

**RECEIVED**

OCT 30 2007

COMMONWEALTH OF KENTUCKY

PUBLIC SERVICE  
COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION

**RECEIVED**

OCT 30 2007

PUBLIC SERVICE  
COMMISSION

In the Matter of:

JOINT VERIFIED APPLICATION OF )  
 E.ON AG, POWERGEN LTD., AND )  
 E.ON U.S. LLC FOR WAIVER OF ) CASE NO. 2007- 00466  
 CERTAIN MERGER COMMITMENTS )

**JOINT VERIFIED APPLICATION**

E.ON AG, Powergen Ltd., and E.ON U.S. LLC (collectively “Applicants”), by counsel, and pursuant to 807 KAR 5:001, hereby petition the Commission for limited waiver of certain merger commitments concerning E.ON AG’s U.S.-based acquisitions, which commitments the Applicants made when the Commission approved the transfer of ownership of Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively “the Companies”) from Powergen plc (now Powergen Ltd.) to E.ON AG as part of E.ON AG’s acquisition of Powergen.<sup>1</sup> Specifically, the Applicants respectfully request limited waiver of the commitment to have all of E.ON AG’s U.S.-based acquisitions report to the Companies’ headquarters in Louisville.

The Applicants request this limited waiver with respect to E.ON AG’s acquisition of Airtricity, Inc., a U.S. developer and operator of renewable (wind) power. The acquisition of Airtricity North America (including Airtricity, Inc.) is part of E.ON AG’s publicly announced initiative to generate at least twenty percent of primary energy from renewable sources by 2020. Because of the international scope of its renewable energy initiative, and to achieve the most efficient control and coordination of its renewable energy assets, E.ON AG plans to direct and

---

<sup>1</sup> *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company in Accordance with E.ON AG’s Planned Acquisition of Powergen Plc*, Case No. 2001-00104, Order at Appx. A ¶ 57 (Aug. 6, 2001) (the “E.ON Acquisition Proceeding”).

manage those assets, including Airtricity, Inc., from Düsseldorf, Germany, through its new Renewables and Climate Protection (“RCP”) market unit.

In further support of their petition, the Applicants state:

**The Applicants**

1. E.ON AG: The full name and mailing address of E.ON AG is: E.ON AG, E.ON Platz 1, 40474 Düsseldorf, Federal Republic of Germany. A copy of E.ON AG’s corporate articles is attached hereto as Exhibit A.

E.ON AG is a diversified energy and utility company, headquartered in Düsseldorf, Germany, with the following market units: Central Europe, Pan-European Gas, U.K., Nordic, and U.S. Midwest, as well as a Corporate Center. E.ON AG is an Aktiengesellschaft, the equivalent of a U.S. stock corporation, formed under the laws of the Federal Republic of Germany. E.ON AG is the largest industrial group in Germany, measured on the basis of market capitalization at year-end of 2006.

2. Powergen Ltd. (f/k/a Powergen plc): The full name and mailing address of Powergen Ltd. is: Powergen Ltd., Westwood Way, Westwood Business Park, Coventry, CV4 6BL, England. A certified copy of Powergen’s corporate articles is attached hereto as Exhibit B.

Powergen Ltd. (f/k/a Powergen plc), is a United Kingdom company and holding company for E.ON UK plc, E.ON’s United Kingdom market unit operating parent. E.ON AG acquired Powergen on July 1, 2002. As discussed in the E.ON Acquisition Proceeding, E.ON AG, Powergen, and E.ON U.S. LLC (“E.ON U.S.”), completed an administrative reorganization to move the E.ON U.S. group from an indirect Powergen subsidiary to an indirect E.ON AG

subsidiary. This reorganization was effective in March 2003.<sup>2</sup> In early 2004, E.ON U.S. began direct reporting arrangements to E.ON AG.

3. E.ON U.S. LLC: The full name and mailing address of E.ON U.S. LLC is: E.ON U.S. LLC, Post Office Box 32010, 220 West Main Street, Louisville, Kentucky 40232. A certified copy of E.ON U.S. LLC's corporate articles is attached hereto as Exhibit C.

E.ON U.S. is a Kentucky limited liability company and is the sole stockholder of Louisville Gas and Electric Company and Kentucky Utilities Company. E.ON U.S. is an indirect subsidiary of E.ON AG and was acquired through E.ON AG's acquisition of Powergen plc, now Powergen Ltd.<sup>3</sup> E.ON U.S. is the lead company of E.ON AG's U.S. Midwest market unit.

4. Copies of all orders, pleadings and other communications related to this proceeding should be directed to:

Allyson K. Sturgeon  
Senior Corporate Counsel  
E.ON U.S. LLC  
220 West Main Street  
Louisville, Kentucky 40202

Lonnie E. Bellar  
Vice-President of State Regulation and Rates  
E.ON U.S. LLC  
220 West Main Street  
Louisville, Kentucky 40202

Kendrick R. Riggs  
William Duncan Crosby III  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828

---

<sup>2</sup> Because E.ON U.S. LLC no longer reports or is otherwise accountable to Powergen, the Applicants believe it is appropriate at some point in time for Powergen to be relieved of its merger commitments and to cease being a party to E.ON U.S. LLC's or the Companies' proceedings before the Commission.

<sup>3</sup> E.ON U.S. LLC was formerly known as LG&E Energy LLC and is the successor, since December 2003, to LG&E Energy Corp. In December 2005, LG&E Energy LLC changed its name to E.ON U.S. LLC.

### The Merger Commitments

5. By Order dated August 6, 2001 (“Merger Order”), the Commission approved the transfer of ownership of LG&E and KU (collectively “the Companies”) from Powergen plc to E.ON AG as part of E.ON AG’s acquisition of Powergen.<sup>4</sup> The Commission conditioned the Merger Order on the Applicants’ acceptance of a number of Merger Commitments,<sup>5</sup> including:

36. E.ON, Powergen, LG&E Energy [now E.ON US], LG&E, and KU commit to maintaining their respective headquarters in Kentucky for a period of 10 years following the consummation of the acquisition of Powergen by E.ON. KU’s headquarters shall be maintained in Lexington, Kentucky; LG&E Energy’s and LG&E’s headquarters shall be maintained in Louisville, Kentucky; and E.ON’s and Powergen’s United States headquarters shall be maintained in Louisville, Kentucky.

...

57. As part of their commitment to maintaining the corporate headquarters of LG&E Energy and the U.S. headquarters of Powergen and E.ON in Louisville, Kentucky, E.ON, Powergen, and LG&E Energy commit that these corporate headquarters will include the corporate management personnel of LG&E Energy and the corporate management personnel of United States operations of Powergen and E.ON. Further, E.ON, Powergen, and LG&E Energy commit that the CEO and subordinate officers of those U.S. offices shall reside in Kentucky, including the Louisville metropolitan area. This commitment will remain in effect for a period of 10 years following the consummation of the acquisition of Powergen by E.ON.<sup>6</sup>

---

<sup>4</sup> *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company in Accordance with E.ON AG’s Planned Acquisition of Powergen Plc*, Case No. 2001-00104, Order (Aug. 6, 2001).

<sup>5</sup> The “Merger Commitments” are set out in their entirety in: *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company in Accordance with E.ON AG’s Planned Acquisition of Powergen Plc*, Case No. 2001-00104, Order at Appx. A (Aug. 6, 2001).

<sup>6</sup> *Id.* at Appx. A ¶ 36 (a ten-year commitment commencing July 1, 2002, and expiring June 30, 2012).

6. By letters dated August 14, 2001, the Chief Executive Officers of E.ON AG and Powergen accepted all of the Merger Commitments.<sup>7</sup> In accepting the Merger Commitments, E.ON AG clarified its acceptance of Merger Commitment No. 36:

Following the consummation of the acquisition, E.ON will incorporate a new company which holds all of E.ON's shares in LG&E Energy. This company will be located and headquartered in Louisville, Kentucky and its officers will reside in Kentucky, including the Louisville metropolitan area.

E.ON's current New York office (E.ON North America Inc.) is not now a headquarter for any U.S. business nor will it be in the future and thus should not be affected by the Commission's order. E.ON North America today already has a very limited scope of personnel and activity, which is defined by holding shares in E.ON's subsidiaries Viterra Energy Service (real estate services only), Veba Oil Supply & Trading (crude oil trading) and MEC (silicon wafer company). The New York office has no activities whatsoever related to the energy or utility business. As E.ON is committed to completing the disposal of its non-energy assets and accomplishing its goal of becoming a pure play utility, these activities of E.ON North America will even decrease.<sup>8</sup>

7. In an August 17, 2001 Order, the Commission, expressing concern about the role E.ON AG's New York office could play in the future, determined E.ON AG's August 14, 2001 Letter to be only a conditional acceptance of the Merger Commitments.<sup>9</sup>

8. After an exchange of correspondence with the Commission, by letter dated September 7, 2001, E.ON AG clarified the role that the Louisville headquarters would play in E.ON AG's future in the United States:

E.ON U.S. headquarters will be located in Louisville, Kentucky for ten years from the date of consummation of E.ON's acquisition of Powergen. The Louisville office will perform typical headquarters

---

<sup>7</sup> Letter from E.ON AG (Ulrich Hartmann and Dr. Erhard Schipporeit) to KPSC (Thomas Dorman) (Aug. 14, 2001); Letter from Powergen plc (Nick Baldwin) to KPSC (Thomas Dorman) (Aug. 14, 2001).

<sup>8</sup> Letter from E.ON AG (Ulrich Hartmann and Dr. Erhard Schipporeit) to KPSC (Thomas Dorman) at 1-2 (Aug. 14, 2001).

<sup>9</sup> *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company in Accordance with E.ON AG's Planned Acquisition of Powergen Plc*, Case No. 2001-00104, Order at 1-2 (Aug. 17, 2001).

functions, including for example, planning, controlling, finance, tax and legal. The U.S. headquarters will oversee development of synergies from future U.S. acquisitions.

The management of the next U.S. companies acquired by E.ON will report to E.ON's U.S. headquarters in Louisville, Kentucky.<sup>10</sup>

9. The Commission took E.ON AG's clarification to be sufficient acceptance of Merger Commitment Nos. 36 and 57, stating in a September 17, 2001 Order:

E.ON subsequently filed on September 7, 2001 a supplemental letter committing to establish its United States headquarters in Louisville, Kentucky for 10 years following its acquisition of Powergen. E.ON's letter specifies the functions to be performed at this headquarters, including overseeing the development of synergies from future acquisitions in this country. Management of all future acquisitions will report to this headquarters. ...

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that E.ON's August 14, 2001 letter, as supplemented by its filings on August 29, 2001 and September 7, 2001 constitute in their entirety an unconditional acceptance of all the commitments set forth in the Commission's August 6, 2001 Order.<sup>11</sup>

10. The Applicants are currently in compliance with all Merger Commitments.

11. It is from the reporting requirements of the above-discussed Merger Commitments, set to expire on their own terms on June 30, 2012, that the Applicants seek a limited waiver with respect to the below-described Airtricity NA transaction.<sup>12</sup>

### **The Airtricity Transaction**

12. E.ON AG is dedicated to contributing to climate protection by expanding its renewable business. On July 31, 2007, in furtherance of this objective, E.ON AG announced it

---

<sup>10</sup> Letter from E.ON AG (Ulrich Hartmann and Dr. Erhard Schipporeit) to KPSC (Thomas Dorman) at 1 (Sept. 7, 2001).

<sup>11</sup> *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company in Accordance with E.ON AG's Planned Acquisition of Powergen Plc*, Case No. 2001-00104, Order at 2 (Sept. 17, 2001). This commitment will expire under its current terms on June 30, 2012.

<sup>12</sup> Because granting a waiver from the reporting requirements of the Merger Commitments would obviate the need for the residency requirements, Applicants have not sought a specific waiver from that requirement.

was setting a target of generating at least 20 percent of primary energy from renewable sources by 2020.<sup>13</sup> To facilitate the achievement of this important objective, on August 21, 2007, E.ON AG announced that it had established a new company (Renewables and Climate Protection, “RCP”), based in Düsseldorf, Germany, to be responsible for globally steering and developing renewables and managing projects for environmental protection.<sup>14</sup>

13. On October 4, 2007, E.ON AG announced it had entered into a stock purchase agreement with Airtricity Holdings, Limited (“Airtricity”) to purchase Airtricity’s North American wind farm development business (“Airtricity NA”) for approximately \$1.4 billion, with consummation of the acquisition expected to occur by year’s end. Airtricity NA comprises Airtricity, Inc., which is the holding company for Airtricity’s U.S.-based wind farm development business, and Airtricity Holdings (Canada), Limited, which is the holding company for Airtricity’s Canadian wind farm development business.<sup>15</sup> Airtricity is an Irish renewable energy company with wind farms in operation, under construction, and in development in Europe and North America. Airtricity NA’s assets include 210 MW of operational wind farm generation in Texas, with additional wind farms under construction in Texas and New York, as well as wind farms in development in nine U.S. states (not including Kentucky) and Canada.

14. Airtricity, Inc. is an exempt holding company pursuant to the regulations of the Federal Energy Regulatory Commission (“FERC”) and is in the business of developing or

---

<sup>13</sup> See, e.g., E.ON Press Release of July 31, 2007 (“In the long-term, i.e. by 2030, E.ON aims to halve its specific carbon dioxide emissions against 1990. E.ON is dedicated to taking a leading international role in climate protection in the future and is committed to supporting the EU target of generating at least 20 percent of primary energy from renewables by 2020.”). Available at: <http://www.eon.com/en/presse/news-show.do?id=8109>.

<sup>14</sup> See, e.g., E.ON Press Release of August 21, 2007 (“In the future two new E.ON companies are to be based in Düsseldorf, one will be in charge of trading and the other of renewables and environmental protection. ... The new unit for Renewables and Climate Protection will be responsible for steering and developing E.ON’s renewable energy business, and for managing projects in the field of climate protection.”). Available at: <http://www.eon.com/en/presse/news-show.do?id=8142>.

<sup>15</sup> Airtricity Holdings Canada, Ltd has no operating power projects and has had no sales in or into the U.S. in its most recent fiscal year, nor does it currently hold any assets located in the United States.

acquiring, through subsidiaries, wind-power electric generation facilities. Airtricity, Inc. is wholly owned by Airtricity Holdings, Ltd. Pursuant to the Transaction, E.ON AG will purchase 100 percent of the stock of Airtricity, Inc. from Airtricity Holdings, Ltd. A complete copy of the stock purchase agreement is being submitted pursuant to a Petition for Confidential Treatment.<sup>16</sup>

15. The U.S. Organization Chart for Airtricity, Inc. is attached hereto as Exhibit D. Though the Organization Chart shows a considerable number of entities falling under the Airtricity, Inc. umbrella, most of the subsidiaries are not operating companies and were formed for legal and financial reasons. Each project typically requires as many as three or more separate entities to accomplish the project's specific financial, business and tax objectives.

16. Because Airtricity, Inc.'s principal business is wind power development across a number of states and regions, it is a relatively horizontal and decentralized business with a dispersed employee base, which is unlike the Companies' business model and workforce. Airtricity, Inc. and all of its subsidiaries currently employ sixty-six people, spread over six locations. Each of the two largest Airtricity, Inc. offices (Austin, Texas, and Chicago, Illinois) employs twenty-six people. Although Airtricity, Inc. anticipates growing its work force as it builds out its wind farm projects, due to the nature of wind farm development and construction, many of those additional employees will be spread across the U.S., stationed at development and construction sites.

17. Airtricity, Inc., which is part of Airtricity NA, is not a public utility with a certified territory and is not in the load-serving regulated utility business. Airtricity, Inc. is the indirect owner of a controlling interest in Airtricity Munnsville Wind Farm LLC

---

<sup>16</sup> As discussed in ¶ 18 of this Application, E.ON AG and Airtricity expect to file an application with the Federal Energy Regulatory Commission related to the Airtricity and will likewise seek confidential treatment of the entire Stock Purchase Agreement therein.



(“Munnsville”).<sup>17</sup> Munnsville is a Delaware limited liability company and “exempt wholesale generator” under the Federal Power Act that is engaged in the business of constructing and owning a wind power facility which will sell electric power exclusively at wholesale.<sup>18</sup> Munnsville has market-based rate authority,<sup>19</sup> and is, therefore, FERC-jurisdictional and a “public utility” for the purposes of Sec. 203 of the Federal Power Act.<sup>20</sup> Munnsville, however, is neither Kentucky Public Service Commission-jurisdictional, nor is it a “utility” as defined in KRS 278.010(3)(a) because it does not provide, “generation, production, transmission, or distribution of electricity to or for the public . . . .”<sup>21</sup>

18. On or about November 2, 2007, E.ON AG and Airtricity will file with FERC an application requesting authorizations necessary under Federal Power Act Sections 203(a)(1) and 203(a)(2) for the indirect disposition of FERC-jurisdictional facilities (i.e., Munnsville) that will result from E.ON AG’s purchase of one-hundred percent (100%) of the equity interests in Airtricity, Inc. from Airtricity, pursuant to the stock purchase agreement referenced in ¶ 14 above. (The Applicants will serve on the Commission a copy of the FERC filing.)

---

<sup>17</sup> In addition to its interest in Munnsville, Airtricity also owns interests in two non-FERC-jurisdictional projects, Airtricity Forest Creek Wind Farm, LLC and Airtricity Sand Bluff Wind Farm, LLC, wind generating facilities that are located in, and sell energy only in, the Electric Reliability Council of Texas (“ERCOT”) market. Airtricity Sand Bluff Wind Farm, LLC (Docket No. EG07-33-000) and Airtricity Forest Creek Wind Farm, LLC (Docket No. EG07-34-000) are exempt wholesale generators.

