

**THE COMPANIES ACT 2006**

**A PUBLIC COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**Tombac No.3 PLC**

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Company number

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**OF**  
**Tombac No.3 PLC**

**PRELIMINARY**

**1. Application of standard regulations**

- (a) The Model Articles for Public Companies Limited by Shares contained in Schedule 3 of the Companies (Model Articles) Regulations 2008 (SI 2008 No. 3229) (the **Model Articles**) shall apply to the company except in so far as they are excluded or varied hereby.
- (b) Model Articles 14, 16, 21, 28, 41, 43, 51, 81, 85 and 86 shall not apply to the company.

**2. Interpretation**

- (a) In these articles, unless the context requires otherwise:
  - (i) **Act** means the Companies Act 2006, as in force from time to time;
  - (ii) **affiliate** means a subsidiary or a holding company of the Company or any other subsidiary of that holding company;
  - (iii) **alternate** or **alternate director** has the meaning given in article 15;
  - (iv) **articles** means the company's articles of association, as from time to time amended;
  - (v) **company** means Tombac No.3 PLC;
  - (vi) **eligible director** means a director who is entitled to vote on the relevant matter at a directors' meeting but excluding any director whose vote is not to be counted in respect of the relevant matter;
  - (vii) **holding company** is to be construed in accordance with section 1159 of the Act;
  - (viii) **relevant situation** has the meaning given in article 18;

- (ix) **subsidiary** is to be construed in accordance with section 1159 of the Act; and
  - (x) **Statutes** means the Act and every other statute, statutory instrument, regulation or order for the time being in force concerning companies registered under the Act.
- (b) Unless the contrary intention appears, words importing the singular number include the plural number and vice versa, words importing one gender include all genders and words importing persons include bodies corporate and unincorporated associations.
  - (c) Headings to these articles are inserted for convenience and shall not affect construction.
  - (d) Model Article 1 shall be amended accordingly.

### **3. Liability of members**

The liability of the members is limited to the amount, if any, unpaid on the shares in the company respectively held by them.

### **4. Unrestricted objects**

Nothing in these articles shall constitute a restriction on the objects of the company to do (or omit to do) any act and, in accordance with section 31(1) of the Act, the company's objects are unrestricted.

## **SHARE CAPITAL**

### **5. Rights attached to shares**

Subject to the Statutes and to the rights conferred on the holders of any other shares, any share may be issued with or have attached to it such rights and restrictions as the company may by ordinary resolution decide.

### **6. Allotment of shares**

- (a) Subject to the Statutes, these articles and any resolution of the company, the directors may offer, allot, grant options over or otherwise deal with or dispose of any shares to such persons, at such time and generally on such terms as the directors may decide.
- (b) The directors are generally and unconditionally authorised, in accordance with section 551 of the Act, to exercise all the powers of the company to allot shares up to a maximum nominal amount of £49,998 (in addition to the two £1 subscriber shares already allotted to the subscriber in the memorandum of association of the company).
- (c) The authority contained in paragraph (b) above shall expire on the day five years after the date of the incorporation of the company but the company may, before the authority expires, make an offer or agreement which would or might require relevant securities to be allotted after it expires.

**7. Disapplication of pre-emption rights**

In respect of any allotment of shares pursuant to the authority contained in Article 6(b) above, section 561 of the Act (which regulates the power to allot equity securities, as defined in section 560 of the Act) is excluded.

**8. Power to issue redeemable shares**

Subject to the Statutes, any share may be issued on terms that it is to be redeemed or is liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

**DIRECTORS**

**9. Number of directors and general requirements**

- (a) The directors (other than alternate directors) shall not be less than two in number.
- (b) At least one director of the company shall be an independent director. An **independent director** is a director who, except in his capacity as a director of the company, is not (and shall not have been at any time during the preceding five years):
  - (i) a direct or indirect legal or beneficial owner of the company or any of its affiliates (excluding *de minimus* ownership interests);
  - (ii) a creditor, supplier, employee, officer, director, family member, manager or contractor of the company or its affiliates; or
  - (iii) a person who controls (whether directly, indirectly or otherwise) the company or its affiliates or any creditor, supplier, employee, officer, director, manager or contractor of the company or its affiliates.
- (c) A director need not be a member of the company.
- (d) No director shall vacate his office or be ineligible for re-appointment as a director, nor shall any person be ineligible for appointment as a director, by reason only of his having attained a particular age.
- (e) At least one director shall be an individual.
- (f) Each director shall be resident in the United Kingdom for United Kingdom tax purposes.
- (g) Directors' meetings shall be held in the United Kingdom.

