separate meetings of the holders of debentures of the company; or
- (b) the exercise of their powers and the discharge of their responsibilities in relation to the company.

## Division 4—Alternate Directors

### 28. Appointment and removal of alternates

- (1) Subject to approval by the board of directors, a director (**appointor**) may appoint as an alternate any other director, or any other person approved by resolution of the directors.
- (2) An alternate may exercise the powers and carry out the responsibilities of the alternate's appointor, in relation to the taking of decisions by the directors in the absence of the alternate's appointor.
- (3) An appointment or removal of an alternate by the alternate's appointor must be effected—
  - (a) by notice to the company; or
  - (b) in any other manner approved by the directors.
- (4) The notice must be authenticated by the appointor.
- (5) The notice must—
  - (a) identify the proposed alternate; and
  - (b) if it is a notice of appointment, contain a statement authenticated by the proposed alternate indicating the proposed alternate's willingness to act as the alternate of the appointor.
- (6) If an alternate is removed by resolution of the directors, the company must as soon as practicable give notice of the removal to the alternate's appointor.

### 29. Rights and responsibilities of alternate directors

- (1) An alternate director has the same rights as the alternate's appointor in relation to any decision taken by the directors under article 9.
- (2) Unless these articles specify otherwise, alternate directors—
  - (a) are deemed for all purposes to be directors;
  - (b) are liable for their own acts and omissions;
  - (c) are subject to the same restrictions as their appointors; and
  - (d) are deemed to be agents of or for their appointors.
- (3) Subject to article 17, a person who is an alternate director but not a director—
  - (a) may be counted as participating for determining whether a quorum is participating (but only if that person's appointor is not participating); and

- (b) may sign a written resolution (but only if it is not signed or to be signed by that person's appointor).
- (4) An alternate director must not be counted or regarded as more than one director for determining whether—
  - (a) a quorum is participating; or
  - (b) a directors' written resolution is adopted.
- (5) An alternate director is not entitled to receive any remuneration from the company for serving as an alternate director.
- (6) But the alternate's appointor may, by notice in writing made to the company, direct that any part of the appointor's remuneration be paid to the alternate.

### **30. Termination of alternate directorship**

- (1) An alternate director's appointment as an alternate terminates—
  - (a) if the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate;
  - (b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
  - (c) on the death of the alternate's appointor; or
  - (d) when the alternate's appointor's appointment as a director terminates.
- (2) If the alternate was not a director when appointed as an alternate, the alternate's appointment as an alternate terminates if—
  - (a) the approval under article 29(1) is withdrawn or revoked; or
  - (b) the company by an ordinary resolution passed at a general meeting terminates the appointment.

## **Division 5—Directors' Indemnity and Insurance**

### **31. Indemnity**

- (1) A director or former director of the company may be indemnified out of the company's assets against any liability incurred by the director to a person other than the company or an associated company of the company in connection with any negligence, default, breach of duty or breach of trust in relation to the company or associated company (as the case may be).
- (2) Paragraph (1) only applies if the indemnity does not cover—
  - (a) any liability of the director to pay—
    - (i) a fine imposed in criminal proceedings; or
    - (ii) a sum payable by way of a penalty in respect of non-compliance with any requirement of a regulatory nature; or
  - (b) any liability incurred by the director—
    - (i) in defending criminal proceedings in which the director is convicted;
    - (ii) in defending civil proceedings brought by the company, or an associated company of the company, in which judgment is given against the director;
    - (iii) in defending civil proceedings brought on behalf of the company by a member of the company or of an associated company of the company, in which judgment is given against the director;
    - (iv) in defending civil proceedings brought on behalf of an associated company of the company by a member of the associated company or by a member of an associated company of the associated company, in which judgment is given

- against the director; or
- (v) in connection with an application for relief under section 903 or 904 of the Ordinance in which the Court refuses to grant the director relief.
- (3) A reference in paragraph (2)(b) to a conviction, judgment or refusal of relief is a reference to the final decision in the proceedings.
- (4) For the purposes of paragraph (3), a conviction, judgment or refusal of relief—
- (a) if not appealed against, becomes final at the end of the period for bringing an appeal; or
- (b) if appealed against, becomes final when the appeal, or any further appeal, is disposed of.
- (5) For the purposes of paragraph (4)(b), an appeal is disposed of if—
- (a) it is determined, and the period for bringing any further appeal has ended; or
- (b) it is abandoned or otherwise ceases to have effect.