<sup>18</sup> *Airtricity Munnsville Wind Farm, LLC et al.*, Docket No. EC07-131-000, 121 FERC ¶ 62,044 (Oct. 18, 2007). On July 17, 2007, Munnsville filed a notice of self-certification of exempt wholesale generator status (Docket No. EG07-73-000) pursuant to section 1266 of the PUHCA 2005 and Section 366.7 of the Commission’s regulations, 18 C.F.R. § 366.7 (2007).

<sup>19</sup> *Airtricity Munnsville Wind Farm, LLC*, Docket No. ER07-1199-000 (letter order issued Sept. 10, 2007).

<sup>20</sup> See *Airtricity Holdings, Ltd.*, Docket No. HC07-1-000, Notification of Holding Company Status at 3 (Sept. 20, 2007).

<sup>21</sup> Emphasis added.

### **The Airtricity Acquisition Does Not Affect Certain Merger Commitments**

19. The Applicants affirm that E.ON AG's acquisition of Airtricity NA will in no way impact the Applicants' commitment to maintain the headquarters of E.ON U.S. and LG&E in Louisville, and to maintain the headquarters of KU in Lexington, for the remainder of the Merger Commitment term. All of the headquarters and management functions of E.ON U.S. and the Companies currently performed in the Kentucky headquarters will continue to be performed in those same Kentucky headquarters after E.ON AG completes its acquisition of Airtricity NA. Likewise, all of the management departments, staffs and activities currently stationed in Louisville and Lexington will not be impacted by the Airtricity acquisition.

20. Another important component of Merger Commitment Nos. 36 and 57, as clarified in E.ON AG's September 7, 2001 Letter to the Commission, and in the Commission's September 17, 2001 Order concerning the Merger Commitments, is, "The U.S. headquarters [in Louisville] will oversee development of synergies from future U.S. acquisitions." The Applicants and the Companies will explore potential synergies and other benefits among E.ON's North American operations (including E.ON U.S. and Airtricity NA) that could result from the Airtricity NA acquisition. E.ON AG and E.ON U.S. LLC offer to report to the Commission, on or about the 15<sup>th</sup> month anniversary of the consummation of the Airtricity acquisition transaction, their analysis, findings, and views as to *potential synergies or other benefits*.

### **Grounds for Limited Waiver**

21. E.ON AG is dedicated to working for climate protection by expanding its renewable business by setting a target of generating at least 20 percent of primary energy from renewable sources by 2020. Under the terms of the planned acquisition, the Airtricity NA business will become part of E.ON AG's rapidly growing Renewables and Climate Protection

("RCP") market unit. The Airtricity NA acquisition will augment RCP's current renewable portfolio in Germany, Spain, Portugal, Sweden, Denmark, and Great Britain.

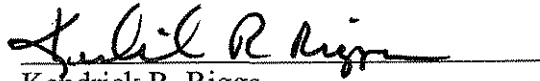
22. In order to ensure that E.ON AG's global approach is most efficiently managed, it is important that Airtricity NA report directly to RCP in Düsseldorf, through which E.ON AG plans to manage its global renewable energy efforts. Because E.ON AG will house significant renewable energy technical and management expertise in RCP, having Airtricity NA report to E.ON U.S. will not create any efficiencies or synergies. Therefore, to achieve increased efficiencies and because the planned Airtricity NA acquisition will have Airtricity NA reporting directly to RCP in Düsseldorf, the Applicants request a limited waiver of the Merger Commitments so that Airtricity NA may report directly to RCP in Düsseldorf.

23. Airtricity NA currently has no plans to develop, build, or acquire any assets in Kentucky. E.ON U.S. currently has no wind-generation assets, and is in the process of withdrawing from its existing unregulated merchant power businesses to focus more on its regulated utilities. There is therefore no present shared business purpose or physical relationship between the Companies and Airtricity NA, which likely would make inefficient the Companies' management of Airtricity NA.

**WHEREFORE**, E.ON AG, Powergen Ltd., and E.ON U.S. LLC respectfully request that the Commission issue an order by December 19, 2007, granting them a limited waiver of Merger Commitment Nos. 36 and 57, as set out in Appendix A to the Commission's Merger Order, dated August 6, 2001, and clarified in the Commission's Order dated September 17, 2001, in Case No. 2001-00104.

Dated: October 30, 2007

Respectfully submitted,



Kendrick R. Riggs  
W. Duncan Crosby III  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828  
Telephone: (502) 333-6000

Allyson K. Sturgeon  
Senior Corporate Counsel  
E.ON U.S. LLC  
220 West Main Street  
Post Office Box 32010  
Louisville, Kentucky 40232  
Telephone: (502) 627-2088

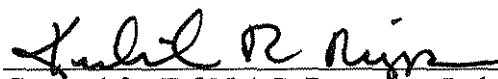
Counsel for E.ON AG, Powergen Ltd.,  
and E.ON U.S. LLC



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Joint Verified Application was sent to the following parties of record by U.S. mail, postage prepaid, on this 30th day of October, 2007.

Dennis G. Howard II  
Lawrence W. Cook  
Assistant Attorneys General  
Office of the Attorney General  
Office of Rate Intervention  
1024 Capital Center Drive, Suite 200  
Frankfort, KY 40601-8204



---

Counsel for E.ON AG, Powergen Ltd.,  
and E.ON U.S. LLC





John R. McCall  
Executive Vice President,  
General Counsel and  
Corporate Secretary

220 West Main Street  
Louisville, Kentucky 40202  
T (502) 627-3665  
F (502) 627-4622  
john.mccall@eon-us.com

**Certificate of Accuracy**

I, John R. McCall, am a duly licensed attorney, admitted in Kentucky. I hereby certify that the English translation, attached hereto as Exhibit A, is a true and correct translation of the "Articles of Association of E.ON AG". I further certify that attached hereto as Exhibit B is a true and correct copy of the Articles of Association of Powergen Limited.

Dated this 29<sup>th</sup> day of October, 2007.

A handwritten signature in black ink, appearing to read "J. R. McCall", written in a cursive style.

John R. McCall



Articles of Association  
of E.ON AG  
As of June 2006

E.ON AG  
E.ON-Platz 1  
40479 Düsseldorf  
Germany



**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

**General Provisions**

**Sec. 1**

- (1) The name of the Corporation is E.ON AG. It has its registered office in Düsseldorf.
- (2) The financial year shall be the calendar year.

**Purpose of the Corporation**

**Sec. 2**

- (1) Corporate purpose shall be the supply of energy (primarily electricity and gas) and water as well as the provision of disposal services.

The Company's activities may encompass the generation and/or production, transmission and/or transport, purchasing, selling and trading. Plants of all kinds may be built, purchased and operated; services and cooperations of all kinds may be performed.

- (2) Furthermore, the Company shall be entitled to run businesses in the chemical sector, primarily in the special and constructional chemistry areas, as well as in the real estate industry and telecommunications sector.

- (3) The Company may operate in the business areas listed in Para. 1 or related areas either by itself or through subsidiaries or associated companies. The Company shall be entitled to take all actions and measures that are connected with the corporate purpose or are suitable for serving it directly or indirectly.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

(4) The Company may also establish, acquire or take an interest in other companies, particularly in those whose corporate purpose wholly or partly covers the business areas listed in Para. 1. In addition, the Company shall be entitled to acquire stakes in companies of all kinds, primarily to invest funds. It may make structural changes in companies in which it is holding an interest, consolidate them under central management or confine itself to managing them as well as dispose of its participations.

**Capital Stock and Shares**

**Sec. 3**

- (1) The capital stock shall total € 1,799,200,000.00 and consist of 692,000,000 bearer shares without nominal value.
- (2) Subject to the approval of the Supervisory Board, the Board of Management is authorized to increase the Company's share capital until April 27, 2010, by up to € 540,000,000 by issuing new bearer shares with no-par value against contribution in cash and/or in kind once or several times (authorized capital pursuant to Sections 202 et seq. of the German Stock Corporation Act [AktG]).
- If the share capital is increased against cash contributions, the shareholders must be granted a subscription right. The Board of Management is, however, authorized to exempt fractional amounts from the shareholders' subscription right and to exclude the subscription right also in this respect, subject to the approval of the Supervisory Board, to the extent necessary to grant a subscription right to new

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

shares to the holders of debentures with conversion or option rights, respectively, conversion obligations, which are issued at the time the authorized capital is utilized, to such an extent as such holders would be entitled to after having exercised the conversion or option right, respectively, in the case of a mandatory conversion.

Subject to the approval of the Supervisory Board, the Board of Management is furthermore authorized to exclude the shareholders' subscription right when issuing shares in an amount of up to ten percent of the share capital at the time of issuance—however, only insofar as under the exclusion of the shareholders' subscription right and under application of Section 186 paragraph 3 sentence 4 of the German Stock Corporation Act (AktG) no use has been made of an authorization of the Shareholders Meeting to issue debentures with conversion or option rights, respectively, conversion obligations on the one hand or to sell shares, which had been acquired based on an authorization of the Shareholders Meeting for the acquisition of own shares, on the other hand. In the case of an exclusion of the subscription right of this kind, the issue price of the new shares may not fall significantly below the stock market price.

Subject to the approval of the Supervisory Board, the Board of Management is furthermore authorized to exclude the shareholders' subscription right when issuing shares to individuals who are employed by the Company or an enterprise affiliated with it.

Subject to the approval of the Supervisory Board, the Board of Management is finally authorized to exclude the shareholders' subscription right when issuing shares against contributions in kind.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

The Board of Management is authorized to determine the further terms and the further implementation details of the capital increases with the approval of the Supervisory Board.

The Supervisory Board is authorized to revise the wording of Section 3 of the Articles of Association after complete or partial consummation of the increase of the share capital in accordance with the respective utilization of the authorized capital and—if the authorized capital has not been utilized at all or not completely by April 27, 2010—after the expiration of the authorization period.

(3) The capital stock shall be conditionally increased by up to € 175,000,000. The conditional increase shall only be carried out insofar as the creditors of bonds with conversion rights or conversion obligations or the holders of option rights, which will be issued under the authorization given by the Shareholders' Meeting on April 30, 2003 by the Company or companies in which the former is directly or indirectly holding a majority interest, make use of their conversion or option rights or insofar as this is necessary for the fulfilment of conversion obligations and no own shares are used for servicing. The new shares shall participate in profits from the commencement of the financial year in which they come into being through the exercise of conversion or option rights or the fulfilment of conversion obligations.

The Supervisory Board shall be authorized to adapt the wording of Sect. 3 of the Articles of Association according to the utilization of the conditional capital.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

**Sec. 4**

(1) The Board of Management shall decide on the form and content of share certificates, dividend coupons, and talons.

(2) The shareholders' right to securitize their shares and dividends is excluded as long as rules valid at stock exchanges on which the share is listed do not require them to be securitized. Certificates for multiple shares may be issued.

**Executive Bodies of the Corporation**

**Sec. 5**

The executive bodies of the Corporation are:

1. the Board of Management,
2. the Supervisory Board, and
3. the Shareholders' Meeting.

**The Board of Management**

**Sec. 6**

The Board of Management shall consist of at least two members. Deputy members may be appointed. The Supervisory Board shall decide on the number of members as well as on their appointment and dismissal.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

**Sec. 7**

The Corporation shall be legally represented by two members of the Board of Management or by one member and an agent with full power of attorney ("Prokurist").

**The Supervisory Board**

**Sec. 8**

(1) The Supervisory Board shall consist of twenty members.

(2) The members of the Supervisory Board shall be elected with a tenure of office until the end of the Shareholders' Meeting that rules on the actions of the Board of Management and Supervisory Board for the fourth financial year after their election; the financial year in which they are elected is not counted.

(3) A substitute shall be elected for the remaining tenure of office of a member who has left the Supervisory Board.

(4) Any member of the Supervisory Board may resign from office subject to two weeks' written notice submitted to the Chairman of the Supervisory Board.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

**Sec. 9**

(1) The Supervisory Board shall elect a Chairman and a Deputy Chairman.

(2) If the Chairman or Deputy Chairman resigns from the Supervisory Board prior to the end of the tenure of office, the Supervisory Board shall immediately hold new elections.

**Sec. 10**

(1) The Supervisory Board shall oversee the conduct of business by the Board of Management as stipulated by law.

(2) All matters which the Board of Management wishes the Shareholders' Meeting to address shall first be submitted to the Supervisory Board.

**Sec. 11**

(1) The Supervisory Board shall be convened by written notice sent by the Chairman or his Deputy, stating the agenda, the place, and time of the meeting. In urgent cases, convening may be effected verbally, by telephone, by telefax or via electronic media.

(2) The Chairman shall be obliged to call a meeting of the Supervisory Board if requested to do so by any member of the Supervisory Board or the Board of Management.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

**Sec. 12**

(1) The Supervisory Board shall be considered to have a quorum if all its members have been summoned to a meeting and at least one-half of the members of whom it is to consist participate in the voting.

(2) Absent members of the Supervisory Board may participate in adopting resolutions by submitting their votes in writing via other members of the Supervisory Board.

(3) Resolutions shall be adopted by a simple majority of the votes cast unless otherwise stipulated by law.

(4) In the event of a tie vote in the Supervisory Board, and when a new vote is taken on the same matter which results in a second tie vote, the Chairman of the Supervisory Board shall have two votes. Sec. 108, subsection 3 of the AktG shall also be applied to the casting of the second vote. The Deputy Chairman shall not be entitled to a second vote. The Chairman shall determine the order of proceedings at meetings and the manner of voting. In the event of a tie vote, the Chairman shall decide whether a second vote is to be taken at the same meeting.

(5) Minutes of debates and resolutions of the Supervisory Board shall be taken and signed by the Chairman or his Deputy.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

**Sec. 13**

(1) For the purpose of passing Supervisory Board resolutions, votes may also be casted in writing, by telephone or telefax or via electronic media. The result shall be placed on record by the Chairman.

(2) The regulations on oral voting shall apply accordingly.

**Sec. 14**

Legally binding declarations of the Supervisory Board shall be issued in its name by the Chairman or his Deputy.

**Sec. 15**

(1) Besides the reimbursement of their expenses incurred, which also include the VAT to be paid on their remuneration, the members of the Supervisory Board shall receive a fixed allowance in the amount of € 55,000.00 for each financial year. In addition, they shall receive—subject to the distribution of a dividend to the Company's shareholders of at least four percent of the share capital being guaranteed—for each financial year

- a variable allowance in an amount of € 115.00 for each € 0.01 exceeding a dividend of € 0.10 for each no-par value share distributed to the shareholders for the previous financial year, and

**Articles of Association of E.ON AG**  
(Only the German version is legally binding)

- an additional variable allowance in an amount of € 70.00 for each € 0.01 by which the average earnings per share resulting from the consolidated profit as reported in the Company's annual report according to the respective applicable accounting principles exceeds an amount of € 2.30 for the last three financial years.

Members of the Supervisory Board, who were members of the Supervisory Board or a committee for only part of a year, shall receive a pro-rata temporis allowance for each inchoate month of their activity. The fixed allowance is payable after the end of the financial year. The variable allowances are payable after the end of the Shareholders Meeting, deciding about the discharge of the members of the Supervisory Board for the respective prior financial year.

(2) The Chairman of the Supervisory Board shall in total receive three times the amount, his deputy and each Chairman of a Supervisory Board committee in total two times the amount and each member of a committee in total one and a half times the amount of the allowance.

(3) Furthermore, when taking part in the meetings of the Supervisory Board and the Supervisory Board committees, the members of the Supervisory Board shall be paid an attendance fee amounting to € 1,000 for each day of the meeting.

(4) The Company may take out a third-party liability insurance for the members of the Supervisory Board that covers the legal liability from boardroom activity.

**Articles of Association of E.ON AG**  
(Only the German version is legally binding)

**Shareholders' Meeting**

**Sec. 16**

The Shareholders Meeting shall be convened by the Board of Management or, when required by law, by the Supervisory Board at least 30 days prior to the day by the end of which the shareholders are required to register prior to the meeting (see Section 18).

**Sec. 17**

The Shareholders' Meeting shall be held in the city in which the Corporation has its registered office or in another major German city (*deutsche Großstadt*). It shall be convened by the Board of Management in agreement with the Chairman of the Supervisory Board.

**Sec. 18**

(1) Only shareholders who have registered in text form (Section 126b of the German Civil Code [BGB]) in the German or English language no later than by the end of the seventh day prior to the day of the Shareholders Meeting have the right to participate in the Shareholders Meeting and to exercise the voting right.

(2) In addition, the shareholders must prove their right to participate in the Shareholders Meeting and to exercise the voting right. This must occur by the end of the seventh day prior to the day of the Shareholders Meeting by presenting proof about the shareholding in text form (Section 126b of the German Civil Code [BGB]) in the German or English language issued by the institution where the

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding.)*

shares are deposited and which must relate to the beginning of the 21st day prior to the Shareholders' Meeting.

(3) If shares are deposited with a notary, the confirmation thereof shall be submitted to the Corporation no later than the day after expiration of the deposit deadline.

(4) If no share certificates have been issued, the Board of Management shall determine the prerequisites for the shareholders' participating in the Shareholders' Meeting in the notice calling said meeting.

**Sec. 19**

(1) The Shareholders' Meeting shall be chaired by the Chairman of the Supervisory Board or, in his absence, another Supervisory Board member nominated by the Supervisory Board.

(2) The Chairman of the Shareholders' Meeting shall conduct the negotiations and decide on the sequence of the matters at issue. He shall determine the type, form and sequence of votings. If so announced in the notice of the Shareholders' Meeting, the Chairman of the Shareholders' Meeting may allow the recording and the transmission of the Shareholders' Meeting also via electronic or other media.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding.)*

(3) The chairman of the meeting can reasonably limit the time for the question and speaking rights of the shareholders; in particular, he may reasonably determine at the beginning or during the course of the General Meeting the temporal framework of the course of the meeting, of the discussion of the items of the agenda, as well as the individual question and speaking contributions. In determining the amount of time to be allocated to an individual speech or set of questions, the Chairman of the meeting can distinguish between a first and a repeated request to take the floor and pursuant to other reasonable criteria.