**10. Methods of appointing and removing directors**

- (a) Subject to these articles, the company may by ordinary resolution elect any person who is willing to act to be a director, either to fill a vacancy or as an additional director. Every resolution of a general meeting for the election of a director shall relate to one named person and a single resolution for the election of two or more persons shall be void, unless a resolution that it shall be so proposed has been first agreed to by the meeting without any vote being cast against it.

- (b) The company may by special resolution, or by ordinary resolution of which special notice has been given in accordance with the Statutes, remove any director before his period of office has expired notwithstanding anything in these articles or in any agreement between him and the company.
- (c) In addition to the circumstances set out in Model Article 22, the office of a director shall be vacated if he is removed from that office in accordance with this article.

**11. No retirement by rotation**

The directors shall not be subject to retirement by rotation. Model Article 21 shall not apply.

**12. Quorum for directors' meetings**

- (a) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- (b) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but subject to paragraphs (c) below, it must never be less than two eligible directors, and unless otherwise fixed it is two eligible directors (but subject always to article 9 above).
- (c) For the purpose of any directors' meeting (or part of a meeting) held in accordance with article 18 to authorise a director's conflict of interest, if only one eligible director is in office, the quorum is one eligible director (but subject always to article 9 above).
- (d) If the total number of directors for the time being in office is less than the quorum required, the director or directors in office must not take any decision other than a decision (but subject always to article 9 above):
  - (i) to appoint further directors; or
  - (ii) to call a general meeting so as to enable the members to appoint further directors.
- (e) Model Article 10 shall be amended accordingly.

**13. Chairing of directors' meetings**

Model Article 12(5) shall apply as if the word "may" is substituted for the word "must".

**14. Directors' written resolutions**

Model Article 18 shall apply as if the word "signed" included "approved by letter, facsimile, telegram, telex or any other means of electronic communication".

**ALTERNATE DIRECTORS**

**15. Appointment and removal of alternate directors**

- (a) Any director (the **appointer**) may appoint another director, any director of the holding company of the company or any other person who is willing to act as that his **alternate** (but subject always to article 9 above) to:
  - (i) exercise that director's powers; and

- (ii) carry out that director's responsibilities,

in relation to the taking of decisions by the directors in the absence of the alternate's appointer. The appointment as an alternate director of any person who is not himself a director (of either the company or the holding company of the company) shall be subject to the approval of a majority of the directors.

- (b) Any person appointed as an alternate director shall vacate his office as alternate director if the director by whom he has been appointed vacates his office as director or removes him by notice to the company or on the happening of any event which, if he is or were a director, causes or would cause him to vacate that office.
- (c) Every appointment or removal of an alternate director shall be made by notice and shall be effective (subject to paragraph (a) above) on receipt by the secretary of the company of the notice.
- (d) Model Articles 25 to 27 (inclusive) shall not apply.

#### **16. Rights and responsibilities of alternate directors**

- (a) An alternate director shall be entitled to receive notice of all meetings of the directors, to attend and to vote at any meeting at which the director appointing him is not personally present and at that meeting to exercise and discharge all the functions, powers and duties of his appointer as a director and for the purposes of the proceedings at the meeting these articles shall apply as if he were a director.
- (b) Every person acting as an alternate director shall (except as regards the power to appoint an alternate director) be subject in all respect to these articles relating to directors and shall alone be responsible to the company for his acts and defaults and shall not be deemed to be the agent of the director appointing him. An alternate director may be paid expenses and shall be entitled to be indemnified by the company to the same extent as if he were a director but shall not be entitled to receive from the company any fee in his capacity as an alternate director. Model Article 24 shall be amended by inserting in the first line the words ", alternate directors and the company secretary" after the word "directors".
- (c) Every person acting as an alternate director shall have one vote for each director for whom he acts as alternate, in addition to his own vote if he is also a director, but he shall count as only one for the purpose of determining whether a quorum is present.

