

## **Explanatory Note for Sample C**

### **MEMORANDUM & ARTICLES OF ASSOCIATION FOR PRIVATE COMPANY LIMITED BY SHARES**

Sample C is a **Simplified Form Memorandum & Articles of Association** for private company limited by shares prepared on the assumption that the company adopting it will simplify its administration as far as possible under the Companies Ordinance (Cap 32). For example,

- (a) the company has only one class of shares and they are all fully paid-up;
- (b) the company has no management committees; and
- (c) directors are not permitted to appoint alternates and attorneys.

As a result, it may be more appropriate for small owner-managed businesses. For the sake of brevity, statutory provisions are, as far as possible, not repeated.

Provisions on the following matters are not included in Sample C:-

- Issue of shares (regulations 3 to 6 of Sample B);
- Lien ( regulations 11 to 14 of Sample B);
- Calls on Shares (regulations 15 to 21 of Sample B);
- Forfeiture of Shares (regulations 34 to 40 of Sample B);
- Purchase of own Shares (regulations 44 to 46 of Sample B);
- Annual and extraordinary general meeting (regulation 50 of Sample B);
- Votes of Members (regulations 67, 72 & 73 of Sample B);
- Powers and Duties of Directors (regulations 82, 83, 87 & 89 of Sample B);
- Proceedings of Directors (regulations 103 to 105 of Sample B);
- Distribution of Profits (regulations 118 [partially included] and 119 of Sample B); and
- Accounts (regulations 126 to 129 of Sample B).

Companies may adopt Sample C as they see fit. Companies or their officers should consult their professional advisors on any matter which may affect them relating to or arising out of the adoption of the Articles of Association in Sample C.

*You may view here both the English and Chinese versions of Sample C. The language of the model M&A to be generated will depend on the filling language you select.*

*Sample C  
(Short Form)*

**THE COMPANIES ORDINANCE (CHAPTER 32)**

**Private Company Limited by Shares**

**MEMORANDUM OF ASSOCIATION**

**OF**

**[NAME OF THE COMPANY]**

First: The name of the company is

“ENGLISH COMPANY NAME  
公司中文名稱”

Second: The registered office of the company will be situated in Hong Kong.

Third: The liability of the members is limited.

Fourth: The share capital of the company is [HKD10,000] divided into [10,000] [Ordinary] share(s) of [HKD1] each.

I/WE, the undersigned whose name(s), address(es) and description(s) is/are given below, wish to form a company, in pursuance of this memorandum of association, and I/we respectively agree to take the number of share(s) in the capital of the company set opposite my/our respective name(s).

Name(s), Address(es) and Description(s) of Founder Members	Number of Share(s) Taken by Each Founder Member
<p>[English name (Chinese name)]</p> <p>[Address]</p> <p>[Description / Occupation]</p> <p>[English name (Chinese name)]</p> <p>[Address]</p> <p>[Description / Occupation]</p>	<p>[ORDINARY]:</p> <p>[1]</p> <p>[ORDINARY]:</p> <p>[1]</p>
<p>Total number of share(s) taken:</p>	<p>[ORDINARY]:</p> <p>[2]</p>

# THE COMPANIES ORDINANCE (CHAPTER 32)

## Regulations for Management of a Private Company Limited by Shares

### ARTICLES OF ASSOCIATION

OF

[NAME OF THE COMPANY]

#### Interpretation

1. In these regulations-

"Ordinance" (本條例) means the Companies Ordinance (Cap 32);

"seal" (印章) means the common seal of the company;

"secretary" (秘書) means any person appointed to perform the duties of the secretary of the company.

Expressions used in these regulations referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.

Wherever any provision of these regulations (except a provision for the appointment of a proxy) requires that a communication as between the company, its directors or members be effected in writing, the requirement may be satisfied by the communication being given in the form of an electronic record if the person to whom the communication is given consents to it being given to him in that form.

Wherever any provision of these regulations requires that a meeting of the company, its directors or members be held, the requirement may be satisfied by the meeting being held by such lawful electronic means or in such other lawful manner as may be agreed by the company in general meeting.

Unless the context otherwise requires, words or expressions used in these regulations shall have the same meaning as in the Ordinance or any statutory modification thereof in force at the date at which these regulations become binding on the company.

The regulations in Table A in the First Schedule to the Ordinance shall not apply to the company.

## **Private Company**

2. The company is a private company and accordingly-
  - (a) the right to transfer shares is restricted in manner hereinafter prescribed;
  - (b) the number of members of the company (exclusive of persons who are in the employment of the company and of persons who, having been formerly in the employment of the company, were while in such employment, and have continued after the determination of such employment, to be members of the company) is limited to 50. Provided that where 2 or more persons hold one or more shares in the company jointly they shall, for the purpose of this regulation, be treated as a single member; and
  - (c) any invitation to the public to subscribe for any shares or debentures of the company is prohibited.

## **Share Capital**

### **Issue of Shares**

3. The company may exercise the powers of paying commissions conferred by section 46 of the Ordinance, provided that the rate per cent or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by the said section, and the rate of the commission shall not exceed the rate of 10 per cent of the price at which the shares in respect whereof the same is paid are issued or an amount equal to 10 per cent of such price (as the case may be). Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The company may also on any issue of shares pay such brokerage as may be lawful.
4. Except as required by law, no person shall be recognized by the company as holding any share upon any trust, and the company shall not be bound by or be compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share, except an absolute right to the entirety thereof in the registered holder.
5. Every person whose name is entered as a member in the register of members shall be entitled without payment to receive within 2 months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) one certificate for all his shares, or several certificates, each for 1 or more of his shares, upon payment of \$5 for every certificate after the first or such less sum as the directors shall from time to time determine. Every certificate shall be under the seal, or under the official seal kept by the company under section 73A of the Ordinance, and shall specify the shares to which it relates and the amount paid up thereon. Provided that in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than 1 certificate, and delivery of a certificate for a share to 1 of several joint holders shall be sufficient delivery to all such holders.
6. If a share certificate be defaced, lost or destroyed, it may be renewed on payment of a fee of \$5 or such less sum and on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses of the company of investigating evidence as the directors think fit.

## **Transfer of Shares**

7. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.
8. Subject to such of the restrictions of these regulations as may be applicable, any member may transfer all or any of his shares by instrument in writing in any usual or common form or any other form which the directors may approve.
9. The directors may, in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share.
10. The directors may also decline to recognize any instrument of transfer if-
  - (a) a fee of \$5 or such lesser sum as the directors may from time to time require is not paid to the company in respect of the transfer; and
  - (b) the instrument of transfer is not accompanied by the certificate of the shares to which it relates, or such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.
11. If the directors refuse to register a transfer, they shall within 2 months after the date on which the transfer was lodged with the company send to the transferor and transferee notice of the refusal.
12. The registration of transfers may be suspended at such times and for such periods as the directors may from time to time determine, provided always that such registration shall not be suspended in any year for more than 30 days or, where the period for closing the register of members is extended in respect of that year under section 99(2)(a) of the Ordinance, for more than that extended period.
13. The company shall be entitled to charge a fee not exceeding \$5 on the registration of every probate, letters of administration, certificate of death or marriage, or other instrument against a member in the register of members.

## **Transmission of Shares**

14. In case of the death of a member, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognized by the company as having any title to his interest in the shares; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.
15. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced, as may from time to time properly be required by the directors, and subject as hereinafter provided, elect either for himself to be registered as holder of the share, or to have some person nominated by him registered as the transferee thereof, but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that member before his death or bankruptcy, as the case may be.

16. If the person so becoming entitled shall elect for himself to be registered, he shall deliver or send to the company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall testify his election by executing to that person a transfer of the share. All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.

17. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Provided always that the directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within 90 days, the directors may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

18. Any person to whom the right to any shares in the company has been transmitted by operation of law shall, if the directors refuse to register the transfer, be entitled to call on the directors to furnish within 28 days a statement of the reasons for the refusal.

### **Alteration of Capital**

19. The company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

20. The company may by ordinary resolution-

- (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association subject, nevertheless, to the provisions of section 53(1)(d) of the Ordinance;
- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

21. The company may by special resolution reduce its share capital, any capital redemption reserve fund or any share premium account in any manner and with, and subject to, any incident authorized, and consent required, by law.

### **Allotment of Shares**

22. The directors shall not exercise any power conferred on them to allot shares in the company without the prior approval of the company in general meeting where such approval is required by section 57B of the Ordinance.

## **General Meetings**

### **Annual and extraordinary general meetings**

23. Subject to section 111(6) of the Ordinance, the company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the company and that of the next. Provided that so long as the company holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The annual general meeting shall be held at such time and place as the directors shall appoint.

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

25. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or in default, may be convened by such requisitionists, as provided by section 113 of the Ordinance. If at any time there are not sufficient directors capable of acting to form a quorum of the board of directors, any director or any 2 members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

26. A resolution in writing signed by all the members for the time being entitled to receive notice of and to attend and vote at general meeting (or being corporations, by a director thereof or by their duly authorized representative) in accordance with section 116B of the Ordinance shall be as valid and effectual as a resolution passed at a general meeting duly convened and held on the date on which it was signed by the last member to sign. Such a resolution may consist of several documents which accurately state the terms of the resolution, each signed by one or more relevant members.

27. If the company has only one member and that member takes any decision that may be taken by the company in general meeting and that has effect as if agreed by the company in general meeting, that member shall (unless that decision is taken by way of a written resolution agreed in accordance with section 116B of the Ordinance) provide the company with a written record of the decision. Such written record shall be sufficient evidence of the evidence having been taken by the member.

### **Notice of General Meetings**

28. An annual general meeting and a meeting called for the passing of a special resolution shall be called by 21 days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by 14 days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business, and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company.



Provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that specified in this regulation, be deemed to have been duly called if it is so agreed-

- (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and
- (b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less than 95 per cent in nominal value of the shares giving that right.

29. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

### **Proceedings at General Meetings**

30. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, the election of directors in the place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.

31. No business shall be transacted at any general meeting unless the requisite quorum of members is present at the commencement of the business, provided that the absence of a quorum shall not preclude the appointment, choice or selection of a chairman. Save as herein otherwise provided, the quorum for all general meetings shall be two members present in person or by proxy and entitled to vote. If the company has only one member, that member presents in person or by proxy shall be the quorum of a general meeting of the company.

32. If within half an hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

33. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company. The directors may determine the period for which the chairman is to hold office, and unless otherwise determined, the chairman shall be elected annually. If there is no such chairman, or if he shall not be present within half an hour after the time appointed for the holding of the meeting, the directors present shall elect one of their number to be chairman of the meeting. If no director be present or if all the directors present decline to take the chair, the members present shall choose one of their number to be chairman of the meeting.

34. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

35. At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded-

- (a) by the chairman; or
- (b) by at least 2 members present in person or by proxy; or
- (c) by 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; or
- (d) by a member or members holding shares in the company conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.

Unless a poll be so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of the proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

The demand for a poll may be withdrawn..

Except as provided in 37, if a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

36. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

37. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

### **Votes of Members**

38. On a show of hands every member present in person or by proxy shall have 1 vote, and on a poll every member shall have 1 vote for each share of which he is the holder.

39. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose, seniority shall be determined by the order in which the names stand in the register of members.

40. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver, legal guardian, or other person in the nature of a committee, receiver or legal guardian appointed by that court, and any such committee, receiver, legal guardian or other person may, on a poll, vote by proxy.

41. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.

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

43. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointer is a corporation, either under seal, or under the hand of an officer or attorney duly authorized. A proxy need not be a member of the company.

44. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the company or at such other place within Hong Kong as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

45. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

46. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the company at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.

### **Corporations acting by Representatives at Meetings**

47. Any corporation which is a member of the company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company, and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

### **Directors**

#### **Number of Directors and Remuneration**

48. Unless the company in general meeting shall determine a higher number, the minimum number of directors shall not be less than one and there shall be no maximum number of directors. The first directors are the person named as the directors in the incorporation form submitted in respect of the company pursuant to the Ordinance.

49. The directors shall be entitled to receive by way of fees for their services as directors such sum and on such terms as the company in general meeting may from time to time

determine. Any fees payable pursuant to this regulation shall be distinct from any salary, remuneration or other accounts payable to a director pursuant to any other provisions of these regulations. The directors may also be paid such reasonable expenses as he may incur in attending and returning from meetings of the directors or general meetings or in connection with the business of the company.

50. A director shall not be required to reside in Hong Kong or hold any shares in the company by way of qualification.

51. A director of the company may be or become a director or other officer of, or otherwise interested in, any company promoted by the company or in which the company may be interested as member or otherwise, and, subject to the Ordinance, no such director shall be accountable to the company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company unless the company otherwise direct.

### **Powers and Duties of Directors**

52. Subject to the provisions of the Ordinance, the memorandum and articles and to any directions given by special resolution, the business and affairs of the company shall be managed by the directors, who may exercise all the powers of the company. No alteration of the memorandum or articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the directors by the articles, and a meeting of the directors at which a quorum is present may exercise all powers exercisable by the directors.

53. If the company has only one member and that member is also the sole director, the company may in general meeting and notwithstanding anything in these regulations, nominate a natural person who has attained the age of 18 years as a reserve director of the company, to act in the place of the sole director in the event of his death.

54. If the company has only one director, that director shall have full power to represent and act for the company in all matters. He may take any decision that may be taken by way of resolution in a meeting of directors and the decision so taken shall have effect as if passed as a resolution in a meeting of the directors. In lieu of minutes of meeting, the director shall provide the company with a record in writing and sign a note or memorandum of all the decisions so taken pursuant to section 153C of the Ordinance. Such a note or memorandum shall constitute sufficient evidence of the decision having been taken by the director.

55. The directors may exercise all the powers of the company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the company or of any third party.

56. The company may exercise the powers conferred by section 35 of the Ordinance with regard to having an official seal for use outside Hong Kong, and such powers shall be vested in the directors.

57. (1) A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract (being a contract of significance in relation to the company's business) with

the company shall, if his interest in the contract or proposed contract is material, declare the nature of his interest at the earliest meeting of the directors in accordance with section 162 of the Ordinance.

(2) A director shall not vote in respect of any such contract or arrangement in which he is so interested, and if he shall do so, his vote shall not be counted, nor shall he be counted in the quorum present at the meeting. However, a director may vote in respect of the following contract or arrangement in which he is interested-

- (a) any arrangement for giving any director any security or indemnity in respect of money lent by him to or obligations undertaken by him for the benefit of the company; or
- (b) any arrangement for the giving by the company of any security to a third party in respect of a debt or obligation of the company for which the director himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the deposit of a security; or
- (c) any contract by a director to subscribe for or underwrite shares or debentures of the company; or
- (d) any contract or arrangement with any other company in which he is interested only as an officer of the company or as holder of shares or other securities,

and these prohibitions may at any time be suspended or relaxed to any extent, and either generally or in respect of any particular contract, arrangement or transaction, by the company in general meeting.

(3) A director may hold any other office or place of profit under the company (other than the office of auditor, or if the company has only one director, the secretary of the company) in conjunction with his office of director for such period and on such terms (as to remuneration and otherwise) as the directors may determine and no director or intending director shall be disqualified by his office from contracting with the company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract, or any contract or arrangement entered into by or on behalf of the company in which any director is in any way interested, be liable to be avoided, nor shall any director so contracting or being so interested be liable to account to the company for any profit realized by any such contract or arrangement by reason of such director holding that office or of the fiduciary relation thereby established.