**Sec. 20**

(1) The voting right may be exercised by proxies. Voting proxies may be granted in writing, by telefax or in an electronic manner to be defined in more detail by the Company. The details of the electronic granting of voting proxies shall be published in the newspapers authorized to publish company announcements along with the notice of the Shareholders' Meeting.

(2) The Chairman of the Shareholders' Meeting shall rule on the contested validity of powers of attorney.

**Sec. 21**

(1) Resolutions of the Shareholders' Meeting shall be adopted by a simple majority of votes and, if a capital majority is required, by a simple majority of the capital, unless otherwise imperatively stipulated by law or the Articles of Association.



**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

- (2) If none of the candidates in an election obtains a majority of the cast votes, a new election shall be held between the two candidates who received the highest number of votes.
- (3) At the Annual Shareholders' Meeting, each share shall entitle the holder to one vote.

**Annual Financial Statements and Profit Distribution**

**Sec. 22**

(1) The Shareholders' Meeting held each year within the statutory period of eight months for acceptance of the approved Financial Statements and the Consolidated Financial Statements approved by the Supervisory Board or, in the cases provided for by law, for approval of the Financial Statements and passing of a resolution on the appropriation of profits shall also pass resolutions on the discharge of the Board of Management and the Supervisory Board as well as on the appointment of the auditors (Ordinary Shareholders' Meeting).

(2) When deciding about the appropriation of profits, the Shareholders' Meeting may also resolve that a distribution in kind is distributed instead of or in addition to a cash distribution.

**Articles of Association of E.ON AG**  
*(Only the German version is legally binding)*

**Official Announcements**

**Sec. 23**

All official announcements shall be released in the media stipulated by law or regulation.

**Concluding Provisions**

**Sec. 24**

The Supervisory Board shall be empowered to decide by resolution on amendments to the Articles of Association that affect only their wording.







John R. McCall  
Executive Vice President,  
General Counsel and  
Corporate Secretary

220 West Main Street  
Louisville, Kentucky 40202  
T (502) 627-3665  
F (502) 627-4622  
john.mccall@eon-us.com

**Certificate of Accuracy**

I, John R. McCall, am a duly licensed attorney, admitted in Kentucky. I hereby certify that the English translation, attached hereto as Exhibit A, is a true and correct translation of the "Articles of Association of E.ON AG". I further certify that attached hereto as Exhibit B is a true and correct copy of the Articles of Association of Powergen Limited.

Dated this 29<sup>th</sup> day of October, 2007.

A handwritten signature in black ink, appearing to read "John R. McCall", written in a cursive style.

John R. McCall

**THE COMPANIES ACT 1985**

---

**A PRIVATE COMPANY LIMITED BY SHARES**

---

**MEMORANDUM OF ASSOCIATION**

**OF**

**POWERGEN LIMITED**

---



(incorporating amendments applicable on the re-registration  
of the company as private, January 2003)

---

1. The name of the Company is "Powergen Limited".
2. The registered office of the Company is to be situated in England and Wales.
3. The objects for which the Company is established are:
  - (1) To carry on the business of a holding company and to co-ordinate, finance and manage all or any part of the businesses and operations of any and all companies controlled directly or indirectly by the Company or in which the Company is interested, whether as a shareholder or otherwise and whether directly or indirectly.
  - (2) To carry on any or all of the businesses of generating, producing, transforming, converting, processing, developing, transmitting, supplying, distributing and dealing in electricity or any other forms of energy or any products derived from or connected with any of these activities and in any manner whatsoever in the United Kingdom or elsewhere and for all purposes to acquire supplies of electricity or other sources or forms of energy from, and to provide bulk or other supplies thereof to, any person for own use, transformation, conversion, processing, development, transmission, supply, distribution, dealing or otherwise in the United Kingdom or elsewhere and,

as appropriate, expand and extend the business or businesses and activities relating thereto or any part or parts thereof (including, without limitation, the business and activity of an electricity generating company).

- (3) To explore for, produce, acquire or otherwise obtain any fuel or other raw materials or sources or forms of energy of any kind for use in connection with the generation of electricity or any other form of energy or otherwise and to process, develop, supply, distribute and deal in or with any such raw materials or sources or forms of energy or any by-products thereof in any manner and to process and deal in any by-products which may be obtained from any of the activities of the Company.
- (4) Subject to such terms and conditions as may be thought fit, to enter into, carry on and participate in financial transactions and operations of all kinds including (without limitation) swaps, options (including traded options), swap option contracts, forward exchange contracts, futures contracts, forward rate agreements, contracts for differences, caps, collars, floors and any other financial instruments (including hedging agreements of any kind) or any combination thereof or any option with respect to any such financial transaction or operation all or any of which may be on a fixed and/or floating basis and/or in respect of Sterling (and any other currency or basket of currencies including but not limited to European Currency Units (as the same may from time to time be designated or constituted) or commodities of any kind and in the case of such swaps, options, swap option contracts, forward exchange contracts, futures contracts, forward rate agreements, contracts for differences, caps, collars, floors and any other financial instruments (including hedging agreements of any kind) they may be undertaken by the Company on a speculative basis or in connection with the management of financial risks relating to the Company or any other company, firm or person or otherwise on such terms as may be thought fit and with or without security, and to undertake, carry on and execute all kinds of financial, commercial, trading, trust, agency and other operations.
- (5) To carry on any or all of the businesses of constructing, engineering, manufacturing, producing, supplying, hiring out, installing, servicing and dealing in all types of buildings, plant and equipment whether used in connection with the generation,

production, transformation, conversion, processing, development, transmission, supply or distribution of electricity or any other form of energy or otherwise (including, but without limitation, in connection with the conservation and efficient use of energy).

- (6) To carry on any or all of the businesses of investors, designers, developers, manufacturers, producers, wholesalers, retailers, suppliers, distributors, hiring and hiring-out, installers, servicers and dealers in electrical appliances, household and general domestic equipment, furniture, fixtures and fittings and all kinds of goods, plant, equipment, tools, components, systems, materials and installations whether or not connected with the use of electricity or other forms of energy of any kind and whether for domestic, industrial or commercial purposes or otherwise.
- (7) To carry on any or all of the businesses of investors, researchers and developers and to conduct, promote and commission research and research and development activities of all kinds, whether relating to the generation, production, transformation, conversion, processing, development, transmission, supply or distribution of electricity or other forms of energy or any of the other businesses or activities of the Company or otherwise (including, but without limitation, such activities relating to the conservation and efficient use of energy), and to exploit and turn to account the results of any such research or research and development carried out by or for the Company or otherwise.
- (8) To do anything which a person who is authorised to generate, transmit or supply electricity under or pursuant to the Electricity Act 1989 (or any statutory modification or re-enactment thereof) or any licence or exemption granted thereunder or pursuant thereto is permitted or required to do under or by virtue of that Act (or any statutory modification or re-enactment thereof), licence or exemption.
- (9) To acquire (whether by purchase, lease, concession, grant or otherwise), establish, develop, exploit, operate and maintain land, claims, wells, mines, licences, consents, authorisations, concessions, drilling and mining rights, exploration and production rights, and/or rights and interests of all descriptions in or relating to the same, which may seem to the Directors of the Company to be capable or possibly capable of facilitating

directly or indirectly the procurement, generation, production, processing, development, transformation, conversion, transmission, supply or distribution of, or dealing in, electricity or other forms of energy or any products derived from or connected with any of these activities or of facilitating any of the other businesses or activities of the Company or of affording a supply of natural or other gas, petroleum or other hydrocarbons, coal or other minerals, any other sources or forms of energy, chemicals or revenue or products derived directly or indirectly from any of them.

- (10) To construct, lay, maintain, install and remove and carry on works in respect of electric wires (including those overhead and underground), cables, lines, plant and equipment and facilities ancillary to the operation or use of a grid or distribution network, and to acquire, operate and maintain the consents, authorisations, wayleaves, easements and other rights capable of facilitating the same.
- (11) To carry on any or all of the businesses of, and provide services associated with, engineers (including, without limitation, electrical, mechanical, mining, drilling, civil, chemical and telecommunications engineers), biologists, physicists, chemists, contractors, consultants, mechanics, technicians, geologists, draughtsmen, designers, surveyors, architects, builders and decorators (in each case) of all kinds.
- (12) To carry out such building, mining, engineering or other operations and works, and to manufacture, acquire, process, distribute or deal in such goods and to acquire, hold or deal with such property, assets, rights and liabilities, as may seem to the Board of Directors of the Company directly or indirectly to advance the interests of the Company.
- (13) To carry on any or all of the businesses of consultants, advisers and suppliers of management, personnel and training services, whether generally or in respect of one or more of the types of business or activity which the Company or any of its subsidiaries has power to carry on, and to provide training and educational course, instruction and materials, of every description, for employees of the Company or for any other persons.
- (14) To carry on any or all of the businesses of bankers, financiers, commodity traders, factors, debt collectors, dealers in



securities and currencies and all rights and interests therein or in respect thereof, underwriters, insurers, brokers of all kinds, persons carrying on investment business of any kind under the Financial Services Act 1986 (or any statutory modification or re-enactment thereof) or otherwise.

- (15) To carry on any or all of the businesses of developers of and dealers in property, storage contractors, freight contractors, carriers by land, water and air of freight and passengers, forwarding agents, shipping agents and agents of all kinds.
- (16) To purchase, charter, lease, take or let on hire, operate, use or turn to account, build, equip, repair, maintain, supply and deal in tankers, bulk carriers, and other ships and vessels and craft of every description, motor vehicles, aircraft, railways and all forms of railway transport and any other means of transport or conveyance and any parts or accessories of any kind relating thereto or connected therewith.
- (17) To carry on any or all of the businesses of running, operating, managing or co-operating in projects or works designed to restore, preserve, improve or protect the environment in any manner whatsoever, to carry on any business relating to, or connected with, the conservation of nature or nature or wild life reserves, parks or trails of any kind whatsoever, and to carry on any business of any kind convened, directly or indirectly, and whether or not connected with any other activity or object of the Company, with the conservation and efficient use of energy.
- (18) To carry on any or all of the businesses of running, operating, managing, supplying and dealing in radio, telecommunication and other systems, data processing and information retrieval systems, computers, computer programs and software, and services facilities and equipment ancillary to, or for use in connection with, such systems.
- (19) To establish, acquire, produce, transmit, publish, or reproduce in any form whatsoever and supply or otherwise deal in brochures, magazines, newspapers, books, pictures, photographs, stationery and other documents, recordings, films, and programmes for radio, television, cinema or any other means of communication.

- (20) To advertise, market and sell any and all products and services of the Company and of any other person and to carry on any or all of the businesses of advertisers and advertising or public relations agents or advisers or of a marketing and selling organisation.
- (21) To carry on any or all of the businesses of suppliers, distributors, manufacturers, producers, processors, importers and exporters of, and dealers in, chemicals, pharmaceuticals, fertilisers and foodstuffs.
- (22) To acquire by any means, hold, deal in or with and dispose of howsoever any real or personal property, assets, rights or corporeal or incorporeal hereditaments whatsoever and wherever situate, whether or not for the purposes of, or in connection with, any of the Company's activities, and, without prejudice to the generality of the foregoing, to purchase, take on lease or in exchange, hire, take concessions or grants of or otherwise acquire and hold or dispose of any real or personal property, assets or rights or any estate or interest in such property, assets or rights, or in the proceeds of sale thereof, including without limitation any lands, buildings, installations, structures, easements, rights, privileges and concessions and to use, exploit, develop, and safeguard the same.
- (23) To insure any property, asset, matter or interest against any potential liability or loss of the Company or of any other person and the life or health of any person which may seem to the Board of Directors of the Company to be in the interests of the Company.
- (24) (i) To purchase and maintain insurance for or for the benefit of any persons who are or where at any time directors, officers or employees or auditors of the Company, or of any other company which is its holding company or in which the Company or such holding company or any of the predecessors of the Company or of such holding company has any interest whether direct or indirect or which is in any way allied to or associated with the Company, or of any subsidiary undertaking of the Company or of any such other company, or who are or were at any time trustees of any pension fund in which employees of the Company or of any such other company or subsidiary undertaking are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or

omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to the Company or any such other company, subsidiary undertaking or pension fund and (ii) to such extent as may be permitted by law or otherwise to indemnify or to exempt any such person against or from any such liability; for the purposes of this Clause "holding company" and "subsidiary undertaking" shall have the same meanings as in the Companies Act 1989.

- (25) To apply for and take out, purchase or otherwise acquire, protect, maintain and renew any patents, patent rights, trade marks, designs, licences and other intellectual property rights of all kinds or any secret or other information as to any invention and to hold, use, exercise, develop or grant licences in respect of, or otherwise turn to account or deal in or with, the property, rights or information so acquired.
- (26) To carry on any other trade or business whatever which, in the opinion of the Board of Directors of the Company, is or may be capable of being carried on directly or indirectly for the benefit of the Company.
- (27) To apply for, promote and obtain any Act of Parliament, charter, privilege, concession, licence or authorisation of any government, state or municipality, or any other department or authority, or enter into arrangements with any such body or any other person, for enabling the Company to carry any of its objects into effect or for extending any of the powers of the Company or for effecting any modification of the constitution of the Company or for any other purpose which may seem to the Board of Directors of the Company to be expedient, and to oppose any Act, charter, privilege, concession, licence or authorisation as aforesaid or any proceedings or applications which may seem calculated directly or indirectly to prejudice the interests of the Company.
- (28) To enter into such financial, commercial or other transactions as may seem to the Board of Directors of the Company to be desirable for the purposes of the Company's affairs.
- (29) To enter into consortia or other collaborative arrangements which may seem to the Board of Directors of the Company to

advance the interests of the Company in pursuance of international or other projects.

- (30) To acquire and hold interests of any kind whatsoever in other companies, whether or not having the same or similar objects as the Company, and to enter into any arrangements with any such other companies which may seem to the Board of Directors of the Company to advance the interests of the Company.
- (31) To establish, or promote any company, whether or not having objects similar to those of the Company, and to place or guarantee the placing of, underwrite, subscribe for or otherwise acquire, hold, dispose of and deal with, and guarantee the payment of interest, dividends and capital on, all or any of the shares, debentures, debenture stock or other securities or obligations of any company or association or investments of any nature whatsoever or any options or rights in respect thereof or interests therein, and to pay or provide for brokerage, commission and underwriting in respect of any such issue upon such terms as the Board of Directors of the Company may decide.
- (32) To have regard to the protection of the natural environment and of buildings or other objects of historic, architectural, religious or other significance, when formulating and implementing proposals.
- (33) To borrow or raise money and to receive deposits, and to lend or deposit money, give credit or financial accommodation or, whether gratuitously or otherwise, guarantees or indemnities and to secure or discharge any debt or other obligation and whether (in each case) in respect of its own obligations or those of some other person, and to charge or give any other security over its undertaking, property, rights or assets (present or future) or any part thereof or its uncalled capital, in any circumstances and upon such terms and conditions as the Board of Directors of the Company may think fit.
- (34) To draw, make, accept, endorse, discount, negotiate, execute, issue, buy, sell and deal in or with promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments.

- (35) To act as agents, brokers or trustees and to enter into any arrangement for partnership, joint working, joint venture in business or for the sharing of profits or for amalgamation with any other person or otherwise which may seem to the Board of Directors of the Company to advance the interests of the Company and to vest any property, assets, rights or liabilities of the Company in any person or company on behalf of the Company and with or without any declaration of trust in favour of the Company.
- (36) To establish and maintain or contribute to or make any arrangements for providing pensions, superannuation funds, donations, allowances, share acquisition and profit sharing schemes, gratuities, emoluments, loans and other matters or benefits to or for the benefit of any individuals who are or were at any time in the employment or service of the Company or of any company which is its holding company or is a subsidiary of the Company or any such holding company or otherwise is allied to or associated with the Company or any predecessors of the Company or of any other such company, or who are or were at any time directors or officers of the Company or of any such other company, and the wives, widows, families and dependants of any such individuals or to or for the benefit of such other persons as may from time to time be permitted by law; to establish, support, subsidise or subscribe to any institutions, associations, clubs, schemes, funds or trusts which may be considered by the Board of Directors of the Company likely to benefit any such persons or to further the interests of the Company or of any such other company; and to make payments for or towards the insurance of any such persons; and in particular, but without prejudice to the generality of the foregoing, to make arrangements in connection with any acquisition, vesting and transfer contemplated in sub-clause (1) of this Clause for the continuance or transfer to the Company of any pension arrangements of the Central Electricity Generating Board.
- (37) To subscribe for, or contribute (in cash or in kind) to, or otherwise support and to promote or sponsor, any national, charitable, benevolent, general or useful object or any object which may in the opinion of the Board of Directors of the Company be likely directly or indirectly to further the interests of the Company, its employees or its members.

- (38) To purchase or otherwise acquire and undertake all or any part of the business, property, assets, rights and liabilities of any person who is carrying on, or proposing to carry on, any business which the Company is authorised or empowered to carry on or who is possessed of any business, property, assets, rights or liability suitable for the purposes of the Company.
- (39) To pay and discharge all or any expenses, costs and disbursements, and to pay commissions to and to remunerate any person for services rendered or to be rendered, in connection with the formation, promotion, registration and flotation of the Company and the underwriting or placing or issue at any time of any securities of the Company or of any other person.
- (40) To issue any securities for any purpose whether by way of security or indemnity or in satisfaction of any liability undertaken or agreed to be undertaken by the Company or otherwise.
- (41) To procure the Company to be registered or recognised in any part of the world.
- (42) To sell, lease, grant rights over or in respect of or otherwise howsoever dispose of or deal with, the whole or any part of the undertaking, property assets and rights of the Company or of any interest therein for such consideration as the Board of Directors of the Company may think fit and to distribute any property or assets in specie or otherwise among the members of the Company.
- (43) To do all or any of the above things in any part of the world, and either as principal, agent, trustee, contractor or otherwise, and either alone or in conjunction with others, and either by or through agents, trustees, subsidiary companies, sub-contractors or otherwise.
- (44) To do all such other things as may be deemed, or as the Board of Directors of the Company considers, to further the interests of the Company or be incidental or conducive to the attainment of the above objects or any of them.