### **32. Insurance**

The directors may decide to purchase and maintain insurance, at the expense of the company, for a director of the company, or a director of an associated company of the company, against—

- (a) any liability to any person attaching to the director in connection with any negligence, default, breach of duty or breach of trust (except for fraud) in relation to the company or associated company (as the case may be); or
- (b) any liability incurred by the director in defending any proceedings (whether civil or criminal) taken against the director for any negligence, default, breach of duty or breach of trust (including fraud) in relation to the company or associated company (as the case may be).

## **Division 6—Company Secretary**

### **33. Appointment and removal of company secretary**

- (1) The directors may appoint a company secretary for a term, at a remuneration and on conditions they think fit.
- (2) The directors may remove a company secretary appointed by them.

## **Part 5**

### **Members**

#### **Division 1—Becoming and Ceasing to be Member**

### **34. Classes of Membership**

(1) There shall be 2 classes of members: (i) Ordinary Member and (ii) Voting Member.

(2) Ordinary Member shall consist of the following categories of members:-

(a) **Full Member**

Any person who is an arts administrator shall be eligible to become a Full Member. Where a Full Member ceases to be an arts administrator, his membership as a Full Member shall be automatically terminated or, at the discretion of the board of directors, be converted to one of an Associate Member on such term(s) as the board of directors think fit.

(b) **Associate Member**

Any person who is directly or indirectly involved and/or interested in arts or its

administration shall be eligible to become an Associate Member.

(c) **Corporate Member**

Any corporate body shall be eligible to become a Corporate Member.

(d) **Student Member**

Any person who is either (i) studying full-time in a tertiary education or (ii) studying arts administration or a related course on a part-time basis shall be eligible to become a Student Member. Where a Student Member ceases to satisfy the aforesaid qualifications, his membership as a Student Member shall be automatically terminated or, at the discretion of the board of directors, be converted to one of a Full Member or an Associate Member on such term(s) as the board of directors think fit.

(e) **Honorary Member**

Any person who has been admitted to the board of directors for 3 years as nominated by the board of directors in recognition of his distinguished contribution to the field of arts or its administration shall be eligible to become an Honorary Member.

- (3) A Corporate Member shall be represented by individuals who are designated in conformance to guidelines adopted from time to time by the directors
- (4) An Ordinary Member shall be entitled to participate in all activities organized by the Company, receive notice of all General Meetings and attend all General Meetings in person, yet shall not be entitled to requisition or propose a resolution nor vote at those General Meetings.
- (5) A Full Member who has been on the Register of Members of the Company for more than 12 months, upon proposal by a Voting Member, and approved by the board of directors, may become a Voting Member. Without prejudice to the aforesaid and for the purpose of transition, the Full Members as of 27<sup>th</sup> February 2017 shall automatically become Voting Members.

### **35. Application for membership**

- (1) A person or a body corporate (in the case of a Corporate Member) may become a member of the company only if—
  - (a) that person or body corporate (in the case of a Corporate Member) has completed and submitted an application for membership in a form approved by the directors; and
  - (b) the directors have approved the application.
- (2) Any omission from or inaccuracy or misrepresentation in the particulars relating to or the description of any candidate shall render his election voidable in the discretion of the board of directors.
- (3) The qualification of a member shall be subject to the payment of the annual subscription of such amount as the directors shall determine from time to time. For the avoidance of any doubt, no Voting Member whose yearly subscription (if any) is in arrears for two months (or for such period as the board of directors may from time to time determine) shall be entitled to vote on any occasion whatsoever until he has fully discharged all claims as to membership fees which the Company may have against him.
- (4) Members shall communicate any change of address to the company without delay.