(4) A director, notwithstanding his interest, may be counted in the quorum present at any meeting whereat he or any other director is appointed to hold any such office or place of profit under the company or whereat the terms of any such appointment are arranged, and he may vote on any such appointment or arrangement other than his own appointment or the arrangement of the terms thereof.

(5) Any director who may himself or by his firm act in a professional capacity for the company (except that of auditors of the company), or who otherwise performs services which in the opinion of the directors are outside the scope of the ordinary duties of a director, may be paid such extra remuneration out of the funds of the company (by way of salary, commission or otherwise as the directors may determine).

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

59. Subject to regulation 54, the directors shall cause minutes to be made in books provided for the purpose-

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors,

and every director present at any meeting of directors shall sign his name in a book to be kept for that purpose.

60. The directors, on behalf of the company, may pay a gratuity or pension or allowance on retirement to any director who has held any other salaried office or place of profit with the company or to the director's spouse or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

### **Disqualification of Directors**

61. The office of director shall be vacated if the director-

- (a) becomes prohibited by law from acting as a director or ceases to be qualified to act as a director; or
- (b) resigns by notice in writing delivered to the company or if he submits his resignation to a meeting of the directors and the directors resolve to accept the same; or
- (c) becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (d) is of unsound mind and the directors resolve that his office be vacated; or
- (e) without permission, absent himself from the meetings of the directors for a continuous period of 6 months, and the directors pass a resolution that his office be vacated by reason of such absence; or
- (f) is removed from office by an ordinary resolution; or
- (g) is convicted of an indictable offence.

### **Appointment and Removal of Directors**

62. The directors shall have power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an additional director, provided that any director so appointed shall hold office only until the conclusion of the next following annual general meeting, and shall then be eligible for re-election.

63. The company may by ordinary resolution remove any director before the expiration of his period of office notwithstanding anything in these regulations or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him and the company.

64. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding regulation provided that notice is given to the company by any member at least seven days before the Annual General Meeting of intention to propose such resolution, and without prejudice to the powers of the directors under regulation 62.

## Proceedings of Directors

65. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

66. If it is anticipated that directors participating in the meeting will not be in the same place, any notice of a directors' meeting must indicate how it is proposed that they should communicate with each other during the meeting. Subject to these regulations, 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 regulations, 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.

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.

67. The directors may determine the quorum necessary for the transaction of business. Unless otherwise determined by the directors, the quorum of a directors' meeting shall be two directors personally present. Notwithstanding any provision herein, if the company has only one director, the quorum for director's meeting shall be one.

68. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

69. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

70. All acts done by any meeting of the directors or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

71. A resolution in writing signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened, held and constituted. Such resolution in writing may consist of several documents which accurately state the terms of the resolution, each signed by one or more directors.

Provided that this regulation shall not apply in relation to any contract or arrangement (not being one of the types specified in regulation 57(2)) in which a director or directors are interested, unless the number of directors signing the resolution who are not interested in the contract or arrangement would have constituted a quorum of directors if a meeting had been held for the purpose of considering the contract or arrangement.

## **Managing Director**

72. The directors may from time to time appoint one or more of their body to the office of managing director for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in any particular case, may revoke such appointment.

73. A managing director shall receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the directors may determine.

74. The directors may entrust to and confer upon a managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.

## **The Seal**

75. The directors shall provide for the safe custody of the seal, which shall only be affixed to any instrument by the authority of the directors. Every instrument to which the seal shall be affixed shall be signed by such person or persons from time to time appointed for the purpose by the board of directors. Every instrument executed in the manner provided herein and required to be sealed with the seal of the company shall be deemed to be properly sealed and executed with the authority of the directors previously given.

## **Secretary**

76. The secretary of the company shall be appointed by the directors on such term, at such remuneration and upon such conditions as they think fit. Any secretary so appointed may at any time be removed from office by the directors, but without prejudice to any claim for damages for breach of any contract of service between him and the company. Where the company has only one director, such director or any body corporate of which such director is the sole director shall not be appointed as secretary of the company.

## **Indemnity**

77. Every director, managing director, agent, auditor, secretary and other officer for the time being of the company shall be indemnified out of the assets of the company against any liability incurred by him in relation to the company or a related company of the company as defined in section 165(5) of the Ordinance in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 358 of the Ordinance in which relief is granted to him by the court.

## **Distribution of Profits**

78. The company may by ordinary resolution declare dividends, but no dividend shall exceed the amount recommended by the directors.

79. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.



80. No dividend shall be payable except out of the profits of the company available for distribution. No dividend shall bear interest against the company.

81. The net profits of the company in each year shall be applied in or towards the formation of such reserve fund or funds and in or towards the payment of such dividends and bonuses as the directors subject to the approval of the company in general meeting may decide.

82. All dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid. If any share is issued on terms that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

83. If two or more persons are registered as joint holders of any share, any one of two or more joint holders of a share may give effectual receipts for any dividends, bonuses, interest or other moneys payable in respect of the shares held by them as joint holders.

84. A transfer of shares shall not pass the right to any dividend declared thereon before the registration of the transfer.

85. All dividends unclaimed after a period of six years from the date of declaration of such dividend shall be forfeited for the benefit of the company.

### **Capitalization of Profits**

86. The company in general meeting may upon the recommendation of the directors resolve that it is desirable to capitalize any part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied towards paying up in full unissued shares or debentures of the company to be allotted and distributed credited as fully paid up to and amongst such members in the proportion aforesaid, or partly in the one way and partly in the other, and the directors shall give effect to such resolution:

Provided that a share premium account and a capital redemption reserve fund may, for the purposes of this regulation, only be applied in the paying up of unissued shares to be allotted to members of the company as fully paid bonus shares.

87. Whenever such a resolution as aforesaid shall have been passed the directors shall make all appropriations and applications of the undivided profits resolved to be capitalized thereby, and all allotments and issues of shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorize any person to enter on behalf of all the members entitled thereto into an agreement with the company providing for the allotment to them respectively, of any further shares or debentures to which they may be entitled upon such capitalization.

### **Audit**

88. Auditors shall be appointed and their duties regulated in accordance with sections 131, 132, 133, 140, 140A, 140B and 141 of the Ordinance.

### **Notices**

89. A notice may be given by the company to any member either personally or by sending it by post to an address specified in section 168BAE of the Ordinance. A notice may also be given by the company to any member in electronic form to an address specified in the above provision of the Ordinance, or by means of website in accordance with section 168BAH of the Ordinance if the member has agreed that the notice be so given and the agreement has not been revoked in accordance with the provisions in the Ordinance.

90. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder first named in the register of members in respect of the share.

91. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, within Hong Kong supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

92. Notice of every general meeting shall be given in any manner hereinbefore authorized to-

- (a) every member except those members who (having no registered address within Hong Kong) have not supplied to the company an address within Hong Kong for the giving of notices to them;
- (b) every person entitled to a share in consequence of the death or bankruptcy of a member who, but for his death or bankruptcy, would be entitled to receive notice of the meeting; and
- (c) the auditor for the time being of the company.

No other person shall be entitled to receive notices of general meetings.

93. All notices required to be given to the member under these regulations must be in the Chinese or English language or both.