**AND IT IS HEREBY DECLARED** that in this clause:

- (a) unless the context otherwise requires, words in the singular include the plural and vice versa;
  - (b) unless the context otherwise requires, a reference to a person includes a reference to a company, and a reference to a person or company (other than references to the Company) includes a reference to a firm, partnership, corporation, government or other authority (municipal, local or otherwise), undertaking, organisation, association, statutory, public or other body and any other legal entity, whether resident, domiciled or situated (in any such case) in the United Kingdom or elsewhere;
  - (c) references to "other" and "otherwise" shall not be construed ejusdem generis where a wider construction is possible;
  - (d) the words "subsidiary" (except in paragraph (e) below) and "holding company" have the same meaning as in section 736 of the Companies Act 1985;
  - (e) any reference to the carrying on by the Company of any business or businesses of any description or descriptions shall include the carrying on of such business or businesses in any or all of its or their respective branches; and
  - (f) the objects specified in each of the foregoing paragraphs of this clause shall be separate and distinct objects of the Company and accordingly shall not be in any way limited or restricted (except so far as otherwise expressly stated in any paragraph) by reference to or inference from the terms of any other paragraph or the order in which the paragraphs occur or the name of the Company, and none of the paragraphs shall be deemed merely subsidiary or incidental to any other paragraph.
4. The liability of the members is limited.
5. The share capital of the Company is £525,049,999 divided into 1,050,000,000 ordinary shares of 50p each, 49,998 limited-voting redeemable preference shares of £1 each and one special rights non-voting redeemable preference share of £1.

We, the subscribers to this memorandum of association, wish to be formed into a company pursuant to this memorandum. We agree to take the number of shares shown opposite our respective names.

<b>Name and address of subscriber</b>	<b>Number of shares taken</b>
---------------------------------------	-------------------------------

David John Jackson	
--------------------	--

The Firs	
----------	--

Bampton Road	
--------------	--

Clanfield	
-----------	--

Oxfordshire OX 18 2RG	
-----------------------	--

	1 share of £1
--	---------------

Patrick Francis John O'Donnell Bourke	
--	--

Sherenden	
-----------	--

Hart's Heath Road	
-------------------	--

Curtisden Green	
-----------------	--

Kent TN17 1LJ	
---------------	--

	1 share of £1
--	---------------

	<b>Total shares taken</b>
--	---------------------------

	2 shares of £1 each
--	---------------------

Date:

Witness to signatures:



THE COMPANIES ACT 1985

---

A PRIVATE COMPANY LIMITED BY SHARES

---

ARTICLES OF ASSOCIATION

of

POWERGEN LIMITED

(adopted by a Special Resolution passed on 18 July 2002  
and incorporating amendments applicable on the  
re-registration of the company as limited, January 2003)

---

PRELIMINARY

1. The regulations in Table A as in force at the date of the adoption of the Articles do not apply to the Company.

2(1) In the Articles, unless the subject or context otherwise requires:

the *Act* means the Companies Act 1985 including any modification or re-enactment thereof for the time being in force;

*address*, in relation to electronic communications, includes any number or address used for the purposes of such communications;

the *Articles* means these articles of association as altered from time to time by special resolution;

the *auditors* means the auditors for the time being of the Company;

the *board* means the directors or any of them acting as the board of directors of the Company;

*clear days* in relation to the period of a notice means that period excluding the day when the notice is sent or deemed to be sent and the day for which it is sent or on which it is to take effect;

the *Companies Acts* means the Companies Acts as defined by section 744 of the Act and includes any enactment passed after those Acts which may, by virtue of that or any other such enactment, be cited together with those Acts as the *Companies Acts* (with or without the addition of an indication of the date of any such enactment);

the *Company* means POWERGEN PLC registered in England and Wales No. 03586615;

*director* means a director of the Company;

*dividend* means dividend or bonus;

*electronic signature* has the meaning given by section 7(2) of the Electronic Communications Act 2000;

*entitled by transmission* means, in relation to a share in the capital of the Company, entitled as a consequence of the death or bankruptcy of the holder or otherwise by operation of law;

the *holder* in relation to any share means the member whose name is entered in the register as the holder of such share;

*member* means a shareholder of the Company on the register of members at any relevant date;

the *Memorandum* means the memorandum of association of the Company as amended from time to time;

the *office* means the registered office of the Company;

*paid* means paid or credited as paid;

;

the *Redeemable Shares* means the limited-voting redeemable preference shares of £1 each in the capital of the Company;

the *register* means the register of members of the Company;

the *seal* means the common seal of the Company and includes any official seal kept by the Company by virtue of sections 39 or 40 of the Act;

the *secretary* means the secretary of the Company and includes a joint, assistant, deputy or temporary secretary and any other person appointed to perform the duties of the secretary;

the *Statutes* means the Companies Acts and every other statute or subordinate legislation within the meaning of the Interpretation Act 1978 for the time being in force concerning companies and affecting the Company; and

the *United Kingdom* means Great Britain and Northern Ireland.

(2) References to an *electronic communication* mean, unless the contrary is stated, an electronic communication (as defined in the Act) comprising writing.

References to a *document* include, unless the context otherwise requires, references to an electronic communication.

References to a document being *executed* include references to its being executed under hand or under seal or, in the case of an electronic communication, by electronic signature.

References to an *instrument* mean, unless the contrary is stated, a written document having tangible form and not comprised in an electronic communication (as defined in the Act).

References to a notice or other document being *sent* to a person by the Company include references to such notice or other document, or a copy of such notice or other document, being sent, given, delivered, issued or made available to, or served on, that person by any method authorised by these Articles, and *sending* shall be construed accordingly.

References to *writing* mean the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether comprised in an electronic communication (as defined in the Act) or otherwise, and *written* shall be construed accordingly.

Words denoting the singular number include the plural number and vice versa, words denoting the masculine gender include the feminine gender and words denoting persons include corporations.

Words or expressions contained in the Articles which are not defined in Article 2(1) bear the same meaning as in the Act (but excluding any statutory modification thereof not in force at the date of adoption of the Articles) unless inconsistent with the subject or context.

Subject to the preceding two paragraphs, references to any provision of any enactment or of any subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) include any modification or re-enactment of that provision for the time being in force.

The headings are inserted for convenience only and do not affect the construction of the Articles.

(3) In these Articles: (a) powers of delegation shall not be restrictively construed but the widest interpretation shall be given thereto; (b) the word *board* in the context of the exercise of any power contained in these Articles includes any committee consisting of one or more directors, any director holding executive office and any local or divisional board, manager or agent of the Company to which or, as the case may be, to whom the power in question has been delegated; (c) no power of delegation shall be limited by the existence or, except where expressly provided by the terms of delegation, the exercise of that or any other power of delegation, and (d) except where expressly provided by the terms of delegation, the delegation of power shall not exclude the concurrent exercise of that power by any other body or person

who is for the time being authorised to exercise it under these Articles or under another delegation of the power.

### SHARE CAPITAL

3. The share capital of the Company is £525,049,999, divided into 1,050,000,000 ordinary shares of 50p each, 49,998 limited-voting redeemable preference shares of £1 each and one special rights non-voting redeemable preference share of £1.

4. Subject to the provisions of the Companies Acts and without prejudice to any rights attached to any existing shares or class of shares, any share may be issued with such rights or restrictions as the Company may by ordinary resolution determine or, subject to and in default of such determination, as the board shall determine.

4A.(1) In this article, references to the *Scheme* are to the scheme of arrangement between the Company and the holders of Scheme Shares (as defined therein) under section 425 of the Act set out in the circular to the Company's shareholders dated 27 March 2002 (in its original form or with or subject to any modification, addition or condition approved or imposed by the Court) and terms defined in the Scheme shall have the same meanings in this Article.

(2) Notwithstanding any other provision of these Articles, if the Company issues any ordinary shares of 50 pence each after the adoption of this Article and prior to the close of business on the business day preceding the Hearing Date, such shares shall be allotted and issued subject to the terms of the Scheme and the holders of such shares shall be bound by the Scheme accordingly. The Company shall, if such shares are allotted within six months of the Scheme Effective Date, at the time of allotment of such shares send a form of election in relation to the Loan Note Alternative to such holders.

(3) Subject to the Scheme becoming effective, if on or following the Scheme Effective Date any shares in the Company are allotted and issued to any person or persons (each a *New Member*) other than a member of the E.ON Group or any nominee of the E.ON Group, they will be immediately transferred to E.ON UK, or as it may direct, in consideration of and conditional on the payment to the New Member of either:

- (a) the same cash consideration per ordinary share of 50 pence each in the capital of the Company as was paid to a holder of Cancellation Shares under the Scheme; or
- (b) the same nominal amount of E.ON UK Loan Notes per ordinary share of 50 pence each in the capital of the Company as was received by a holder of Transfer Shares under the Scheme (subject to and on the terms of the Loan Note Alternative and the Loan Note Instrument) PROVIDED THAT (i) the conditions for making the Loan Note Alternative available under the terms of the Scheme have been satisfied; (ii) all of the outstanding E.ON UK Loan Notes issued pursuant to the Scheme have not been repaid, redeemed or purchased by E.ON UK; and (iii) on or before the date which is six months after the Scheme Effective Date, the New Member makes a valid election to

receive E.ON UK Loan Notes in accordance with the terms of the Loan Note Alternative and the Loan Note Instrument within 14 days of the date of the allotment of any shares in the Company to that New Member.

(4) On any reorganisation of, or material alteration to, the share capital of the Company (including, without limitation, any subdivision and/or consolidation), the value of the cash payment per share to be paid under paragraph (3) of this Article shall be adjusted by the Directors in such manner as the auditors of the Company may determine to be appropriate to reflect such reorganisation or alteration. References in this article to ordinary shares shall, following such adjustment, be construed accordingly.

(5) To give effect to any such transfer required by this article 4A, the Company may appoint any person to execute a form of transfer on behalf of the New Member in favour of E.ON UK, or as it may direct. Pending the registration of E.ON UK as the holder of any share to be transferred pursuant to this article 4A, E.ON UK shall be empowered to appoint a person nominated by the directors to act as attorney on behalf of the New Member in accordance with such directions as E.ON UK may give in relation to any dealings with or disposal of such share (or any interest therein), exercising any rights attached thereto or receiving any distribution or other benefit accruing or payable in respect thereof and the registered holders of such share shall exercise all rights attaching thereto in accordance with the directions of E.ON UK but not otherwise. Payment in respect of any shares transferred under this article 4A will be made within 14 days of the date of transfer of such shares.

5. Subject to the provisions of the Companies Acts relating to authority, pre-emption rights or otherwise and of any resolution of the Company in general meeting passed pursuant to those provisions, all unissued shares for the time being in the capital of the Company shall be at the disposal of the board, and the board may (subject as aforesaid) allot (with or without conferring a right of renunciation), grant options over, or otherwise dispose of them to such persons, on such terms and conditions, and at such times as it thinks fit. This power shall not apply to redeemable shares, which shall be governed by the provisions of Article 6.

6. Subject to the provisions of the Companies Acts and without prejudice to any rights attaching to any existing shares or class of shares, shares may be issued which are to be redeemed or are to be liable to be redeemed at the option of the Company or the holder on such terms and in such manner as may be provided by the Articles.

7. The Company may exercise all powers of paying commissions or brokerage conferred or permitted by the Companies Acts. Subject to the provisions of the Companies Acts, any such commission or brokerage may be satisfied by the payment of cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other.

8. Except as required by law, no person shall be recognised by the Company as holding any share upon any trust and (except as otherwise provided by the Articles or by law) the Company shall not be bound by or recognise any interest in any share (or in any fractional part of a share) except the holder's absolute right to the entirety of the share (or fractional part).

## VARIATION OF RIGHTS

9.(1) Subject to the provisions of the Companies Acts, if at any time the capital of the Company is divided into different classes of shares, the rights attached to any class may (unless otherwise provided by the terms of issue of the shares of that class) be varied or abrogated, whether or not the Company is being wound up, either with the consent of the holders of three-quarters in nominal value of the issued shares of the class, which consent shall be by means of one or more instruments or contained in one or more electronic communications sent to such address (if any) as may for the time being be notified by or on behalf of the Company for that purpose or a combination of both, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class (but not otherwise). All the provisions of the Articles relating to general meetings of the Company shall, mutatis mutandis, apply to every such separate meeting, except that:-

- (a) the necessary quorum shall be two persons holding or representing by proxy at least one-third in nominal value of the issued shares of the class or, at any adjourned meeting of such holders, one holder present in person or by proxy, whatever the amount of his holding, who shall be deemed to constitute a meeting; and
- (b) any holder of shares of the class present in person or by proxy may demand a poll; and
- (c) the holders of shares of the class shall, on a poll, have one vote in respect of every share of the class held by them respectively.

(2) For the purposes of this Article 9, if at any time the capital of the Company is divided into different classes of shares, unless otherwise expressly provided by the rights attached to any share or class of shares, those rights shall be deemed to be varied by:

- (a) the reduction of the capital paid up on that share or class of shares otherwise than by a purchase or redemption by the Company of its own shares; and
- (b) the allotment of another share ranking in priority for payment of a dividend or in respect of capital or which confers on its holder voting rights more favourable than those conferred by that share or class of shares,

but shall not be deemed to be varied by:

- (c) the creation or issue of another share ranking equally with, or subsequent to, that share or class of shares or by the purchase or redemption by the Company of its own shares; or
- (d) the Company permitting, the holding of and transfer of title to shares of that or any other class in uncertificated form.

## REDEEMABLE SHARES

- 10.(1) The Redeemable Shares shall have the rights set out in this Article 10.
- (2) The holders of the Redeemable Shares shall not be entitled to receive or participate in any of the profits of the Company available for distribution by way of dividend or otherwise.
- (3) On a winding-up or other return of capital, the holders of the Redeemable Shares shall be entitled, in priority to any holder of any other class of shares in the Company, to receive in full the amounts paid up on such shares from the assets of the Company available for distribution among the members.
- (4)(a) Subject to the provisions of the Companies Acts, the Company may redeem the Redeemable Shares at any time by giving the holders of the Redeemable Shares to be redeemed notice in writing of the date (the *Redemption Date*) when such redemption is to be effective.
- (b) Any notice given under paragraph (a) of this Article 10(4) shall specify the number of shares to be redeemed, the Redemption Date and the place at which the certificates for such Redeemable Shares are to be presented for redemption. Upon the Redemption Date, the Company shall redeem the Redeemable Shares on that date and the holder of the Redeemable Shares shall be bound to deliver to the Company at such place the certificates for such Redeemable Shares held by him. Upon such delivery the Company shall pay to the holder in full the amounts paid up on such shares.
- (5) The holders of the Redeemable Shares shall not be entitled to receive notice of or to attend or vote at any general meeting of the Company in respect of their holding of Redeemable Shares save that if a resolution is to be proposed:
- (a) to wind up the Company; or
- (b) which varies, modifies, alters or abrogates any of the rights attaching to the Redeemable Shares,

the holders of the Redeemable Shares shall have the right to attend such a meeting and to speak and vote only on such resolution or any motion for adjournment of the meeting before such resolution is voted on.

## SHARE CERTIFICATES

- 11.(a) Every member shall be entitled, without payment, to one certificate for all the shares of each class held by him (and, upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding) or, with the consent of the board, several certificates each for one or more of his shares upon payment for every certificate of such reasonable sum as the board may determine.

- (b) Every share certificate shall be sealed with the seal or executed by the Company in accordance with Article 119(3) or in such other manner as the board may approve and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up thereon. No certificate shall be issued representing shares of more than one class.
- (c) The Company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint holder shall be sufficient delivery to all of them. Shares of different classes may not be included in the same certificate.

12. If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity (with or without security) and payment of any exceptional out of pocket expenses reasonably incurred by the Company in investigating evidence and preparing the requisite form of indemnity as the board may determine but otherwise free of charge, and (in the case of defacement or wearing out) on delivery up of the old certificate.

#### LIEN

13. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share. The board may at any time (generally or in particular cases) waive any lien or declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien on a share shall extend to any amount (including, without limitation, dividends) payable in respect of it.

14. The Company may sell, in such manner as the board determines, any share on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice has been sent to the holder of the share or to the person entitled to it by transmission, demanding payment and stating that if the notice is not complied with the shares may be sold.

15. To give effect to any such sale the board may authorise any person to execute an instrument of transfer of the share sold to, or in accordance with the directions of, the transferee. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in relation to the sale.

16. The net proceeds of the sale, after payment of the costs, shall be applied in or towards payment or satisfaction of so much of the sum in respect of which the lien exists as is presently payable, and any residue shall (on surrender to the Company for cancellation of the certificate in respect of the share sold and subject to a like lien for any moneys not presently payable as existed on the share before the sale) be paid to the person entitled to the shares at the date of the sale.

#### CALLS ON SHARES



17. Subject to the terms of allotment, the board may from time to time make calls upon the members in respect of any moneys unpaid on their shares (whether in respect of nominal value or premium) and each member shall (subject to receiving at least fourteen clear days' notice specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may be revoked in whole or part and the time fixed for payment of a call may be postponed in whole or part as the board may determine. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect whereof the call was made.

18. A call shall be deemed to have been made at the time when the resolution of the board authorising the call was passed.

19. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

20. If a call or any instalment of a call remains unpaid in whole or in part after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of allotment of the share or in the notice of the call or, if no rate is fixed, such rate, not exceeding 15 per cent. per annum, or, if higher, the appropriate rate (as defined by the Act), as may be determined by the board, but the board may, in respect of any individual member, waive payment of such interest wholly or in part.