### **36. Termination of membership**

- (1) A member may withdraw from membership of the company by giving not less than 30 days' notice to the company in writing.
- (2) Membership is not transferable.
- (3) A person's a body corporate's membership terminates when that person dies or that body corporate dissolves.
- (4) Any person or body corporate who shall for any cause cease to be a member shall nevertheless remain liable for and shall pay to the Company all moneys which, at the time of his or its ceasing to be a member, may be due from him or it to the Company.
- (5) The directors may terminate the membership of a member by notice in writing where:-
  - (a) Any member who is adjudicated a bankrupt or being a body corporate becomes insolvent or goes into liquidation, or who compounds with his or its creditors under the provisions of any Act or Ordinance relating to bankruptcy or liquidation, shall ipso facto cease to be a member of the Society and shall forfeit all right to the use of, or upon, any property or facilities or benefits of the Society, but it shall be lawful for the board of directors after enquiry to restore his name to the books of the Society and the member so re-admitted shall not be called upon to pay any entrance fee.
  - (b) the member has failed to pay the annual subscription; or
  - (c) the member violates any of the articles or any rules or bye-laws of the Company for the time being in force, or damages any property of the Company, or if his conduct shall in the opinion of the board of directors be injurious to the character or interests of the Company, or be derogatory to such member's station in the company, or has engaged in conduct which may otherwise bring the Company into disrepute, or upon the occurrence of any other event constituting good cause therefor but subject to the following: -
    - (i) the directors may invite the member complained of to give an explanation by letter of his conduct and to appear before a meeting of the board of directors, or of any committee thereof so authorized, convened to consider his case.
    - (ii) If the board of directors (or such committee, as the case may be) is not satisfied with the explanation of his conduct offered by the member complained of or if no explanation is offered, they shall call upon such member to resign, and should he not do so within four weeks, his name shall, subject to Article 36(5)(c)(iii) hereof, be removed from the Register of Members and he shall thereupon cease to be a member of the company.
    - (iii) The board of directors (or any duly authorized committee thereof) may, if they consider the case sufficiently grave, without giving him the option of his resigning, immediately by written notice to the member suspend him from the benefits of the Company pending the investigation of his conduct.
    - (iv) The board of directors may in all cases reconsider their own determination, or that of any committee, upon being requested so to do by notice in writing.

## **Division 2—Organization of General Meetings**

### **37. General meetings**

- (1) Subject to sections 611, 612 and 613 of the Ordinance, the company must, in respect of each financial year of the company, hold a general meeting as its annual general meeting in accordance with section 610 of the Ordinance.
- (2) The directors may, if they think fit, call a general meeting.
- (3) If the directors are required to call a general meeting under section 566 of the Ordinance, they must call it in accordance with section 567 of the Ordinance.
- (4) If the directors do not call a general meeting in accordance with section 567 of the Ordinance, the members who requested the meeting, or any of them representing more than one half of the total voting rights of all of them, may themselves call a general meeting in accordance with section 568 of the Ordinance.

### **38. Notice of general meetings**

- (1) An annual general meeting must be called by notice of at least 21 days in writing.
- (2) A general meeting other than an annual general meeting must be called by notice of at least 14 days in writing.
- (3) The notice is exclusive of—
  - (a) the day on which it is served or deemed to be served; and
  - (b) the day for which it is given.
- (4) The notice must—
  - (a) specify the date and time of the meeting;
  - (b) specify the place of the meeting (and if the meeting is to be held in 2 or more places, the principal place of the meeting and the other place or places of the meeting);
  - (c) state the general nature of the business to be dealt with at the meeting;
  - (d) for a notice calling an annual general meeting, state that the meeting is an annual general meeting;
  - (e) if a resolution (whether or not a special resolution) is intended to be moved at the meeting—
    - (i) include notice of the resolution; and
    - (ii) include or be accompanied by a statement containing any information or explanation that is reasonably necessary to indicate the purpose of the resolution;
  - (f) if a special resolution is intended to be moved at the meeting, specify the intention and include the text of the special resolution; and
  - (g) contain a statement specifying a member's right to appoint a proxy under section 596(1) of the Ordinance.
- (5) Paragraph (4)(e) does not apply in relation to a resolution of which—
  - (a) notice has been included in the notice of the meeting under section 567(3) or 568(2) of the Ordinance; or
  - (b) notice has been given under section 615 of the Ordinance.
- (6) Despite the fact that a general meeting is called by shorter notice than that specified in this article, it is regarded as having been duly called if it is so agreed—
  - (a) for an annual general meeting, by all the members entitled to attend and vote at the meeting; and
  - (b) in any other case, by a majority in number of the members entitled to attend and vote at the meeting, being a majority together representing at least 95% of the total voting rights at the meeting of all the members.