### **Winding up**

94. If the company shall be wound up the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Ordinance, divide amongst the members in specie or kind the whole or any part of the assets of the company (whether they shall consist of property of the same kind or not) and may, for such purpose, set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Name(s), Address(es) and Description(s) of Founder Members

[English name (Chinese name)]

[Address]

[Description / Occupation]

[English name (Chinese name)]

[Address]

[Description / Occupation]

## C 範本的說明

### 私人股本有限公司的組織章程大綱及組織章程細則

“C 範本”是供私人股本有限公司使用的**組織章程大綱及組織章程細則簡化格式**。擬備這份組織章程大綱及組織章程細則是基於我們假設採用這份組織章程大綱及組織章程細則的公司會在符合《公司條例》(第 32 章) 的規定下，盡量簡化其執行。舉例而言，

- (a) 公司只有一種類別的股份，並且是全部繳足股款的股份；
- (b) 公司沒有管理委員會；及
- (c) 董事不准委任候補人及受權人。

因此，這份組織章程大綱及組織章程細則或會比較適合由公司擁有人管理的小型企業。為求簡潔起見，法定條文會盡量不重複。

“C 範本”不包括有關下列事項的條文：

- 發行股份(“B 範本”第 3 至 6 條規例)；
- 留置權 (“B 範本”第 11 至 14 條規例)；
- 催繳股款(“B 範本”第 15 至 21 條規例)；
- 股份的沒收(“B 範本”第 34 至 40 條規例)；
- 購買本身的股份(“B 範本”第 44 至 46 條規例)；
- 周年及特別大會(“B 範本”第 50 條規例)；
- 成員的投票(“B 範本”第 67、72 及 73 條規例)；
- 董事的權力及職責(“B 範本”第 82、83、87 及 89 條規例)；
- 董事的議事程序(“B 範本”第 103 至 105 條規例)；
- 分發利潤(“B 範本”第 118[納入部分]及 119 條規例)；及
- 帳目(“B 範本”第 126 至 129 條規例)。

本範本所提供的資料只作一般資訊及參考用途。公司如認為合適可加以採用。如因採用“C 範本”的組織章程細則而導致出現任何影響公司或其高級人員的事宜，請徵詢專業顧問的意見。

你可在此檢視範本 C 的中文及英文版本，系統會根據你選擇的語言製備中文或英文版本的組織章程大綱及細則範本。

C 範本 (簡化格式)

## 《公司條例》(第 32 章)

私人股份有限公司

[公司名稱]

### 組織章程大綱

第一： 本公司的名稱是

**“ENGLISH COMPANY NAME**  
公司中文名稱”

第二： 本公司的註冊辦事處將位於香港。

第三： 成員的法律責任是有限的。

第四： 本公司的股本為[10,000 港元]，按每股[1 港元]分為[10,000]股[普通]股。

本人/我們，即以下列具姓名或名稱、地址及描述的簽署人，均意欲依據本組織章程大綱組成 1 間公司，本人/我們並各別同意按列於本人/我們姓名或名稱右方的股份數目，承購公司資本中的股份。

創辦成員的姓名或名稱、地址及描述	創辦成員 所承購的股份數目
<p>[英文名稱 (中文名稱)]</p> <p>[地址]</p> <p>[描述 / 職業]</p> <p>[英文名稱 (中文名稱)]</p> <p>[地址]</p> <p>[描述 / 職業]</p>	<p>[普通]:</p> <p>[1]</p> <p>[普通]:</p> <p>[1]</p>
<p>承購股份總數：</p>	<p>[普通]:</p> <p>[2]</p>

《公司條例》(第 32 章)  
私人股份有限公司管理規例

[公司名稱]

組織章程細則

釋義

1. 在本規例中—

“本條例” (**Ordinance**) 指《公司條例》(第32章)；

“印章” (**seal**) 指公司的法團印章；

“秘書” (**secretary**) 指獲委任履行公司秘書職責的任何人。

凡本規例所用詞句提述書面之處，除非出現相反用意，否則須解釋為包括提述印刷、平版印刷、攝影，及其他以可見的形式表達或複製文字的方法。

凡本規例的任何條文(有關委任代表的條文除外)規定公司、其董事或成員之間的通訊須以書面作出，如屬通訊對象的人同意該通訊以電子紀錄形式向他作出，則以電子紀錄形式作出的通訊亦屬符合有關規定。

凡本規例的任何條文規定公司、其董事、成員或委員會成員須舉行會議，則以該公司在大會中同意的合法電子方式或其他合法方式舉行會議亦屬符合有關規定。

除文意另有所指外，本規例所用的文字或詞句的涵義，與在本規例對公司產生約束力當日有效的本條例或其任何法例規定的修改內所用的該等文字或詞句的涵義相同。

本條例附表 1 的 A 表的規例不適用於公司。

私人公司

2. 本公司為私人公司，據此—

(a) 轉讓股份的權利乃以下文所訂明的方式受到限制；

(b) 公司的成員人數(不包括受僱於公司的人，亦不包括先前受僱於公司而在受僱期間及在終止受僱之後一直作為公司成員的人)以50名為限。但就本條而言，凡2名或多於2名人士聯名持有公司一股或多於一股的股份，該等人士須視為單一名成員；及

(c) 任何邀請公眾人士認購公司的任何股份或債權證的行為均受禁止。

## 股本

### 發行股份

3. 公司可行使本條例第 46 條所授予的支付佣金的權力，但所支付或同意支付的佣金百分率或款額，須按該條規定的方式披露，而佣金的比率，不得超過支付佣金所涉及股份的發行價格的百分之十，或超過相等於該價格的百分之十的款額(視屬何情況而定)。該佣金可以支付現金或以分配全部或部分繳付股款的股份而清償，又或部分以支付現金及部分以分配股份而清償。公司亦可在發行任何股份時，支付合法的經紀費。

4. 除非法律另有規定，否則任何人不得獲公司承認以任何信託方式持有任何股份，而公司亦不受任何股份中的衡平法權益、或有權益、未來權益或部分權益，或任何不足一股的股份中的任何權益，或(但根據本規例或其他法律另有規定的除外)任何股份中的任何其他權利所約束及不得被迫承認該等權益或權利(即使公司已知悉有關事項)，但登記持有人對該股份全部的絕對權利不在此限。

5. 凡姓名或名稱已記入成員登記冊作為成員的人，均有權無須繳費而在股份分配或提交轉讓書後 2 個月內(或在股份發行條件所規定的其他期間內)，獲發給包括其名下全部股份的一張股票，但如就第一張股票以外的每張股票繳付\$5 或董事所不時釐定的較小數額，則有權獲發給每張包括其名下一股或多於一股股份的多張股票。每張股票均須蓋上印章，或蓋上公司根據本條例第 73A 條備存的正式印章，股票上須指明有關的股份及就該等股份所繳足的款額。但如股份(一股或多於一股)是由數人聯名持有，公司無須就此發出多於一張的股票，如就一股而向數名聯名持有人中的一人交付一張股票，即已作為充分交付股票予各聯名持有人。

6. 如股票遭污損、遺失或銷毀，可在繳付\$5 或董事認為合適的較小數額，及在遵照董事認為合適的關於證據、彌償、支付公司用於調查證據的實際開支費用各方面的條款(如有的話)後，可予以補發。

### 股份的轉讓

7. 任何股份的轉讓文書，均須由出讓人及受讓人簽立，或由他人代其簽立；在受讓人未就獲轉讓的股份在成員登記冊記入姓名或名稱前，出讓人仍須當作該股份的持有人。

8. 在不抵觸本規例中所適用的限制下，任何成員均可按任何通常或通用的格式，或按董事所批准的任何其他格式，藉書面文書將其全部或部分股份轉讓。



9. 董事可行使其絕對酌情決定權並無須給予任何理由，拒絕就任何股份的任何轉讓作出股份轉讓的登記。

10. 如屬以下情況，董事亦可拒絕承認任何轉讓文書—

- (a) 就該轉讓，公司未獲支付\$5 或董事所不時規定的較小數額的費用；及
- (b) 轉讓文書並無隨附有關於股票或董事所合理要求，用以顯示出讓人有權作出轉讓的其他證據。