### **DIRECTORS' INTERESTS**

#### **17. Directors' interests in relation to transactions or arrangements with the company**

The relevant provisions of the Companies Act (including, without limitation, sections 177 and 182 of the Companies Act) shall apply in relation to declarations of interests in proposed and existing transactions or arrangements with the company.

#### **18. Directors' interests other than in relation to transactions or arrangements with the company**

- (a) If a situation (a **relevant situation**) arises in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company (including, without limitation, in relation to the exploitation of any

property, information or opportunity, whether or not the company could take advantage of it, but excluding any situation which cannot reasonably be regarded as likely to give rise to a conflict of interest) the following provisions shall apply if the conflict of interest does not arise in relation to a transaction or arrangement with the company:

- (i) if the relevant situation arises from the appointment or proposed appointment of a person as a director of the company, the directors (other than the director, and any other director with a similar interest, who shall not be counted in the quorum at the meeting and shall not vote on the resolution) may resolve to authorise the appointment of the director and the relevant situation on such terms as they may determine;
  - (ii) if the relevant situation arises in circumstances other than in paragraph (i) above, the directors (other than the director and any other director with a similar interest who shall not be counted in the quorum at the meeting and shall not vote on the resolution) may resolve to authorise the relevant situation and the continuing performance by the director of his duties on such terms as they may determine.
- (b) Any reference in paragraph (a) above to a conflict of interest includes a conflict of interest and duty and a conflict of duties.
- (c) Any terms determined by the directors under paragraphs (a)(i) or (a)(ii) may be imposed at the time of the authorisation or may be imposed or varied subsequently by the directors and may include (without limitation):
  - (i) whether the interested directors may vote (and be counted in the quorum at any meeting) in relation to any decision relating to the relevant situation;
  - (ii) the exclusion of the interested directors from all information and discussion by the company of the relevant situation; and
  - (iii) (without prejudice to the general obligations of confidentiality) the application to the interested directors of a strict duty of confidentiality to the company for any confidential information of the company in relation to the relevant situation.
- (d) Any authorisation given under paragraphs (a)(i) or (a)(ii) above may be withdrawn by the directors by giving notice to the director concerned.
- (e) An interested director must act in accordance with any terms determined by the directors under paragraphs (a)(i) or (a)(ii) above.
- (f) Except as specified in paragraph (a) above, any proposal made to the directors and any authorisation by the directors in relation to a relevant situation shall be dealt with in the same way as any other matter may be proposed to and decided by the directors in accordance with the articles.
- (g) Any authorisation of a relevant situation given by the directors under paragraph (a) above may provide that, where the interested director obtains (other than through his



position as a director of the company) information that is confidential to a third party, he will not be obliged to disclose it to the company or to use it in relation to the company's affairs in circumstances where to do so would amount to a breach of that confidence.

**19. Declaration of interests other than in relation to transactions or arrangements with the company**

A director shall declare the nature and extent of his interest in a relevant situation within article 18(a)(i) or 18(a)(ii) to the other directors.

**20. Declaration of interests in a proposed transaction or arrangement with the company**

If a director is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the company, he must declare the nature and extent of that interest to the other directors.

**21. Declaration of interest in an existing transaction or arrangement with the company**

Where a director is in any way, directly or indirectly, interested in a transaction or arrangement that has been entered into by the company, he must declare the nature and extent of his interest to the other directors, unless the interest has already been declared under article 20 above.

**22. Provisions applicable to declarations of interest**

- (a) The declaration of interest must (in the case of article 21) and may, but need not (in the case of article 19 or 20) be made:
  - (i) at a meeting of the directors; or
  - (ii) by notice to the directors in accordance with:
    - (A) section 184 of the Act (notice in writing); or
    - (B) section 185 of the Act (general notice).
- (b) If a declaration of interest proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.
- (c) Any declaration of interest required by article 19 above must be made as soon as is reasonably practicable.
- (d) Any declaration of interest required by article 20 above must be made before the Company enters into the transaction or arrangement.
- (e) Any declaration of interest required by article 21 above must be made as soon as is reasonably practicable.
- (f) A declaration in relation to an interest of which the director is not aware, or where the director is not aware of the transaction or arrangement in question, is not required. For this purpose, a director is treated as being aware of matters of which he ought reasonably to be aware.
- (g) A director need not declare an interest:

- (i) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- (ii) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware); or
- (iii) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered by a meeting of the directors.