### **39. Persons entitled to receive notice of general meetings**

- (1) Notice of a general meeting must be given to—
  - (a) every member; and
  - (b) every director.
- (2) If notice of a general meeting or any other document relating to the meeting is required to be given to a member, the company must give a copy of it to its auditor (if more than one auditor, to everyone of them) at the same time as the notice or the other document is given to the member.

### **40. Accidental omission to give notice of general meetings**

Any accidental omission to give notice of a general meeting to, or any non-receipt of notice of a general meeting by, any person entitled to receive notice does not invalidate the proceedings at the meeting.

#### **41. Attendance and speaking at general meetings**

- (1) Subject to article 34, a person is able to exercise the right to speak at a general meeting when the person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions that the person has on the business of the meeting.
- (2) A person is able to exercise the right to vote at a general meeting when—
  - (a) the person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
  - (b) the person's vote can be taken into account in determining whether or not those resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (4) In determining attendance at a general meeting, it is immaterial whether any 2 or more members attending it are in the same place as each other.
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have rights to speak and vote at the meeting, they are able to exercise them.

#### **42. Quorum for general meetings**

- (1) 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; save as herein otherwise provided, not less than 10 Members or 5% of the Voting Members, whichever is higher, for the time being who shall be present either personally or by proxy shall be a quorum.
- (2) No business other than the appointment of the chairperson of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

#### **43. Chairing general meetings**

- (1) The Chairman of the board of directors shall preside as chairperson at every General Meeting of the company. If at any meeting the Chairman shall not be present within 15 minutes after the time appointed for holding the meeting, or if he shall have previously notified the company of his intention of not being present, the Vice Chairman shall preside the said General Meeting.
- (2) Subject to paragraph (1) above, the directors present at a general meeting must elect one of themselves to be the chairperson if—
  - (a) there is no Chairman of the board of directors;
  - (b) the Chairman or Vice Chairman is not present within 15 minutes after the time appointed for holding the meeting;
  - (c) the Chairman or Vice Chairman is unwilling to act; or
  - (d) the Chairman or Vice Chairman has given notice to the company of the intention not to attend the meeting.
- (3) The members present at a general meeting must elect one of themselves to be the chairperson if—
  - (a) no director is willing to act as chairperson; or
  - (b) no director is present within 15 minutes after the time appointed for holding the meeting.
- (4) A proxy may be elected to be the chairperson of a general meeting by a resolution of the company passed at the meeting.

#### **44. Attendance and speaking by non-members**

- (1) Directors may attend and speak at general meetings, whether or not they are members of the

company.

- (2) The chairperson of a general meeting may permit other persons to attend and speak at a general meeting even though they are not—
  - (a) members of the company; or
  - (b) otherwise entitled to exercise the rights of members in relation to general meetings.

#### **45. Adjournment**

- (1) If a quorum is not present within half an hour from the time appointed for holding a general meeting, the meeting must—
  - (a) if called on the request of members, be dissolved; or
  - (b) in any other case, be adjourned to the same day in the next week, at the same time and place, or to another day and at another time and place that the directors determine.
- (2) If at the adjourned meeting, a quorum is not present within half an hour from the time appointed for holding the meeting, the member or members present in person or by proxy constitute a quorum.
- (3) The chairperson may adjourn a general meeting at which a quorum is present if—
  - (a) the meeting consents to an adjournment; or
  - (b) it appears to the chairperson that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (4) The chairperson must adjourn a general meeting if directed to do so by the meeting.
- (5) When adjourning a general meeting, the chairperson must specify the date, time and place to which it is adjourned.
- (6) Only the business left unfinished at the general meeting may be transacted at the adjourned meeting.
- (7) If a general meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- (8) If a general meeting is adjourned for less than 30 days, it is not necessary to give any notice of the adjourned meeting.

### **Division 3—Voting at General Meetings**

#### **46. General rules on voting**

- (1) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with these articles.
- (2) If there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded, is entitled to a second or casting vote.
- (3) On a vote on a resolution on a show of hands at a general meeting, a declaration by the chairperson that the resolution—
  - (a) has or has not been passed; or
  - (b) has passed by a particular majority,is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (4) An entry in respect of the declaration in the minutes of the meeting is also conclusive evidence of that fact without the proof.

#### **47. Errors and disputes**

- (1) Any objection to the qualification of any person voting at a general meeting may only be

raised at the meeting or adjourned meeting at which the vote objected to is tendered, and a vote not disallowed at the meeting is valid.