11. 如董事拒絕登記某項轉讓，董事須於轉讓文書提交公司的日期後 2 個月內，向出讓人及受讓人送交有關該拒絕登記的通知書。

12. 轉讓登記可在董事不時決定的時間及期間暫停辦理，但於任何年度內，此等登記的暫停辦理不得超過 30 天；如在該年度成員登記冊已根據本條例第 99(2)(a)條延展閉封的期間，則此等登記的暫停辦理不得超過該延展的期間。

13. 對於成員登記冊內的成員，公司有權就每份遺囑認證、遺產管理證明書、死亡證書、結婚證書或其他文書，收取每份不超過\$5 的登記費用。

#### 股份的傳轉

14. 如成員死亡，唯一獲公司承認為對死者的股份權益具所有權的人，須是(倘死者是一名聯名持有人)尚存的一名或多於一名聯名持有人及(倘死者是單獨持有人)死者的合法遺產代理人；但本條所載的任何規定，並不解除已故聯名持有人的遺產就死者與其他人聯名持有的任何股份所涉的任何法律責任。

15. 任何人由於某成員去世或破產而成為有權享有任何股份，於出示董事所不時恰當地要求其出示的證據時，及在符合下文的規定下，可選擇將自己登記為該股份的持有人，或選擇將其所提名的人登記為該股份的受讓人，但不論在何種選擇的情況下，董事均有權拒絕或暫停辦理有關登記，一如董事對該成員在去世或破產前作出的股份轉讓所本應有權拒絕或暫停辦理登記一樣。

16. 上述如此成為有權享有股份的人，如選擇將自己登記，須向公司交付或送交一份由他本人簽署並述明他已作出如此選擇的書面通知；如選擇將其他人登記，則須簽署一份有關股份的轉讓書給予該人，以證實他的選擇。本規例中一切關於股份轉讓權利及股份轉讓登記的限定、限制及條文，均適用於前述的通知或股份轉讓書，猶如有關成員並未去世或破產，而有關於通知或股份轉讓書是由該成員簽署的股份轉讓書一樣。

17. 由於持有人去世或破產而成爲有權享有任何股份的人，享有的股息或其他利益，如同假若他是該股份的登記持有人本會享有的股息及其他利益；但該人未就該股份登記爲成員前，無權就該股份行使任何憑藉成員資格所授予的與公司會議有關的權利。但董事可隨時發出通知，要求該人作出選擇以將自己登記或將股份轉讓；如該人在 90 天內沒有遵從該通知，董事可於其後不予支付有關該股份的任何股息、紅利或其他款項，直至通知內的要求已獲遵從爲止。

18. 任何已藉法律的施行而獲轉擁有公司的任何股份的權利的人，如董事拒絕登記該股份的轉讓，該人有權要求董事在 28 天內提供一份拒絕理由的陳述書。

### 資本的更改

19. 公司可不時藉普通決議增加股本並將該股本分爲若干股，所增加的數額及每股的款額均按決議所訂明者。

20. 公司可藉普通決議—

- (a) 將公司的全部或任何股本合併及拆分爲款額較其現有股份爲大的股份；
- (b) 將公司的現有股份或其中任何部分再拆分爲款額較組織章程大綱所訂定爲小的股份，但仍須受本條例第53(1)(d)條的條文規限；
- (c) 將截至有關決議通過當日尚未被任何人承購或同意承購的任何股份取消。

21. 公司可藉特別決議，並在符合法律所許可的情況及取得法律所規定取得的同意，以及受該許可的情況及同意所規限下，以任何方式減少公司的股本、任何資本贖回儲備基金或任何股份溢價帳。

### 股份的分配

22. 凡按本條例第 57B 條的規定須事前在公司大會上取得批准，則董事在未取得該項批准前，不得行使其獲授予的分配公司股份的權力。

### 大會

#### 周年及特別大會

23. 除本條例第 111(6)條另有規定外，公司除了在年內舉行的任何其他會議外，每年另須舉行一次大會，作爲其周年大會，並須在召開大會的通知書中指明該會議爲周年大會；公司舉行周年大會的日期，與公司下一次周年大會的日期相隔的時間不得多於 15 個月。但公司只要在其成立爲法團後 18 個月內舉行首次周年大會，則無須在成立爲法團的年度或在下個年度內舉行首次周年大會。周年大會須在董事所指定的時間及地點舉行。

24. 周年大會以外的所有其他大會，均稱為特別大會。

25. 當董事認為適合時，可召開特別大會，並須應本條例第 113 條所訂定的請求書召開特別大會，如沒有應該請求書召開特別大會，則可由本條例第 113 條所訂定的請求人召開特別大會。如在任何時候，沒有足夠能執行事務的董事以構成董事局的法定人數，則公司的任何 1 名董事或任何 2 名成員，均可以盡可能接近董事召開會議的方式，召開特別大會。

26. 根據本條例第 116B 條，由當其時有權接收大會通知書並有權出席會議及在會議上表決的所有成員簽署的書面決議(或如屬法人團體，則由一名董事或其妥為授權的代表)是有效及有作用的，猶如該決議是在大會正式召開及舉行，並由最後一名須簽署的成員簽署之日通過一樣。該項決議可由多份準確地陳述決議內容的文件組成，每份文件由一名或多於一名相關成員簽署。

27. 如公司只有一名成員，而該成員作出任何可由公司大會作出並具有猶如已獲公司大會同意的效力的決定，該成員須(除非該決定是根據本條例第 116B 條以書面決議方式議定)向公司提供一份該決定的書面紀錄。該書面紀錄即屬該成員已作出決定的充分證據。

### 大會通知書

28. 周年大會及為通過特別決議而召開的會議，須有為期最少 21 天的書面通知，而除周年大會或為通過特別決議而召開的會議外，公司的其他會議亦須有為期最少 14 天的書面通知，始可召開。通知期並不包括送達或當作送達通知書的當日，亦不包括舉行會議當日。會議通知書須指明開會的地點、日期及時間，如有特別事務，則須指明該事務的一般性質。上述的通知書須按下文所述的方式，或按公司在大會上訂明的其他方式(如有的話)，發給根據公司的規例有權接收公司上述通知書的人。

但公司的會議，即使其召開的通知期短於本條所指明的通知期，在下述情況下仍須當作已妥為召開—

- (a) 如屬作為周年大會而召開的會議，全體有權出席會議並表決的成員同意召開該會議；及
- (b) 如屬任何其他會議，過半數有權出席會議並表決的成員同意召開該會議；該等成員須合共持有面值不少於百分之九十五的股份，而該等股份乃給予成員出席該會議並表決的權利。

29. 如因意外遺漏而沒有向任何有權接收會議通知書的人發出會議通知書，或任何有權接收會議通知書的人沒有接獲會議通知書，均不使有關會議的議事程序失效。

## 大會的議事程序

30. 在特別大會上所處理的一切事務，均須當作特別事務，而在周年大會上所處理的一切事務，除宣布股息，審議帳目、資產負債表、董事與核數師的報告書，選舉董事接替卸任董事，委任核數師及釐定其酬金外，亦須當作特別事務。

31. 在任何大會上，當開始進行任何事務時，除非出席的成員達到必需的法定人數，否則不得在會上處理事務；但不足法定人數並不妨礙委任、選擇或推選主席。除本規例另有規定外，所有大會的法定人數為2名成員親自出席或委派代表出席並有權投票。如公司只有一名成員，該成員親自出席或委派代表出席即構成公司大會的法定人數。