21. An amount payable in respect of a share on allotment or at any fixed date, whether in respect of nominal value or premium or as an instalment of a call, shall be deemed to be a call duly made and notified and payable on the date so fixed or in accordance with the terms of the allotment, and if it is not paid the provisions of the Articles shall apply as if that amount had become due and payable by virtue of a call duly made and notified.

22. Subject to the terms of allotment, the board may make arrangements on the issue of shares for a difference between the allottees or holders in the amounts and times of payment of calls on their shares.

23. The board may, if it thinks fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him. Such payment in advance of calls shall extinguish the liability on the share in respect of which it is made to the extent of the payment. The Company may pay upon all or any of the moneys so advanced (until they would but for such advance become presently payable) interest at such rate agreed between the board and the member not exceeding (unless the Company by ordinary resolution otherwise directs) 15 per cent. per annum or, if higher, the appropriate rate (as defined in the Act).

#### **FORFEITURE AND SURRENDER**

24. If a call or any instalment of a call remains unpaid in whole or in part after it has become due and payable, the board may give to the person from whom it is due

not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued and any costs, charges and expenses incurred by the Company by reason of such non-payment. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the shares in respect of which the call was made will be liable to be forfeited.

25. If any such notice is not complied with, any share in respect of which it was given may, at any time before the payment required by the notice has been made, be forfeited by a resolution of the board and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited share and not paid before the forfeiture. When any share has been forfeited, notice of the forfeiture shall be sent to the person who was before the forfeiture the holder of the share, but no forfeiture shall be invalidated by any omission or neglect to give the notice.

26. Subject to the provisions of the Companies Acts, a forfeited share shall be deemed to belong to the Company and may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the board determines, either to the person who was before the forfeiture the holder or to any other person and at any time before sale, re-allotment or other disposal, the forfeiture may be cancelled on such terms as the board thinks fit. Where for the purposes of its disposal a forfeited share is to be transferred to any person, the board may authorise any person to execute an instrument of transfer of the share to that person. The Company may receive the consideration given for the share on its disposal and may register the transferee as holder of the share.

27. A person any of whose shares have been forfeited shall cease to be a member in respect of them and shall surrender to the Company for cancellation the certificate for the shares forfeited. The person shall remain liable to the Company for all moneys which at the date of forfeiture were presently payable by him to the Company in respect of those shares with interest thereon at the rate at which interest was payable on those moneys before the forfeiture or, if no interest was so payable, at the rate of 15 per cent. per annum or, if higher, the appropriate rate (as defined in the Act) (or such lower rate as the board may determine) from the date of forfeiture until payment, but the board may waive payment wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.

28. The board may accept the surrender of any share which it is in a position to forfeit upon such terms and conditions as may be agreed and, subject to any such terms and conditions, a surrendered share shall be treated as if it had been forfeited.

29. The forfeiture of a share shall involve the extinction at the time of forfeiture of all interest in and all claims and demands against the Company in respect of the share and all other rights and liabilities incidental to the share as between the person whose share is forfeited and the Company, except only those rights and liabilities expressly saved by the Articles, or as are given or imposed in the case of past members by the Companies Acts.

30. A statutory declaration by a director or the secretary that a share has been duly forfeited or surrendered on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share and the declaration shall constitute a good title to the share and the person to whom the share is disposed of shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity in or invalidity of, the proceedings in reference to the forfeiture, surrender, sale, re-allotment or disposal of the share.

### TRANSFER OF SHARES

31.(a) The instrument of transfer of a share may be in any usual form or in any other form which the board may approve and shall be executed by or on behalf of the transferor and, unless the share is fully paid, by or on behalf of the transferee. An instrument of transfer need not be under seal.

(b) In relation to all transfers, the transferor shall remain the holder of the shares concerned until the name of the transferee is entered in the register of members in respect of them.

32. The board may refuse to register a transfer of any shares (whether fully paid or not):

(a) to an entity which is not a natural or legal person;

(b) to a minor; or

(c) to be held jointly by more than four persons.

33. The board may refuse to register the transfer of a share unless the instrument of transfer:

(a) is lodged, duly stamped (if stampable), at the office or at such other place as the board may appoint accompanied by the certificate for the shares to which it relates and such other evidence as the board may reasonably require to show the right of the transferor to make the transfer;

(b) is in respect of only one class of shares; and

(c) is in favour of not more than four transferees jointly.

34. The board may, in its absolute discretion and without giving any reason, refuse to register the transfer of a share which is not fully paid.35. If the board refuses to register a transfer, it shall send to the transferee notice of the refusal within 14 days after the date on which the transfer was lodged with the Company at the transfer office.

36. No fee will be charged by the Company in respect of the registration of any instrument of transfer or other document or instruction relating to or affecting the title to any share.

37. The Company shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the board refuses to register shall be returned to the person lodging it when notice of the refusal is given.

#### TRANSMISSION OF SHARES

38. If a member dies the survivor or survivors where he was a joint holder, and his personal representatives where he was a sole holder or the only survivor of joint holders, shall be the only persons recognised by the Company as having any title to his interest; but nothing in the Articles shall release the estate of a deceased member (whether a sole or joint holder) from any liability in respect of any share held by him.

39.(1) A person becoming entitled by transmission to a share may, upon such evidence being produced as the board may properly require as to his entitlement, elect either to become the holder of the share or to have some person nominated by him registered as the transferee. If he elects to become the holder he shall give notice to the Company to that effect. If he elects to have another person registered he shall execute an instrument of transfer of the share to that person. All the provisions of the Articles relating to the transfer of shares shall apply to any such notice or instrument of transfer as if it were an instrument of transfer executed by the member and the death or bankruptcy of the member or other event giving rise to the transmission had not occurred.

(2) The board may at any time send a 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 sixty days the board may thereafter withhold payment of all dividends or other moneys payable in respect of the share until the requirements of the notice have been complied with.

40. A person becoming entitled by transmission to a share shall, upon such evidence being produced as the board may properly require as to his entitlement and subject to the requirements of Article 39, have the same rights in relation to the share as he would have had if he were the holder of the share, and may give a discharge for all dividends and other moneys payable in respect of the share, but he shall not, before being registered as the holder of the share, be entitled in respect of it to receive notice of or to attend or vote at any meeting of the Company or to receive notice of or to attend or vote at any separate meeting of the holders of any class of shares in the Company.

#### ALTERATION OF SHARE CAPITAL

41. The Company may by ordinary resolution:
- (a) increase its share capital by such sum to be divided into shares of such amount as the resolution prescribes;
  - (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

- (c) subject to the provisions of the Companies Acts, sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the Memorandum and the resolution may determine that, as between the shares resulting from the sub-division, any of them may have any preference or advantage as compared with the others; and
- (d) cancel shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.

42. All shares created by ordinary resolution pursuant to Article 41 shall be:

- (a) subject to all the provisions of the Articles including, without limitation, provisions relating to payment of calls, lien, forfeiture, transfer and transmission; and
- (b) unclassified, unless otherwise provided by the Articles, by the resolution creating the shares or by the terms of allotment of the shares.

43. Whenever as a result of a consolidation or division of shares any difficulty arises, the board may settle the matter in any manner it deems fit and, in particular, may sell shares representing fractions to which any members would become entitled to any person (including, subject to the provisions of the Companies Acts, the Company) and distribute the net proceeds of sale in due proportion among those members (except that any amount due to a member, being less than £2.50 or such other amount as the board may from time to time determine, may be retained for the benefit of the Company). Without limiting the generality of the foregoing, for the purposes of effecting any such sale, the Directors may allot shares representing fractions to which any members would otherwise become entitled to any person and authorise some person to execute a transfer of the shares sold. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

44. Subject to the provisions of the Companies Acts, the Company may by special resolution reduce its share capital, any capital redemption reserve and any share premium account in any way.

#### **PURCHASE OF OWN SHARES**

45. Subject to and in accordance with the provisions of the Companies Acts and without prejudice to any relevant special rights attached to any class of shares, the Company may purchase any of its own shares of any class (including, without limitation, redeemable shares) in any way and at any price (whether at par or above or below par), and so that any shares to be so purchased may be selected in any manner whatsoever.

#### **GENERAL MEETINGS**

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

47. The board shall convene and the Company shall hold general meetings as annual general meetings in accordance with the requirements of the Companies Acts.

48. The board may call general meetings whenever and at such times and places as it shall determine and, on the requisition of members pursuant to the provisions of the Act, shall promptly proceed to convene an extraordinary general meeting in accordance with the requirements of the Companies Acts and for a date not later than seven weeks after receipt of the requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director of the Company may call a general meeting.

#### NOTICE OF GENERAL MEETINGS

49. An annual general meeting and an extraordinary general meeting called for the passing of a special resolution shall be called by at least twenty-one clear days' notice. All other extraordinary general meetings shall be called by at least fourteen clear days' notice, but a general meeting may be called by shorter notice if it is so agreed:-

- (a) in the case of an 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 members having a right to attend and vote being a majority together holding not less than ninety-five per cent in nominal value of the shares giving that right.

Subject to the provisions of the Companies Acts, to the provisions of these Articles and to any restrictions imposed on any shares, the notice shall be sent to all the members, to each of the directors and to the auditors for the time being or, if more than one for the time being, each of them.

50.(1) Without prejudice to the powers of the Company to convene, conduct and adjourn general meetings in such manner as may from time to time be permitted by law, if the board so determines the provisions of this Article shall apply if any general meeting is convened at or adjourned to more than one place.

(2) The notice of the meeting or adjourned meeting shall specify the place at which the chairman of the meeting shall preside (the *Specified Place*) and the directors may make arrangements for simultaneous attendance and participation at other places (*satellite meeting places*), whether adjoining the Specified Place or in a different and separate place or places altogether or otherwise, by members, provided that persons attending at any satellite meeting place shall be able to see and hear and be seen and heard (whether by audio visual links or otherwise howsoever enabling the same) by persons attending at the other places at which the meeting is convened. For the purposes of all other provisions of the Articles any such meeting shall be treated as being held at the Specified Place.

(3) The board and, at any general meeting, the chairman may from time to time make such arrangements for the purpose of controlling the level of attendance at any such place (whether involving the issue of tickets or the imposition of some means of selection or otherwise) as they shall in their absolute discretion consider appropriate, and may from time to time vary any such arrangements or make new arrangements in place of them, provided that a member who is not entitled to attend, in person or by proxy, at any particular place shall be entitled so to attend at one of the other places; and the entitlement of any member so to attend the meeting or adjourned meeting at such place shall be subject to any such arrangements as may be for the time being in force and by the notice of meeting or adjourned meeting stated to apply to the meeting.

(4) If a meeting is adjourned to more than one place, notice of the adjourned meeting shall be given notwithstanding any other provision of the Articles.

51. For the purposes of Article 50, the right of a member to participate in the business of any general meeting convened at or adjourned to more than one place shall include without limitation the right to speak, vote on a show of hands, vote on a poll, be represented by a proxy and have access to all documents which are required by the Companies Acts or the Articles to be made available at the meeting.

52. The notice shall specify the time and place of the meeting and the general nature of the business to be transacted. The notice shall, in the case of an annual general meeting, specify the meeting as such, and, in the case of a meeting to pass a special or extraordinary resolution, specify the intention to propose the resolution as a special or extraordinary resolution, as the case may be.

53. The accidental omission to send a notice of a meeting, or to send any notification where required by the Companies Acts or these Articles in relation to the publication of a notice of meeting on a website, or to send a form of proxy where required by the Companies Acts or these Articles, to any person entitled to receive it, or the non-receipt for any reason of any such notice or notification or form of proxy by that person, whether or not the Company is aware of such omission or non-receipt, shall not invalidate the proceedings at that meeting.

54. The board and, at any general meeting, the chairman may make any arrangement and impose any requirement or restriction it or he considers appropriate to ensure the security of a general meeting including, without limitation, requirements for evidence of identity to be produced by those attending the meeting, the searching of their personal property and the restriction of items that may be taken into the meeting place. The board and, at any general meeting, the chairman are entitled to refuse entry to a person who refuses to comply with these arrangements, requirements or restrictions.

#### PROCEEDINGS AT GENERAL MEETINGS

55. No business shall be transacted at any general meeting unless a quorum is present, but the absence of a quorum shall not preclude the choice or appointment of a chairman, which shall not be treated as part of the business of the meeting. Save as otherwise provided by the Articles, two persons, each being a member or a proxy for a

member or a duly authorised representative of a corporation or a corporation sole which is a member, entitled to vote upon the business to be transacted shall be a quorum.

56. If such a quorum is not present within five minutes (or such longer time not exceeding thirty minutes as the chairman of the meeting may decide to wait) from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting, if convened on the requisition of members, shall be dissolved, and in any other case shall stand adjourned to such time and place as the chairman of the meeting may determine. If at the adjourned meeting a quorum is not present within fifteen minutes after the time appointed for holding the meeting, the meeting shall be dissolved.

57. The chairman, if any, of the board or in his absence some other director nominated by the board, shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) is present within five minutes after the time appointed for holding the meeting or is not willing to act as chairman, the directors present shall elect one of their number to be chairman. If there is only one director present and willing to act, he shall be chairman. If no director is willing to act as chairman, or if no director is present within five minutes after the time appointed for holding the meeting, the persons present and entitled to vote shall choose one of their number to be chairman.

58. A director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares in the Company.

59.(1) The chairman may, with the consent of a 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 an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. In addition, the chairman may adjourn the meeting to another time and place without such consent if it appears to him that:

- (a) it is likely to be impracticable to hold or continue that meeting because of the number of members wishing to attend who are not present;
- (b) the unruly conduct of persons attending the meeting prevents or is likely to prevent the orderly continuation of the business of the meeting; or
- (c) an adjournment is otherwise necessary so that the business of the meeting may be properly conducted.

(2) Any such adjournment may be for such time and to such other place (or, in the case of a meeting to which Article 50 applies, such other places) as the chairman may, in his absolute discretion determine, notwithstanding that by reason of such adjournment some members may be unable to be present at the adjourned meeting. Any such member may nevertheless appoint a proxy for the adjourned meeting either in accordance with Article 78(1) or by means of an instrument which, if delivered by him at the meeting which is adjourned to the chairman or the secretary or any director,



shall be valid even though it is given at less notice than would otherwise be required by Article 78(1)(a). When a meeting is adjourned for three months or more or for an indefinite period, notice shall be sent at least seven clear days' before the date of the adjourned meeting specifying the time and place (or places in the case of a meeting to which Article 50 applies) of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to send any notice of an adjournment or of the business to be transacted at an adjourned meeting.

60. If an amendment shall be proposed to any resolution under consideration but shall in good faith be ruled out of order by the chairman of the meeting, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling. With the consent of the chairman, an amendment may be withdrawn by its proposer before it is voted on. In the case of a resolution duly proposed as a special or extraordinary resolution, no amendment thereto (other than a mere clerical amendment to correct a patent error) may in any event be considered or voted upon. No amendment to a resolution duly proposed as an ordinary resolution may be considered or voted on (other than a mere clerical amendment to correct a patent error) unless either (a) at least 48 hours before the time appointed for holding the meeting or adjourned meeting at which the ordinary resolution is to be considered, notice of the terms of the amendment and the intention to move it has been lodged at the office, or (b) the chairman in his absolute discretion decides that the amendment may be considered and voted on.

61. A resolution put to the vote of a general meeting shall be decided on a show of hands unless, before or on the declaration of the result of a vote on the show of hands or on the withdrawal of any other demand for a poll, a poll is duly demanded. Subject to the provisions of the Companies Acts, a poll may be demanded by:-

- (a) the chairman of the meeting; or
- (b) at least five members present in person or by proxy or by a duly authorised representative and having the right to vote at the meeting; or
- (c) any member or members present in person or by proxy or by a duly authorised representative 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) any member or members present in person or by proxy or by a duly authorised representative and holding shares 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,

and a demand by a person as proxy for a member or as the duly authorised representative of a member shall be the same as a demand by the member (except that, for the purpose of determining whether the requirements of this Article are met, the voting rights which may be exercised by any such person in his capacity as proxy for, or duly authorised representative of, the member shall be taken into account and not the voting rights which may be exercised by the member himself).

62. Unless a poll is duly demanded (and the demand is not withdrawn before the poll is taken) a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

63. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made. If the demand for a poll is withdrawn, the chairman or any other person or member entitled may demand a poll.

64. Subject to Article 66, a poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

65. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall be entitled to a casting vote in addition to any other vote he may have.

66. A poll demanded on the election of a chairman or on a question of adjournment shall be taken at the meeting at which it is demanded. A poll demanded on any other question shall be taken either at the meeting at which it is demanded or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

67. No notice need be sent of a poll not taken at the meeting at which it is demanded if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case notice shall be sent at least seven clear days' before the taking of the poll specifying the time and place at which the poll is to be taken.

68.(1) Where for any purpose an ordinary resolution of the Company is required, a special or extraordinary resolution shall also be effective and where for any purpose an extraordinary resolution is required a special resolution shall also be effective.

(2) A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting properly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more of the members.

## VOTES OF MEMBERS

69. Subject to any rights or restrictions attached to any shares, on a show of hands every member who is present in person (which expression shall include a person present as the duly authorised representative of a corporation or a corporation sole which is a member) shall have one vote. On a poll every member present in person or by proxy shall have one vote for every share of which he is the holder.

70. In the case of joint holders of a share 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 of the holders stand in the register.

71. A member in respect of whom an order has been made by any court or official having competent jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorised in that behalf appointed by that court or official, and any such receiver, curator bonis or other person may, on a poll, vote by proxy. Evidence to the satisfaction of the board of the authority of the person claiming to exercise the right to vote shall be delivered to the office, or at such other place as is specified in accordance with the Articles for the delivery of proxy appointments, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.

72. No member shall be entitled to vote at any general meeting or at any separate meeting of the holders of any class of shares in the Company, either in person or by proxy, in respect of any share held by him unless all moneys presently payable by him in respect of that share have been paid.