**23. Directors' interests generally and voting**

- (a) Subject to the Act and to the relevant director declaring his interest in accordance with these articles, such director (notwithstanding his office):
  - (i) may be a party to, or otherwise interested or participate in, any transaction or arrangement with the company or in which the company is otherwise interested, including any such pensions, other benefits, transactions or arrangements.
  - (ii) may act by himself or his firm in a professional capacity for the company (except as auditor) and he or his firm shall be entitled to remuneration as if he were not a director;
  - (iii) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the company or in which the company is otherwise interested; and
  - (iv) shall not, by reason of his office (or of the fiduciary relationship established by holding that office), be accountable to the company for any remuneration, profit or other benefit resulting from any relevant situation authorised under article 18 or any interest permitted under paragraphs (a)(i) or (a)(ii) of that article, and no contract, transaction or arrangement shall be liable to be avoided on the grounds of any director having an interest authorised under article 18 or permitted under paragraphs (a)(i) or (a)(ii).
- (b) Subject to articles 17 and 18, a director shall be entitled to vote on any decision concerning any matter in which he has, directly or indirectly, an interest or a duty.
- (c) In the case of an alternate director, an interest of his appointor shall be treated as an interest of the alternate in addition to any interest which the alternate otherwise has.
- (d) Subject to the Act, the company may, by ordinary resolution, suspend or relax the provisions of this article to any extent or ratify any contract, transaction or arrangement not duly authorised by reason of a contravention of this article.
- (e) Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the company or any body corporate in which the company is interested, the proposals may be divided and considered in relation to each director separately and (provided he is not otherwise precluded from voting) each of the directors concerned shall be entitled to vote (and to form part of the quorum) in respect of each proposal except that concerning his own appointment.

- (f) Subject to paragraph (g) below, if a question arises at a meeting of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting and quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.
- (g) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting and quorum purposes.

## **DECISION-MAKING BY MEMBERS – GENERAL MEETINGS**

### **24. Quorum for general meetings**

- (a) No business shall be transacted at any general meeting unless the requisite quorum is present when the meeting proceeds to business.
- (b) One qualifying person entitled to vote shall be a quorum. For the purposes of this article, a qualifying person means:
  - (i) an individual who is a member of the company;
  - (ii) a person authorised to act as the representative of a corporation in relation to the meeting; or
  - (iii) a person appointed as proxy of a member in relation to the meeting.

### **25. Members can call general meeting if not enough directors**

If the company has fewer than two directors and the director (if any) is unable or unwilling to appoint sufficient directors to make up a quorum or to call a general meeting to do so, then one or more members may call a general meeting (or instruct the company secretary to do so) for the purpose of appointing one or more directors.

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

- (a) Model Article 29(1) shall be amended by the insertion of the words "(including by conference telephone or by any other form of communications equipment (whether in use when these articles are adopted or not) or by a combination of those methods)" after the word "communicate".
- (b) Model Article 29 shall be amended by the insertion of a new sub-article (6) stating that "If all the persons 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."

### **27. Chairing general meetings**

Model Article 31(2) shall be amended by the insertion of the words "(including a proxy or a corporate representative)" after the word "member".

### **28. Voting: general**

- (a) A resolution put to the vote of a meeting shall be decided by each member indicating to the chairman (in such manner as the chairman shall direct) whether the member votes in favour of or against the resolution or abstains. Model Article 34 shall be amended accordingly.
- (b) A vote given by a proxy or by a representative of a corporation shall be valid notwithstanding that he has not voted in accordance with any instructions given by the member by whom he is appointed. The company shall not be obliged to check whether any proxy or representative of a corporation has in fact voted in accordance with such member's instructions.

**29. Voting rights**

- (a) Subject to these articles, the provisions of the Act shall apply in relation to voting rights.
- (b) Voting rights shall attach equally to partly paid shares.
- (c) A proxy appointed by a member of the company may vote on a show of hands as well as on a poll. On a vote on a resolution on a show of hands at a general meeting, every proxy present who has been duly appointed by one or more members entitled to vote on the resolution has one vote (unless appointed by more than one member and instructed or holding sufficient discretion to vote both for and against it).