32. 如在指定的會議時間之後半小時內，未有法定人數出席，而該會議是應成員的請求書而召開的，該會議即須解散；如屬其他情況，該會議須延期至下星期的同一日在同一時間地點舉行，或延期至董事所決定的其他日期，及於董事所決定的其他時間及地點舉行；如在指定的延會時間之後半小時內，未有法定人數出席，則出席的成員即構成法定人數。

33. 董事局的主席(如有的話)須以主席的身分主持公司的每次大會。董事可決定主席任職的期限，除非另有決定，否則須每年選出主席。如無董事局主席，或他在指定舉行會議的時間之後半小時內仍未出席，則出席的董事須在與會的董事中推選一人擔任會議主席。如沒有董事出席或所有出席的董事拒絕擔任會議主席，則出席的成員須在與會的成員中選出一人擔任會議主席。

34. 主席在任何有法定人數出席的會議的同意下，可(如會議上有所指示，則須)將會議延期，在不同的時間及地點舉行，但在任何延會上，除處理引發延會的原來會議所未完成的事務外，不得處理其他事務。如會議延期 30 天或多於 30 天，須就該延會發出一如就原來會議須發出的會議通知書。除以上所述外，無須就會議的延期或就延會上將予處理的事務發出任何通知。

35. 在任何大會上交由會議表決的決議，須以舉手方式表決，除非由下列的人要求(在宣布舉手表決的結果之時或之前)以投票方式表決，則不在此限—

- (a) 主席；或
- (b) 最少2名親自出席或委派代表出席的成員；或
- (c) 佔全體有權在該會議上表決的成員的總表決權不少於十分之一，並親自出席或委派代表出席的一名或多於一名成員；或
- (d) 持有授予在該會議上表決權利的該公司股份的一名或多於一名成員，而就該等股份已繳付的總款額乃相等於不少於授予該表決權的全部股份已繳總款額的十分之一。

除非有人如此要求以投票方式表決，否則主席宣布有關的決議，已獲舉手表決通過或一致通

過，或獲某特定過半數通過，或不獲通過，並且在載有公司議事程序紀錄的簿冊內亦登載相應的記項，即為有關事實的確證，而無須證明該項決議所得的贊成票或反對票的數目或比例。

以投票方式表決的要求可予撤回。

除第 37 條另有規定外，在妥為要求以投票方式表決後，即須按主席所指示的方式以投票方式表決，而表決的結果須當作是該以投票方式表決的要求被提出的會議上的決議。

36. 在舉手表決或要求以投票方式表決的會議上，不論是以舉手或投票作出的表決，如票數均等，該會議的主席有權投第二票或決定票。

37. 凡就選舉主席或就會議應否延期的問題而要求以投票方式表決，須於要求提出後隨即進行。就任何其他問題而要求以投票方式表決，須於會議主席所指示的時間進行；任何在要求以投票方式表決所涉事務以外的其他事務，可於以投票方式表決前處理。

### 成員的投票

38. 如以舉手方式表決，每名親自出席或委派代表出席的成員均有一票，而如以投票方式表決，每名成員就其所持有的每股股份均有一票。

39. 如屬聯名持有人，由較優先的聯名持有人所作出的表決，不論是親自或由代表作出的，均須接受為代表其餘聯名持有人的唯一表決；而為施行本條規定，上述的優先準則須按成員登記冊內各姓名或名稱所排行的先後次序而決定。

40. 精神不健全的成員，或由對於精神病案件具有司法管轄權的法院作出的命令所指的成員，不論是在舉手或投票以作出表決中，均可由其受託監管人、接管人、合法監護人，或由法院所指定具有受託監管人、接管人或合法監護人性質的其他人作出表決；任何此等受託監管人、接管人、合法監護人或其他人，均可在以投票方式進行的表決中，由代表代為表決。

41. 任何人不得對表決者的表決資格提出異議，除非該異議是在表決者作出有關表決的會議或延會上提出的，則不在此限；凡在此等會議中未被拒絕的表決，就所有目的而言均屬有效。凡在恰當時候提出的任何此等異議，均須交由會議主席處理，而主席的決定即為最終及具決定性的決定。

42. 在以投票方式進行的表決中，有關人士可親自或由代表代為表決。

43. 委任代表的文書，須由委任人或由委任人以書面妥為授權的受權人簽署；如委任人為法團，則該份文書須蓋上印章，或由妥為授權的高級人員或受權人簽署。代表本身無須是公司的成員。

44. 委任代表的文書，及其他據以簽署該委任代表的文書的授權書或特許書(如有的話)，或該授權書或特許書由公證人核證後的核證副本，須於該文書所指明的人擬行使表決權的會議或延會舉行前不少於 48 小時，或該會議或延會如以投票方式表決，則須於指定進行投票的時間前不少於 24 小時，存放在公司的註冊辦事處，或存放在召開有關會議的通知書為存放此等文書而指明的香港以內其他地點。如沒有遵照以上規定行事，該委任代表文書即不得視為有效。

45. 委任代表的文書，須當作有授權予代表要求或參與要求以投票方式表決。

46. 按照委任代表文書的條款作出的表決，即使委託人在表決前去世或患上精神錯亂，或撤銷代表委任，或撤銷據以簽立委任代表文書的權限，或藉以委任代表的有關股份已經轉讓，該表決仍屬有效；但如在行使該代表權的會議或延會開始之前，公司的辦事處已接獲前述去世、患上精神錯亂、撤銷或轉讓等事情的書面提示，則屬例外。

#### 法團由代表在會議上代其行事

47. 凡屬公司成員的任何法團，可藉其董事或其他管治團體的決議，授權其認為合適的人作為其代表，出席公司的任何會議；如此獲授權的人有權代其所代表的法團行使權力，該等權力與該法團假若是公司的個人成員時本可行使的權力一樣。

### 董事

#### 董事的人數及酬金

48. 除非公司在大會上決定較多的董事人數，否則最少的董事的人數不得低於一名，最多的人數則並無上限。在依據本條例就公司呈交的法團成立表格內列名為董事的人即擔任該公司的首任董事。

49. 董事有權就其董事服務，按照不時在公司大會上決定的款額及條款收費。依據本條例所繳付的任何費用，應與按照本規例的其他條文付給董事的薪金、酬金或其他帳款有所不同。董事因出席往返董事會議或公司大會或在其他情況下因與公司的業務有關而招致的合理開支，亦可獲支付。

50. 董事無須符合居於香港或持有公司任何股份的資格。

51. 公司的董事，可在公司所發起的任何公司、或公司以成員或以其他身分於其中有利害關係的任何公司，出任或成為董事或其他高級人員，或以其他方式而於該公司中有利害關係；除本條例另有規定外，任何此等董事均無須因其在該其他公司作為董事或高級人員，或因其

與該其他公司有利害關係而獲得的任何酬金或其他利益，向公司交代，但公司如另有指示，則作別論。

### 董事的權力及職責

52. 在本條例的條文、章程大綱、章程細則及藉特別決議給予的任何指示的規限下，公司的業務及事務須由董事管理，而董事可行使公司的一切權力。章程大綱或章程細則的修改以及上述的指示，並不令董事在該修改或指示作出或給予前所作的本屬有效的作為失效。本條所給予的權力，不受章程細則給予董事的任何特別權力所局限，而有法定人數出席的董事會議可行使一切可由董事行使的權力。

53. 如公司只有一名成員而該名成員亦是唯一的董事，則不論本規例有任何規定，公司可在大會上提名一名年滿 18 歲的自然人為公司的備任董事，一旦唯一董事去世，即代替他行事。