73. If any votes are counted which ought not to have been counted, or might have been rejected, the error shall not vitiate the result of the voting unless it is pointed out at the same meeting, or at any adjournment of the meeting, and, in the opinion of the chairman, it is of sufficient magnitude to vitiate the result of the voting.

74. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting or poll at which the vote objected to is tendered, and every vote not disallowed at such meeting shall be valid and every vote not counted which ought to have been counted shall be disregarded. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.

75. On a poll votes may be given either personally or by proxy or (in the case of a corporation or a corporation sole which is a member) by a duly authorised representative. A member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way. A proxy need not be a member.

## PROXIES

76. The appointment of a proxy, whether by means of an instrument or contained in an electronic communication, shall be executed in such manner as the board may

approve. Subject thereto, the appointment of a proxy shall be executed by the appointor or his attorney or, if the appointor is a corporation, either under its common seal or the hand of a duly authorised officer, attorney or other person authorised to sign it or, if the appointor is a corporation sole, under the hand of a duly authorised representative thereof. A member may appoint more than one proxy to attend on the same occasion provided that, in any case, the member must state in the instrument or electronic communication appointing each such proxy, the number of shares in respect of which the appointment of that proxy is made. For the purpose of this Article and Articles 80 and 81, an electronic communication which contains a proxy appointment need not comprise writing if the board so determines and in such a case, if the board so determines, the appointment need not be executed but shall instead be subject to such conditions as the board may approve.

77. The appointment of a proxy shall be in any usual form or in any other form which the board may approve. Subject thereto, the appointment of a proxy may be:

- (a) by means of an instrument; or
- (b) contained in an electronic communication sent to such address (if any) as may for the time being be notified by or on behalf of the Company for that purpose.

The board may, if it thinks fit, but subject to the provisions of the Companies Acts, send out with the notice of any meeting forms of proxy for use at the meeting and issue invitations contained in electronic communications to appoint a proxy in relation to the meeting in such form as may be approved by the board. The appointment of a proxy shall not preclude a member from attending and voting in person at the meeting or poll concerned. A member may appoint more than one proxy to attend on the same occasion.

78.(1) Without prejudice to the second sentence of Article 59(2), the appointment of a proxy shall:-

- (a) in the case of an instrument, be delivered personally or by post to the office or such other place in the United Kingdom as may be specified by or on behalf of the Company for that purpose:
  - (i) in the notice convening the meeting, or
  - (ii) in any form of proxy sent by or on behalf of the Company in relation to the meeting,  
before the time appointed for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote; or
- (b) in the case of an appointment contained in an electronic communication, where an address has been specified by or on behalf of the Company for the purpose of receiving electronic communications:
  - (i) in the notice convening the meeting, or

- (ii) in any form of proxy sent by or on behalf of the Company in relation to the meeting, or
- (iii) in any invitation contained in an electronic communication to appoint a proxy issued by or on behalf of the Company in relation to the meeting,

be received at that address before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote; or

- (c) in either case, where a poll is taken more than 48 hours after it is demanded, be delivered or received as aforesaid after the poll has been demanded before the time appointed for the taking of the poll; or
- (d) in the case only of an instrument, where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director.

(2) Any power of attorney or other written authority under which a proxy appointment is executed or an office or notarially certified copy or a copy certified in accordance with the Powers of Attorney Act 1971 of such power or written authority shall be:

- (a) delivered personally or by post to the office, or to such other place within the United Kingdom as may be specified by or on behalf of the Company in accordance with Article 78.1(a), before the time appointed for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote; or
- (b) where a poll is taken more than 48 hours after it is demanded, be delivered as aforesaid after the poll has been demanded before the time appointed for the taking of the poll; or
- (c) in the case only of a proxy appointment by means of an instrument, where a poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director together with the proxy appointment to which it relates.

(3) A proxy appointment which is not delivered or received in accordance with Article 78(1), or in respect of which Article 78(2) has not been complied with, shall be invalid. No proxy appointment shall be valid after the expiration of twelve months from the date stated in it as the date of its execution. When two or more valid but differing proxy appointments are delivered or received in respect of the same share for use at the same meeting, the one which was executed last shall be treated as replacing and revoking the others as regards that share; if the Company is unable to determine which was executed last, none of them shall be treated as valid in respect of that share.

79.(1) A vote given or poll demanded by a proxy or by the duly authorised representative of a corporation or corporation sole shall be valid notwithstanding the previous determination of the authority of the person voting or demanding the poll, unless notice of the determination was either delivered or received as mentioned in the following sentence before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll. Such notice of determination shall be either by means of an instrument delivered to the office or to such other place within the United Kingdom as may be specified by or on behalf of the Company in accordance with Article 78(1)(a) or contained in an electronic communication received at the address (if any) specified by or on behalf of the Company in accordance with Article 78(1)(b), regardless of whether any relevant proxy appointment was effected by means of an instrument or contained in an electronic communication. For the purpose of this Article, an electronic communication which contains such notice of determination need not comprise writing if the board has determined that the electronic communication which contains the relevant proxy appointment need not comprise writing.

(2) A proxy appointment shall be deemed to include the right to demand, or join in demanding, a poll. A proxy shall not, except with the permission of the Chairman, have any right to speak at a meeting. The proxy appointment shall also be deemed to confer authority to vote on any amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The proxy appointment shall, unless it provides to the contrary, be valid for any adjournment of a meeting as well as for the meeting to which it relates.

(3) If a member appoints more than one proxy and the proxy appointments appointing such proxies purport, in aggregate, to confer on those proxies the authority to vote at a general meeting more shares than are at the relevant time held by that member, each of those proxy appointments shall be invalid and none of the proxies so appointed by that member shall be entitled to attend, speak (if relevant) or vote at that general meeting.

80. Any corporation or corporation sole which is a member of the Company (in this Article, the *grantor*) may (in the case of a corporation, by resolution of its directors or other governing body or by authority to be given under seal or under the hand of an officer or officers duly authorised by it) authorise such person as it thinks fit to act as its representative at any meeting of the Company or at any separate meeting of the holders of any class of shares. A person so authorised shall be entitled to exercise the same power on behalf of the grantor of the authority (in respect of that part of the grantor's holding to which his authorisation relates, in the case of an authorisation of more than one person) as the grantor could exercise if it were an individual member of the Company and the grantor shall for the purposes of the Articles be deemed to be present in person at any such meeting if a person so authorised is present at it. In relation to any such meeting, a person authorised under section 3 of the Treasury Solicitor Act 1876 shall be treated for the purposes of this Article as if his authority had been granted by the Solicitor for the affairs of Her Majesty's Treasury; and in the Articles references to a duly authorised representative

of a corporation sole include, in relation to the Solicitor for the affairs of Her Majesty's Treasury, references to a person authorised under that section.

#### NUMBER OF DIRECTORS

81. Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall be not less than four nor more than sixteen in number.

#### APPOINTMENT AND RETIREMENT OF DIRECTORS

82. Except as otherwise authorised by the Companies Acts, the appointment of any person proposed as a director shall be effected by a separate resolution.

83. The Company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director.

84. The board may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director, provided that the appointment does not cause the number of directors to exceed any number, if any, fixed by or in accordance with the Articles as the maximum number of directors.

85.(1) No person shall be disqualified from being appointed or reappointed a director, and no director shall be required to vacate that office, by reason only of the fact that he has attained the age of seventy years or any other age nor shall it be necessary by reason of his age to give special notice under the Companies Acts of any resolution. Where the board convenes any general meeting of the company at which (to the knowledge of the board) a director will be proposed for appointment or reappointment who at the date for which the meeting is convened will have attained the age of seventy years or more, the board shall give notice of his age in years in the notice convening the meeting or in any document sent with the notice, but the accidental omission to do so shall not invalidate any proceedings, or any appointment or reappointment of that director, at that meeting.

(2) A director shall not be required to hold any shares of the Company by way of qualification.

#### ALTERNATE DIRECTORS

86. Any director (other than an alternate director) may appoint any other director, or any other person approved by resolution of the board and willing to act, to be an alternate director and may remove from office an alternate director so appointed by him.

87. An alternate director shall be entitled to receive notice of all meetings of the board and of all meetings of committees of the board of which his appointor is a member, to attend and vote at any such meeting at which his appointor is not personally present, and generally to perform all the functions of his appointor (except as regards power to appoint an alternate) as a director in his absence. It shall not be

necessary to give notice of such a meeting to an alternate director who is absent from the United Kingdom.

88. A director or any other person may act as alternate director to represent more than one director, and an alternate director shall be entitled at meetings of the board or any committee of the board to one vote for every director whom he represents (and who is not present) in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of determining whether a quorum is present.

89. An alternate director may be repaid by the Company such expenses as might properly have been repaid to him if he had been a director but shall not in respect of his services as an alternate director be entitled to receive any remuneration from the Company. An alternate director shall be entitled to be indemnified by the Company to the same extent as if he were a director.

90. An alternate director shall cease to be an alternate director:-

- (a) if his appointor ceases to be a director;
- (b) on the happening of any event which, if he were a director, would cause him to vacate his office as director; or
- (c) if he resigns his office by notice to the Company.

91. Any appointment or removal of an alternate director shall be by notice to the Company signed by the director making or revoking the appointment and shall take effect in accordance with the terms of the notice (subject to any approval required by Article 86) upon receipt of such notice by the Company which shall, in the case of a notice contained in an instrument, be at the office, or in the case of a notice contained in an electronic communication, be at such address (if any) as may for the time being be notified by or on behalf of the Company for that purpose.

92. Save as otherwise provided in the Articles, an alternate director shall be deemed for all purposes to be a director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the director appointing him.

#### **POWERS OF THE BOARD**

93. Subject to the provisions of the Companies Acts, the Memorandum and the Articles and to any directions given by special resolution, the business of the Company shall be managed by the board which 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 board which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the board by the Articles. A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.



94. The board may exercise the voting power conferred by the shares in any body corporate held or owned by the Company in such manner in all respects as it thinks fit (including without limitation the exercise of that power in favour of any resolution appointing its members or any of them directors of such body corporate, or voting or providing for the payment of remuneration to the directors of such body corporate).

#### DELEGATION OF POWERS OF THE BOARD

95. The board may delegate any of its powers to any committee consisting of one or more directors. The board may also delegate to any director holding any executive office such of its powers as the board considers desirable to be exercised by him. Any such delegation shall, in the absence of express provision to the contrary in the terms of the delegation, be deemed to include authority to sub-delegate to one or more directors (whether or not acting as a committee) or to any employee or agent of the Company all or any of the powers delegated and may be made subject to such conditions as the board may specify and either collaterally with or to the exclusion of its own powers and may be revoked or altered. The board may co-opt onto any such committee persons other than directors, who may enjoy voting rights in the committee. The co-opted members shall be less than one-half of the total membership of the committee and a resolution of any committee shall be effective only if a majority of the members present are directors. Subject to any such conditions imposed by the board, the proceedings of a committee with two or more members shall be governed by the Articles regulating the proceedings of directors so far as they are capable of applying.

96. The board may establish local or divisional boards or agencies for managing any of the affairs of the Company, either in the United Kingdom or elsewhere, and may appoint any persons to be members of the local or divisional boards, or any managers or agents, and may fix their remuneration. The board may delegate to any local or divisional board, manager or agent any of the powers, authorities and discretions vested in or exercisable by the board, with power to sub-delegate, and may authorise the members of any local or divisional board, or any of them, to fill any vacancies and to act notwithstanding vacancies. Any appointment or delegation made pursuant to this Article may be made upon such terms and subject to such conditions as the board may decide and the board may remove any person so appointed and may revoke or vary the delegation but no person dealing in good faith and without notice of the revocation or variation shall be affected by it.

97. The board may, by power of attorney or otherwise, appoint any person or persons to be the agent or agents of the Company for such purposes, with such powers, authorities and discretions (not exceeding those vested in the board) and on such conditions as the board determines, including without limitation authority for the agent or agents to delegate all or any of his or their powers, authorities and discretions, and may revoke or vary such delegation.

98. The board may appoint any person to any office or employment having a designation or title including the word *director* or attach to any existing office or employment with the Company such a designation or title and may terminate any such appointment or the use of any such designation or title. The inclusion of the

word *director* in the designation or title of any such office or employment shall not imply that the holder is a director of the Company, nor shall the holder thereby be empowered in any respect to act as, or be deemed to be a director of, the Company for any of the purposes of the Articles.

#### DISQUALIFICATION AND REMOVAL OF DIRECTORS

99. The office of a director shall be vacated if:-
- (a) he ceases to be a director by virtue of any provisions of the Companies Acts or the Articles or he becomes prohibited by law from being a director; or
  - (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
  - (c) he is, or may be, suffering from mental disorder and either:-
    - (i) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1984; or
    - (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
  - (d) (not being a director holding office as such for a fixed term) he resigns his office by notice to the Company; or
  - (e) he shall for more than six consecutive months have been absent without permission of the board from meetings of the board held during that period and his alternate director (if any) shall not during such period have attended in his stead and the board resolves that his office be vacated; or
  - (f) he is requested in writing by all of the other directors to resign and all of the other directors are not less than four in number.

100. The Company may, in accordance with and subject to the provisions of the Act, by ordinary resolution of which special notice has been given remove any director from office (notwithstanding any provision of these Articles or of any agreement between the Company and such director, but without prejudice to any claim he may have for damages for breach of any such agreement) and appoint another person in place of a director so removed from office and any person so appointed shall be treated for the purpose of determining the time at which he or any other director is to retire by rotation as if he had become a director on the day on which the director in whose place he is appointed was last elected a director. In default of such appointment the vacancy arising upon the removal of a director from office may be filled as a casual vacancy.

## REMUNERATION OF DIRECTORS

101.(1) The ordinary remuneration of the directors for their services excluding amounts payable under any other provision of the Articles) shall not exceed in aggregate £200,000 per annum or such higher amount as the Company may from time to time by ordinary resolution determine. Subject thereto, each director shall be paid a fee (which shall be deemed to accrue from day to day) at such rate as may from time to time be determined by the board.

(2) Any director who holds any executive office (including for this purpose the office of chairman or deputy chairman whether or not such office is held in an executive capacity), who serves on any committee of the directors or otherwise performs special services which in the opinion of the directors are outside the scope of the ordinary duties of a director may (without prejudice to the provisions of Article 101(1)) be paid such extra remuneration by way of salary, commission or otherwise as the directors may determine.

## DIRECTORS' EXPENSES

102. The directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of the board or committees of the board or general meetings or separate meetings of the holders of any class of shares or of debentures of the Company or otherwise in connection with the discharge of their duties.

## EXECUTIVE DIRECTORS

103. Subject to the provisions of the Companies Acts, the board may appoint one or more of its body to the office of chief executive director or to any other executive office (except that of auditor) in the Company and may enter into an agreement or arrangement with any director for his employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms, including (without limitation) terms as to remuneration, as the board determines, and any remuneration which is so determined may be in addition to or in lieu of any ordinary remuneration as a director. The board may revoke or vary any such appointment but without prejudice to any rights or claims which the person whose appointment is revoked or varied may have against the Company by reason of such revocation or variation.

104. Any appointment of a director to the office of chief executive director or an executive office shall terminate if he ceases to be a director but without prejudice to any rights or claims which he may have against the Company by reason of such cessation. A director appointed to an executive office shall not ipso facto cease to be a director if his appointment to such executive office terminates.

105. The emoluments of any chief executive director or director holding any other executive office for his services as such shall be determined by the board, and may be of any description, and (without limiting the generality of the foregoing) may include admission to or continuance of membership of any scheme (including any share

acquisition scheme) or fund instituted or established or financed or contributed to by the Company for the provision of pensions, life assurance or other benefits for employees or their dependants, or the payment of a pension or other benefits to him or his dependants on or after retirement or death, apart from membership of any such scheme or fund.

### DIRECTORS' INTERESTS

106. Subject to the provisions of the Companies Acts, and provided that he has disclosed to the board the nature and extent of any material interest of his, a director notwithstanding his office:-

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
- (b) may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
- (c) 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
- (d) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

107. For the purposes of Article 106:-

- (a) a general notice given to the board that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class or persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified; and
- (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

### GRATUITIES, PENSIONS AND INSURANCE

108.(1) The board may (by establishment of or maintenance of schemes or otherwise) provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any past or present director or employee of the Company or any of its subsidiary undertakings or any company associated with, or any business acquired by, any of them, and for any member of his family (including a spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as

after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

(2) Without prejudice to the provisions of Article 148 the board shall have power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers, employees or auditors of the Company, or of any subsidiary undertaking of the Company or any other company which is its parent company or in which the Company or such parent company has any interest whether direct or indirect or which is in any way allied to or associated with the Company or any employee or subsidiary undertaking of the Company or of any such other company, or who are or were at any time trustees of any employee or retirement benefits scheme in which employees of the Company or of any such subsidiary undertaking or other company are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution or discharge of their duties or in the exercise or purported exercise of their powers or otherwise in relation to their duties, powers or offices in relation to the Company or any such subsidiary undertaking, other company or employee or retirement benefits scheme.

(3) No director or former director shall be accountable to the Company or the members for any benefit provided pursuant to this Article 108 and the receipt of any such benefit shall not disqualify any person from being or becoming a director of the Company.

109. Pursuant to section 719 of the Act, the board is hereby authorised to make such provision as may seem appropriate for the benefit of any persons employed or formerly employed by the Company or any of its subsidiaries in connection with the cessation or the transfer of the whole or part of the undertaking of the Company or any subsidiary undertaking. Any such provision shall be made by a resolution of the board in accordance with the said section.