- (2) Any objection must be referred to the chairperson of the meeting whose decision is final.

#### **48. Demanding a poll**

- (1) A poll on a resolution may be demanded—
  - (a) in advance of the general meeting where it is to be put to the vote; or
  - (b) at a general meeting, either before or on the declaration of the result of a show of hands on that resolution.
- (2) A poll on a resolution may be demanded by—
  - (a) the chairperson of the meeting;
  - (b) at least 2 members present in person or by proxy; or
  - (c) any member or members present in person or by proxy and representing at least 5% of the total voting rights of all the members having the right to vote at the meeting.
- (3) The instrument appointing a proxy is regarded as conferring authority to demand or join in demanding a poll on a resolution.
- (4) A demand for a poll on a resolution may be withdrawn.

#### **49. Number of votes a member has**

On a vote on a resolution, whether on a show of hands at a general meeting or on a poll taken at a general meeting—

- (a) every member present in person has 1 vote; and
- (b) every proxy present who has been duly appointed by a member entitled to vote on the resolution has 1 vote.

#### **50. Votes of mentally incapacitated members**

- (1) A member who is a mentally incapacitated person may vote, whether on a show of hands or on a poll, by the member's committee, receiver, guardian or other person in the nature of a committee, receiver or guardian appointed by the Guardianship Board.
- (2) The committee, receiver, guardian or other person may vote by proxy on a show of hands or on a poll.

#### **51. Content of proxy notices**

- (1) A proxy may only validly be appointed by a notice in writing (**proxy notice**) that—
  - (a) states the name and address of the member appointing the proxy;
  - (b) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
  - (c) is authenticated, or is signed on behalf of the member appointing the proxy; and
  - (d) is delivered to the company in accordance with these articles and any instructions contained in the notice of the general meeting in relation to which the proxy is appointed.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) If the company requires or allows a proxy notice to be delivered to it in electronic form, it may require the delivery to be properly protected by a security arrangement it specifies.
- (4) A proxy notice may specify how the proxy appointed under it is to vote (or that the proxy is to abstain from voting) on one or more resolutions dealing with any business to be transacted at a general meeting.
- (5) Unless a proxy notice indicates otherwise, it must be regarded 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 general 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.

**52. Execution of appointment of proxy on behalf of member appointing the proxy**

If a proxy notice is not authenticated, it must be accompanied by written evidence of the authority of the person who executed the appointment to execute it on behalf of the member appointing the proxy.

**53. Delivery of proxy notice and notice revoking appointment of proxy**

- (1) A proxy notice does not take effect unless it is received by the company—
  - (a) for a general meeting or adjourned general meeting, at least 48 hours before the time appointed for holding the meeting or adjourned meeting; and
  - (b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time appointed for taking the poll.
- (2) 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.
- (3) A notice revoking the appointment only takes effect if it is received by the company—
  - (a) for a general meeting or adjourned general meeting, at least 48 hours before the time appointed for holding the meeting or adjourned meeting; and
  - (b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time appointed for taking the poll.

**54. Effect of member's voting in person on proxy's authority**

- (1) A proxy's authority in relation to a resolution is to be regarded as revoked if the member who has appointed the proxy—
  - (a) attends in person the general meeting at which the resolution is to be decided; and
  - (b) exercises, in relation to the resolution, the voting right that the member is entitled to exercise.
- (2) A member 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 the meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of the member.

**55. Effect of proxy votes in case of death, mental incapacity, etc. of member appointing the proxy**

- (1) A vote given in accordance with the terms of a proxy notice is valid despite—
  - (a) the previous death or mental incapacity of the member appointing the proxy; or
  - (b) the revocation of the appointment of the proxy or of the authority under which the appointment of the proxy is executed.
- (2) Paragraph (1) does not apply if notice in writing of the death, mental incapacity or revocation is received by the company—
  - (a) for a general meeting or adjourned general meeting, at least 48 hours before the time appointed for holding the meeting or adjourned meeting; and
  - (b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time appointed for taking the poll.