54. 如公司只有一名董事，該董事有全權就一切事宜代表公司並為公司行事。他可作出任何可由董事會議議決並具有猶如已獲該會議同意的效力的決定。董事須依據本條例第 153C 條，向公司提供一份書面紀錄，並在所有決定的摘要或備忘錄上簽署，以取代會議紀錄。該份摘要或備忘錄即屬董事已作出決定的充分證據。

55. 董事可行使公司的一切借款權力，及可行使公司將公司的業務、財產及未催繳股本予以按揭或押記的一切權力，以及可行使公司發行債權證及其他證券的一切權力，不論是純粹為此等證券而發行，或是作為公司或任何第三者的任何債項、債務或義務的附屬抵押品而發行。

56. 公司可行使本條例第 35 條所授予的關於備有一個在香港以外使用的正式印章的權力，而此等權力須轉歸於董事。

57. (1) 任何董事如以任何方式直接或間接在一項與公司訂立的合約或建議與公司訂立的合約(該合約是與公司業務有重大關係的合約)中有利害關係，而該等利害關係是具關鍵性的，則該董事須按照本條例第 162 條在最早的董事會議上聲明其利害關係的性質。

(2) 任何董事不得就其如上述般有利害關係的任何合約或安排作出表決；如他作出表決，則其票數不得被點算，而在確定是否有法定人數出席會議時，其本人亦不得點算在內，但董事可就下列有利害關係的合約或安排作出表決—

- (a) 就董事貸給公司的款項或就董事為公司的利益而承擔的義務因而給予該董事保證或彌償的任何安排；或
- (b) 公司就其債項或義務而向第三者提供保證的任何安排，而就該債項或義務，董事根據一項擔保或彌償或藉存交一項保證，已承擔該債項或義務的全部或部分責任者；或
- (c) 董事訂立的任何有關認購或包銷公司的股份或債權證的合約；或

- (d) 任何與其他公司訂立的合約或安排，而該董事在此等合約或安排中所具有的利害關係，只是因他身為公司的高級人員或身為股份或其他證券的持有人而具有者，

而此等禁止規定，可隨時由公司在大會上就一般情況或就某項合約、安排或交易予以暫時中止或作任何程度放寬。

(3) 任何董事除擔任董事職位外，亦可兼任公司屬下任何其他職位或獲利的崗位(核數師職位除外，或如公司只有一名董事則秘書職位除外)，該兼任職位或崗位的任期及任用條款(關於酬金及其他方面)乃由董事決定；董事或準董事並不因其董事職位而使他在任何該等其他職位或獲利的崗位的任期方面，或在作為賣主、購買人或其他身分方面，喪失與公司訂約的資格；而任何此類合約，或公司所訂立的或代公司所訂立的而任何董事於其中以任何方式具有利害關係的任何合約或安排，均不得作為無效；如此訂約或如此具有利害關係的任何董事，並無法律責任因他擔任該董事職位或因他如此建立的受信人關係，而就任何此類合約或安排中變現所得的任何利益向有關公司作出交代。

(4) 在委任某名董事或任何其他董事擔任公司屬下的職位或獲利的崗位的會議上，或在安排該項委任的條款的會議上，即使該董事有利害關係，仍可在確定是否有法定人數出席會議時點算在內；該董事可就任何此等委任或安排(有關其本人的委任或條款安排除外)進行表決。

(5) 任何董事本人或其商號以專業身分代公司行事(公司的核數師除外)，或任何董事執行的服務被董事認為不屬董事一般職責範圍，均可由公司的基金支付額外的酬金(以薪金、佣金或董事所釐定的其他方式支付)。

58. 所有支票、承付票、銀行匯票、匯票及其他可流轉的票據，以及就付給公司的款項而發出的一切收據，均須按照董事不時藉決議決定的方式簽署、開出、承兌、背書，或以其他形式簽立，視屬何情況而定。

59. 在符合本規例第 54 條的規定下，董事(並非公司另一名董事的候補董事除外)須安排將會議紀錄記入為下述事項而設置的簿冊—

- (a) 董事就高級人員所作出的一切委任；
- (b) 每次董事會議的出席董事的姓名；
- (c) 所有在公司、董事會議上作出的決議及該等會議的議事程序，

而出席任何董事均須在為上述事項而備存的簿冊內簽名。

60. 董事可代表公司，向任何曾經擔任公司任何其他受薪職位或獲利崗位的董事，或向該董事的配偶或受養人，支付退休酬金、退休金或退休津貼，以及可供款予任何基金及支付保費，以購買或提供任何此等酬金、退休金或津貼。



## 董事資格的取消

61. 董事如有下述情形，即須停任董事職位—

- (a) 由於根據法律被禁止出任董事或不再合資格出任董事；或
- (b) 向公司交付書面辭職通知，或向董事會議遞交辭呈而董事決議接納其辭職；或
- (c) 破產或與其債權人概括地達成債務償還安排或債務重整協議；或
- (d) 精神不健全而董事決議他停任董事職位；或
- (e) 未經准許而本人連續 6 個月沒有出席在此期間舉行的董事會議，而董事通過決議因他缺席而停任他董事的職位；或
- (f) 經普通決議被免任；或
- (g) 就可公訴罪行被定罪。

## 董事的委任及免任

62. 董事有權在任何時間並不時委任任何人出任董事，以填補某臨時空缺或作為增加的董事，但如此獲委任的董事，只任職至下屆周年大會結束為止，並於其時有資格再度當選。

63. 即使本規例或在公司與任何董事所訂的協議中載有任何規定，公司仍可藉普通決議，在該董事任期屆滿前將其免任。此類免任並不損害該董事可就其與公司所訂服務合約被違反而提出損害賠償申索的權利。

64. 公司可藉普通決議委任另一人替代根據上一條規例被免任的董事，但必須在公司周年大會最少 7 天前，由任何成員通知公司有意提出該等決議，並在以不損害根據第 62 條授予董事的權力為原則下，在大會上委任任何人出任董事，以填補臨時空缺或作為增加的董事。如此被委任替代如此被免任的董事或填補該空缺的人，其卸任的日期，須猶如他假若在該被替代董事最後一次當選為董事之日被委任為董事本應卸任的日期一樣。

## 董事的議事程序

65. 董事如認為適合，可舉行會議以處理事務、將會議延期及以其他方式規管會議。在任何會議上產生的問題，須由過半數票決定。如票數均等，主席有權投第二票或決定票。任何董事可(而秘書應董事的請求書)於任何時候召集董事會議。

66. 如預期參加會議的董事不會在同一地點，任何董事會議通知書必須訂明在會議期間董事之間的建議溝通方式。在符合本規例的規定下，如出現下述情況，董事即已參加董事會議或部分董事會議—

- (a) 會議已召集，並已根據本規例舉行；及
- (b) 每名董事可以把他對個別會議事項所持的任何資料及意見，與其他董事溝通。

如參加會議的所有董事不是在同一地點，他們可以決定把其中一人所在的地點當作會議地點。

67. 董事可決定處理董事事務所需的法定人數。除非董事另有決定，否則董事會議的法定人數為 2 名董事親身出席。如公司只有一名董事，即使本規例的條文有任何規定，董事會議的法定人數為一名。

68. 即使董事團出現任何空缺，在任的董事仍然可以行事，但如董事的人數減至少於公司規例所訂定的或依據該等規例所訂定的董事人數，在任的一名或多於一名董事除了為增加董事的人數以達所規定的數目或為了召集公司大會而行事之外，不得為其他目的而行事。

69. 董事可選出一位董事會議的主席，並決定其任職的期限；但如沒有選出主席，或在任何會議上，主席在指定舉行會議的時間之後 5 分鐘內仍未出席，則出席的董事可在與會的董事中推選一人擔任會議主席。