### PROCEEDINGS OF DIRECTORS

110. Subject to the provisions of the Articles, the board may regulate its proceedings as it thinks fit. A director may, and the secretary at the request of a director shall, call a meeting of the board. Notice of a board meeting shall be deemed to be properly sent to a director if it is sent to him personally or by word of mouth or sent by instrument to him at his last known address or such other address (if any) as may for the time being be notified by him or on his behalf to the Company for that purpose, or sent using electronic communications to such address (if any) as may for the time being be notified by him or on his behalf to the Company for that purpose. A director absent or intending to be absent from the United Kingdom may request the board that notices of board meetings shall during his absence be sent by instrument to him at such address (if any) as may for the time being be notified by him or on his behalf to the Company for this purpose, or sent using electronic communications to such address (if any) as may for the time being be notified by him or on his behalf to the Company for that purpose, but such notices need not be sent any earlier than notices sent to directors not so absent and, if no request is made to the board, it shall not be necessary to give notice of a board meeting to any director who is for the time

being absent from the United Kingdom. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote. Any director may waive notice of a meeting and any such waiver may be retrospective. Any electronic communication pursuant to this Article need not comprise writing if the board so determines.

111. The quorum for the transaction of the business of the board may be fixed by the board and unless so fixed at any other number shall be two. A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum. Any director who ceases to be a director at a board meeting may continue to be present and to act as a director and be counted in the quorum until the termination of the board meeting if no director objects.

112. The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number, but, if the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.

113. The board may appoint one of their number to be the chairman, and one of their number to be the deputy chairman, of the board and may at any time remove either of them from such office. Unless he is unwilling to do so, the director appointed as chairman, or in his stead the director appointed as deputy chairman, shall preside at every meeting of the board at which he is present. If there is no director holding either of those offices, or if neither the chairman nor the deputy chairman is willing to preside or neither of them is present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.

114. All acts done by a meeting of the board, or of a committee of the board, or by a person acting as a director or alternate director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or any member of the committee or alternate director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director or, as the case may be, an alternate director and had been entitled to vote.

115.(1) A resolution in writing executed by all the directors entitled to receive notice of a meeting of the board or of a committee of the board (not being less than the number of directors required to form a quorum of the board) shall be as valid and effectual as if it had been passed at a meeting of the board or (as the case may be) a committee of the board duly convened and held and for this purpose:-

- (a) a resolution may be by means of an instrument or contained in an electronic communication sent to such address (if any) as may for the time being be notified by the Company for that purpose;
- (b) a resolution may consist of several instruments or several electronic communications, each executed by one or more directors, or a combination of both;

- (c) a resolution executed by an alternate director need not also be signed by his appointor; and
- (d) a resolution executed by a director who has appointed an alternate director need not also be executed by the alternate director in that capacity.

(2) Without prejudice to the first sentence of Article 110, a meeting of the board or of a committee of the board may consist of a conference between directors who are not all in one place, but of whom each is able (directly or by telephonic communication or video conferencing facilities) to speak to each of the others, and to be heard by each of the others simultaneously. A director taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating in the conference is assembled, or, if there is no such group, where the chairman of the meeting then is. The word *meeting* in the Articles shall be construed accordingly.

116. Save as otherwise provided by the Articles, a director may vote at, and count in the quorum for, a meeting of the board or a committee of the board or any resolution of the board concerning a matter in which he has an interest.

#### SECRETARY

117. Subject to the provisions of the Companies Acts, the secretary shall be appointed by the board for such term, at such remuneration and upon such conditions as it may think fit; and any secretary so appointed may be removed by the board, but without prejudice to any claim for damages for breach of any contract of service between him and the Company.

#### MINUTES

118. The board shall cause minutes to be made in books kept for the purpose of:-

- (a) all appointments of officers made by the board; and
- (b) all proceedings at meetings of the Company, of the holders of any class of shares in the Company, of the board, and of committees of the board, including the names of the directors present at each such meeting.

Any such minutes, if purporting to be executed by the chairman of the meeting to which they relate or of the meeting at which they are read shall be sufficient evidence without any further proof of the facts therein stated.

#### THE SEAL

119.(1) The seal shall only be used by the authority of a resolution of the board or of a committee of the board. The board may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by at least one director and the secretary or by at least two directors. The board may resolve that the Company shall not have a seal.

(2) Any instrument may be executed under the seal by impressing the seal by mechanical means or by printing the seal or a facsimile of it on the instrument or by applying the seal or a facsimile of it by any other means to the instrument.

(3) Where the Companies Acts so permit, any instrument signed by one director and the secretary or by two directors and expressed (using any form of words) to be executed by the Company shall have the same effect as if executed under the seal, provided that no instrument which makes it clear on its face that it is intended to have effect as a deed shall be so signed without the authority of the board or a duly authorised committee thereof.

(4) An instrument which is executed by the Company as a deed shall not be deemed to be delivered by the Company solely as a result of it having been executed by the Company.

120. The board may by resolution determine either generally or in any particular case that any certificates for shares or debentures or representing any other form of security:-

- (a) to which the seal is affixed may have signatures printed on them or affixed to them by some mechanical or electronic means or that such certificates need not bear any signature; and
- (b) to be executed by the Company pursuant to Article 119(2) may have signatures printed on them or affixed to them by some mechanical or electronic means.

121. The Company may exercise the powers conferred by section 39 of the Act with regard to having an official seal for use abroad.

### REGISTERS

122. Subject to the provisions of the Companies Acts the Company may keep an overseas or local or other register in any place, and the board may make, amend and revoke any such regulations as it may think fit respecting the keeping of the register.

123. Any director or the secretary or any other person appointed by the board for the purpose shall have power to authenticate and certify as true copies of and extracts from:

- (a) any document comprising or affecting the constitution of the Company, whether in physical form or electronic form;
- (b) any resolution passed by the Company, the holders of any class of shares in the capital of the Company, the board or any committee of the board, whether in physical form or electronic form; and
- (c) any book, record and document relating to the business of the Company, whether in physical form or electronic form (including without limitation the accounts).



If certified in this way, a document purporting to be a copy of a resolution, or the minutes or an extract from the minutes of a meeting of the Company, the holders of any class of shares in the capital of the Company, the board or a committee of the board, whether in physical form or electronic form shall be conclusive evidence in favour of all persons dealing with the Company in reliance on it or them that the resolution was duly passed or that the minutes are, or the extract from the minutes is, a true and accurate record of proceedings at a duly constituted meeting.

### DIVIDENDS

124. Subject to the provisions of the Companies Acts, the Company may by ordinary resolution declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the board.

125. Subject to the provisions of the Companies Acts, the board may pay interim dividends if it appears to the board that they are justified by the profits of the Company available for distribution. If the share capital is divided into different classes, the board may pay interim dividends on shares which confer deferred or non-preferred rights with regard to dividend as well as on shares which confer preferential rights with regard to dividend, but no interim dividend shall be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear. The board may also pay at intervals settled by it any dividend payable at a fixed rate if it appears to the board that the profits available for distribution justify the payment. Provided the board acts in good faith it shall not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on any shares having deferred or non-preferred rights.

126. Except as otherwise provided by the rights attached to any shares or class of shares, all dividends shall be declared and paid according to the amounts paid up on the shares on which the dividend is paid; but no amount paid on a share in advance of the date on which a call is payable shall be treated for the purposes of this Article as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid; but, if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.

127. A general meeting declaring a dividend may, upon the recommendation of the board, by ordinary resolution direct that it shall be satisfied wholly or partly by the distribution of assets, and in particular of paid up shares or debentures of any other company, and, where any difficulty arises in regard to the distribution, the board may settle the same as it thinks fit and in particular may issue fractional certificates or authorise any person to sell and transfer any fractions or disregard fractions altogether, and may fix the value for distribution of any assets and may determine that cash shall be paid to any member on the basis of the value so fixed in order to adjust the rights of members and may vest any assets in trustees.

128. The board may deduct from any dividend or other moneys payable to any member in respect of a share any moneys presently payable by him to the Company in respect of that share.

129. Any resolution declaring a dividend on shares of any class, whether a resolution of the Company in general meeting or a resolution of the directors, may specify that the same shall be payable to the persons registered as the holders of such shares at the close of business on a particular date, notwithstanding that it may be a date prior to that on which the resolution is passed, and thereupon the dividend shall, subject to the provisions of Article 130, be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights inter se in respect of such dividend of transferors and transferees of any such shares.

130. Any dividend or other moneys payable in respect of a share may be paid by cheque or warrant sent by post to the registered address of the holder or person entitled or, if two or more persons are the holders of the share or are jointly entitled to it by transmission, to the registered address of that one of those persons who is first named in the register or in any case to such person and to such address as the holder or person entitled thereto may direct or notify by notice to the Company. Every such cheque or warrant shall be made payable to the order of the person or persons entitled or to such other person and shall be sent at the risk of the person or persons entitled. Any joint holder or other person jointly entitled to a share as aforesaid may give receipts for any dividend or other moneys payable in respect of the share. Any such dividend or other money may also be paid by any other method (including direct debit, bank transfer and dividend warrant) which the board considers appropriate.

131. No dividend or other moneys payable in respect of a share shall bear interest against the Company unless otherwise provided by the rights attached to the share.

132. Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the board so resolves, be forfeited and cease to remain owing by the Company. Any unclaimed dividend or other moneys payable in respect of a share may (but need not) be paid by the Company into an account separate from the Company's own account. Such payment shall not constitute the Company a trustee thereof. The Company shall be entitled to cease sending dividend warrants and cheques by post or otherwise to a member if such instruments have been returned undelivered to, or left uncashed by, that member on at least two consecutive occasions, or, following one such occasion, reasonable enquiries have failed to establish the member's new address. The entitlement conferred on the Company by this Article in respect of any member shall cease if such member claims a dividend or cashes a dividend warrant or cheque.

#### CAPITALISATION OF PROFITS AND RESERVES

133. The board may with the authority of an ordinary resolution of the Company:-

- (a) subject as hereinafter provided, resolve to capitalise any undistributed profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of any

reserve or other fund, including (without limitation) the Company's share premium account, capital redemption reserve and revaluation reserve, if any;

- (b) appropriate the sum resolved to be capitalised to the members or any class of members on the record date specified in the relevant resolution who would have been entitled to it if it were distributed by way of dividend and in the same proportions and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares, debentures or other obligations of the Company of a nominal amount equal to that sum, and allot the shares, debentures or other obligations credited as fully paid to those members, or as they may direct, in those proportions, or partly in one way and partly in the other; but the share premium account, the capital redemption reserve and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued shares to be allotted to members credited as fully paid;
- (c) make such provision by authorising the sale and transfer to any person of fractions to which any members would become entitled or may issue fractional certificates or may resolve that the distribution be made as nearly as practicable in the correct proportion but not exactly so or may ignore fractions altogether or resolve that cash payments be made to any members in order to adjust the rights of all parties or otherwise as (in each case) the board determines where shares or debentures become, or would otherwise become, distributable under this Article in fractions;
- (d) authorise any person to enter on behalf of all the members concerned into an agreement with the Company providing for either:
  - (i) the allotment to such members respectively, credited as fully paid, of any shares, debentures or other obligations to which they are entitled upon such capitalisation; or
  - (ii) the payment up by the Company on behalf of such members (by the application thereto of their respective proportions of the profits resolved to be capitalised) of the amounts or any part of the amounts, remaining unpaid on their existing shares and any agreement made under such authority shall be binding on all such members; and
- (e) generally do all acts and things required to give effect to such resolution as aforesaid.

#### RECORD DATES

134. Notwithstanding any other provision of these Articles, the Company or the board may fix any date as the record date for:

- (a) any dividend, distribution, allotment or issue, which may be on or at any time before or after any date on which the dividend, distribution, allotment or issue is declared, paid or made; or

- (b) the sending of notices or other documents to members (including, without limitation, any notice of a general meeting), which may be on or at any time before or after any date on which the notice or document is sent.

### ACCOUNTS

135. Members shall (as such) have the right from time to time to inspect the accounting records, other books and documentation of the Company.

136. Subject to the Companies Acts, a copy of every balance sheet and profit and loss account (including any documents required by law to be annexed thereto) which is to be laid before the Company in general meeting and of the directors' and auditors' reports shall, at least twenty-one days before the date of the meeting, be sent to every member and to every debenture holder of the Company of whose address the Company is aware, and to every other person who is entitled to receive notice of meetings from the Company under the provisions of the Companies Acts or of the Articles or, in the case of joint holders of any share or debenture, to one of the joint holders. Subject to the Companies Act the requirements of this Article shall be deemed satisfied in relation to, and copies of such documents need not be sent to, any member to whom a summary financial statement (with such form and content as may be prescribed by the Companies Acts and any regulation made thereunder) is sent in accordance with the Companies Acts.

### NOTICES

137. Any notice to be sent to or by any person pursuant to the Articles shall (other than a notice calling a meeting of the board) be in writing. Any such notice may be sent using electronic communications to such address (if any) as may for the time being be notified for that purpose to the person giving the notice by or on behalf of the person to whom the notice is sent.

138.(1) The Company may send any notice or other document to a member by whichever of the following methods it may in its absolute discretion determine, either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address, by sending the notice or other document using electronic communications to such address (if any) as may for the time being be notified to the Company by or on behalf of the member for that purpose.

(2) Subject to the Companies Acts, the Company may also send any notice or other document pursuant to these Articles to a member by publishing that notice or other document on a website where:

- (a) the Company and the member have agreed to him having access to the notice or document on a website (instead of it being sent to him);
- (b) the notice or document is one to which that agreement applies;
- (c) the member is notified, in a manner for the time being agreed between him and the Company for the purpose, of:

- (i) the publication of the notice or document on a website;
  - (ii) the address of that website; and
  - (iii) the place on that website where the notice or document may be accessed, and how it may be accessed; and
- (d) the notice or document is published on that website throughout the publication period, provided that, if the notice or document is published on that website for a part, but not all of, the publication period, the notice or document shall be treated as being published throughout that period if the failure to publish that notice or document throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the Company to prevent or avoid.

In this Article 138(2), *publication period* means:

- (a) in the case of a notice of an adjourned meeting pursuant to Article 59(2), a period of not less than seven clear days before the date of the adjourned meeting, beginning on the day following that on which the notification referred to in sub-paragraph (c) above is sent or (if later) is deemed sent;
- (b) in the case of a notice of a poll pursuant to Article 67, a period of not less than seven clear days before the taking of the poll, beginning on the day following that on which the notification referred to in sub-paragraph (c) above is sent or (if later) is deemed sent; and
- (c) in any other case, a period of not less than 21 days, beginning on the day following that on which the notification referred to in sub-paragraph (c) above is sent or (if later) is deemed sent.

In the case of joint holders of a share, all notices or other documents shall be sent to the joint holder whose name stands first in the register in respect of the joint holding and any notice or other document so sent shall be deemed for all purposes sent to all the joint holders. A member whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which a notice or other document may be sent to him by instrument or an address to which a notice or other document may be sent using electronic communications shall (provided that, in the case of electronic communications, the Company so agrees) be entitled to have notices sent to him at that address, but otherwise no such member shall be entitled to receive any notice or other document from the Company, and without prejudice to the generality of the foregoing, any notice of a general meeting of the Company which is in fact sent or purports to be sent to such member shall be ignored for the purposes of determining the validity of the proceedings at such general meeting.

139.(1) A member present, either in person or by proxy, at any meeting of the Company or of the holders of any class of shares in the Company shall be deemed to have been sent notice of the meeting and, where requisite, of the purposes for which it was called.

(2) The board may from time to time issue, endorse or adopt terms and conditions relating to the use of electronic communications for the sending of notices, other documents and proxy appointments by the Company to members and by members to the Company.

(3) In this Article (except for Article 138(2)) and in Articles 140, 141 and 142, references to a notice include without limitation references to any notification required by the Companies Acts or these Articles in relation to the publication of any notices or other documents on a website.

140. A notice or other document may be sent by the Company to the persons entitled by transmission to a share by sending it, in any manner the Company may choose authorised by the Articles for the sending of a notice or other document to a member, 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 the United Kingdom as may be supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice or other document may be sent in any manner in which it might have been sent if the death or bankruptcy or other event giving rise to the transmission had not occurred.

141. Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the register, has been sent to a person from whom he derives his title.

142.(1) A notice or other document sent by the Company to a member by post shall be deemed to be received on the day following that on which it was put in the post unless it was sent by second class post or there is only one class of post in which case it shall be deemed to have been received on the day next but one after it was posted, and, in proving receipt, it shall be sufficient to prove that the notice or document was properly addressed, stamped and put in the post. Any notice or other document not sent by post but left at a registered address shall be deemed to have been received on the day it was so left. Proof that a notice or other document contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators current at the date of adoption of these Articles, or, if the board so resolves, any subsequent guidance so issued, shall be conclusive evidence that the notice or other document was received.

(2) A notice or other document sent by the Company to a member contained in an electronic communication shall be deemed sent to the member on the day following that on which the electronic communication was sent to the member. Such a notice or other document shall be deemed sent to the member on that day notwithstanding that the Company becomes aware that the member has failed to receive the relevant notice or other document for any reason and notwithstanding that the Company subsequently sends a copy of such notice or other document by post to the member.

143.(1) If at any time the Company is unable effectively to convene a general meeting by notices sent through the post in the United Kingdom as a result of the suspension or curtailment of postal services, notice of such general meeting may be sufficiently given by advertisement in the United Kingdom and in that event the notice shall be deemed to have been sent to all members and persons entitled by transmission, who

are entitled to have notice of meetings sent to them, on the day on which the advertisement is published. In any such case the Company shall send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom again becomes practicable.

(2) Any notice given by advertisement shall be advertised on the same date in at least two daily newspapers having a national circulation in the United Kingdom and such notice shall be deemed to have been sent at noon on the day when the advertisement appears.