**56. Amendments to proposed resolutions**

- (1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary

- resolution if—
- (a) notice of the proposed amendment is given to the company secretary in writing; and
  - (b) the proposed amendment does not, in the reasonable opinion of the chairperson of the meeting, materially alter the scope of the resolution.
- (2) The notice must be given by a person entitled to vote at the general meeting at which it is to be proposed at least 48 hours before the meeting is to take place (or a later time the chairperson of the meeting determines).
- (3) A special resolution to be proposed at a general meeting may be amended by ordinary resolution if—
- (a) the chairperson of the meeting proposes the amendment at the meeting at which the special resolution is to be proposed; and
  - (b) the amendment merely corrects a grammatical or other non-substantive error in the special resolution.
- (4) If the chairperson of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the vote on that resolution remains valid unless the Court orders otherwise.

## **Part 6**

### **Miscellaneous Provisions**

#### **Division 1—Communications to and by Company**

##### **57. Means of communication to be used**

- (1) Subject to these articles, anything sent or supplied by or to the company under these articles may be sent or supplied in any way in which Part 18 of the Ordinance provides for documents or information to be sent or supplied by or to the company for the purposes of the Ordinance.
- (2) Subject to these articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such a notice or document for the time being.
- (3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

#### **Division 2—Administrative Arrangements**

##### **58. Company seals**

- (1) A common seal may only be used by the authority of the directors.
- (2) A common seal must be a metallic seal having the company's name engraved on it in legible form.
- (3) Subject to paragraph (2), the directors may decide by what means and in what form a common seal is to be used.
- (4) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least 1 director of the company and 1 authorized person.
- (5) For the purposes of this article, an authorized person is—
  - (a) any director of the company;
  - (b) the company secretary; or

- (c) any person authorized by the directors for signing documents to which the common seal is applied.

**59. Records of company**

- (1) The directors must cause the information of the company to be adequately recorded for future reference as required by the Ordinance.
- (2) The records can be kept in hard copy or in electronic form, and arranged in the manner that the directors of the company think fit.

**60. Accounts**

- (1) The directors must prepare annual financial statements for each accounting reference period as required by the Ordinance. The financial statements must be prepared to show a true and fair view and follow accounting standards issued or adopted by the Hong Kong Institute of Certified Public Accountants or its successors and adhere to all of its recommended practices.
- (2) The directors must keep accounting records as required by the Ordinance at the registered office of the company or at such other place or places as the board of directors think fit and shall always be open to the inspection of the members of the board of directors.

**61. No right to inspect accounts and other records**

A person is not entitled to inspect any of the company's accounting or other records or documents merely because of being a member, unless the person is authorized to do so by—

- (a) an enactment;
- (b) an order under section 740 of the Ordinance;
- (c) the directors; or
- (d) an ordinary resolution of the company.

**62. Auditor's insurance**

- (1) The directors may decide to purchase and maintain insurance, at the expense of the company, for an auditor of the company, or an auditor of an associated company of the company, against—
  - (a) any liability to any person attaching to the auditor in connection with any negligence, default, breach of duty or breach of trust (except for fraud) occurring in the course of performance of the duties of auditor in relation to the company or associated company (as the case may be); or
  - (b) any liability incurred by the auditor in defending any proceedings (whether civil or criminal) taken against the auditor for any negligence, default, breach of duty or breach of trust (including fraud) occurring in the course of performance of the duties of auditor in relation to the company or associated company (as the case may be).
- (2) In this article, a reference to performance of the duties of auditor includes the performance of the duties specified in section 415(6)(a) and (b) of the Ordinance.

**63. Net assets on winding up and dissolution**

If upon the winding up or dissolution of the company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever (*the net assets*), the net assets shall not be paid to or distributed among the members of the company but shall be given or transferred to some other institution or institutions, having similar objects to the company, and which shall prohibit the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on the company under or by virtue of article 3 above and this article, such institution or institutions to be determined by a resolution of the members of the company at or before the time of dissolution and in default thereof by a Judge of the High Court of the Hong Kong Special Administrative Region having jurisdiction in the matter. If and so far as effect cannot be given to the aforesaid provisions, the net assets shall be applied for charitable purposes as directed by a Judge of the High Court of the Hong Kong Special Administrative Region having jurisdiction in

the matter.

**64. Amendments to articles of association**

Any addition, alteration or amendment of this article shall be approved by a special resolution passed by the members of the company present and entitled to vote at a meeting of the company, provided that such amendment shall have been previously approved by all the directors.

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