70. 任何董事會議或任何以董事身分行事的人所作的作為，即使其後發現在委任任何該等董事或在委任任何人如前述般行事方面有任何欠妥之處，或發現他們或他們當中的任何人已喪失資格，仍屬有效，猶如每名該等人均經妥為委任及具有資格擔任董事一樣者。

71. 一份由當其時有權接收董事會議通知書的所有董事簽署的書面決議，是有效及有作用的，猶如該決議是在一次妥為召開、舉行及組成的董事會議上通過一樣。該項書面決議可由多份準確地陳述決議內容的文件組成，每份文件由一名或多於一名董事(或其候補人)簽署。

但本條不適用於一名或多於一名董事有利害關係的任何合約或安排(並非第 57(2)條所指明的其中一種類型)，除非在該合約或安排中並無利害關係而又有簽署該決議的董事的人數，應會構成為考慮該合約或安排而舉行的會議的法定人數。

#### 常務董事

72. 董事可不時按其認為合適的任期和條款，委任董事團中的一人或多於一人為常務董事，並且可在符合就任何個別情況而訂立的任何協議的條款的規定下，撤銷此類委任。

73. 常務董事得收取董事所釐定的酬金(不論是以薪金、佣金或分享利潤的方式，或部分以一種方式、部分以另一種方式)。

74. 董事可按其認為合適的條款、條件及限制，將其所可行使的任何權力委託及授予常務董事，而此等權力可在與董事本身權力相輔或排除董事本身權力的情況下行使；董事亦可不時撤銷、撤回、更改或變更全部或任何此等權力。

## 印章

75. 董事須訂定穩妥保管印章的措施，使用該印章在任何文書上蓋印須經董事批准；每份須蓋上印章的文書，均須由董事局不時為此而委任的任何一人或多於一人簽署。根據此規定的方式簽立及須使用公司印章蓋印的文書，須當作已獲董事事先授權妥為蓋印及簽立。

## 秘書

76. 董事可按其認為合適的任期、酬金及條件委任公司秘書，如此獲委任的秘書亦可由董事在任何時間免任，但免任並不損害該秘書可就其與公司所訂服務合約被違反而提出任何損害賠償申索的權利。凡公司只有一名董事，該董事或該董事為唯一董事的任何法人團體均不得獲委任為公司秘書。

## 彌償

77. 公司當其時的每名董事、常務董事、代理人、核數師、秘書及其他高級人員，在獲判勝訴或獲判無罪的或藉任何根據本條例第 358 條提出的申請而獲法院給予寬免的民事或刑事法律程序中進行辯護所招致的任何與公司或本條例第 165(5)條所界定的有關連的公司有關的法律責任，均須從公司的資產中撥付彌償。

## 分發利潤

78. 公司可藉普通決議宣布股息，但任何股息均不得超過董事所建議的款額。

79. 董事可不時向成員支付董事根據公司的利潤覺得是合理的中期股息。

80. 除了從公司可供分發的利潤中支付股息外，不得從其他方面支付任何股息。公司的任何股息均不產生利息。

81. 董事可決定把公司每年的純利用作或用於成立一項或多於一項儲備基金，以及用作或用於支付股息及紅利，惟須經公司大會批准。

82. 所有股息的宣布及支付均須按照須就股份支付股息的該等股份所繳付或入帳列為已繳付的款額而作出；如任何股份的發行條款規定該股份由某一日期起享有股息，該股份須據此而享有股息。

83. 如任何股份由 2 人或多於 2 人聯名登記持有，就聯名持有人所持有的股份而付給的任何股息、紅利、利息或其他款項，可由其中任何 1 名聯名持有人發出有效的收據。

84. 如在股份轉讓登記前宣布股息，有關轉讓不會把任何獲派股息的權利轉移。
85. 所有無人申索的股息在宣布股息當日的 6 年之後會被沒收，以作為公司的利益。

### 利潤的資本化

86. 公司在大會上可應董事的建議，議決公司宜將當其時記在公司任何儲備帳上的貸項或損益表上的貸項的款額的任何部分，或將當其時因其他理由而可供分發的款額的任何部分，化為資本，據此該款項須撥出作分發給若以股息分發即會有權分得該部分款項的成員，且須按與作為股息分發時相同的比例分發，但作出該分發的條件是該款項不能以現金支付，而只能用於繳付該等成員各別所持有公司的未發行的股份或債權證的全部款額，該等未發行的股份或債權證是會入帳列為全部繳足股款而按前述比例分配或分發給該等成員的，又或部分用此一方式而部分用另一方式處理；董事須使上述的決議得以生效：

但為施行本條的規定，股份溢價帳及資本贖回儲備基金只可運用於繳付作為全部繳付股款的紅股而分配給公司成員的未發行股份的股款。

87. 每當任何此等決議如前述般通過，董事須對議決須資本化的未劃分利潤作出所有撥付及運用，以及進行所有有關的分配及發行股款的股份或債權證(如有的話)的事宜，並且概括而言，須作出為使決議得以生效的一切作為及事情，而如有可予分發的股份不足一股或可予分發的債權證不足一個單位的，董事有全權作出其認為合適的備付帳項，而該備付帳項是就發行代表不足一股股份的股票或不足一個單位的債權證，或就現金支付，或就其他方式而作出的，董事亦可授權任何人代表有權分得該等股份或債權證的所有成員與公司訂立協議，訂定將他們按該項資本化行動而有權獲得的入帳的任何股份或債權證分配給他們。

### 審計

88. 核數師的委任及其職責的規管，須按照本條例第 131、132、133、140、140A、140B 及 141 條的規定進行。

### 通知

89. 公司向任何成員發出的通知，可面交該成員，或以郵遞方式送交本條例第 168BAE 條指明的地址。此外，公司向任何成員發出的通知亦可以電子方式送交本條例上述條文指明的地址，或如獲成員同意如此發出通知，而有關協議並未根據本條例的條文撤回，則可根據本條例第 168BAH 條經網站發出。

90. 公司向股份的聯名持有人發出通知，可將通知給予成員登記冊上就有關股份而排名最先的聯名持有人。

91. 公司向因為成員去世或破產而對股份享有權利的人發出通知，可按該人的姓名，或按死者代理人或破產人的受託人或任何類似的描述，以預付郵資的信件郵寄至聲稱如此享有權益的人為此目的而提供的香港地址(如有的話)，或(在如此提供有關地址前)以該成員未去世或破產時本可向該成員發出通知的方式，由公司向該人發出通知。

92. 每次大會的通知書，均須按上文所許可的任何方式給予—

- (a) 每名成員，但未曾為使公司得以向其發出通知而向公司提供香港地址的成員(在香港並無登記地址的成員)除外；
- (b) 因某成員去世或破產而對股份享有權利的人，而該成員若非去世或破產本有權接收會議通知書的；及
- (c) 公司當其時的核數師。

除上述的人外，其他人均無權接收大會通知書。

93. 所有根據本規例須向成員發出的通知必須以中文或英文或兩者發出。

#### 清盤

94. 如公司須予清盤，清盤人在獲得公司特別決議的認許及本條例所規定的任何其他認許下，可將公司的全部或任何部分資產(不論此等資產是否包含同一類財產)按其原樣或原物在成員之間作出分配，並可為此目的而對於按前述方法將予分配的財產訂出其認為公平的價值，以及決定如何在成員或在不同類別的成員之間進行分配。清盤人可在獲得類似的認許下，為了分擔人的利益，將此等資產的全部或任何部分，按清盤人(在獲得類似的認許下)認為適當的信託安排而轉歸予受託人，但任何成員不得因此項轉歸，而被強迫接受任何負有法律責任的股份或其他證券。

創辦成員的姓名或名稱、地址及描述

[英文名稱 (中文名稱)]

[地址]

[描述 / 職業]

[英文名稱 (中文名稱)]

[地址]

[描述 / 職業]