**30. Content of proxy notices**

Model Article 38(1)(d) shall be amended by the insertion of the words "(or adjourned meeting)" after the word "meeting".

**SECRETARY**

**31. Methods of appointing and removing the secretary**

The secretary shall be appointed by the directors for such term, at such remuneration and on such conditions as they think fit, and the directors may remove from office any person so appointed.

**ADMINISTRATIVE ARRANGEMENTS**

**32. When a communication is deemed received**

- (a) Any document or information, if sent by first class post, shall be deemed to have been received on the day following that on which the envelope containing it is put into the post, or, if sent by second class post, shall be deemed to have been received on the second day following that on which the envelope containing it is put into the post and in proving that a document or information has been received it shall be sufficient to prove that the letter, envelope or wrapper containing the document or information was properly addressed, prepaid and put into the post.
- (b) Any document or information not sent by post but left at a registered address or address at which a document or information may be received shall be deemed to have been received on the day it was so left.

- (c) Any document or information, if sent or supplied by electronic means, shall be deemed to have been received on the day on which the document or information was sent or supplied by or on behalf of the company.
- (d) If the company receives a delivery failure notification following a communication by electronic means in accordance with paragraph (c) above, the company shall send or supply the document or information in hard copy or electronic form (but not by electronic means) to the member either personally or by post addressed to the shareholder at his registered address or by leaving it at that address. This shall not affect when the document or information was deemed to be received in accordance with paragraph (c).
- (e) Where a document or information is sent or supplied by means of a website, it shall be deemed to have been received:
  - (i) when the material was first made available on the website; or
  - (ii) if later, when the recipient was deemed to have received notice of the fact that the material was available on the website.
- (f) A member present, either in person or by proxy, at any meeting of the company or class of members of the company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which the meeting was convened.
- (g) Every person who becomes entitled to a share shall be bound by every notice (other than a notice in accordance with section 793 of the Act) in respect of that share which before his name is entered in the register was given to the person from whom he derives his title to the share.

### **33. Company seals**

- (a) The company may exercise the powers conferred by the Act with regard to having official seals and those powers shall be vested in the directors.
- (b) Any seal may only be used with the authority of the directors, which authority may consist of an instruction or approval given by letter, facsimile, telegram, telex or any other means of electronic communication or telephone by a majority of the directors or by the members of a duly authorised committee.
- (c) Subject to the Act, any instrument to which an official seal is affixed shall be signed by such persons, if any, and affixed in such manner as the directors may from time to time determine.
- (d) Unless otherwise decided by the directors:
  - (i) certificates for shares, debentures or other securities of the company to which a seal is applied need not be signed; and
  - (ii) every other instrument to which a seal is applied shall be signed by at least one director and the secretary or by at least two directors.
- (e) Certificates for shares, debentures or other securities of the company need not be sealed with the seal but may be signed on behalf of the company by at least one director and the secretary or by at least two directors or by such other person or

persons as may be authorised by the directors for that purpose. Model Article 47 shall be amended accordingly.

## WINDING UP

### 34. Powers to distribute *in specie*

If the company is wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide among the members *in specie* the whole or any part of the assets of the company and may, for that purpose, value any assets and determine how the division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the members as he with like sanction determines, but no member shall be compelled to accept any assets upon which there is liability.

## DIRECTORS' INDEMNITY

### 35. Indemnity

- (a) Subject to the provisions of and to the extent permitted by the Statutes, the company may indemnify any director or other officer (excluding an auditor) of the company out of the assets of the company against any liability incurred by him in the actual or purported execution or discharge of his duties or the exercise or purported exercise of his powers or otherwise in relation to or in connection with his duties, powers or office.
- (b) The company may fund the expenditure of a relevant director of the company for the purposes permitted under the Act and may do anything to enable such relevant director to avoid incurring such expenditure as provided in the Act.
- (c) No relevant director of the company shall be accountable to the company or the members for any benefit provided pursuant to this article and the receipt of any such benefit shall not disqualify any person from being or becoming a director of the company.
- (d) The powers given by this article shall not limit any general powers of the company to grant indemnities, purchase and maintain insurance or provide funds (whether by way of loan or otherwise) to any person in connection with any legal or regulatory proceedings or applications for relief.
- (e) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Act or by any other provision of law.
- (f) In this article a **relevant director** means any director or former director of the company.