#### DESTRUCTION OF DOCUMENTS

144. The Company shall be entitled to destroy all instruments of transfer of shares which have been registered (and all other documents on the basis of which any entry is made in the register) at any time after the expiration of six years from the date of registration thereof and all dividend mandates or variations or cancellations thereof and notifications of change of address at any time after the expiration of two years from the date of recording thereof and all share certificates which have been cancelled at any time after the expiration of one year from the date of the cancellation thereof and all paid dividend warrants and cheques on the date of actual payment thereof and all proxy appointments which have been used for the purpose of a poll at any time after the expiration of one year from the date of such use and all proxy appointments which have not been used for the purpose of a poll at any time after one month from the end of the meeting to which the proxy appointment relates and at which no poll was demanded. It shall conclusively be presumed in favour of the Company that every entry in the register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was duly and properly made, that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered, that every share certificate so destroyed was a valid and effective certificate duly and properly cancelled and that every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Company; Provided always that:-

- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
- (b) nothing herein contained shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances which would not attach to the Company in the absence of this Article; and
- (c) references herein to the destruction of any document include references to the disposal thereof in any manner.

#### UNTRACED SHAREHOLDERS

145.(1) The Company shall be entitled to sell the shares of a member or the shares to which a person is entitled by transmission if and provided that:-

- (a) during the period of twelve years prior to the date of the publication of the advertisements referred to in paragraph (b) below (or, if published on different dates, the first thereof) at least three dividends in respect of the shares in question have been declared and all dividend warrants and cheques which have been sent in the manner authorised by the Articles in respect of the shares in question have remained uncashed; and
- (b) the Company shall as soon as practicable after expiry of the said period of twelve years have inserted advertisements both in a national daily newspaper and in a newspaper circulating in the area of the last known address of such member or other person giving notice of its intention to sell the shares; and
- (c) during the said period of twelve years and the period of three months following the publication of the said advertisements the Company shall have received no indication either of the whereabouts or of the existence of such member or person.

If during any twelve year period referred to in paragraph (a) above, further shares have been issued in right of those held at the beginning of such period or of any previously issued during such period and all the other requirements of this Article have been satisfied in regard to the further shares, the Company may also sell the further shares.

- (2) To give effect to any sale pursuant to Article 145(1), the board may:
  - (a) authorise any person to execute an instrument of transfer of the shares to, or in accordance with the directions of, the buyer; or
  - (b) do all acts and things it considers necessary or expedient to effect the transfer of the shares to, or in accordance with the directions of, the buyer.
- (3) An instrument of transfer executed in accordance with Article 145(2)(a) shall be as effective as if it had been executed by the holder of, or person entitled by transmission to, the shares. An exercise by the Company of its powers in accordance with Article 145(2)(b) shall be as effective as if exercised by the registered holder of or person entitled by transmission to the shares. The transferee shall not be bound to see to the application of the purchase money, and his title to the shares shall not be affected by any irregularity in, or invalidity of, the proceedings in reference to the sale.
- (4) The net proceeds of sale shall belong to the Company which shall be obliged to account to the former member or other person previously entitled as aforesaid for an amount equal to such proceeds and the Company shall enter the name of such former member or other person in the books of the Company as a creditor for such amount. No trust shall be created in respect of the debt, no interest shall be payable in respect of the same and the Company shall not be required to account for any money earned on the net proceeds, which may be employed in the business of the Company or invested in such investments as the board from time to time thinks fit.

#### WINDING UP



146. If the Company is wound up, the liquidator may, with the sanction of an extraordinary resolution of the Company and any other sanction required by the Insolvency Act 1986, 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 the like sanction determines, but no member shall be compelled to accept any assets upon which there is a liability.

147. The power of sale of a liquidator shall include a power to sell wholly or partially for shares or debentures or other obligations of another body corporate, either then already constituted or about to be constituted for the purpose of carrying out the sale.

#### INDEMNITY

148. Subject to the provisions of the Companies Acts but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution and discharge of his duties or the actual or purported exercise of his powers or otherwise in relation thereto, including (but without limitation) any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

~~U.A.~~

Registration No. 3586615

The Companies Acts 1985 and 1989  
PRIVATE COMPANY LIMITED BY SHARES

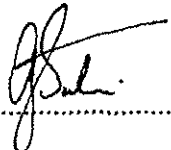
POWERGEN LIMITED

On 29 January 2004 the following resolution was passed as a Written Resolution of the sole shareholder:

WRITTEN RESOLUTION

1 That the Articles of Association of the Company be amended as follows:

In Article 81, replace the word "four" with "two".



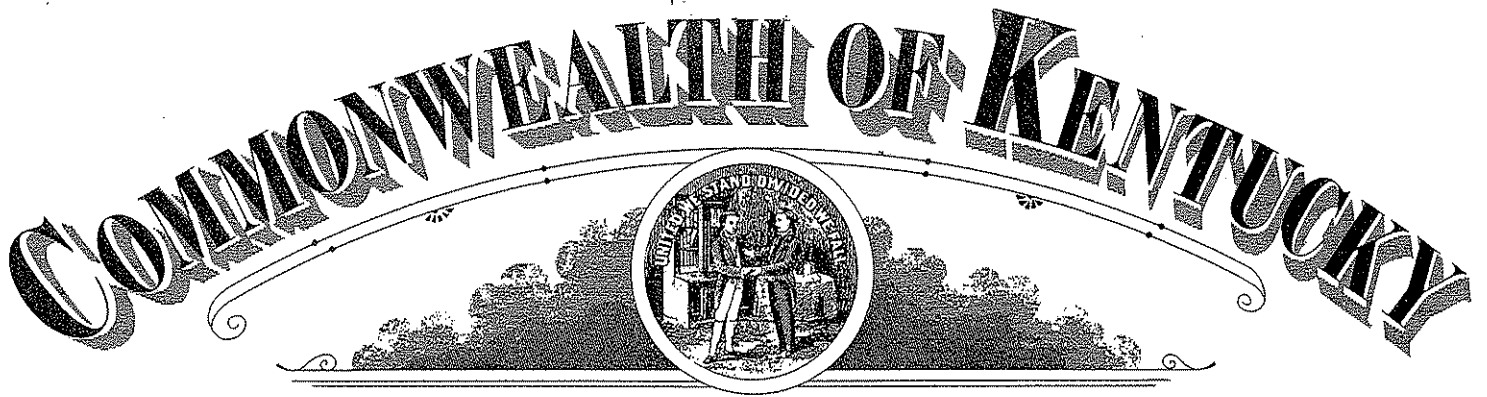
Secretary

Date: 29 January 2004



A57 \*AMKR2667\* 0305  
COMPANIES HOUSE 30/01/04





**Trey Grayson**  
**Secretary of State**

**Certificate**

I, Trey Grayson, Secretary of State for the Commonwealth of Kentucky, do hereby certify that the foregoing writing has been carefully compared by me with the original thereof, now in my official custody as Secretary of State and remaining on file in my office, and found to be a true and correct copy of

ARTICLES OF ORGANIZATION OF  
LEC LLC FILED DECEMBER 29, 2003;

ARTICLES OF MERGER OF LG^E ENERGY CORP. INTO LEC LLC CHANGING THE  
NAME TO LG&E ENERGY LLC FILED DECEMBER 30, 2003;

ARTICLES OF AMENDMENT OF LG&E ENERGY LLC CHANGING NAME TO E. ON  
U.S. LLC FILED DECEMBER 1, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my  
Official Seal at Frankfort, Kentucky, this 3rd day of October, 2007.



*Trey*

Trey Grayson  
Secretary of State  
Commonwealth of Kentucky  
mstratton/0575122 - Certificate ID: 53984

**ARTICLES OF ORGANIZATION**

**OF**

**LEC LLC**

**0575122.06**

Doomish  
LAOC

John Y. Brown III  
Secretary of State  
Received and Filed

12/29/2003 1:49:46 PM

Fee Receipt: \$40.00

The undersigned organizer, desiring to form a limited liability company under the Kentucky Limited Liability Company Act, hereby states the following:

1. **NAME.** The name of the limited liability company is "LEC LLC".
2. **REGISTERED AGENT.** The name and address of the registered agent are:

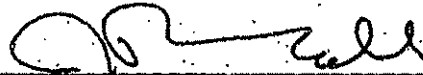
John R. McCall  
220 West Main Street  
Louisville, Kentucky 40202

3. **PRINCIPAL OFFICE.** The mailing address of the initial principal office of the limited liability company is:

220 West Main Street  
Louisville, Kentucky 40202

4. **MANAGEMENT.** The limited liability company is to be managed by one or more managers.

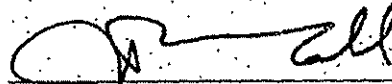
**In Witness Whereof**, the undersigned has duly executed these Articles of Organization this 29th day of December, 2003.



John R. McCall, Organizer

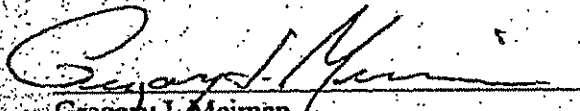
**CONSENT OF REGISTERED AGENT**

The undersigned, having been named in these Articles of Organization as the registered agent of the Company, hereby consents to serve in that capacity.



John R. McCall

The foregoing instrument was prepared by:



Gregory J. Meiman  
220 West Main Street, 11<sup>th</sup> Floor  
Louisville, Kentucky 40202

**ARTICLES OF MERGER  
OF  
LG&E ENERGY CORP.  
INTO  
LEC LLC**

**0575122.06**

Ghance  
LAOM

John Y. Brown III  
Secretary of State  
Received and Filed  
12/30/2003 3:42:13 PM  
Fee Receipt: \$50.00

Pursuant to the provisions of KRS 271B.11-080 and KRS 275.360, the undersigned entities ("Constituent Entities") hereby adopt the following Articles of Merger for the purpose of merging **LG&E Energy Corp.**, a Kentucky corporation ("Corporation"), with and into **LEC LLC**, a Kentucky limited liability company ("Company"), which shall be the surviving entity in the Merger.

**FIRST:** The names of each of the Constituent Entities are **LG&E Energy Corp.** and **LEC LLC**. The Corporation is incorporated under the corporation laws of the Commonwealth of Kentucky and the Company is organized under the limited liability company laws of the Commonwealth of Kentucky.

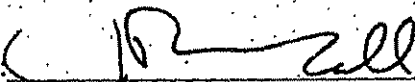
**SECOND:** The Agreement and Plan of Merger, duly authorized and approved by each of the Constituent Entities, is attached hereto as Exhibit A and is hereby incorporated by referenced herein as a part of these Articles of Merger.

**THIRD:** The name of the surviving entity is **LEC LLC**. Pursuant to the Agreement and Plan of Merger attached hereto as Exhibit A, the Articles of Organization of the surviving entity are amended to change its name to "LG&E Energy LLC".

**FOURTH:** The Agreement and Plan of Merger was duly authorized and approved by each of the Constituent Entities in accordance with the laws of the Commonwealth of Kentucky.


Dated: December 30, 2003.

**LG&E Energy Corp.**

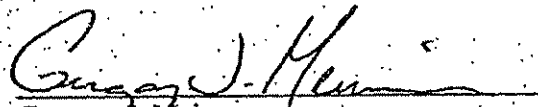
By: 

John R. McCall  
Executive Vice President,  
Corporate Secretary and  
General Counsel  
("Corporation")

LEC LLC

By:   
S. Bradford Rives  
Chief Financial Officer  
("Company")

The foregoing instrument was prepared by:

  
Gregory J. Meiman  
220 West Main Street, 11<sup>th</sup> Floor  
Louisville, Kentucky 40202



**AGREEMENT AND PLAN OF MERGER  
BETWEEN  
LG&E ENERGY CORP.  
AND  
LEC LLC**

**THIS AGREEMENT AND PLAN OF MERGER** ("Agreement") is entered into and effective as of the 30th day of December, 2003, by and between (i) **LG&E Energy Corp.**, a Kentucky corporation ("Corporation"), and (ii) **LEC LLC**, Kentucky limited liability company ("Company")

**1. MERGER.**

**1.1 Merger of the Corporation With and Into the Company.** Subject to the terms and conditions of this Agreement, the Corporation shall be merged with and into the Company ("Merger"), effective upon the filing of Articles of Merger with the Secretary of State of Kentucky ("Effective Time"). The separate existence of the Corporation as a corporation shall thereupon cease; the Company shall be the surviving entity and the separate existence of the Company as a limited liability company, with all its purposes, objects, rights, privileges, powers, franchises and interests, shall continue unaffected and unimpaired by the Merger. The Merger shall be pursuant to the provisions of, and with the effect provided in, the laws of the Commonwealth of Kentucky.

**1.2 Effect of Merger.** At and after the Effective Time:

(a) The Company shall possess all of the respective rights, privileges, powers, franchises and interests of the Corporation in and to every type of property (real, personal and mixed), and chooses in action, all of which shall be transferred to, and vested in, the Company by virtue of the Merger without any deed or other transfer and without reversion or impairment. Any action or proceeding, whether civil, criminal or administrative, pending by or against the Corporation may be continued as if the Merger did not occur, or the Company may be substituted in the proceeding for the Corporation in such action or proceeding.

(b) The Company shall be liable for all liability of the Corporation, and all debts, liabilities, obligations and contracts of the Corporation, whether matured or unmatured, whether accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on the balance sheet, books of account or records of the Corporation, shall be those of the Company and shall not be released or impaired by the Merger. Further, all rights of creditors and other obligees and all liens on properties of the Corporation shall be preserved unimpaired.

**1.3 Articles of Organization, Operating Agreement and Management of Surviving Entity.** The Company shall be the surviving entity pursuant to the Merger. At and after the Effective Time:

(a) The Articles of Organization of the Company, as in effect immediately prior to the Effective Time, shall be the Articles of Organization of the surviving entity with the exception that Article 1 of the Articles of Organization shall be amended so as to be and read in its entirety as follows:

"1. NAME. The name of the limited liability company is  
"LG&E Energy LLC"

(b) The Operating Agreement of Company, as in effect immediately prior to the Effective Time, shall be the Operating Agreement of the surviving entity with the exception that the title and Article 2.1 of the Operating Agreement shall be amended so as to be and read in their entirety as follows:

"OPERATING AGREEMENT  
OF  
LG&E ENERGY LLC"

2.1 Name. The name of the Company shall be LG&E Energy LLC.

(c) The management of Company as in effect immediately prior to the Effective Time, including any and all persons then serving as its officers and directors if the Operating Agreement provides for same, shall be the managers of the surviving entity until duly altered in accordance with the provisions of the laws of the Commonwealth of Kentucky and the surviving entity's Articles of Organization and Operating Agreement.

1.4 Additional Actions. If, at any time after the Effective Time, the Company shall consider or be advised that any further assignments or assurances in law or any other acts are necessary or desirable to (i) vest, perfect or confirm of record or otherwise, in the Company its right, title or interest in, to or under any of the rights, properties or assets of the Corporation acquired or to be acquired by the Company as a result of, or in connection with, the Merger, or (ii) otherwise carry out the purposes of this Agreement, the Corporation and the proper officers and directors of the Corporation shall be deemed to have granted to the Company an irrevocable power of attorney to (a) execute and deliver all such proper deeds, assignments and assurances in law, (b) do all acts necessary or proper to vest, perfect or confirm title to and possession of such rights, properties or assets in the Company and (c) otherwise carry out the purposes of this Agreement. The President of the Company is fully authorized in the name of the Corporation or otherwise to take any and all such actions.

2. CONVERSION OF STOCK INTERESTS.

2.1 Conversion of Company Interests. At the Effective Time:

(a) Each share of Common Stock of the Corporation, no par value per share, ("Common Stock") outstanding immediately prior to the Effective Time shall, *ipso facto*

and without any action on the part of the holder thereof, become and be converted into one Unit of the Company.


(b) Each interest in the Company held immediately prior to the Effective Time by LG&E Energy Corp shall be canceled and no consideration issued in respect thereof. Each interest in the Company held immediately prior to the Effective Time by E.ON US Investments Corp. shall remain issued and outstanding.

3. **EXCHANGE OF STOCK.** As soon as practicable after the Effective Time, and upon surrender to the Company of any certificate which prior to the Effective Time shall have represented any shares of Common Stock, the Company shall cause to be distributed to the person or entity in whose name such certificate shall have been registered a certificate for the number of Units of the Company into which the shares of Common Stock previously represented by the surrendered certificate shall have been converted at the Effective Time. Until surrendered as contemplated by the preceding sentence, each certificate which immediately prior to the Effective Time shall have represented any shares of Common Stock shall be deemed at and after the Effective Time to represent only the right to receive the Units of the Company into which it shall have been converted.


4. **GOVERNING LAW.** This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky without regard to its conflict of laws rules.

**IN WITNESS WHEREOF,** the parties have entered into this Agreement as of the date first written above.

**LG&E Energy Corp.**

By:   
John R. McCall,  
Executive Vice President,  
Corporate Secretary and  
General Counsel  
("Corporation")

**LEC LLC**

By:   
S. Bradford Rives  
Chief Financial Officer  
("Company")

**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF ORGANIZATION  
OF  
LG&E ENERGY LLC**

**0575122.06** MMcCulloh  
LAOA  
Trey Grayson  
Secretary of State  
Received and Filed  
12/01/2005 9:26:25 AM  
Fee Receipt: \$40.00

Pursuant to the provisions of KRS 275.030, the following Articles of Amendment to the Articles of Organization of LG&E Energy LLC, a Kentucky limited liability company (the "Company"), are hereby adopted:

**FIRST:** The name of the limited liability company is LG&E Energy LLC.

**SECOND:** The text of the amendment to Article 1 of the Company's Articles of Organization is as follows:

"1. The name of the limited liability company is E.ON U.S. LLC".

**THIRD:** The designated amendment was adopted by the Company's sole member on December 1, 2005 in accordance with the provisions of KRS 275.030 and KRS 275.175.

**FOURTH:** These Articles of Amendment shall be effective as of December 1, 2005.

DATED: Dec. 1, 2005

LG&E Energy LLC

BY: \_\_\_\_\_

  
Daniel K. Arbough  
Treasurer



